CITY OF MCBAIN

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SUPPLEMENT NO. 1
June 2007

COMPILATION OF ORDINANCES

CITY OF McBAIN

State of Michigan

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 65, adopted October 23, 2002.

See the Listing of Ordinances for further information.

Remove old pages	*Insert new pages*
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Insert and maintain this instruction sheet in front of this publication. File removed pages for reference.

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COMPILATION

OF

ORDINANCES

CITY OF

McBAIN

STATE OF MICHIGAN

Published by Order of the City Council

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OFFICIALS
of the
CITY OF
McBAIN, MICHIGAN
AT THE TIME OF THIS REPUBLICATION

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City Clerk

PREFACE

This is a republication of the compilation of ordinances of the City of McBain, Michigan, originally published by Municipal Code Corporation in 1986. This revised and republished compilation includes currently operative ordinances, compiled with all amendments through and including Ordinance No. 64, adopted October 8, 2001.

The chronological listing of all ordinances, including title and location within the compilation, reflects all ordinances adopted, amended or repealed, thus providing a valuable record of the municipality's ordinance history. Ordinances which are printed in their entirety are classified by subject matter and assigned to one of eleven basic categories. Each of these categories is indicated by a tab. Every ordinance is introduced with a part number, a title concerning the content, the ordinance number, and the adoption date.

Section headings in boldface type have been provided, if not supplied in the original copy, to facilitate usage. Sections that are subsequently amended are followed by a history note indicating the adoption date of the amendment. Cross reference notations are included to provide quick referral to other ordinances and/or sections dealing with similar subjects.

Running heads at the top of the page contain an abbreviated title, the ordinance number and section numbers to provide a guide for locating specific information quickly. The section number appearing in the running head on the left-hand page cites the section material beginning the page; the number on the right- hand page cites the section material concluding the page.

The exact wording of the ordinances has been preserved. Since ordinances are legal documents, editorial changes in a compilation are minor, limited primarily to correction of obvious typographical errors and resolving, upon specific instructions from the municipality, any duplications and inconsistencies brought to their attention during the preparation of the proof copy of the compilation. Any additions to text by the editor appear in brackets.

Numbering system

Each ordinance is assigned a part number. The part number is used to identify the ordinance primarily for indexing and cross reference purposes. Each succeeding article and/or section deriving from that ordinance will have the same number on the left-hand side of the decimal point. For example, section number 15.004 refers to section 4 of the ordinance assigned to part 15. Part numbers allow for expansion within each of the categories and within the compilation as a whole.

Page Numbering System

The page numbering system used in this compilation is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a part of the compilation, the number to the left of the colon indicates the number of the part. The following are typical parts of compilations and their corresponding prefixes:

Index

The alphabetical index permits easy location of ordinances by subject. Main entries are in all uppercase letters. Under the entry for each ordinance, the catchlines of all sections appear in lowercase, indented and alphabetized. Cross references and additional entries are provided where necessary to direct the user to a particular topic. In preparing the index the proper balance has been achieved between creating an index comprehensive enough to be useful and yet not so detailed that it requires extensive revision each time an ordinance is enacted, repealed, or amended.

Looseleaf supplements

Since an ordinance compilation, unlike a bound book, is constantly in a state of evolution, a special feature of this compilation is the looseleaf system of binding. With this system, the compilation can easily be kept up-to-date by submitting copies of new ordinances or amendments as they are enacted. These will then be incorporated by the editor into the compilation, and the appropriate pages will be revised or created for distribution to the holders of copies, with specific instructions for the manner of removing obsolete pages and inserting the current ones. Through regular supplementation, the compilation will continue to remain current and useful.

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ADMINISTRATION

1.000 COUNCIL, OFFICERS AND COMMITTEES

Ord. No. 1

Adopted: October 26, 1897

1.001	Regular meetings.
1.002	Special meetings.
1.003	Standing committees; officers; bonds.
1.004	Duties of Mayor.
1.005	Duties of Aldermen.
1.008	Duties of Street Commissioner.
1.009	Duties of Attorney.
1.010	Duty of Board of Special Assessors.
1.011	Duties of Committees.
1.012	Parliamentary procedure.
1.013	Order of business.
1.015	Effective date.

An ordinance of City of McBain, Missaukee County, State of Michigan. Relative to the meetings of the Village Council and duties of Officers and Committees.

THE CITY OF McBAIN ORDAINS:

1.001 Regular meetings.

Sec. 1. The regular meetings of the Mayor and Aldermen of the City of McBain for the transaction of business shall be held on the second Monday of each month.
(3-13-1989)

1.002 Special meetings.

Sec. 2. The Mayor or any three members of the Council may appoint a special meeting thereof, notice of which shall be given to each Alderman by the Clerk.
(3-13-1989)

1.003 Standing committees; officers; bonds.

Sec. 3. At the first regular meeting of the City Council after each annual election the Mayor shall appoint the following standing committees to consist of three Aldermen each.

A water committee.

A sewer committee.

A committee on street, side and crosswalks.

A committee on labor relations.

A committee on finances.

A committee on ordinances.

A committee on parks.

A cemetery committee.

Also there shall be appointed a City Attorney, Street Commissioner, a Board of Special Assessors consisting of three members by and with the consent of the Council, and with the Clerk shall judge of the sufficiency of the proposed sureties of any officer or person of whom a bond or other security may be required by the laws of the State or ordinances of the City.
(3-13-1989)

1.004 Duties of Mayor.

Sec. 4. It shall be the duty of the Mayor of the City when present and when not present the Mayor Pro-tem to preside at all meetings of the Council, preserve order and decorum, and decide all questions of order. It shall also be his duties to

see that all officers of the City faithfully comply with and discharge their official duties, to see that all ordinances and resolutions of the council are faithfully observed and executed.

The Council, at its option, may compensate the Mayor for services rendered in an amount determined to be reasonable by the Council.
(3-13-1989; 5-8-1995)

1.005 Duties of Aldermen.

Sec. 5. It shall be the duty of each and every Alderman to attend all meetings of the Council whether regular or special unless absent from the City or prevented by sickness or other good and sufficient cause, to vote on all questions acted upon by the Council upon which a vote is taken unless excused by the Board from voting.
(3-13-1989)

[Secs. 6, 7. Considered obsolete.]

1.008 Duties of Street Commissioner.

Sec. 8. It shall be the duty of the Street Commissioner to perform or cause to be performed all such labor, repairs and improvements upon the highways, streets, side-walks, alleys, bridges, reservoirs, drains, culverts, sewers, public grounds and parks within the City as the Council shall direct to be done by or under his supervision: and to oversee and do whatever may be required of him in relation thereto by the Council.
(3-13-1989)

1.009 Duties of Attorney.

Sec. 9. The City Attorney shall have charge of and conduct all the law business of the corporation and of all the boards, officers, departments and committees and shall draw all leases, deeds, contracts and ordinances of the City. He shall certify to the correctness of the form of all official bonds, deeds, leases and contracts of any kind in which the City is interested before the same shall be accepted or adopted by the Council or any officer of the corporation. He shall prosecute and defend all actions which may be brought by or against the corporation or any bond or officers thereof when directed by the Council to do so.
(3-13-1989)

1.010 Duty of Board of Special Assessors.

Sec. 10. It shall be the duty of the Board of Special Assessors to make all special assessments upon the property benefitted where improvements have been ordered by the City Council.
(3-13-1989)

1.011 Duties of Committees.

Sec. 11.

(a) The Committee on street, side and cross-walks shall examine into and report on all such matters that may be referred to them relating to streets, alleys and sidewalks within the City, and all questions connected with the construction of sewers which may be referred to them.

(b) The Committee on finance shall examine into and report on all matters of accounts or claims either in favor of or against the City: and all matters relating to the revenues of the City as shall be referred to them. They shall examine into and report upon the sufficiency of all bonds and shall report from time to time such provisions and arrangements as may be promotive of economy and accountability in the conduct of the financial concerns of the City.

(c) The Committee on ordinances shall draw all ordinances that shall be necessary for the preservation of order, the protection of property and the well being of the inhabitants of the City.

(d) Every Committee in the discharge of their duty may require the service of any officer of the City whose duties are in any manner connected with the subject under investigation by the Committee.

(3-13-1989)

1.012 Parliamentary procedure.

Sec. 12. The meetings of the Council shall be governed by the generally approved parliamentary rules when not otherwise directed by ordinance.

1.013 Order of business.

Sec. 13. The Regular order of business for each meeting shall be as follows to-wit:

1. Reading of minutes of last meeting.
2. Presentation of petitions, communications and claims.
3. Report of Committee on street, side and cross-walks.
4. Report of Committee on finance.
5. Report of Committee on ordinances.
6. Report of Committee on special committees.
7. General business, motions, resolution and notices.

Which order of business may be varied or changed by the Council or may be waived by a majority of the board present at any meeting.

(3-13-1989)

[Sec. 14. Considered obsolete.]

1.015 Effective date.

Sec. 15. This ordinance [part] shall take immediate effect.

Parts 2—14

(Reserved)

BUSINESS

REGULATIONS

15.000 **MASS GATHERING**
Ord. No. 63, § 4
Adopted: August 15, 2001

15.001 Definitions.
15.002 License requirements.
15.003 Violations.
15.004 Severability.

15.001 Definitions.

Sec. 1. The following terms, as used in this Chapter [Part], are hereby defined to mean:

a. "Licensee" shall mean any person to whom a license is issued pursuant to this Chapter [Part].

b. "Mass gathering" shall mean an organized outdoor event of 300 people or more held at a single location on either public or private land within the City; provided, however, a mass gathering shall not include an outdoor event of any size that is sponsored by an elementary or secondary school recognized as such by the State of Michigan.

c. "Person" shall mean any natural person, partnership, corporation, association or organization.

d. "Sponsor" shall mean any person who organizes, promotes, conducts or causes to be organized, promoted or conducted a mass gathering.

e. "City" shall mean the City of McBain.

15.002 License requirements.

Sec. 2.

2.1 *Necessity of License.* A person shall not sponsor, maintain, conduct, promote or permit a mass gathering in the City of McBain without first obtaining a license from the City for each such mass gathering.

2.2 *Application for License.* No later than 60 days before the proposed mass gathering, the sponsor(s) of the mass gathering shall submit in writing an application for a mass gathering license to the City on such forms and in such manner as the City prescribes. The application shall contain:

(1) The name(s), address(es) and telephone number(s) of the proposed mass gathering sponsor(s).

(2) The date(s) and estimated hours of the proposed mass gathering.

(3) A description of the kind, character and type of mass gathering proposed.

(4) The address or location of the site at which the proposed mass gathering will be held, including a written statement from the property owner consenting to the use of his or her property for the proposed mass gathering.

(5) An estimate of the maximum number of people expected to attend the proposed mass gathering.

(6) A written statement that indicates how the sponsor(s) plans to provide for the following:

(a) Police and fire protection.

(b) Medical facilities and services, including emergency vehicles and equipment.

(c) Food and water supply facilities.

(d) Health and sanitation facilities.

(e) Vehicle access and parking facilities.

(f) Cleanup and waste disposal.

(g) Noise control.

(h) Insurance and bonding arrangements.

2.3 *Application Fee.* Each application for a mass gathering license shall be accompanied by a non-refundable fee in an amount established from time to time by the City Council by resolution.

2.4 *Action on Application.* After receiving an application for a mass gathering license and the appropriate fee, the City shall consider the information contained in the application and shall, if necessary, investigate or cause to be investigated the circumstances surrounding the proposed mass gathering, including the suitability of the site for the proposed mass gathering, the length of the proposed mass gathering, the number of people anticipated to attend, whether there is a conflict with other uses of the site, the increased demands on the City and County police and Township fire department and emergency medical resources, and the sponsor's plans to provide adequate food and water facilities, bathroom facilities, disposal of solid waste and garbage and vehicle parking and access to the site. Within 30 days after receiving an application for a mass gathering license, the City shall approve the application and issue the mass gathering license, unless after considering the above factors, it finds by a preponderance of the evidence that holding the mass gathering as proposed in the application would be detrimental to the public health, safety and welfare of the City. If the City denies a mass gathering license, the City Clerk shall send written notice of the denial, including the reasons for the denial, to the sponsor(s) by certified mail within five days of the denial decision.

15.003 Violations.

Sec. 3.

3.1 *Criminal Penalties.* Any person who knowingly violates Section [15.002] 2.1 of this Chapter [Part] shall be guilty of a misdemeanor punishable by a fine of not more than $500.00 or by imprisonment in the County jail for not more than 90 days or both such fine and imprisonment.

3.2 *Civil Remedies.* Notwithstanding the penalties provided in Section [15.003] 3.1, a violation of Section [15.002] 2.1 of this Chapter [Part] is hereby declared to be a nuisance per se and any action in violation thereof may be immediately enjoined in the Missaukee County Circuit Court.

15.004 Severability.

Sec. 4. If any portion of this Chapter [Part] or the application thereof to any person or circumstances shall be found to be invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining portions or applications of this Chapter [Part] which can be given effect without the invalid portion or application, provided such remaining portions are not determined by the court to be inoperable, and, to this end, this Chapter [Part] is declared to be severable.

16.000 LIQUOR LICENSES

Ord. No. 63, § 32
Adopted: August 15, 2001

16.001 Definitions.
16.002 Legislative intent.
16.003 Application for license—New and transfer.
16.004 Approval standard for new license.
16.005 Requirements for license—New and transfer.
16.006 Term of license.
16.007 Reservation of authority.
16.008 License hearing.
16.009 Objections to renewal and request for revocation.
16.010 Severability.

16.001 Definitions.

Sec. 1. As used in this Chapter [Part],

(a) "License" means a liquor license issued by the Michigan Liquor Control Commission and for which City approval is required. It does not apply to off premises licenses for which City input is requested and for which City approval is not required.

(b) "Secondary growth" means commercial uses, condominiums or other uses which are not permitted as of right in the zoning district in which the applicant's business is located.

16.002 Legislative intent.

Sec. 2.

(a) The City Council acknowledges the difference which the law recognizes between applications for new licenses and the transfer, renewal or revocation of existing licenses. As to new licenses, this ordinance [part] is designed to provide a framework in which the City Council can decide whether to approve or deny an application for a new license. This framework, when followed, will show a reviewing court that the City Council's discretion was not exercised arbitrarily or capriciously. The City Council recognizes that the issuance or denial of a license can be controversial and that litigation over the City Council's decision can easily result.

(b) For the renewal or revocation of existing licenses, the township has adopted a scheme to meet procedural due process requirements.

16.003 Application for license—New and transfer.

Sec. 3. *Application.* Applications for a new license or to transfer an existing license shall be made to the city council in writing, signed by the applicant, if an individual, or by a duly authorized agent thereof, if a partnership or corporation, verified by oath or affidavit, and shall contain the following statements and information:

(a) The name, age and address of the applicant in the case of an individual; or, in the case of a co-partnership, the persons entitled to share in the profits thereof; in the case of a corporation, the objects for which organized, the names and addresses of the officers and directors, and, if a majority interest in the stock of such corporation is owned by one person or his/her nominee, the name and address of such person.

(b) The citizenship of the applicant, his/her place of birth, and, if a naturalized citizen, the time and place of his naturalization.

(c) The character of the business of the applicant including a description of what services will be provided to patrons and how intoxicating liquor will be offered in conjunction with those services. In the case of a corporation, a copy of the Articles of Incorporation shall also be provided.

(d) The length of time the applicant has been in business of that character, or, in the case of a corporation, the date when its articles of incorporation were approved by the State.

(e) The location and description of the premises or place of business which is to be operated under such license.

(f) A statement whether the applicant has made an application for a similar or other license on premises other than described in this application, and the disposition of that application.

(g) A statement that the applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this ordinance [part] or the laws of the State or Michigan.

(h) A statement that the applicant will not violate any of the laws of the State of Michigan or of the United States or any ordinances of the township in the conduct of its business.

(i) The application shall be accompanied by building and site plans showing the entire structure and premises and, in particular, the specific areas where the license is to be utilized. The plans shall demonstrate adequate off-street parking, lighting, refuse disposal facilities and where appropriate, adequate plans for screening and noise control.

(j) A copy of all financial information and documents provided to the Michigan Liquor Control Commission investigator regarding financial responsibility.

16.004 Approval standard for new license.

Sec. 4. An application for a new license shall be approved only when the applicant establishes by a preponderance of the evidence that a demonstrated need exists within the City for a license to be issued in conjunction with the applicant's business. This standard shall not apply to the transfer of an existing license. In determining whether a demonstrated need has been established by the applicant, the city council shall consider the following factors:

(a) The existence of similar services which are offered in conjunction with the license, in whole or in part, within 20 miles of the nearest city boundary. The existence of this factor weighs against the establishment of a demonstrated need. The greater the number of similar uses within 20 miles of a city boundary, then the more this factor weighs against the establishment of a demonstrated need. For example, if an applicant proposes a business which consists of a combined bowling alley and restaurant in conjunction with a

license and there already exists one or more restaurants with a license within 20 miles of the city, then this fact weighs against approval of the license. The existence of another identical business (i.e., bowling alley, restaurant and bar at one location) within 20 miles of the city would weigh even more heavily against approval of the license.

(b) Whether the land is unique such that there is no reasonable use to which the land can be put except to be used in conjunction with a license. The mere fact that a business might be more profitable or land and buildings more valuable as a result of a license is not a consideration. The existence of this factor weighs in favor of approving the license.

(c) Whether there is a continuing and substantial demand in the city for the services which will be provided as a result of the license. The existence of this factor weighs in favor of approving the license.

16.005 Requirements for license—New and transfer.

Sec. 5. Even if a demonstrated need is established by the applicant for a new license or in the case of the transfer of an existing license, no license shall be issued to:

(a) A person whose license, under this ordinance [part], has been revoked for cause.

(b) A person who, at the time of the application or renewal of any license issued hereunder, would not be eligible for such license upon a first application.

(c) A person who does not own the premises for which a license is sought or does not have a lease therefor for the full period for which the license is issued, or to a person, corporation or co-partnership that does not have sufficient financial assets to carry on or maintain the business.

(d) A person on whose premises there exists a violation of the applicable building, electrical, mechanical, plumbing or fire codes, applicable zoning regulations, applicable public health regulations, or any other applicable city ordinance.

(e) A person in situations where there are delinquent unpaid real estate taxes and/or personal property taxes relating to the real estate or business which has been used, is used or will be used in conjunction with the license.

(f) A person where it is determined by a majority of the entire city council that the premises for which the license has been requested do not or will not within six months after commencement of operations, have adequate off-street parking, lighting, refuse disposal facilities, screening, noise, or nuisance control or where a nuisance does or will exist.

(g) A person seeking a new license, where the city council determines by a majority vote of the entire council that the proposed location is inappropriate considering: the desirability of establishing a location in the commercial zoning district in strong preference to other zoning districts; the impact of the proposed license and associated business on the occupants and owners of adjoining properties; traffic safety; accessibility to the site from abutting roads; capability of abutting roads to accommodate the commercial activity; distance from public or private schools for minors; proximity of an inconsistent zoning classification; accessibility from primary roads or state highways; and whether the license is likely to expand or intensify a business activity in a zoning district other than in the commercial zoning district. In determining whether the license is likely to expand or intensify a business activity, the city council shall consider such factors as whether the number of patrons will increase, whether there will be increased traffic to and from the applicant's business, whether new buildings or the expansion of existing buildings are likely and whether secondary growth is likely to result.

(h) A person whose licensing activity will expand or intensify a non-conforming use under the city zoning ordinance.

16.006 Term of license.

Sec. 6. Approval of a license shall continue for as long as the Michigan Liquor Control Commission license continues subject to periodic review by the city council regarding continued compliance with the regulations of this ordinance [part] and any conditions of approval. Approval of a license shall be on the condition that any necessary remodeling or new construction for the use of the license shall be commenced within six months of the action of the city council or the Michigan Liquor Control Commission approving such license, whichever last occurs. Any delay in the completion of such remodeling or construction may subject the license to revocation.

16.007 Reservation of authority.

Sec. 7. No applicant for a license has the right to the issuance of such a license to him, her or it, and the city council reserves the right to exercise reasonable discretion to determine who, if anyone, shall be entitled to the issuance of such license. If an application is incomplete, the license may be denied without a consideration of the merits of the application.

16.008 License hearing.

Sec. 8. The city council may act on an application for a new license or the transfer of an existing license at any regular or special meeting. The city council

may hold a public hearing on any application when it is determined to be in the public interest. Following action on an application, the city council shall submit to the applicant a written statement of its findings and determination.

16.009 Objections to renewal and request for revocation.

Sec. 9.

(a) *Procedure.* Before filing an objection to the renewal or a request for the revocation of a license with the Michigan Liquor Control Commission, the city council shall serve a notice of hearing on the license holder. This notice of hearing shall be served by first class mail, not less than ten days prior to the hearing. The notice of hearing shall contain the following:

(1) Notice of proposed action.

(2) Reasons for the proposed action.

(3) Date, time and place of the hearing.

(4) A statement that the licensee may present evidence and testimony and question adverse witnesses.

Following the hearing, the township board shall submit to the license holder and the Commission, a written statement of its findings and determination.

(b) *Criteria for non-renewal or revocation.* The city council shall recommend non-renewal or revocation of a license upon a determination by it that based upon a preponderance of the evidence presented at the hearing either of the following exists:

(1) Violation of any of the requirements on licenses set forth in Section 5 [16.005] (a)—(h) above or

(2) Maintenance of a nuisance upon the premises.

16.010 Severability.

Sec. 10. Should any section or part of this ordinance [part] be declared unconstitutional, null or void by a court of competent jurisdiction, such declaration shall not have any effect on the validity of the remaining sections or parts thereof of this ordinance [part].

Parts 17—49

(Reserved)

FRANCHISES

50.000

GAS FRANCHISE*
Ord. of 8-9-1954
Adopted: August 9, 1954

50.001 Grantee defined.
50.002 Grant of franchise.
50.003 Period of franchise; responsibility of Grantee.
50.004 Conditions of work; liability.
50.005 Rates; bills; meters.
50.006 Construction, extensions of system.
50.007 Rights not exclusive; type of gas.
50.008 Applicable rules and regulations.
50.009 Acceptance, approval, revocation of franchise.

*[**Note:** This franchise was renewed on February 9, 1987, for a period of 30 years.]

An ordinance, granting to Consumers Power Company its successors and assigns, the right, power and authority to lay, maintain and operate gas mains, pipes and services on, along, across and under the highways, streets, alleys, bridges and other public places, and to do a local gas business in the City of McBain, Missaukee County, Michigan, for a period of 30 years.

THE CITY OF McBAIN ORDAINS:

50.001 Grantee defined.

Sec. 1. That wherever the word "Grantee" appears in this ordinance [part], it is hereby intended to designate, and shall be held to refer to the Consumers Power Company, a corporation duly authorized to do business in the State of Michigan, its successors and assigns.

50.002 Grant of franchise.

Sec. 2. The right, power and authority is hereby granted and vested in said Grantee to lay, maintain and operate gas mains, pipes and services on, along, across and under the highways, streets, alleys, bridges and other public places, and to do a local gas business in the City of McBain, Missaukee County, Michigan, for a period of 30 years.

50.003 Period of franchise; responsibility of Grantee.

Sec. 3. In consideration of the rights, power and authority hereby granted, all of which shall vest in the Grantee for a period of 30 years as aforesaid, said Grantee shall faithfully perform all things required by the terms hereof, and such performance by the Grantee shall be in lieu of all license fees, rentals or charges of every name and nature, except property taxes, which the City might otherwise levy and impose.

50.004 Conditions of work; liability.

Sec. 4. No highway, street, alley, bridge or other public place used by said Grantee shall be obstructed longer than necessary during the work of construction or maintenance, and shall be restored to the same good order and condition as when such work was commenced. No part of the streets, alleys, bridges or other public places of said City shall be permitted to remain in a dangerous or unsafe condition by reason of anything done or omitted to be done by the Grantee, and it shall be liable for such damage as may be suffered by any person or corporation by reason of its negligence in the use of such streets, alleys, bridges or other public places, and shall save harmless said City from all damage and liability on account thereof.

50.005 Rates; bills; meters.

Sec. 5. The Grantee shall be entitled to charge the inhabitants of said City for gas, the rates as shown by the schedule now on file in the office of the Recorder, unless and until the Michigan Public Service Commission or its successors, to which Commission the authority and jurisdiction to fix and alter gas rates in said City is hereby granted and conferred for the term of this franchise, shall fix and establish different rates, in which case the rates so fixed and established, if just and reasonable, shall prevail. Such rates shall be subject to review and change at any time, upon petition therefor being made by either the City of McBain, acting by its City Council, or by said Grantee.

All bills for gas furnished by the Grantee shall be payable monthly. The Grantee may collect the minimum charges as specified in said schedule. The Grantee shall also furnish and maintain commercially accurate meters to measure the gas so furnished, and it shall, by its representatives, have at all reasonable times, access to the premises of its customers, for the purpose of reading, inspecting, removing and replacing such meters.

50.006 Construction, extensions of system.

Sec. 6. Said Grantee shall construct and extend its gas distribution system within said City, and shall furnish gas to applicants residing therein, whenever the amount of gas to be furnished thereby shall provide an adequate and reasonable return upon the cost of making such extensions and providing such service.

50.007 Rights not exclusive; type of gas.

Sec. 7. The rights and authority herein granted are not exclusive. Either manufactured or natural gas may be furnished hereunder.

50.008 Applicable rules and regulations.

Sec. 8. Said Grantee shall, as to all other conditions and elements of service not herein fixed, be and remain subject to the reasonable rules and regulations of the Michigan Public Service Commission or its successors, applicable to gas service in said City.

50.009 Acceptance, approval, revocation of franchise.

Sec. 9. The franchise granted by this ordinance [part] is not subject to revocation, and shall be and become valid and binding only upon its approval by the affirmative vote of at least three-fifths of the electors of the City voting thereon at a regular or special municipal election to be held in the manner provided by law. Such franchise shall not be submitted to the electors unless the Grantee shall, within 30 days after the adoption of this ordinance [part], file with

the City Clerk its written acceptance thereof, subject only to such approval; and such franchise, when accepted by the Grantee and approved by the electors as herein provided, shall constitute a contract between the City and the Grantee, and shall be in force and effect for the term of 30 years from and after the date of approval by said electors.

51.000

CABLEVISION FRANCHISE
Ord. No. 40
Adopted: September 22, 1983

51.001 Grant of franchise.
51.002 Liability and indemnification.
51.003 Rates.
51.004 System requirements.
51.005 Construction period.
51.006 Forfeiture.
51.007 Renewal.
51.008 Necessity of franchise.
51.009 Severability.

An ordinance of the City of McBain granting to Northern Michigan Cablevision—Carl Sr. and Carl Jr. Brasseur, its heirs or assigns, a franchise to construct, operate and maintain a community antenna television system for the reception and distribution of television, radio, and other audio-visual signals, and associated services throughout the City. The City has considered and approved as part of the full public proceeding, affording due process, the franchisee's legal, character, financial, technical and other qualifications, as well as the adequacy and feasibility of the franchisee's construction arrangements.

THE CITY OF McBAIN ORDAINS:

51.001 Grant of franchise.

Sec. I.

(1) The City of McBain, hereinafter referred to as the City, hereby grants to Northern Michigan Cablevision—Carl Sr. and Carl Jr. Brasseur, hereinafter referred to as the grantee, and its successors and assigns, the right and authority to install, maintain and operate a transmitting and distribution system for television, radio and other audio-visual electrical signals in, over, on, and under the streets, alleys and public highways of the City: to maintain and use the same for the purpose of construction and operating a transmitting and distribution system for television, radio and other audio-visual signal distribution and associated services, all in strict accordance with the laws, ordinances and regulations of the United States of America, the State of Michigan and the City, as now existing or hereinafter adopted or amended. Any modifications of the provisions of F.C.C. rules Subpart C Section 76.31 shall be included in this franchise either one year of the adoption thereof by the Federal Communications Commission or at Franchise renewal, whichever is sooner.

(2) The grantee shall at all times during the life of this franchise be subject to all lawful exercise of the police power of the City and to such reasonable regulations as the City shall hereinafter provide and shall comply with all applicable state and federal regulations.

(3) This Franchise and the rights, privileges and authority hereby granted shall take effect and be in force from and after final passage hereof, as provided by law, and shall continue in force and effect for a term of 15 years, provided that within 30 days after the date of the passage of this ordinance [part] the grantee shall: (1) file with the City Clerk its unconditional acceptance of this Franchise and promise to comply with and abide by all its provisions, terms and conditions. Such acceptance and promise shall be in writing duly executed and sworn to by or on behalf of the grantee before a Notary Public or other officer authorized by law to administer oaths; (2) file with the City insurance certificates provided for herein which shall be approved by the

City. Should grantee fail to comply with the above terms of this subsection within 30 days after passage of this ordinance [part], it shall acquire no rights, privileges or authority under this Franchise whatever.

51.002 Liability and indemnification.

Sec. II. Grantee shall indemnify and hold the City harmless at all times during the term of this Franchise and specifically agrees that it will pay all damages and penalties which the City may legally be required to pay as a result of granting this Franchise. Such damages and penalties shall include, but not be limited to, damages arising out of copyright infringements and other damages arising out of the installation, operation or maintenance of the CATV system authorized, allowed, or prohibited by this Franchise. The grantee shall, at all times during the terms of this Franchise, carry and require their contractors to carry:

(1) Insurance in such forms and in such companies as shall be approved by the City to protect the City and grantee from and against any and all claims, injury or damage to persons or property, both real and personal, caused by the construction, erection, operation and maintenance of any structure, equipment, or appliance. The amount of such insurance shall be not less than $500,000.00 as to any one person and $1,000,000.00 as to any one accident or injury or death to persons and $250,000.00 for damages to property.

(2) Workmen's Compensation Insurance as provided by the laws of the State of Michigan, as amended.

(3) Insurance with limits of not less than $500,000.00/$1,000,000.00 of public liability coverage and property damage insurance with a limit of not less than $250,000.00.

All of said insurance coverage shall provide a ten-day notice to the City Clerk in the event of material alteration or cancellation of any coverage afforded in said policies prior to the date said material alteration or cancellation shall become effective.

51.003 Rates.

Sec. III. Company shall have the right to charge and collect compensation from all subscribers to whom it shall furnish service. The rate schedule to be charged customers shall be kept on file with the City Clerk of the City at all times and no change in such schedule shall be made without first filing the changed schedule with the City Clerk more than 30 days prior to the effective date thereof. The City Clerk shall present changes filed to the City Council at its next regular meeting after receipt of said changes by the City Clerk. The Company shall file no more than one rate schedule during any period of 12 months. The Company

shall not, as to rates, charges, service, facilities, rules, regulations or in any other respects, make or grant any preference or advantage to any person, or subject any person to any prejudice or disadvantage; provided, however, that this provision shall not be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming within such classification shall be entitled. Rates shall be the same for such classifications of customers as are served by Company from identical facilities.

1. Standard Rates and Charges:

   A. Installation Charges:

      (1) Initial tap-in and connection charges (TV and/or radio, residential or commercial)..... $25.00

      (2) Additional installation at same location, each $15.00

      (3) Reconnect charge..... $15.00

   B. Monthly rates:

      (1) First TV or FM radio outlet, residential..... $10.95

      (2) Additional TV and FM radio outlets, each..... $2.95

2. Hotels, Motels, Rest Homes and Hospitals containing not less than 15 rental units to which service is provided:

   A. Cost of installation.

   B. Monthly rates: $10.95 first outlet
   $ 2.95 each additional

51.004 System requirements.

Sec. IV.

(1) The grantee shall construct a distribution system capable of carrying a minimum of 21 television channels.

(2) The grantee shall maintain its cable system in a manner consistent with current technical operational requirements of the F.C.C. and to prevent system obsolescence and keep abreast of the "State of the Art".

(3) The grantee shall at all times comply with the rules and regulations of the Federal Communications Commission, the State of Michigan and the City of McBain.

(4) The construction and maintenance of the grantee's distribution system shall comply with applicable electrical safety standards of the National Electrical Safety Code and utility practices.

51.005 Construction period.

Sec. V. As a condition of the grant of this Franchise the grantee shall:

1. As soon as possible, and in no event later than 90 days following the grant of this Franchise by the City, the grantee shall make application to the Federal Communications Commission for a "Certificate of Compliance" covering the construction and operation of the CATV system authorized by this Franchise.

2. Extend energized cable to areas averaging 60 dwelling units or more to a strand mile of cable, adjacent to the City of McBain and/or extending from the City of McBain, within the first year following F.C.C. approval of the "Certificate of Compliance" and shall thereafter reasonably extend its energized cable throughout the franchised area.

3. Begin construction within nine months from the date of the F.C.C. approval of the "Certificate of Compliance" and accomplish significant construction within one year after approval of the "Certificate of Compliance".

4. The grantee shall maintain a repair and installation call number and shall promptly repair, maintain, and remedy all service malfunctions and complaints. The grantee shall specify procedures for the investigation and resolution of all complaints regarding the quality of service, equipment malfunctions and similar matters, which procedures shall be approved by the City.

5. During the construction period the grantee shall report the construction status of the system to the City at such times or period as the City shall determine.

6. Should taxes be assessed by the State of Michigan or the City on a subscriber basis (similar to utility taxes) the grantee shall without further approval of the City pass such tax on to the subscribers.

51.006 Forfeiture.

Sec. VI.

1. In the event of grantee's failure to comply with any provision of this Franchise, the City shall issue a notice to the grantee requesting compliance within 60 days from the date of notice. Should the grantee fail to comply, or fail to provide a satisfactory explanation, the City may upon its option hold a hearing to determine facts and as a result thereof may cancel the grantee's franchise.

51.007 Renewal.

Sec. VII. Prior to expiration of the term of the franchise, the grantee shall have the privilege, providing the performance of the grantee has been satisfactory to negotiate with the City for an additional 15-year term of the franchise and/or changes in terms or conditions; provided, however, the renewal of the franchise will be granted only after the qualifications and past performance of the grantee have been considered and approved by the City in a public proceeding.

51.008 Necessity of franchise.

Sec. VIII. No person shall own or operate a community antenna television system in the City of McBain except by Franchise issued by the City granting such power to any such grantee.

51.009 Severability.

Sec. IX.

1. If any section, subsection, sentence, clause, phrase, or portion of this ordinance [part] is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion hereof.
2. This chapter [part] does not cease to be effective upon expiration of the franchise or change in the identity of the grantee.

This ordinance [part] shall therefore take effect and be in force upon its passage.

52.000

METRO ACT ORDINANCE
Ordinance No. 65
Adopted: October 23, 2002

52.001 Purpose.
52.002 Conflict.
52.003 Terms defined.
52.004 Permit required.
52.005 Issuance of permit.
52.006 Construction/engineering permit.
52.007 Conduit of utility poles.
52.008 Route maps.
52.009 Repair of damage.
52.010 Establishment and payment of maintenance fee.
52.011 Modification of existing fees.
52.012 Savings clause.
52.013 Use of funds.
52.014 Annual report.
52.015 Cable television operators.
52.016 Existing rights.
52.017 Compliance.
52.018 Reservation of police powers.
52.019 Severability.
52.020 Authorized City officials.
52.021 Municipal civil infraction.
52.022 Repealer.

AN ORDINANCE TO CREATE REGULATIONS TO COMPLY WITH PUBLIC ACT 48 OF 2002, AND TO REGULATE PERMITTING AND USE OF CITY RIGHTS-OF-WAY BY TELECOMMUNICATIONS PROVIDERS.

THE CITY OF McBAIN ORDAINS:

52.001 Purpose.

The purposes of this Chapter [Part] are to regulate access to and ongoing use of public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety and welfare and exercising reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002) ("Act") and other applicable law, and to ensure that the City qualifies for distributions under the Act by modifying the fees charged to providers and complying with the Act.

52.002 Conflict.

Nothing in this Chapter [Part] shall be construed in such a manner as to conflict with the Act or other applicable law.

52.003 Terms defined.

The terms used in this Chapter [Part] shall have the following meanings:

(a) "Act" means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002), as amended from time to time.

(b) "City" means the City of McBain.

(c) "City Council" means the City Council of the City of McBain or its designee. This section does not authorize delegation of any decision or function that is required by law to be made by the City Council.

(d) "City Clerk" means the City Clerk or his or her designee.

(e) "Mayor" means the duly elected or appointed Mayor of the City of McBain, or his or her designee.

(f) "Permit" means a non-exclusive permit issued pursuant to the Act and this Chapter [Part] to a telecommunications provider to use the public rights-of-way in the City for its telecommunications facilities.

All other terms used in this Chapter [Part] shall have the same meaning as defined or as provided in the Act, including without limitation the following:

(g) "Authority" means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to Section 3 of the Act.

(h) "MPSC" means the Michigan Public Service Commission in the Department of Consumer and Industry Services, and shall have the same meaning as the term "Commission" in the Act.

(i) "Person" means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

(j) "Public right-of-way" means the area on, below or above a public roadway, highway, street, alley, easement or waterway. "Public right-of-way" does not include a federal, state, or private right-of-way.

(k) "Telecommunications facilities or facilities" means the equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunication services or signals. "Telecommunication facilities or facilities" do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in section 332(d) of part I of title III of the communications act of 1934, chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communication device.

(l) "Telecommunications provider, provider and telecommunications services" mean those terms as defined in Section 102 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2102. "Telecommunication provider" does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in Section 332(d) of part I of the communications act of 1934, chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the Act and this Ordinance only, a provider also includes as of the following:

(1) A cable television operator that provides a telecommunications service.

(2) Except as otherwise provided by the Act, a person who owns telecommunication facilities located within a public right-of-way.

(3) A person providing broadband internet transport access service.

52.004 Permit required.

(a) *Permit required.* Except as otherwise provided in the Act, a telecommunications provider using or seeking to use public rights-of-way in the City for its telecommunications facilities shall apply for and obtain a permit pursuant to this Chapter [Part].

(b) *Application.* Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with Section 6(1) of the Act. A telecommunications provider shall file one copy of the application with the City Clerk, one copy with the Mayor, and one copy with the City Attorney. Applications shall be complete and include all information required by the Act, including without limitation, a route map showing the location of the provider's existing and proposed facilities in accordance with Section 6(5) of the Act.

(c) *Confidential information.* If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contains trade secret, proprietary, or confidential information, which is exempt from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, pursuant to Section 6(5) of the Act, the telecommunications provider shall prominently so indicate on the face of each map.

(d) *Application fee.* Except as otherwise provided by the Act, the application shall be accompanied by a one-time nonrefundable application fee in the amount of $500.00.

(e) *Additional information.* The City Council may request an applicant to submit such additional information which the City deems reasonably necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the City Council. If the City and the applicant cannot agree on the requirement of additional information requested by the City, the City or the applicant shall notify the MPSC as provided in Section 6(2) of the Act.

(f) *Previously issued permits.* Pursuant to Section 5(1) of the Act, authorizations or permits previously issued by the City under Section 251 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2251 and authorizations or permits issued by the City to telecommunications providers prior to the 1995 enactment of Section 251 of the Michigan Telecommunications Act but after 1985 shall satisfy the permit requirements of this Chapter [Part].

(g) *Existing providers.* Pursuant to Section 5(3) of the Act, within 180 days from November 1, 2002, the effective date of the Act, a telecommunications provider with facilities located in a public right-of-way in the City as of such date, that has not previously obtained authorization or a permit under Section 251 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2251, shall submit to the City an application for a permit in accordance with the requirements of this Chapter [Part]. Pursuant to Section 5(3) of the Act, a telecommunications provider submitting an application under this subsection is not required to pay the $500.00 application fee required under

subsection (d) above. A provider under this subsection shall be given up to an additional 180 days to submit the permit application if allowed by the Authority, as provided in Section 5(4) of the Act.

52.005 Issuance of permit.

(a) *Approval or denial.* The authority to approve or deny an application for a permit is hereby delegated to the City Council. Pursuant to Section 15(3) of the Act, the City Council shall approve or deny an application for a permit within 45 days from the date a telecommunications provider files an application for a permit under Section 4(b) of this Ordinance for access to a public right-of-way within the City. Pursuant to Section 6(6) of the Act, the City Clerk shall notify the MPSC when the City Council has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied. The City Council shall not unreasonably deny an application for a permit.

(b) *Form of permit.* If an application for permit is approved, the City Clerk shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with Sections 6(1), 6(2) and 15 of the Act.

(c) *Conditions.* Pursuant to Section 15(4) of the Act, the City Council may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the public right-of-way.

(d) *Bond requirement.* Pursuant to Section 15(3) of the Act, and without limitation on subsection (c) above, the City Council may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use.

52.006 Construction/engineering permit.

A telecommunications provider shall not commence construction upon, over, across, or under the public right-of-way in the City without first obtaining a construction or engineering permit, if such permit is required by this Code, for construction within the public rights-of-way. No fee shall be charged for such a construction or engineering permit.

52.007 Conduit of utility poles.

Pursuant to Section 4(3) of the Act, obtaining a permit or paying the fees required under the Act or under this Chapter [Part] does not give a telecommunications provider a right to use conduit or utility poles.

52.008 Route maps.

Pursuant to Section 6(7) of the Act, a telecommunications provider shall, within 90 days after the substantial completion of construction of new telecommunications facilities in the City, submit route maps showing the location of the telecommunications facilities to both the MPSC and to the City. The route maps should be in paper format unless and until the Commission determines otherwise, in accordance with Section 6(8) of the Act.

52.009 Repair of damage.

Pursuant to Section 15(5) of the Act, a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in the City, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition.

52.010 Establishment and payment of maintenance fee.

In addition to the nonrefundable application fee paid to the City set forth in section 12.304(d) [52.004(d)] above, a telecommunications provider with telecommunications facilities in the City's public rights-of-way shall pay an annual maintenance fee to the Authority pursuant to Section 8 of the Act.

52.011 Modification of existing fees.

In compliance with the requirements of Section 13(1) of the Act, the City hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the Act, relating to access and usage of the public rights-of-way, to an amount not exceeding the amounts of fees and charges required under the Act, which shall be paid to the Authority. In compliance with the requirements of Section 13(4) of the Act, the City also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of-way within the City's boundaries, so that those providers pay only those fees required under Section 8 of the Act. The City shall provide each telecommunications provider affected by the fee with a copy of this Ordinance, in compliance with the requirement of Section 13(4) of the Act. To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the Act, or which are otherwise inconsistent with the Act, such imposition is hereby declared to be contrary to the City's policy and intent, and upon application by a provider or discovery by the City, shall be promptly refunded as having been charged in error.

52.012 Savings clause.

Pursuant to Section 13(5) of the Act, if Section 8 of the Act is found to be invalid or unconstitutional, the modification of fees under section 12.311 [52.011] above shall be void from the date modification was made.

52.013 Use of funds.

Pursuant to Section 9(4) of the Act, all amounts received by the City from the Authority shall be used by the City solely for rights-of-way related purposes. In conformance with that requirement, all funds received by the City from the Authority shall be deposited into the Major Street Fund and/or the Local Street Fund maintained by the City under Act No. 51 of the Public Acts of 1951.

52.014 Annual report.

Pursuant to Section 10(5) of the Act, the City Clerk shall file an annual report with the Authority on the use and disposition of funds annually distributed by the Authority.

52.015 Cable television operators.

Pursuant to Section 13(6) of the Act, the City shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of this Act, a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services.

52.016 Existing rights.

Pursuant to Section 4(2) of the Act, except as expressly provided herein with respect to fees, this Ordinance shall not affect any existing rights that a telecommunications provider or the City may have under a permit issued by the City or under a contract between the City and a telecommunications provider related to the use of the public rights-of-way.

52.017 Compliance.

The City hereby declares that its policy and intent in adopting this Ordinance is to fully comply with the requirements of the Act, and the provisions of this Chapter [Part] should be construed in such a manner as to achieve that purpose.

52.018 Reservation of police powers.

Pursuant to Section 15(2) of the Act, this Ordinance shall not limit the City's right to review and approve a telecommunication provider's access to and ongoing use of a public right-of-way or limit the City's authority to ensure and protect the health, safety and welfare of the public.

52.019 Severability.

The various parts, sentences, paragraphs, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause of this Ordinance is adjudged unconstitutional or invalid by a court or administrative agency of competent jurisdiction, the unconstitutionality or invalidity shall not affect the constitutionality or validity of any remaining provisions of this Ordinance.

52.020 Authorized City officials.

The Mayor or his or her designee is hereby designated as the authorized City official to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the municipal chapter violations bureau) for violations under this Chapter [Part] as provided by the City Code.

52.021 Municipal civil infraction.

A person who violates any provision of this Chapter [Part] or the terms or conditions of a permit is responsible for a municipal civil infraction. Nothing in this section shall be construed to limit the remedies available to the City in the event of a violation by a person of this Chapter [Part] or a permit.

52.022 Repealer.

All ordinances and portions of ordinances inconsistent with this Ordinance are hereby repealed.

Parts 53—64

(Reserved)

Parts 52—64

(Reserved)

TRAFFIC

AND

VEHICLES

65.000

TRAFFIC CODE ORDINANCE
Ord. No. 38
Adopted: Oct. 12, 1981

65.001 Code adopted.
65.002 Purpose.
65.003 Copy of Code available.
65.004 Notice of adoption.

McBain Traffic Code Ordinance: An ordinance to provide for the adoption by reference of the Uniform Traffic Code for Municipalities.

BE IT ORDAINED AND ENACTED BY THE CITY OF McBAIN, MICHIGAN, AS FOLLOWS:

65.001 Code adopted.

Sec. A. The City of McBain does hereby enact by reference the Uniform Traffic Code of the State of Michigan, the same being Michigan Compiled Laws Annotated 257.951-954 and Michigan Administrative Rules R28.1000.1 through 28.2075, as amended.

65.002 Purpose.

Sec. B. The purpose of this ordinance [part] shall be to adopt, for application within the City limits of the City of McBain, a uniform code for enforcing traffic violations.

65.003 Copy of Code available.

Sec. C. The City Clerk is hereby instructed to maintain in his or her office, a copy of the Uniform Traffic Code of the State of Michigan for inspection by the public or persons charged under said Code.

65.004 Notice of adoption.

Sec. D. The Clerk of the City of McBain is hereby instructed, as part of the publication notice of this ordinance [part], to include a statement of the purpose of this ordinance [part] and Code and to further state within the notice published that a complete copy of said Uniform Traffic Code is available for inspection by the public at the office of the City Clerk.

66.000 SUPPLEMENTAL TRAFFIC REGULATIONS

Ord. No. 63, § 5

Adopted: August 15, 2001

66.001 Additions to Uniform Traffic Code.
66.002 Repeal of inconsistent sections.

66.001 Additions to Uniform Traffic Code.

Sec. 1. The following sections are hereby enacted to bring the Uniform Traffic Code for the City of McBain into substantial compliance with amendments in state law:

ABANDONED VEHICLES

Sec. 2.5. Reports of stolen and recovered vehicles.

A police agency, upon receiving reliable information that any vehicle registered under this act has been stolen, shall immediately report the theft through the law enforcement information network. Upon receiving information that a vehicle previously reported as stolen has been recovered, the police agency shall immediately report the fact of the recovery through the law enforcement network.

Sec. 2.5a. Abandoned vehicle procedures.

(1) As used in this section, "abandoned vehicle" means a vehicle which has remained on public property or private property for a period of 48 hours after a police agency or other governmental agency designated by the police agency has affixed a written notice to the vehicle.

(2) If a vehicle has remained on public or private property for a period of time so that it appears to the police agency to be abandoned, the police agency shall do all of the following:

(a) Determine if the vehicle has been reported stolen.

(b) Affix a written notice to the vehicle. The written notice shall contain the following information:

(i) The date and time the notice was affixed.

(ii) The name and address of the police agency taking the action.

(iii) The name and badge number of the police officer affixing the notice.

(iv) The date and time the vehicle may be taken into custody and stored at the owner's expense or scrapped if the vehicle is not removed.

(v) The year, make, and vehicle identification number of the vehicle, if available.

(3) If the vehicle is not removed within 48 hours after the date the notice was affixed, the vehicle is deemed abandoned and the police agency may have the vehicle taken into custody.

(4) A police agency which has a vehicle taken into custody shall do all of the following:

(a) Recheck to determine if the vehicle has been reported stolen.

(b) Within 24 hours after taking the vehicle into custody, enter the vehicle as abandoned into the law enforcement information network.

(c) Within seven days after taking the vehicle into custody, send to the registered owner and secured party, as shown by the records of the secretary of state, by first-class mail or personal service, notice that the vehicle has been deemed abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:

(i) The year, make, and vehicle identification number of the vehicle if available.

(ii) The location from which the vehicle was taken into custody.

(iii) The date on which the vehicle was taken into custody.

(iv) The name and address of the police agency which had the vehicle taken into custody.

(v) The business address of the custodian of the vehicle.

(vi) The procedure to redeem the vehicle.

(vii) The procedure to contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees.

(viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.

(ix) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale.

(5) The registered owner may contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 2.5e and 2.5f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond in an amount equal to the accrued towing and storage fees with the court. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly deemed abandoned, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.

(6) If the owner does not request a hearing, he or she may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(7) If the owner does not redeem the vehicle or request a hearing within 20 days after the date of the notice, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle and the police agency for its accrued costs.

(8) Not less than 20 days after the disposition of the hearing described in subsection (5) or, if a hearing is not requested, not less than 20 days after the date of the notice, the police agency shall offer the vehicle for sale at a public sale pursuant to section 2.5g.

(9) If the ownership of a vehicle which has been deemed abandoned under this section cannot be determined either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state does not reveal ownership, the police agency may sell the vehicle at public sale pursuant to section 2.5g, not less than 30 days after public notice of the sale has been published.

Sec. 2.5b. Abandoned scrap vehicle procedures.

(1) As used in this section:

(a) "Registered abandoned scrap vehicle" means a vehicle which meets all of the following requirements:

(i) Is on public or private property.

(ii) Is seven or more years old.

(iii) Is apparently inoperable or is extensively damaged, to the extent that the cost of repairing the vehicle so that it is operational and safe as required by section 683 would exceed the fair market value of that vehicle.

(iv) Is currently registered in the state of Michigan or displays current year registration plates from another state.

(v) Is not removed within 48 hours after a written notice as described in section 2.5a(2)(b) is affixed to the vehicle.

(b) "Unregistered abandoned scrap vehicle" means a vehicle which meets all of the following requirements:

(i) Is on public or private property.

(ii) Is seven or more years old.

(iii) Is apparently inoperable or is extensively damaged, to the extent that the cost of repairing the vehicle so that it is operational and safe as required by section 683 would exceed the fair market value of that vehicle.

(iv) Is not currently registered in this state and does not display current year registration plates from another state.

(v) Is not removed within 48 hours after a written notice as described in section 2.5a(2)(b) is affixed to the vehicle.

(2) A police agency may have an unregistered abandoned scrap vehicle taken into custody, in which case the police agency shall do all of the following:

(a) Determine if the vehicle has been reported stolen.

(b) Take two photographs of the vehicle.

(c) Make a report to substantiate the vehicle as an unregistered abandoned scrap vehicle. The report shall contain the following information:

(i) The year, make and vehicle identification number if available.

(ii) The date of abandonment.

(iii) The location of abandonment.

(iv) A detailed listing of the damage or the missing equipment.

(v) The reporting officer's name and title.

(vi) The location where the vehicle is being held.

(d) Within 24 hours after taking the vehicle into custody, enter the vehicle into the law enforcement information network.

(3) Within 24 hours, excluding Saturday, Sunday, and legal holidays, after taking the vehicle into custody, the police agency shall complete a release form and release the vehicle to the towing service or a used vehicle parts dealer or vehicle scrap metal processor, who shall then transmit that release form to the secretary of state and apply for a certificate of the title or a certificate of scrapping. Upon receipt of the release form and application, the secretary of state shall issue a certificate of title or a certificate of scrapping.

(4) The release form described in subsection (3) shall be furnished by the secretary of state and shall include a certification executed by the applicable police agency when the abandoned scrap vehicle is released. The certification shall state that the police agency has complied with all the requirements of subsection (2)(b) and (c).

(5) The secretary of state shall retain the records relating to an abandoned scrap vehicle for not less than two years. The two photographs taken pursuant to subsection (2)(b) shall be retained by the police agency for not less than two years. After the certificate of scrapping has been issued, a certificate of title for the vehicle shall not be issued again.

(6) A police agency may have a registered abandoned scrap vehicle taken into custody, in which case the police agency shall do all of the following:

(a) Determine if the vehicle has been stolen.

(b) Take two photographs of the vehicle.

(c) Make a report to substantiate the vehicle as a registered abandoned scrap vehicle. The report shall contain the following information:

(i) The year, make and vehicle identification number if available.

(ii) The date of abandonment.

(iii) The location of abandonment.

(iv) A detailed listing of the damage or the missing equipment.

(v) The reporting officer's name and title.

(vi) The location where the vehicle is being held.

(d) Within 24 hours after taking the vehicle into custody, enter the vehicle into the law enforcement information network.

(e) Within seven days after taking the vehicle into custody, send to the registered owner and secured party, as shown by the records of the secretary of state, by first-class mail or personal service, notice that the vehicle has been deemed abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:

(i) The year, make, and vehicle identification number of the vehicle if available.

(ii) The location from which the vehicle was taken into custody.

(iii) The date on which the vehicle was taken into custody.

(iv) The name and address of the police agency which had the vehicle taken into custody.

(v) The business address of the custodian of the vehicle.

(vi) The procedure to redeem the vehicle.

(vii) The procedure to contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees.

(viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.

(ix) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the termination of all rights of the owner and the secured party to the vehicle.

(7) The registered owner of a registered abandoned scrap vehicle may contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 2.5e and 2.5f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond with the court in an amount as determined by the court. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly deemed abandoned, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.

(8) If the owner does not request a hearing, he or she may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(9) If the owner does not redeem the vehicle or request a hearing within 20 days after the date of the notice, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(10) Not less than 20 days after the disposition of the hearing described in subsection (7) or, if a hearing is not requested, not less than 20 days after the date of the notice described in subsection (6)(e), the police agency shall follow the procedures established in subsections (3) to (5).

Sec. 2.5c. Vehicle removed from private property.

(1) When a vehicle is removed from private property at the direction of a person other than the registered owner of the vehicle or a police agency, the custodian of the vehicle immediately shall notify the police agency from whose jurisdiction the vehicle was towed. The custodian shall supply that information which is necessary for the police agency to enter the vehicle into the law enforcement information network.

(2) Upon receipt of the notification described in subsection (1), the police agency immediately shall do all of the following:

(a) Determine if the vehicle has been reported stolen.

(b) Enter the vehicle into the law enforcement information network.

(3) The owner of the vehicle removed as described in subsection (1) may obtain release of the vehicle by paying the accrued towing and storage fees to the custodian of the vehicle. Upon release of the vehicle, the custodian shall notify the police agency of the disposition of the vehicle.

(4) If the vehicle described in subsection (1) is not claimed by the owner within seven days after the police agency has been notified by the custodian that it has been taken into custody, the vehicle is deemed abandoned and the procedures prescribed in section 2.5a(4)(c) to (9) shall apply.

Sec. 2.5d. Vehicle removed by police.

(1) A police agency or a governmental agency designated by the police agency may provide for the immediate removal of a vehicle from public or private property to a place of safekeeping at the expense of the registered owner of the vehicle in any of the following circumstances:

(a) If the vehicle is in such a condition that the continued operation of the vehicle upon the highway would constitute an immediate hazard to the public.

(b) If the vehicle is parked or standing upon the highway in such a manner as to create an immediate public hazard or an obstruction of traffic.

(c) If a vehicle is parked in a posted tow away zone.

(d) If there is reasonable cause to believe that the vehicle or any part of the vehicle is stolen.

(e) If the vehicle must be seized to preserve evidence of a crime, or when there is reasonable cause to believe that the vehicle was used in the commission of a crime.

(f) If removal is necessary in the interest of public safety because of fire, flood, storm, snow, natural or man-made disaster, or other emergency.

(g) If the vehicle is hampering the use of private property by the owner or person in charge of that property or is parked in a manner which impedes the movement of another vehicle.

(h) If the vehicle is stopped, standing, or parked in a space designated for handicapper parking and is not permitted by law to be stopped, standing, or parked in a space designated for handicapper parking.

(2) A police agency which authorizes the removal of a vehicle under subsection (1) shall do all of the following:

(a) Check to determine if the vehicle has been reported stolen.

(b) Within 24 hours after removing the vehicle, enter the vehicle into the law enforcement information network if the vehicle has not been redeemed. This subdivision does not apply to a vehicle that is removed from the scene of a motor vehicle traffic accident.

(c) If the vehicle has not been redeemed within 10 days after moving the vehicle, send to the registered owner and the secured party as shown by the records of the secretary of state, by first-class mail or personal service, a notice that the vehicle has been removed; however, if the

police agency informs the owner or operator of the vehicle of the removal and the location of the vehicle within 24 hours after the removal, and if the vehicle has not been redeemed within 30 days and upon complaint from the towing service, the police agency shall send the notice within 30 days after the removal. The notice shall be by a form furnished by the secretary of state. The notice form shall contain the following information:

(i) The year, make, and vehicle identification number of the vehicle if available.

(ii) The location from which the vehicle was taken into custody.

(iii) The date on which the vehicle was taken into custody.

(iv) The name and address of the police agency which had the vehicle taken into custody.

(v) The location where the vehicle is being held.

(vi) The procedure to redeem the vehicle.

(vii) The procedure to contest the fact that the vehicle was properly removed or the reasonableness of the towing fees and daily storage fees.

(viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.

(ix) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale or to both the vehicle and the proceeds.

(3) The registered owner may contest the fact that the vehicle was properly removed or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 2.5e and 2.5f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond with the court in an amount equal to the accrued towing and storage fees. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly removed, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.

(4) If the owner does not request a hearing, he or she may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(5) If the owner does not redeem the vehicle or request a hearing within 20 days, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle prior to the date of the sale.

(6) Not less than 20 days after the disposition of the hearing described in subsection (3) or, if a hearing is not requested, not less than 20 days after the date of the notice described in subsection (2)(c), the police agency shall offer the vehicle for sale at a public sale unless the vehicle is redeemed. The public sale shall be held pursuant to section 2.5g.

(7) If the ownership of a vehicle which has been removed under this section cannot be determined either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state does not reveal ownership, the police agency may sell the vehicle at public sale pursuant to section 2.5g, not less than 30 days after public notice of the sale has been published.

Sec. 2.5e. Abandoned vehicle, jurisdiction of court.

(1) The following courts shall have jurisdiction to determine if a police agency has acted properly in processing a vehicle under section 2.5a, 2.5b(6) to (10), 2.5c, or 2.5d:

(a) The district court.

(b) A municipal court.

(c) The common pleas court of the City of Detroit.

(2) The court specified in the notice prescribed in section 2.5a(4)(c), 2.5b(6), 2.5c(4), or 2.5d(2)(c) shall be the court which has territorial jurisdiction at the location from where the vehicle was removed or deemed abandoned. Venue in the district court shall be governed by section 8312 of act No. 236 of the Public Acts of 1961, as amended, being section 600.8312 of the Michigan Compiled Laws.

(3) If the owner fails to pay the accrued towing and storage fees, the towing and storage bond posted with the court to secure release of the vehicle under section 2.5a, 2.5b, 2.5c, or 2.5d shall be used to pay the towing and storage fees.

Sec. 2.5f. Abandoned vehicle, duties of court.

(1) Upon receipt of a petition prescribed in section 2.5a, 2.5b, 2.5c, or 2.5d, signed by the owner of the vehicle which has been taken into custody, the court shall do both of the following:

(a) Schedule a hearing within 30 days for the purpose of determining whether the police agency acted properly.

(b) Notify the owner and the police agency of the time and place of the hearing.

(2) At the hearing specified in subsection (1) the police agency shall have the burden of showing by a preponderance of the evidence that it has complied with the requirements of this act in processing the abandoned vehicle or vehicle removed pursuant to section 2.5d.

(3) After the hearing the court shall make a decision which shall include one or more of the following:

(a) A finding that the police agency complied with the procedures established for the processing of an abandoned vehicle or a vehicle removed under section 2.5d, and an order providing a period of 20 days after the decision for the owner to redeem the vehicle. If the owner does not redeem the vehicle within 20 days, the police agency shall dispose of the vehicle pursuant to section 2.5b or 2.5g.

(b) A finding that the police agency did not comply with the procedures established for the processing of an abandoned vehicle or a vehicle removed pursuant to section 2.5d. After making such a finding, the court shall issue an order directing that the police agency is responsible for the accrued towing and storage charges.

(c) A finding that the towing and daily storage fees were reasonable.

(d) A finding that the towing and daily storage fees were unreasonable and issue an order directing an appropriate reduction.

Sec. 2.5g. Abandoned vehicle, public sale.

(1) A public sale for a vehicle which has been deemed abandoned under section 2.5a or 2.5c or removed under section 2.5d shall be conducted in the following manner:

(a) It shall be under the control of the police agency or agent of the police agency.

(b) It shall be open to the public and consist of open auction bidding or bidding by sealed bids. If sealed bids are received, the person submitting the bid shall receive a receipt for the bid from the police agency or agent of the police agency.

(c) Except as provided by sections 2.5a(9) and 2.5d(7), it shall be held not less than 5 days after public notice of the sale has been published.

(d) The public notice shall be published at least once in a newspaper having a general circulation within the county in which the vehicle was abandoned. The public notice shall give a description of the vehicle for sale and shall state the time, date, and location of the sale.

(2) The money received from the public sale of the vehicle shall be applied in the following order of priority:

(a) Towing and storage charges.

(b) Expenses incurred by the police agency.

(c) To the secured party, if any, in the amount of the debt outstanding on the vehicle.

(d) Remainder to the owner. A reasonable attempt shall be made to mail the remainder to the registered owner. If delivery of the remainder cannot be accomplished, the remainder shall become the property of the unit of government that the police agency represents.

(3) If there are no bidders on the vehicle, the police agency may do one of the following:

(a) Turn the vehicle over to the towing firm to satisfy charges against the vehicle.

(b) Obtain title to the vehicle for the police agency or the unit of government the police agency represents, by doing the following:

(i) Paying the towing and storage charges.

(ii) Applying for title to the vehicle.

(c) Hold another public sale pursuant to subsection (1).

(4) A person who acquires ownership of a vehicle under subsection (1) or (3), which vehicle has been designated as a distressed vehicle, shall make application for a salvage certificate of title within 15 days after obtaining the vehicle.

(5) Upon disposition of the vehicle, the police agency shall cancel the entry into the law enforcement information network.

Sec. 5.82. Mandatory child restraints.

(1) Except as provided in this section, or as otherwise provided by law, a rule promulgated pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws, or federal regulation, each driver transporting a child in a motor vehicle shall properly secure each child in a child restraint system as follows:

(a) Any child less than one year of age in a child restraint system which meets the standards prescribed in 49 C.F.R. 571.213, except as provided in subsection (6).

(b) Any child one year of age or more but less than four years of age, when transported in the front seat, in a child restraint system which meets the standards prescribed in 49 C.F.R. 571.213, except as provided in subsection (6).

(c) Any child one year of age or more but less than four years of aged, when transported in the rear seat, in a child restraint system which meets the standards prescribed in 49 C.F.R. 571.213, unless the child is secured by a safety belt provided in the motor vehicle, except as provided in subsection (6).

(2) This section does not apply to any child being nursed.

(3) This section does not apply if the motor vehicle being driven is a bus, school bus, taxicab, moped, motorcycle, or other motor vehicle not required to be equipped with safety belts under federal law or regulations.

(4) A person who violates this section is responsible for a civil infraction.

(5) Points shall not be assessed for a violation of this section.

(6) The secretary of state may exempt by rules promulgated pursuant to Act No. 306 of the Public Acts of 1969, as amended, a class of children from the requirements of this section, if the secretary of state determines that the use of the child restraint system required under subsection (1) is impractical because of physical unfitness, a medical problem, or body size. The secretary of state may specify alternate means of protection for children exempted under this subsection.

Sec. 5.83. Safety belt required; enforcement.

(1) This section shall not apply to a driver or passenger of:

(a) A motor vehicle manufactured before January 1, 1965.

(b) A bus.

(c) A motorcycle.

(d) A moped.

(e) A motor vehicle if the driver or passenger possesses a written verification from a physician that the driver or passenger is unable to wear a safety belt for physical or medical reasons.

(f) A motor vehicle which is not required to be equipped with safety belts under federal law.

(g) A commercial or United States postal service vehicle which makes frequent stops for the purpose of pickup or delivery of goods or services.

(h) A motor vehicle operated by a rural carrier of the United States postal service while serving his or her rural postal route.

(2) This section shall not apply to a passenger of a school bus.

(3) Each driver and front seat passenger of a motor vehicle operated on a street or highway in this state shall wear a properly adjusted and fastened safety belt, except that a child less than four years of age shall be protected as required in section 5.82.

(4) Each driver of a motor vehicle transporting a child four years of age or more but less than 16 years of age in a motor vehicle shall secure the child in a properly adjusted and fastened safety belt. If the motor vehicle is transporting more children than there are safety belts available for use, all safety belts available in the motor vehicle are being utilized in compliance with this section, and the driver and all front seat passengers comply with subsection (3), then the driver of a motor vehicle transporting a child four years of age or more but less than 16 years of age for which there is not an available safety belt is in compliance with this subsection, if that child is seated in other than the front seat of the motor vehicle. However, if that motor vehicle is a pickup truck without an extended cab or jump seats, and all safety belts in the front seat are being used, the driver may transport such a child in the front seat without a safety belt.

(5) Failure to wear a safety belt in violation of this section may be considered evidence of negligence and may reduce the recovery for damages arising out of the ownership, maintenance, or operation of a motor vehicle. However, such negligence shall not reduce the recovery for damages by more than five percent.

(6) A person who violates this section is responsible for a civil infraction.

(7) Points shall not be assessed for a violation of this section.

Sec. 5.97. School Buses; overtaking, meeting, or passing.

(1) The driver of a vehicle overtaking or meeting a school bus which has stopped and is displaying two alternately flashing red lights located at the same level shall bring the vehicle to a full stop not less than 20 feet from the school bus and shall not proceed until the school bus resumes motion or the visual signals are no longer actuated. At an intersection where traffic is controlled by an officer or a traffic stop-and-go signal a vehicle need not be brought to a full stop before passing a stopped school bus, but may proceed past the school bus at a speed not greater than is reasonable and proper but not greater than 10 miles an hour and with due caution for the safety of passengers being received or discharged from the school bus. The driver of a vehicle who fails to stop for a school bus as required by this subsection, who passes a school bus in violation of this subsection, or who fails to stop for a school bus in violation of an Chapter that complies with this subsection, is responsible for a civil infraction.

(2) The driver of a vehicle upon a highway which has been divided into two roadways by leaving an intervening space, or by a physical barrier, or clearly indicated dividing sections so constructed as to impede vehicular traffic, need not stop upon meeting a school bus which has stopped across the dividing space, barrier, or section.

(3) In a proceeding for a violation of subsection (1), proof that the particular vehicle described in the citation was in violation of subsection (1), together with proof that the defendant named in the citation was, at the time of the violation, the registered owner of the vehicle, shall constitute in evidence a presumption that the registered owner of the vehicle was the driver of the vehicle at the time of the violation.

(4) In addition to a civil fine and costs, the judge, district court referee, or district court magistrate may order a person who violates this section to perform not to exceed 100 hours of community service at a school.

66.002 Repeal of inconsistent sections.

Sec. 2. Any provision of the Uniform Traffic Code for the City of McBain inconsistent with any provision herein shall be deemed repealed to the extent of any conflict or inconsistency.

67.000 **SNOW REMOVAL REGULATIONS**
Ord. No. 34
Adopted: November 8, 1971

67.001	Parking restrictions.
67.001a	Evidentiary presumption relating to parking violators.
67.001b	Notice of parking regulations.
67.001c	Impounding of motor vehicles.
67.002	Moving snow into street or alley.
67.003	Penalty.
67.003a	Enforcement.
67.004	Adoption.
67.005	Effective date.

An Ordinance to Restrict Parking during Snow-Removal Hours and Other Snow-Removal Regulations.

THE CITY OF McBAIN ORDAINS:

67.001 Parking restrictions.

Sec. 1. From November 1 to May 1 of any year, it shall be illegal for any person to park or leave standing any vehicle on any street or alley in the corporate limits of the City of McBain between the hours of 2:00 a.m. and 6:00 a.m.

67.001a Evidentiary presumption relating to parking violators.

Sec. 1a. In any proceeding for a violation of this ordinance [part], proof that the particular motor vehicle described in the complaint was parked in violation of this ordinance [part], together with proof that the defendant named in the complaint was, at the time of such parking, the registered owner of such vehicle, shall constitute in evidence a presumption that the registered owner of such vehicle was the person who parked or placed such vehicle in violation of this ordinance [part].
(Ord. No. 63, § 6, 8-15-2001)

67.001b Notice of parking regulations.

Sec. 1b. The City Street Administrator, or his designee, shall erect signs on all streets and highways at the City limits approximately three feet by four feet sufficiently legible as to be seen by an ordinarily observant person giving notice of the parking regulations contained in this ordinance [part].
(Ord. No. 63, § 6, 8-15-2001)

67.001c Impounding of motor vehicles.

Sec. 1c. Any motor vehicle parked in violation of this ordinance [part] may be impounded by any police officer and removed from the street or alley where illegally parked. After the police officer impounds a motor vehicle parked in violation of this ordinance [part], he or she shall follow the procedures contained in Section [66.001] 2.5d of the City of McBain Uniform Traffic Code relating to the impoundment of motor vehicles.
(Ord. No. 63, § 6, 8-15-2001)

67.002 Moving snow into street or alley.

Sec. 2. Also, no person shall move or cause to be moved any snow or other material into any street or alley within the corporate limits of the City.

67.003 Penalty.

Sec. 3. Any person who shall violate any provision of this ordinance [part] shall be guilty of a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101—600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than $500.00. Each day this ordinance [part] is violated shall be considered as a separate violation.
(Ord. No. 63, § 7, 8-15-2001)

67.003a Enforcement.

Sec. 3a. Deputies of the Missaukee County Sheriff's Department are hereby designated as the authorized officials to issue municipal civil infraction citations directing alleged violators of this ordinance [part] to appear in court.
(Ord. No. 63, § 8, 8-15-2001)

67.004 Adoption.

Sec. 4. This ordinance [part] adopted on November 8, 1971 by the Council of the City of McBain.

67.005 Effective date.

Sec. 5. This ordinance [part] shall be in effect anytime after November 28, 1971.

68.000

SNOWMOBILE REGULATIONS

Ord. No. 63, § 9
Adopted: August 15, 2001

68.001 Purpose.
68.002 Definitions.
68.003 Regulations.
68.004 Penalties.

68.001 Purpose.

[Sec. 1.] The purpose of this Chapter [Part] is to regulate the operation and conduct of snowmobiles within the City of McBain in a manner that will ensure compatible use and best protest the safety and general welfare of the public.

68.002 Definitions.

Sec. 2. As used in this ordinance [part],

(a) "Street" means the entire width between the boundary lines of every way publicly maintained if any part thereof is open to the use of the public for purposes of vehicular travel. A street includes an alley.

(b) "Operate" means to ride in or on and be in actual physical control of the operation of a snowmobile.

(c) "Operator" means any person who operates or is an actual physical control of a snowmobile.

(d) "Right-of-way" means that portion of a street less the roadway and any shoulder.

(e) "Roadway" means that portion of the street improved, designated, or ordinarily used for the vehicular travel. If a street includes two or more separate roadways, the term roadway refers to any such roadway separately, but not to all such roadways collectively.

(f) "Shoulder" means that portion of a street on either side of the roadway that is normally snowplowed for the safety and convenience of vehicular traffic.

(g) "Snowmobile" means any motor-driven vehicle designed for travel primarily on snow or ice of a type that utilizes sled-type runners or skis, an endless belt tread, or any combination of these or other similar means of contact with the surface upon which it is operated, but is not a vehicle that must be registered under the Michigan Vehicle Code, being Act No. 300 of the Public Acts of 1949.

68.003 Regulations.

Sec. 3.

(a) A person shall not operate or allow another person to operate a snowmobile in violation of any of the following regulations:

1. A snowmobile may be operated on the right-of-way of a public street within the City of McBain, except Roland Street between Maple and Euclid Streets, if such operation is for the purpose of entering or leaving the City of McBain using the shortest possible route and the snowmobile is operated at the extreme right of the open portion of the right-of-way and with the flow traffic on the street.

2. Snowmobiles operated on the right-of-way of a public street shall travel single file and shall not be operated abreast except when overtaking and passing another snowmobile.

3. In the absence of a posted snowmobile speed limit, a snowmobile operated on the right-of-way of a public street shall be limited to the speed limit posted on the public street.

4. A snowmobile may be operated on the roadway or shoulder when necessary to cross a bridge or culvert if the snowmobile is brought to a complete stop before entering onto the roadway or shoulder and the driver yields the right-of-way to an approaching vehicle on the street.

5. A snowmobile may be operated across a public street at right angles to the street for the purpose of getting from 1 area to another when the operation can be done in safety and another vehicle is not crossing the street at the same time in the same general area. An operator shall bring his or her snowmobile to a complete stop before proceeding across the public street and shall yield the right-of-way to all oncoming traffic.

6. Snowmobiles may be operated on a street under the jurisdiction of the City of McBain that is not normally snowplowed for vehicular traffic and on the plowed right-of-way or shoulder of a street when no right-of-way exists on a snowplowed street within the City, if such street is designated and marked for snowmobile use by the City.

7. A snowmobile shall not be operated at a rate of speed greater than is reasonable and proper having due regard for conditions then existing.

8. A snowmobile shall not be operated in a forest nursery, planting area, or public lands posted or reasonably identifiable as an area of forest reproduction when growing stock may be damaged or posted or reasonably identifiable as a natural dedicated area.

9. A snowmobile shall not be operated within 100 feet of a dwelling between 10:00 p.m. and 7:00 a.m. at a speed greater than the minimum required to maintain forward movement of the snowmobile.

10. A snowmobile shall not be operated while transporting on the snowmobile a bow, unless unstrung or encased, or a firearm, unless unloaded in both barrel and magazine and securely encased.

11. A snowmobile shall not be operated on or across a cemetery or burial ground.

12. A snowmobile shall not be operated within 100 feet of a slide, ski, or skating area except when traveling on a public street. However, the snowmobile may enter such an area for the purpose of servicing the area or for medical emergencies.

13. A snowmobile shall not be operated on a railroad or railroad right-of-way, unless permitted under state law.
14. A snowmobile shall not be operated in a careless or negligent manner so as to endanger the safety of any other person or property of any other person.
15. A snowmobile shall not be operated on the property of another person without the express prior permission of the owner or occupant of the property.

68.004 Penalties.

Sec. 4. A person who violates this Chapter [Part] shall be guilty of a misdemeanor and shall be imprisoned in the county jail no more than 90 days and/or fined no more than $500.00, plus the costs of prosecution.

Parts 69—89

(Reserved)

OFFENSES

90.000

FIREARMS AND AIR GUNS
Ord. No. 14
Adopted: September 10, 1900

90.001 Prohibition.
90.002 Penalty.
90.003 Moneys collected.
90.004 Effective date.

An ordinance of the City of McBain relating to the use of firearms and air guns.

THE CITY OF McBAIN ORDAINS:

90.001 Prohibition.

Sec. 1. That it shall not be lawful for any person or persons to use or cause to be used any firearms or air guns within the corporate limits of the City of McBain. (3-13-1989)

90.002 Penalty.

Sec. 2. Any person or persons who shall violate any of the provisions of this ordinance [part] shall, upon conviction thereof before any court of competent jurisdiction be punished by a fine not exceeding $500.00 dollars and costs of prosecution or by imprisonment in the city or county jail not exceeding ninety days or by both such fine and imprisonment in the discretion of the court. (3-13-1989)

90.003 Moneys collected.

Sec. 3. All moneys collected by virtue of this ordinance [part] shall belong to the general fund of the city and shall be paid to the city treasurer within ten days after collection.
(3-13-1989)

90.004 Effective date.

Sec. 4. This ordinance [part] will take effect 20 days after its passage.

91.000

LOITERING

Ord. No. 63, § 3
Adopted: August 15, 2001

91.001	Loitering.
91.002	Definition.
91.003	Penalty.
91.004	Enforcement.
91.005	Validity.

91.001 Loitering.

Sec. 1. No person shall loiter on a public street, sidewalk, a public place, or any other place or business open to the general public in such a manner as to:

(a) By words or conduct, harass, assault, molest or intimidate any other person, or

(b) Interfere with any person's use of a public street, sidewalk, a public place, or any other place or business open to the general public.

91.002 Definition.

Sec. 2. The term "harass" as used in this Chapter [Part] shall include, but not be limited to, the use of any personally abusive epithets, words, language, or conduct of an offensive nature, which when addressed to or directed at a reasonable person, are likely to provoke a reaction of fear, anger, or apprehension.

91.003 Penalty.

Sec. 3.

(a) Any person who violates this Chapter [Part] shall be guilty of a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101—600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than $500.00. Each day this Chapter is violated shall be considered as a separate violation.

(b) Following the issuance of a municipal civil infraction citation, if a person fails to leave the premises after the request of a police officer, the owner of the property, or an authorized representative of the owner of the property, that person shall be guilty of a misdemeanor and shall be subject of a fine of up to $500.00 or imprisonment of not more than 90 days, or by both.

91.004 Enforcement.

Sec. 4.

(a) Deputies of the Missaukee County Sheriff's Department are hereby designated as the authorized officials to issue municipal civil infraction citations directing alleged violators of this Chapter [Part] to appear in court.

(b) The criminal aspects of this Chapter [Part] shall be enforced by the Missaukee County Sheriff's Department and the Michigan State Police.

91.005 Validity.

Sec. 5. If any section, provision or clause of this Chapter [Part] or the application thereof to any person or circumstances is held invalid, such invalidity shall not effect any remaining portions or application of this Chapter [Part], which can be given effect without the invalid portion or application.

Parts 92—119

(Reserved)

MISCELLANEOUS

Parts 120—139

MISCELLANEOUS
(Reserved)

ENVIRONMENTAL

PROTECTION

140.000

NUISANCE

Ord. No. 63, § 22
Adopted: August 15, 2001

140.001	Definitions.
140.002	Nuisances.
140.003	Prohibition.
140.004	Industrial usage.
140.005	Penalty.
140.006	Enforcement.
140.007	Abatement by City.
140.008	Validity.
140.009	Separate court action.

140.001 Definitions.

Sec. 1. As used in this Chapter [Part] the following terms shall have the meanings prescribed in this section.

(a) "Building materials" includes but is not limited to lumber, bricks, concrete or cinder blocks, plumbing or heating materials, electrical wiring or equipment, shingles, mortar, concrete or cement, nails, screws, or any other materials used in construction of any structure.

(b) "Exotic animal" means and includes any wild mammal, reptile or fowl which is not naturally tame or gentle, but is of a wild nature or disposition, and which, because of its size, vicious nature or other characteristics, would constitute a danger to human life or property.

(c) "Garbage" means rejected food wastes, including waste accumulation of animal, fruit or vegetable matter used or intended for food or that relate to the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit or vegetables. "Garbage" does not include one compost pile consisting of decaying organic substances intended for fertilizing land; provided, however, that the compost pile is no larger than five feet square and is located on the property so that it cannot be seen from any public highway or seen from any adjoining land owned by another person.

(c) "Harbor or harboring" means providing food and/or shelter to any animal for any period of time in excess of 12 hours or being in charge or control of any animal under any written or verbal agreement with the animal's owner.

(d) "Junk" - By way of example and not limitation the term shall include used or salvaged metals and their compounds or combination, used or salvaged rope, rubber, tires or car parts.

(e) "Liquid industrial wastes" means any liquid brine, by-product, industrial wastewater, leachate, off-specification commercial product, sludge, grease-trap clean-out residue, used oil, or other liquid waste produced by, incident to or resulting from industrial or commercial activity except any liquid brine normally used or stored in regard to oil or gas extraction on a site permitted by the Michigan Supervisor of Wells.

(f) "Owner of a dog" means any person or persons owning or harboring a dog. Any person who harbors a dog on or about property owned or occupied by that person for a period of five days shall be deemed the owner of such dog.

(g) "Person" means an individual, firm, corporation, association, partnership, or limited liability company.

(h) "Rubbish" means nonputrescible solid wastes including ashes, paper, cardboard, metal containers, glass, bedding, crockery, bags, rags, and demolished materials.

(i) "Sealed container" means a covered, closable container which is rodent-proof, fly-proof and watertight such as garbage cans with properly fitting tops or plastic garbage bags which have been closed or twisted shut.

(j) "Totally closed structure" means a building capable of being sealed on all sides such as a house, garage or storage shed with a roof, floor and walls or closable doors around its perimeter.

140.002 Nuisances.

Sec. 2. The following are hereby declared to be nuisances:

(a) The keeping or storage of building materials outside on private property six months after an occupancy permit is issued by the Missaukee County Building Department. This subsection, however, shall not apply to building materials kept or stored outside on private property if the building material is kept or stored in an orderly fashion. As used in this subsection, the phrase "building material kept or stored in an orderly fashion" shall mean that all building material of the same type, including but not limited to lumber (both stick and sheet wood), cement blocks, bricks, roofing material, and siding shall be kept or stored together and not kept or stored intermingled with building material of a different type and shall be stacked in an organized fashion customary for that type of building material. By way of example and not limitation, stick lumber shall be piled with all sticks substantially parallel to one another, sheet wood shall be piled one on top of another with the area of one sheet covering as much as possible the area of the sheet beneath it, cement blocks and bricks shall be stacked in the shape of a cube in such a manner that they will not fall off the stack, and siding shall be piled with each piece substantially parallel to one another.

(b) The keeping or storage of ashes, junk, garbage or rubbish outside of a totally enclosed structure on private property except in a sealed container designed for the purpose of holding such ashes, junk, garbage, or rubbish.

(c) The placing of ashes, junk, garbage or rubbish on private property without the owner's permission or on public property. This provision applies regardless of whether the ashes, junk, garbage or rubbish is in a sealed container.

(d) The keeping or storage of junk, garbage or rubbish on private property, including inside a building, in such a manner that the items, regardless of the method of containment, have become a breeding ground, food source or habitation of insects, rodents or vermin.

(e) Intentional depositing of liquid petroleum crude oil, liquid petroleum crude oil by-products and derivatives or liquid industrial wastes on the ground.

(f) The existence of any structure or damaged partial structure which because of fire, wind or other natural disaster or physical deterioration is no longer habitable as a dwelling, nor currently useful for any other purposes for which it may have been intended.

(g) The existence of any vacant building, garage, house or outbuilding unless such structure is kept secure from entry by the public.

(h) The distributing, placing, posting, or affixing of posters, notices, or handbills on private property without consent of the owner or occupant except as authorized or required by law.

(i) Being the owner of a dog, to permit or to allow another person to permit his or her dog to do any of the following:

1. To run at large within the City limits.
2. To trespass upon another person's real property or to in any manner injure or destroy any real or personal property belonging to another person, including but not limited to breaking or tearing open any garbage bag containing garbage or rubbish awaiting pickup or otherwise spreading garbage or rubbish on another person's property.
3. To create malodorous or offensive waste conditions on the owner's property outside of a totally enclosed structure or anywhere on the property of another person; or
4. To whine, yelp, bark, howl or make other sounds common to its species such that said noise can be heard by any person from an adjoining lot line or from the right-of-way of any adjoining public street between the hours of 11:00 p.m. and 7:00 a.m. or at any time in a habitual manner. For purposes of this subsection, "habitual" means whining, yelping, barking, howling, or making other sounds common to its species on three or more occasions separated by at least one hour within a one-week period.

(j) The harboring of any horse, cow, donkey, mule, goat, sheep, pig, duck, goose, turkey, chicken, guinea hen, or exotic animal within the City.

140.003 Prohibition.

Sec. 3. No person shall commit, create, or maintain any nuisance. No person shall knowingly permit the existence of a nuisance on the property owned or possessed by such person. Each day a nuisance shall exist shall be construed as a separate violation.

140.004 Industrial usage.

Sec. 4. The storage or keeping of salvageable metal or wood shall not be prohibited on property on which is located a factory engaged in manufacturing, assembling or machining as long as the salvageable metal or wood is for resale or reuse by the occupant of the property.

140.005 Penalty.

Sec. 5. Any person who shall violate any provision of this Chapter [Part] shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101—600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than $500.00. Each day this Chapter [Part] is violated shall be considered as a separate violation. Any action taken under this Section shall not prevent civil proceedings for abatement or termination of the prohibited activity.

140.006 Enforcement.

Sec. 6. The City Ordinance Enforcement Officer is hereby designated as the authorized city official to issue municipal civil infraction citations directing alleged violators of this Chapter [Part] to appear in court.

140.007 Abatement by City.

Sec. 7. If the owner or possessor of any property on which a nuisance exists fails to eliminate a nuisance after having received Notice from the City of the existence of the nuisance, the City Enforcement Officer, after receiving authorization by the City Council, may take such steps as are necessary to abate or eliminate the nuisance. The Notice shall describe the location of the property, describe the nature of the nuisance and give ten days in which the owner or possessor may eliminate the nuisance without intervention by the City. The written Notice may be served personally or may be sent by first-class mail to the last known address of the owner or occupier of the premises. The time period shall commence on the date of the personal service or in the case of mailing service shall be deemed to have taken place on the date of mailing.

The cost of elimination of the nuisance by the City, including reasonable attorney fees, may be collected in a lawsuit against the owner and/or possessor of the property on which the nuisance existed and/or against the person who committed, created, or maintained the nuisance.

140.008 Validity.

Sec. 8. If any section, provision or clause of this Chapter [Part] or the application thereof to any person or circumstance is held invalid, such invalidity shall not effect any remaining portions or application of this Chapter [Part] which can be given effect without the invalid portion or application.

140.009 Separate court action.

Sec. 9. Nothing in this Chapter [Part] shall prohibit the City or any interested party from seeking such other relief as may be permitted in law or in equity regarding the existence of a nuisance. A violation of this Chapter [Part] is deemed to be a nuisance per se.

141.000 ANTI-NOISE AND PUBLIC NUISANCE

Ord. No. 50

Adopted: September 14, 1987

141.001	Title.
141.002	Anti-noise regulations.
141.003	Public nuisance regulations.
141.004	Validity.
141.005	Penalty.
141.005a	Enforcement.
141.006	Effective date.

An ordinance to secure the public health, safety and general welfare of the residents and property owners of the City of McBain, Missaukee County, Michigan, by the regulation of noise within said City: to prescribe the penalties for the violation thereof.

THE CITY OF McBAIN, MISSAUKEE COUNTY, MICHIGAN ORDAINS:

141.001 Title.

Sec. 1. This ordinance [part] shall be known and cited as the City Anti-Noise and Public Nuisance Ordinance.

141.002 Anti-noise regulations.

Sec. 2.

A. *General regulation.* No person, firm or corporation shall cause or create any unreasonable or unnecessarily loud noise or disturbance, injurious to the health, peace or quiet of the residents and property owners of the City.

B. *Specific violations.* The following noises and disturbances are hereby declared to be a violation of this ordinance [part]; provided, however, that the specification of the same is not thereby to be construed to exclude other violations of this ordinance [part] not specifically enumerated:

1. The playing of any radio, phonograph, television or other electronic or mechanical sound producing device, including any musical instrument in such a manner or with such volume as to unreasonably upset or disturb the quiet, comfort or repose of other persons.

2. Yelling, shouting, hooting or singing on the public streets between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to unreasonably upset or disturb the quiet, comfort or repose of any persons in the vicinity.

3. The emission or creation of any excessive noise which unreasonably interferes with the operation of any school, church, hospital or court.

4. The keeping of any animal, bird or fowl, which emanates frequent or extended noise which shall unreasonably disturb the quiet, comfort or repose of any person in the vicinity; such as allowing or permitting any dog to bark repeatedly in an area where such barking can be clearly heard from nearby residential property.

5. The operation of any automobile, motorcycle or other vehicle so out of repair or so loaded or constructed as to cause loud and unnecessary grating, grinding, rattling or other unreasonable noise including the noise resulting from exhaust, which is clearly audible from nearby properties and unreasonably disturbing to the quiet, comfort or repose of other persons. The modification of any noise abatement device or

any motor vehicle or engine, or the failure to maintain same so that the noise emitted by such vehicle or engine is increased above that emitted by such vehicle as originally manufactured shall be in violation of this section.

6. The sounding of any horn or other device on any motor vehicle unless necessary to operate said vehicle safely or as required by the Michigan Motor Vehicle Code.

7. The discharging outside of any enclosed building of the exhaust of any steam engine, internal combustion engine, motor vehicle or motor boat engine except through a muffler or other similar device which will effectively prevent loud or explosive noises. The modification of any noise abatement device on any motor vehicle or engine, or the failure to maintain same so that the noise emitted by such vehicle or engine is increased above that emitted by such vehicle as originally manufactured shall be in violation of this section.

8. The erection, excavation, demolition, alteration or repair of any building or premises in any part of the City and including the streets and highways, in such a manner as to emanate noise or disturbance unreasonably annoying to other persons, other than between the hours of 7:00 a.m. and sundown on any day, except in cases of urgent necessity in the interest of public health and safety. In such case, a permit shall be obtained from the Building Inspector or Ordinance Enforcement Officer of the City which permit shall limit the periods that the activity may continue.

9. The creation of a loud or excessive noise unreasonably disturbing to other persons in the vicinity in connection with the operation, loading or unloading of any vehicle, trailer, railroad car or other carrier or in connection with the repairing of any such vehicle in or near residential areas.

10. The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention to any performance, show, sale, display or other commercial purpose which, by the creation of such noise, shall be unreasonably disturbing to other persons in the vicinity.

11. The operation of any loudspeaker or other sound amplifying device upon any vehicle on the streets of the City with the purpose of advertising, where such vehicle, speaker or sound amplifying device emits loud and raucous noises easily heard from nearby adjoining residential property.

12. The operation of any machinery, equipment or mechanical device so as to emit unreasonably loud noise which is disturbing to the quiet, comfort or repose of any person.

13. The operation of any race track, proving ground testing area or obstacle course for motor vehicles motorcycles, boats, racers, automobiles or vehicles of any kind or nature in any area of the City where the noise emanating therefrom would be unreasonably disturbing and upsetting to other persons in the vicinity. Under no circumstances shall any race track, proving ground, testing area or obstacle course operate after 11:00 p.m. on any evening.

C. *Exceptions.* None of the prohibitions hereinbefore enumerated shall apply to the following:

1. Any police vehicle, ambulance, fire engine or emergency vehicle while engaged in necessary emergency activities.

2. Excavation or repair of bridges, streets or highways or other property by or on behalf of the State of Michigan, the City of McBain or the County of Missaukee, between sundown and 7:00 a.m. when the public welfare, safety and convenience render it impossible to perform such work during other hours.

3. Warning devices emitting sound for warning purposes as authorized by law.

141.003 Public nuisance regulations.

Sec. 3. No person, firm or corporation shall create, cause or maintain any public nuisance within the City by the unreasonable emission of dust, smoke, fly ash or noxious odors which are offensive or disturbing to adjacent property owners and residents or persons in the area.

141.004 Validity.

Sec. 4. The several provisions of this ordinance [part] are declared to be separate; if any Court of Law shall hold that any section or provision thereof is invalid, such holding shall not affect or impair the validity of any other section or provision of this ordinance [part].

141.005 Penalty.

[Sec. 5.] Any person who shall violate any provision of this ordinance [part] shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101—600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than $500.00. Each day this ordinance [part] is violated shall be considered as a separate violation.

(Ord. No. 63, § 24, 8-15-2001)

141.005a Enforcement.

Sec. 5a. The City Ordinance Enforcement Officer is hereby designated as the authorized city official to issue municipal civil infraction citations directing alleged violators of this ordinance [part] to appear in court.
(Ord. No. 63, § 25, 8-15-2001)

141.006 Effective date.

Sec. 6. This ordinance [part] shall take effect 20 days after publication.

142.000 DISMANTLED OR INOPERABLE MOTOR VEHICLES

Ord. No. 63, § 26

Adopted: August 15, 2001

142.001 Definitions.
142.002 Prohibition.
142.003 Nuisance.
142.004 Penalty.
142.005 Enforcement.
142.006 Civil action.
142.007 Severability.

142.001 Definitions.

Sec. 1. As used in this Chapter [Part],

(a) "Motor vehicle" means any wheeled vehicle which is designed to be self-propelled.

(b) "Inoperable motor vehicle" means a motor vehicle, which by reason of dismantling, disrepair, lack of licensing or other cause is either incapable of being propelled under its own power or is prevented by law from being propelled on a public highway.

(c) "Dismantled and partially dismantled motor vehicle" means a motor vehicle from which a part or parts integral to the operation of such motor vehicle, or a part or parts required by any law or regulation to be present on a motor vehicle, has been removed or is missing.

(d) A "junk dealer" is a person who owns or operates a lawful junkyard located within the City.

(e) A "person" means an individual, firm, corporation, partnership, association, limited liability company, limited partnership, or any other legal entity.

(f) "Public highway" is any publicly maintained way upon which any part thereof is open to the use of the public for the purposes of vehicular travel.

142.002 Prohibition.

Sec. 2. No person shall park or store, or knowingly allow another person to park or store for a period of ten consecutive days, one or more dismantled, partially dismantled or inoperable motor vehicles outside a building such that the dismantled, partially dismantled, or inoperable motor vehicles can be seen from any public highway or seen from any adjoining land owned by another person. This section shall not apply to junk dealers, garages and service stations openly and actively engaged in making service repairs for the public, and to motor vehicles licensed for no less than six months in any 12-month period.

142.003 Nuisance.

Sec. 3. A violation of Section 2 [142.002] of this Chapter [Part] is hereby declared to be a public nuisance, a nuisance per se and is hereby further declared to be offensive to the public health, safety and welfare.

142.004 Penalty.

Sec. 4. Any person who shall violate any provision of this ordinance [part] shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101—600.9939 of

Michigan Compiled Laws, and shall be subject to a fine of not more than $500.00. Each day this ordinance [part] is violated shall be considered as a separate violation.

142.005 Enforcement.

Sec. 5. The City Ordinance Enforcement Officer is hereby designated as the authorized city official to issue municipal civil infraction citations directing alleged violators of this Chapter [Part] to appear in court.

142.006 Civil action.

Sec. 6. In addition to enforcing this Chapter [Part] through the use of a municipal civil infraction proceeding, the City may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Chapter [Part].

142.007 Severability.

Sec. 7. If any section, provision or clause of this Chapter [Part] or the application thereof to any person or circumstance shall be invalid, such invalidity shall not effect any remaining portion or application of this Chapter [Part] which can be given effect without the invalid portion or application.

143.000

TREES

Ord. No. 63, § 27

Adopted: August 15, 2001

143.001 Definitions.
143.002 Prohibited activity.
143.003 Tree planting regulations.
143.004 Removal of tree for convenience of landowner.
143.005 Treatment or removal of trees on private property.
143.006 Tree branches extending over public grounds.
143.007 Penalty.
143.008 Enforcement.

143.001 Definitions.

Sec. 1. As used in this Chapter [Part],

(a) "Department" means the City of McBain Department of Public Works.

(b) "Director" means the director of the department for his or her authorized representative.

(c) "Person" means an individual, firm, partnership, corporation, limited liability company, or other legal entity.

(d) "Prohibited species" means a tree of poplar (Populus sp.), willow (Salix sp.), box elder (Acer negundo), silver maple (Acer saccharium), locust (Robina sp.), tree of heaven (Ailanthus altissima), catalpa (Catalpa sp.), mulberry (Morus sp.), and Siberian elm (Ulmus pumila).

(e) "Public grounds" means all parks and street rights-of-way under the jurisdiction of the City.

(f) "Right-of-way" means that portion of a street less the roadway and any shoulder.

(g) "Roadway" means that portion of the street improved, designated, or ordinarily used for the vehicular travel. If a street includes two or more separate roadways, the term roadway refers to any such roadway separately, but not to all such roadways collectively.

(h) "Shoulder" means that portion of a street on either side of the roadway that is normally snowplowed for the safety and convenience of vehicular traffic.

(i) "Street" means the entire width between the boundary lines of every way publicly maintained if any part thereof is open to the use of the public for purposes of vehicular travel. A street includes an alley.

(j) "Tree" means a perennial plant having a permanent, woody, self-supporting main stem or trunk, ordinarily growing to a considerable height, and usually developing branches at some distance from the ground. A tree includes shrubs, bushes, and all other woody vegetation.

143.002 Prohibited activity.

Sec. 2. No person shall

(a) Plant any tree that is a prohibited species on public grounds.

(b) Plant any tree on public grounds without first obtaining the written permission of the director.

(c) Plant any tree that obstructs the vision of the driver of a motor vehicle on any public or private street.

(d) Remove, prune, or spray a tree on public grounds without first obtaining the written permission of the director.

(e) Burn or cause to be burned any material in a manner or in a position which will cause injury to a tree on public grounds.

(f) Place or expose, or cause to be placed or exposed chemicals, in any form or state, which will cause injury to a tree on public grounds.

(g) Excavate or tunnel with six feet of a tree on public grounds without first obtaining the written permission of the director.

(h) Place or cause to be placed concrete or other impervious material, which will impede the passage of air and water into the ground, as determined by the following scale: nine square feet for every three inches of trunk diameter measured six inches above the ground, and for shrubs, bushes, and all other woody vegetation, such area shall be sufficient for their healthy growth.

(i) Mutilate or girdle any tree on public grounds.

143.003 Tree planting regulations.

Sec. 3. A person planting any tree on public grounds shall comply with all of the following regulations:

(a) The tree at the time of planting shall have a trunk no less than 1½ inches in diameter measured six inches from the ground and shall be no less than eight feet in height measured from the ground to the top of the tree.

(b) All trees shall be planted at least 30 feet from another tree or from a building.

(c) All trees shall be planted at least four feet from a sidewalk or from the curb of any street.

143.004 Removal of tree for convenience of landowner.

Sec. 4. Any tree on public grounds that is removed for the convenience of any landowner shall be replaced by that landowner with a new tree meeting the requirements of this Chapter [Part], or the landowner shall pay to the City an amount established by resolution of the city council to be used by the City for the planting of new trees within the City.

143.005 Treatment or removal of trees on private property.

Sec. 5. Any tree located on private property which is diseased, in whole or in part, or which is dead, in whole or in part, shall be treated or removed by the property owner on which the tree is located.

143.006 Tree branches extending over public grounds.

Sec. 6. Any tree located on private property adjacent to public grounds that has branches extending over those public grounds shall be maintained by the property owner so that any branch of the tree is no less than eight feet over a pedestrian way and no less than 12 feet over a vehicular way.

143.007 Penalty.

Sec. 7. Any person who shall violate any provision of this Chapter [Part] shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101—600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than $500.00. Each day this Chapter [Part] is violated shall be considered as a separate violation.

143.008 Enforcement.

Sec. 8. The City Ordinance Enforcement Officer is hereby designated as the authorized city official to issue municipal civil infraction citations directing alleged violators of this Chapter [Part] to appear in court.

144.000 NOXIOUS WEEDS

Ord. No. 63, § 28
Adopted: August 15, 2001

144.001	Definitions.
144.002	Noxious weed control.
144.003	Notice.
144.004	Newspaper notice.
144.005	Cutting by City.
144.006	Collection of cutting expenses.
144.007	Prohibition.
144.008	Penalties.
144.009	Enforcement.

144.001 Definitions.

Sec. 1. As used in this Chapter [Part],

(a) "City" shall mean the City of McBain.

(b) "Noxious Weeds" mean Canada thistle (Circium arvense), dodders (any species of Cuscuta), mustards (charlock, black mustard and Indian mustard, species of Brassica or Sinapis), wild carrot (Daucus carota), bindweed (Convolvulus arvensis), perennial sowthistle (Sonchus arvensis), hoary alyssum (Berteroa incana), ragweed (ambrosia elatior), poison ivy (rhus toxicodendron), poison sumac (toxicodendron vernix) or any grass or other weeds in excess of eight inches in height.

(c) "Person" means an individual, firm, partnership, corporation, limited liability company, or other legal entity.

(d) "Property" means lots in the City located within a subdivision in which buildings have been erected on 60 percent of the lots within the subdivision and lots along all improved streets in the City.

(e) "Superintendent" shall mean the Department Head of the City Department of Public Works, or his or her designated representative.

144.002 Noxious weed control.

Sec. 2. Any person who owns or possesses property in the City shall cut down and destroy, or cause to be cut down and destroyed, all noxious weeds on his or her property that is located within 50 feet of any building as often as may be necessary to prevent them from going to seed or otherwise perpetuating themselves.

144.003 Notice.

Sec. 3. If the Superintendent determines that noxious weeds are present on property within the City, he or she shall notify the person who owns or possesses the property, or his or her agent, that noxious weeds are present and must be destroyed within ten days from the receipt of the notice. The notice may be personally served or sent by certified mail, return receipt requested to the owner of the property at the address shown by the last current assessment or tax roll, and shall describe methods of treating and eradicating the noxious weeds. The notice shall also include a statement that if the owner or possessor of the property fails to destroy the noxious weeds, or cause the noxious weeds to be destroyed, then the City shall have the right to enter upon the land to cut the noxious weeds, to charge the owner of the property for its expenses, and to have a lien against the property to secure payment of those expenses. Failure of the Superintendent to

provide the notice required in this Section shall not, however, be a defense to any action to enforce this ordinance [part] or to collect any debt created under this ordinance [part].

144.004 Newspaper notice.

Sec. 4. In lieu of the notice requirements of Section 3 [144.003] above, the City may publish a notice in a newspaper of general circulation in the City during the month of March each year that noxious weeds not cut by May 1 of that year may be cut by the City as many times as necessary to keep the property in compliance with this ordinance [part] and may charge the cost each such cutting to the person owning the property. The newspaper notice shall contain all the information required in Section 3 [144.003] above.

144.005 Cutting by City.

Sec. 5. If a person who owns or possesses property in the City fails to comply with this ordinance [part] within the time specified in the notice sent under Section 3 [144.003] or by May 1 pursuant to the newspaper notice provided in Section 4 [144.004], then the City shall have the right to enter onto the land to cut the noxious weeds. The Superintendent shall keep an accurate account of the expenses incurred in carrying out the authority provided in this Section, including an additional ten percent administrative charge, and shall make a sworn statement of that account to the City Council, which shall then audit and approve the account.

144.006 Collection of cutting expenses.

Sec. 6. After the City Council approves the expense account for cutting noxious weeds on a specific property, the City Clerk shall send by first class mail a statement of those expenses to the owner of the property at the address shown by the last current assessment or tax roll. The statement of expenses shall be payable to the City Treasurer within 30 days from the date the statement was mailed. If the statement of expenses is not paid within that 30-day period, then the City Clerk shall forward a copy of the statement of expenses to the City Assessor, who shall then assess those expenses against the land in question and those expenses shall become a lien on such property pursuant to Act 359 of the Public Acts of 1941, as amended, and shall be enforced in the manner prescribed by the laws of the State of Michigan for the enforcement of tax liens.

144.007 Prohibition.

Sec. 7. No person shall permit noxious weeks on lands owned or rented by him or her after having received a notice under Section 3 [144.003] and after the time specified in the notice has expired.

144.008 Penalties.

Sec. 8. Any person who shall violate any provision of this Chapter [Part] shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101—600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than $500.00. Each day this Chapter [Part] is violated shall be considered as a separate violation.

144.009 Enforcement.

Sec. 9. The City Ordinance Enforcement Officer is hereby designated as the authorized city official to issue municipal civil infraction citations directing alleged violators of this Chapter [Part] to appear in court.

Parts 145—159

(Reserved)

PUBLIC WORKS

AND

UTILITIES

160.000 SEWER CONNECTION ORDINANCE
Ord. No. 37
Adopted: April 10, 1978

160.001	Definitions.
160.002	Necessity.
160.010	Use of system.
160.020	Time limit for connection.
160.021	Trunkage connection fee; structures in which sanitary sewage originates as of April 1, 1978.
160.022	Trunkage connection fee; structures in which sanitary sewage originates after April 1, 1978.
160.023	Trunkage connection fee; premises hereafter directly or indirectly connected to system.
160.024	Additional trunkage connection fees; structures or premises not subject to ad valorem taxation.
160.025	Service stub charge before March 1, 1979.
160.026	Service stub charge after March 1, 1979.
160.027	Permit and service stub inspection fee.
160.028	Units.
160.029	Charges for sewage disposal services; billing; no free service.
160.030	Hardship applications.
160.040	Notice to connect.
160.041	Title.
160.050	Enforcement.
160.060	Penalty.
160.060a	Enforcement.
160.061	Delinquent charges for sewage disposal services.
160.062	Delinquent installment payments.
160.063	Lien.
160.070	Validity.
160.080	Repeal.
160.090	Effective date.
160.100	Charges for connection to Cottage Grove Extension.

An ordinance to provide for the connection now or hereafter of premises to the McBain sanitary sewer in the City of McBain, Missaukee County, Michigan; to provide for the imposition, collection and enforcement of fees and charges for connection thereto and availability thereof and for charges for sewage disposal services therefrom; to require sewers and sewerage for premises hereafter occupied or platted; and to provide for other matters relative to said system and to the use thereof for the preservation of the public health, safety and convenience.

THE CITY OF McBAIN ORDAINS:

160.001 Definitions.

Sec. 1.01. Whenever used in this ordinance [part], except when otherwise indicated by the contest:

(a) The term "City" shall be construed to mean the City of McBain and the term "County" shall be construed to mean the County of Missaukee, acting through the Missaukee County Drain Commissioner, both in the State of Michigan.

(b) The term "Council" shall be construed to mean the City Council of said City of McBain, the legislative and governing body thereof.

(c) The term "sewage disposal system" shall be construed to mean the McBain System No. 1, and shall consist of the sewers and facilities to be acquired and constructed in the City of McBain and the Township of Richland and named the "McBain System No. 1", the cost of which has been assessed by Missaukee County against the City of McBain.

(d) The term "system" shall be deemed to refer to the said sewage disposal system.

(e) The term "available public sanitary sewer" shall be construed to mean a public sanitary sewer system located in a right of way, easement, highway, street or public way which crosses, adjoins or abuts upon the property and passing not more than 200 feet at the nearest point from a structure in which sanitary sewage originates and which sewage could flow by gravity into the public sanitary sewer.

(f) The term "structure in which sanitary sewage originates" or "structure" shall be construed to mean a building in which toilet, kitchen, laundry, bathing or other facilities which generate water-carried sanitary sewage, are used or are available for use for household, commercial, industrial or other purposes.

(g) The term "sewage disposal services" shall be deemed to refer to the collection, transportation, treatment and disposal of sanitary sewage originating now or hereafter in a structure.

(h) The term "unit" or "units" shall be related to the quantity of sanitary sewage ordinarily arising from the occupancy of a structure by a single family of ordinary size and the benefit derived therefrom, and shall be defined or determined from time to time by the City. Said determination of units shall be based upon studies relative to the quantity of sewage generated by different types of use and occupancy of premises and shall be kept up to date and revised as needed as new studies are made and through experience gained by the City of McBain in actual operation.

(i) The term "trunkage connection fee" shall be deemed to mean the amount charged at the time and in the amount hereinafter provided, to each premises in the City for connecting or being connected to the system and represents the proportionate cost allocable to such premises for the trunk facilities by which sewage disposal services are immediately provided to the premises.

(j) The term "charges for sewage disposal services" or "charges" shall be deemed to mean the amount charged to each premises in the City for sewage disposal services which may include a debt service factor.

(k) The term "inspection and approval fee" shall be deemed to mean the amount charged to each applicant by the City to connect said premises to the system to cover the cost of inspecting and approving the physical connection to the system and issuance of a connection permit.

(l) The term "service stub charge" shall be deemed to mean the amount charged to each premises in the City for the actual construction of one or more service stubs from the system to the property line of the premises at the time such service stub is constructed.

(m) The term "premises" shall be deemed to mean the lands included within the boundaries of a single description as set forth, from time to time, on the general tax rolls of the City as a single taxable item in the name of the taxpayer or taxpayers at one address but in the case of platted lots shall be limited to a single platted lot unless an existing structure is so located on more than one lot as to make the same a single description for purposes of assessment of now or hereafter.

160.002 Necessity.

Sec. 1.02. Public sanitary sewage systems are essential to the health, safety and welfare of the people of the state and the City. Septic tank disposal systems are subject to failure due to soil conditions or other reasons. Failure or potential failure of septic tank disposal systems poses a threat to the public health, safety and welfare; presents a potential for ill health, transmission of disease, mortality and potential economic blight and constitutes a threat to the quality of surface and subsurface waters of the state and the City. The connection to available

public sanitary sewer systems at the earliest, reasonable date is a matter for the protection of the public health, safety and welfare and necessary in the public interest which is declared as a matter of legislative determination.

160.010 Use of system.

Sec. 2.01. The said system shall be used for the collection and transportation of sanitary sewage only from the City of McBain. Downspouts, footing drains, weeptile, or any conduit that carries storm water or ground water, alone or in combination with sanitary sewage, shall not be connected to the system, directly or indirectly. Industrial and commercial waste shall be discharged into the system only in compliance with the standards and regulations of the City or County.

160.020 Time limit for connection.

Sec. 3.01. Structures in which sanitary sewage originates located in the City in the area served by the system for which there is an available public sanitary sewer of the system shall not be used or occupied, after March 1, 1978, unless said structures are connected at the time herein provided to the sewage disposal system: Provided, that structures within the City in which sanitary sewage is originating on March 1, 1978, or in which sanitary sewage originates before availability of the system or any part thereof to serve said structures shall be connected to said system within 12 months after publication of a notice by the City in the Waterfront, a newspaper of general circulation in the City of the availability of the system, but in any event on or before September 1, 1980. Plats for premises in the area served by the system subdivided into three or more lots or parcels, after September 1, 1978, shall not be approved on behalf of the City and none of said lots or parcels shall be improved by the erection of a structure thereon unless lateral sewers to serve all of said lots or parcels and to connect same to the system are available as part of the system or shall be installed at private cost (or the estimated cost thereof deposited with the City) in the manner, size and location approved by the City.

160.021 Trunkage connection fee; structures in which sanitary sewage originates as of April 1, 1978.

Sec. 3.02. Owners of structures, in which sanitary sewage originates as of April 1, 1978, on premises located within the area in the City served by the system shall pay a trunkage connection fee for connection at any time on or after August 1, 1978 to the system in the amount of $60.00 per unit, payable in 40 equal annual installments, with interest on the unpaid balance from time to time from August 1, 1978, payable annually at the rate of six percent per annum, the first interest installment being payable on or before March 1, 1979, and the first principal installment being payable on or before March 1, 1979, and succeeding

installments being payable on or before each March 1st thereafter. Any such owner may discharge the obligation to pay such trunkage connection fee by the payment of $60.00 without interest in cash for each unit on or before August 1, 1978, or may pay any part of such trunkage connection fee in cash without interest for each unit on or before August 1, 1978, and thereafter prepayment of said trunkage connection fee may be made in advance by paying interest on the amount prepaid to the next succeeding March 1st following the date of prepayment. The limiting provision of City Ordinance #37 shall remain in effect. (5-8-1978)

160.022 Trunkage connection fee; structures in which sanitary sewage originates after April 1, 1978.

Sec. 3.03. Any owner of a structure on premises within the areas in the City served by the system in which sanitary sewage does not originate, as of April 1, 1978, who thereafter improves the same by the erection of a structure or structures thereon in which sanitary sewage originates, shall pay a trunkage connection fee in accord with the following schedule in cash for each unit at the time a construction or building permit is issued by the City or an inspection and approval fee is paid:

1978 - $60.00

1979 - $65.00

1980 - $70.00

1981 - $75.00

1982 - $80.00

1983 - $85.00

1984 - $90.00

1985 - $95.00

1986 - $100.00

After 1986 - $100.00

160.023 Trunkage connection fee; premises hereafter directly or indirectly connected to system.

Sec. 3.04. Owners of premises within the area in the City served by the system which are hereafter connected directly to the system, or indirectly to the

system or through other public or private sewers hereafter constructed in the area in the Township served by the system, shall pay a trunkage connection fee in accord with the following schedule in cash for each unit at the time a construction or building permit is issued by the City or an inspection and approval fee is paid, which fee shall be in addition to any other fee or charge paid or being paid hereunder with respect to said premises:

1978 - $60.00

1979 - $65.00

1980 - $70.00

1981 - $75.00

1982 - $80.00

1983 - $85.00

1984 - $90.00

1985 - $95.00

1986 - $100.00

After 1986 - $100.00

160.024 Additional trunkage connection fees; structures or premises not subject to ad valorem taxation.

Sec. 3.05. If owners of structures or premises are assessed trunkage connection fees under Sections 3.02 [160.021] through 3.04 [160.023] of City Ordinance #37 and this amendment thereto, and if said structures or premises are not subject to ad valorem taxation, the owners shall pay an additional trunkage connection fee of $740.00 per unit, payable in 40 equal installments, with interest on the unpaid balance from time to time from August 1, 1978, payable annually at the rate of six percent per annum, the first interest installment being payable on or before March 1, 1979, and the first principal installment being payable on or before March 1, 1979, and succeeding installments being payable on or before each March 1st thereafter. Any such owner may discharge the obligation to pay such trunkage connection fee by the payment of $740.00 without interest in cash for each unit on or before August 1, 1978, or may pay any part of such trunkage connection fee in cash without interest on or before August 1, 1978, and

thereafter payment of said trunkage connection fee may be made in advance by paying interest on the amount prepaid to the next succeeding March 1 following the date of prepayment.
(5-8-1978)

160.025 Service stub charge before March 1, 1979.

Sec. 3.06. Owners of premises within the area in the City served by the system for which premises one or more service stubs to the system are to be provided shall pay a service stub charge in the amount of $250.00 per service stub provided, which amount may be paid in cash, in full or in part, without interest on or before August 1, 1978, or any unpaid balance may be paid in forty equal annual installments with interest charges and prepayment privileges as provided in Section 3.02 [160.021] hereof, commencing March 1, 1979.
(5-8-1978)

160.026 Service stub charge after March 1, 1979.

Sec. 3.07. Owners of premises within the area served by the system who request that the premises be provided with a service stub after March 1, 1979 shall pay a service stub charge in the amount of the actual cost of providing said service stub to the premises. Said service stub charge shall be paid in cash at the time a construction or building permit is issued by the City or an inspection and approval fee is paid, which charge shall be in addition to any other fee or charge being paid hereunder with respect to said premises.

160.027 Permit and service stub inspection fee.

Sec. 3.08. A permit and service stub inspection fee of $15.00 per service stub is hereby established. If, however, unusual circumstances demand, the City may charge inspection costs on an hourly basis with a minimum fee of $15.00.

160.028 Units.

Sec. 3.09. The number of units to be assigned to any particular premises used for other than single residence purposes shall be determined by the City Council. Said City Council, if the circumstances justify, may assign more than one unit to a single family dwelling. No less than one unit shall be assigned to each premises, but for purposes of computing the connection fee, units in excess of one may be computed and assigned to the nearest tenth. Once any premises has been connected to the system and has been assigned one or more units, subsequent changes in the character of the use or type of occupancy of said premises (included destruction, removal or abandonment of any or all improvements thereon) shall not abate the obligation to continue the payment of the connection fee charged to said premises in the amount and for the period hereinabove provided, for the number of units assigned to said premises at the time of connection. If subse-

quent changes at any time increase the amount of sanitary sewage emanating from the premises, the City Council shall increase the number of units assigned to said premises and thereupon a trunkage connection fee in accord with the schedule shown in Section 3.03 [160.022] per unit computed on the same basis for the additional units, shall be payable in cash at the time a construction or other permit is issued by the City for such changes in use or at the time such change in use occurs, if no permit is issued or required.

160.029 Charges for sewage disposal services; billing; no free service.

Sec. 3.10. Charges for sewage disposal services to each premises within the City connected with the sewage disposal system shall be $21.00 per quarter per unit and may be amended from time to time by the City Council and subject to any obligations and limitations set forth in any agreement pertaining to the system between the City and the County. The amount of the sewage disposal services charge initially attributable to debt service shall be $1.00 per unit per month. No free service shall be furnished by the system to the City or to any person, firm or corporation, public or private, or to any public agency or instrumentality. Charges for services furnished by the system shall be billed and collected quarterly, the first such charges for each premises to be due and payable on the first day of the established billing quarter following by at least one month the date such premises are connected to the system and successive charges to be due and payable on the first day of each succeeding quarter. Charges shall be billed at least one month before their due date.

160.030 Hardship applications.

Sec. 3.11.

(a) The Owner or Owners of premises in the City served by the McBain System No. 1 Sanitary Sewer may submit a hardship application to the City requesting that the City connect the premises to the public sewer and that the cost be paid by the Owner on an installment basis. The financial hardship application shall be submitted in accordance with the following:

(1) The Owners of the premises shall, under oath, complete a hardship application provided by the City and file said application, together with all other information and documentation reasonably required by the City, with the City Council. An application shall be completed and filed by each and every legal and equitable interest holder in the premises, excepting financial institutions having security interests in the premises.

(2) Hardship applications shall be reviewed by the City Council and after due deliberation of hardship applications, the City Council shall

determine in each case whether there has been an adequate showing of financial hardship, and shall forthwith notify the applicants of said determination.

(3) An applicant aggrieved by the determination of the City Council may request the opportunity to appear before the Council in person for the purpose of showing hardship and presenting any argument or additional evidence. A denial of hardship following such a personal appearance before the City Council shall be final and conclusive.

(b) In the event the City Council makes a finding of hardship, the City Council shall fix the number of annual installments over which the cost can be paid and shall fix the interest rate to be paid on the unpaid balance. Thereafter, the installments with interest shall be billed and collected on an annual basis in the same manner provided for the collection of Trunkage Connection Fees in Sections 3.05 [160.024] and 6.04 [160.063].

(c) The cost of the connection and the terms of the installment payment shall be written into a "Connection Agreement" which must be approved and executed by the property owner prior to commencement of construction.

Upon completion of construction and approval thereof by City personnel, the Owner of the premises shall submit the bill for the cost of construction to the City for payment. Interest shall commence on the date payment is made.
(Amend. eff. 4-11-1983)

160.040 Notice to connect.

Sec. 4.01. When the structure in which sanitary sewage originates has not been connected to an available public sanitary sewer system before use and occupancy or within the 12-month period provided in this ordinance [part], the City shall require the connection to be made forthwith after notice, which may be by first class or certified mail or posting on the property, to the owner of the property on which the structure is located. The notice shall give the approximate location of the public sanitary sewer of the system which is available for connection of the structure involved and shall advise the owner of the requirements and of the enforcement provisions of this ordinance [part].

160.041 Title.

Sec. 4.02. This ordinance [part] shall be known and may be cited as the "City of McBain Sewer Connection Ordinance".

160.050 Enforcement.

Sec. 5.01. Where any structure in which sanitary sewage originates is not connected to an available public sanitary sewer system within 90 days after the date of mailing or posting of the written notice, the provisions of this ordinance

[part] shall be enforceable through the bringing of appropriate action for injunction, mandamus, or otherwise, in any court having jurisdiction. Any violation of this ordinance [part] is deemed to be a nuisance per se.

160.060 Penalty.

Sec. 6.01. Any person who shall violate any provision of this ordinance [part] shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101—600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than $500.00. Each day this ordinance [part] is violated shall be considered as a separate violation.
(Ord. No. 63, § 10, 8-15-2001)

160.060a Enforcement.

Sec. 6.01a. The Superintendent of the City DPW is hereby designated as the authorized city official to issue municipal civil infraction citations directing alleged violators of this ordinance [part] to appear in court.
(Ord. No. 63, § 11, 8-15-2001)

160.061 Delinquent charges for sewage disposal services.

Sec. 6.02. If any charges for sewage disposal services are not paid on or before the due date then a penalty of ten percent shall be added thereto. In the event that the charges for any such services furnished to any premises shall not be paid within 120 days after the due date thereof, then all services furnished by the sewage disposal system may be discontinued. Service so discontinued shall not be restored until all sums then due and owing, including penalties and interest, shall be paid, plus all expenses incurred by the City for shutting off and turning on the service.

160.062 Delinquent installment payments.

Sec. 6.03. If any installment of a trunkage connection fee, availability fee or service stub charge is not paid on or before the due date, then a penalty of ten percent shall be added thereto and the installment due shall draw interest at the rate of one-half of one percent per month until paid. In the event that any such installment remains unpaid for 120 days or more after the due date, service may be discontinued as provided in Section 6.02 [160.061] and shall not be restored until all amounts due are paid plus the shut-off and turn-on charges so provided are paid.
(1-1980)

160.063 Lien.

Sec. 6.04. The charges and rates for sewer services which are under the provisions of Section 21, Act 94, Public Acts of Michigan, 1933, as amended, shall constitute a lien on all premises served thereby whenever any such charges or rates shall be delinquent for six months or more, unless notice is given that a tenant is responsible for the payment of all such charges and rates. On April 1 of each year, the City official in charge of the collection of the charges and rates shall certify to the tax assessing officer of the City, the fact of such delinquency, whereupon such delinquent charges and rates shall be entered upon the next tax roll as charges against such premises and shall be collected and the lien thereof enforced in the same manner as general taxes against such premises; provided, however, where notice is given that a tenant is responsible for such charges and service as provided by Section 21 of Act 94, Public Acts of Michigan, 1933, as amended, no further service shall be rendered to such premises until a cash deposit in the amount of $100.00 shall have been made as security for payment of such charges and service.
(1-1980; Ord. No. 63, § 12, 8-15-2001)

160.070 Validity.

Sec. 7.01. If any section, paragraph, sentence, clause or phrase of this ordinance [part] shall be held invalid, the same shall not affect any other part of this ordinance [part].

160.080 Repeal.

Sec. 8.01. All ordinances and resolutions or parts thereof, insofar as the same may be in conflict herewith, are hereby repealed.

160.090 Effective date.

Sec. 9.01. This ordinance [part] is hereby declared to be an emergency ordinance which is immediately necessary for the preservation of the public peace, health and safety and become effective immediately upon publication in full in the Waterfront, a newspaper published or circulated in this City.

160.100 Charges for connection to Cottage Grove Extension.

Sec. 10.0.

Sec. 10.1 The "Cottage Grove Extension" shall mean that extension of the initial McBain System No. 1 lying in the Cottage Grove Avenue right-of-way north of Maple Street being approximately 400 feet long.

Sec. 10.2 Any Owner of premises served by the Cottage Grove Extension who improves the premises by erection of a structure in which sanitary

sewage originates shall pay, in addition to the other charges and fees provided herein, a connection fee in the amount of $700.00 in cash for each unit at the time a connection permit is issued by the City.

(1-1980)

161.000

CROSS CONNECTIONS
Ord. No. 35
Adopted: April 9, 1973

161.001	Rules adopted.
161.002	Inspection.
161.003	Right of access, information.
161.004	Discontinuing service.
161.005	Protection of potable water.
161.006	Relationship of ordinance to state plumbing code.
161.007	Penalty.
161.007a	Enforcement.
161.008	Effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF McBAIN, COUNTY OF MISSAUKEE, MICHIGAN.

161.001 Rules adopted.

Sec. 1. That the City of McBain adopts by reference the Water Supply Cross Connections Rules of the Michigan Department of Public Health being R325-431 to R325-440 of the Michigan Administrative Code.

161.002 Inspection.

Sec. 2. That it shall be the duty of the City of McBain to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply is deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the City of McBain and as approved by the Michigan Department of Public Health.

161.003 Right of access, information.

Sec. 3. That the representatives of the City of McBain shall have the right to enter at any reasonable time any property served by a connection to the public water supply system of the City of McBain for the purpose of inspecting the piping system or systems thereof for cross connections. On request the owner, leasee or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.

161.004 Discontinuing service.

Sec. 4. That the City of McBain is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this ordinance [part] exists, and to take such precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross connections have been eliminated in compliance with the provisions of this ordinance [part].

161.005 Protection of potable water.

Sec. 5. That the potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified by this ordinance [part] and by the state and city plumbing code. Any water outlet which could be used for potable and/or domestic purposes which is not supplied by the potable system must be labeled in a conspicuous manner as

WATER UNSAFE
FOR DRINKING

161.006 Relationship of ordinance to state plumbing code.

Sec. 6. That this ordinance [part] does not supersede the state plumbing code but is supplementary to it.

161.007 Penalty.

Sec. 7. Any person who shall violate any provision of this ordinance [part] shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101—600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than $500.00. Each day this ordinance [part] is violated shall be considered as a separate violation.
(Ord. No. 63, § 13, 8-15-2001)

161.007a Enforcement.

Sec. 7a. The Superintendent of the City DPW is hereby designated as the authorized city official to issue municipal civil infraction citations directing alleged violators of this ordinance [part] to appear in court.
(Ord. No. 63, § 14, 8-15-2001)

161.008 Effective date.

Sec. 8. That this ordinance [part] shall be in effect at anytime after May 1, 1973.

162.000

FLUORIDE
Ord. No. 36
Adopted: June 11, 1973

162.001 Addition of fluoride rejected.
162.002 Effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF McBAIN, MISSAUKEE COUNTY, MICHIGAN.

162.001 Addition of fluoride rejected.

Sec. I. That the City of McBain at the present time does not wish to participate in the statewide fluoridation effort due to the cost involved and the uncertainty as to the benefits derived from adding fluoride to our water system.

162.002 Effective date.

Sec. II. That this ordinance [part] shall have immediate effect upon passage.

163.000 **SEWER USE ORDINANCE**
Ord. No. 42

Article I
163.010 Purpose

163.011 Purpose.

Article II
163.020 Declaration of Necessity

163.021 Declaration of necessity.

Article III
163.030 Definitions

163.031 Authority.
163.032 BOD.
163.033 Building drain.
163.034 Building sewer.
163.035 Classes of users.
163.036 Compatible pollutant.
163.037 Combined sewer.
163.038 Director.
163.039 Garbage.
163.040 Incompatible pollutant.
163.041 Industrial cost recovery.
163.042 Industrial wastes.
163.043 Industry—Major contributor.
163.044 Industry—Significant contributor.
163.045 Infiltration.
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163.047 Infiltration/inflow.
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163.049 Natural outlet.
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163.051 NPDES permit.
163.052 Operation and maintenance (O & M) costs.
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163.054 pH.
163.055 Pretreatment.
163.056 Properly shredded garbage.
163.057 Public sewer.
163.058 Sanitary sewer.
163.059 Sewage.
163.060 Sewage treatment facility.
163.061 Sewage works.

163.062 Sewer.
163.063 Shall; may.
163.064 Slug.
163.065 Storm drain.
163.066 Suspended solids.
163.067 City.
163.068 Watercourse.
163.069 Wye branch.
163.070 Privy.
163.071 Privy vault.
163.072 Septic tank.
163.073 Cesspool.
163.074 Groundwater discharge permit.
163.075 COD.
163.076 Grinder pump station.
163.077 Operator.

Article IV
163.090 Use of Public Sewers Required

163.091 Unlawful disposal.
163.092 Unlawful discharge to natural outlet.
163.093 Unlawful private sewage construction and maintenance.
163.094 Private toilet facilities and connection to public system.
163.095 Reports filed for industrial or problem sewage discharge.

Article V
163.110 Private Sewage Disposal

163.111 Private disposal required if public sanitary sewer not available.
163.112 Connection to public sanitary sewer required when available.
163.113 Private disposal operation and cost.
163.114 MDPH requirements have priority.

Article VI
163.120 Building Sewers and Connections

163.121 Permit required for connection to public sewer.
163.122 Two classes of building permits.
163.123 Incidental costs.
163.124 Private disposal system required if public sanitary sewer not available.
163.125 Use of old existing sewers.
163.126 Pipe material requirements.
163.127 Joints and connection requirements.
163.128 Size and slope of building sewers.
163.129 Elevation of sewer at building.
163.130 Sewage lift for low building drain.
163.131 Connection by wye at public sewer.
163.132 Supervision of connection to public sewer.
163.133 Protected excavation.

163.134 System capacity not to be exceeded.

Article VII
163.140 Use of the Public Sewers

163.141 Improper type of discharge.
163.142 Non-polluted discharge to other areas.
163.143 Discharge quality limits.
163.144 Handling of discharge which exceeds quality limits.
163.145 Grease, oil and sand interceptors.
163.146 Operation of preliminary treatment.
163.147 Manhole for measuring industrial flow.
163.148 Measurement criteria.
163.149 Validity of special agreements with city.
163.150 Pretreatment of industrial cooling waters.
163.011 Entrance to private property by city agents.
163.012 Discontinuing service.

Article VIII
163.160 Industrial Waste Control Program

163.161 Delegation of responsibility for industrial waste discharge.
163.162 Catalogue of all chemicals stored, used or manufactured by industry.
163.163 Awareness of large process alternatives.
163.164 Sketch of plant buildings.
163.165 Separation of spent concentrations.
163.166 Adequate secondary containment or curbing.
163.167 Sampling vault or manhole for flow measurement and sampling.
163.168 Yearly surveillance fee.

Article IX
163.180 Powers and Authority of Inspectors

163.181 Permission to enter private property.
163.182 Observation of safety rules.

Article X
163.190 Protection from Damage

163.191 Protection from damage.

Article XI
163.200 Conditions of Service

163.201 City and customer responsibilities at time of sewer construction.
163.202 City and customer responsibilities after sewer construction.
163.203 Liability for sewer malfunctions.
163.204 Inspection of service area.
163.205 Rules may be amended.

Article XII
163.210 Penalties

163.211 Notice of violation.
163.212 Penalty.
163.213 Enforcement.
163.214 Lien; termination of service.

Article XIII
163.220 Validity

163.221 Previous ordinances repealed.
163.222 Invalid parts of ordinance do not affect other valid independent parts.

Article XIV
163.230 Ordinance in Force

163.231 Ordinance in force.

BE IT ORDAINED AND ENACTED BY THE CITY OF McBAIN, MICHIGAN, AS FOLLOWS:

ARTICLE I

163.010 PURPOSE

163.011 Purpose.

Sec. 1. The purpose of this ordinance [part] is herein declared:

(a) To enact an ordinance mandating connection of certain premises to the available public sanitary sewer pursuant to Act 288 of the Public Acts of 1972.

(b) To regulate the use of public and private sewers and drains, private sewage disposal, the installation and connection of building sewers, and the discharge of waters and wastes into the public sewer system, and providing penalties for violation of sections thereof, in the City of McBain, Michigan.

ARTICLE II

163.020 DECLARATION OF NECESSITY

163.021 Declaration of necessity.

Sec. 1. Public sanitary sewer systems are essential to the health, safety and welfare of the people of the State and the City of McBain. Septic tank disposal systems are subject to failure due to soil conditions or other reasons. Failure or potential failure of septic tank disposal systems pose a threat to the public health, safety and welfare; present a potential for ill health, transmission of disease, mortality and potential economic blight and constitute a threat to the quality of surface and subsurface waters of the State and the City of McBain. The connection to available public sanitary sewer systems at the earliest reasonable date is a matter for the protection of the public health, safety and welfare and necessary in the public interest which is declared as a matter of legislative determination.

ARTICLE III

163.030 DEFINITIONS

Unless the context specifically indicates otherwise, the meaning for terms used in this ordinance [part] shall be as follows:

163.031 Authority.

Sec. 1. "Authority" shall mean the City of McBain, Missaukee County, Michigan.

163.032 BOD.

Sec. 2. "BOD" (denoting the Biochemical Oxygen Demand) shall mean the amount of oxygen required for the biological decomposition of dissolved organic solids to occur under aerobic conditions in five days at 20 degrees C., expressed in milligrams per liter.

163.033 Building drain.

Sec. 3. "Building drain" shall mean that part of the lowest horizontal piping of a drainage system which receives sewage discharge inside the walls of the building and conveys it to the building sewer. The building drain shall end five feet outside the inner face of the building wall.

163.034 Building sewer.

Sec. 4. "Building sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.

163.035 Classes of users.

Sec. 5. "Classes of users" shall mean the division of sanitary sewer customers into classes by similar process or discharge flow characteristics as follows:

(a) "Residential user" shall mean an individual home or dwelling unit, including mobile homes, apartments, condominiums or multi-family dwellings, that discharges only segregated domestic wastes or wastes from sanitary conveniences.

(b) "Commercial user" shall mean any retail or wholesale business engaged in selling merchandise or a service that discharges only segregated domestic wastes or wastes from sanitary conveniences.

(c) "Institutional user" shall mean any educational, religious or social organization such as a school, church, nursing home, hospital or other such user that discharges only segregated domestic wastes or wastes from sanitary conveniences.

(d) "Governmental user" shall mean any federal, state or local government office of government service facility that discharges only segregated domestic wastes or wastes from sanitary conveniences.

(e) "Industrial user" shall mean any nongovernmental, nonresidential user of a publicly owned treatment works which discharges more than the equivalent of 25,000 gallons per day (GPD) of sanitary wastes and which is identified

in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented under one of the following divisions:

Division A—Agriculture, Forestry and Fishing

Division B—Mining

Division D—Manufacturing

Division E—Transportation, Communications, Electric, Gas and Sanitary Services

Division I—Services

163.036 Compatible pollutant.

Sec. 6. "Compatible pollutant" shall mean biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus any additional pollutant parameters identified in the NPDES permit if the treatment works was designed to treat such pollutants, and can remove such pollutants to a substantial degree. The term substantial degree generally means removals in the order of 80 percent or greater.

163.037 Combined sewer.

Sec. 7. "Combined sewer" shall mean a sewer receiving both surface runoff and sewage.

163.038 Director.

Sec. 8. "Director" shall mean the chief administrator for the City of McBain or his authorized operator, agent or representative.

163.039 Garbage.

Sec. 9. "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

163.040 Incompatible pollutant.

Sec. 10. "Incompatible pollutant" shall mean any pollutant that is not a compatible pollutant, as defined in Section 6 [163.036] above.

163.041 Industrial cost recovery.

Sec. 11. "Industrial cost recovery" shall mean the recovery from each industrial user, as defined, of that portion of the U.S. Environmental Protection Agency

grant which is allocated to the treatment of industrial wastes from said industries. The Industrial Cost Recovery charge is defined in the Sewer Rate and Connection Ordinance.

163.042 Industrial wastes.

Sec. 12. "Industrial Wastes" shall mean the liquid wastes from industrial manufacturing processes, trade or business as distinct from segregated domestic wastes, or wastes from sanitary conveniences.

163.043 Industry—Major contributor.

Sec. 13. "Industry—Major Contributor" shall mean an industrial user, as defined, that discharges (1) a flow of 50,000 gallons or more per average work day, or (2) a flow exceeding five percent of the total treatment plant flow, or (3) toxic pollutants in toxic amounts as defined in the NPDES permit, or (4) a flow with a significant impact on the treatment plant when considered alone or in combination with other industrial users.

163.044 Industry—Significant contributor.

Sec. 14. "Industry—Significant Contributor" shall mean any industry which contributes greater than ten percent of the design flow or design loading of the treatment works.

163.045 Infiltration.

Sec. 15. "Infiltration" shall mean any waters entering the system from the ground through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. Infiltration does not include, and is distinguished from, inflow.

163.046 Inflow.

Sec. 16. "Inflow" shall mean any waters entering the system through such sources as, but not limited to, building downspouts, footing or yard drains, cooling water discharges, seepage lines from springs and swampy areas, and storm drain cross connections.

163.047 Infiltration/inflow.

Sec. 17. "Infiltration/Inflow" shall mean the total quantity of water from both infiltration and inflow.

163.048 Inspector.

Sec. 18. "Inspector" shall mean any person or persons authorized by the City to inspect and approve the installation of building sewers and their connection to the public sewer system.

163.049 Natural outlet.

Sec. 19. "Natural outlet" shall mean any outlet into a water course, pond, ditch, lake or other body of surface or ground water.

163.050 Normal strength sewage.

Sec. 20. "Normal Strength Sewage" shall mean a sanitary wastewater flow containing an average daily BOD of not more than 200 mg/l or an average daily suspended solids concentration of not more than 200 mg/l.

163.051 NPDES permit.

Sec. 21. "NPDES permit" shall mean the permit issued pursuant to the National Pollution Discharge Elimination System for the discharge of wastewater into the waters of the State.

163.052 Operation and maintenance (O & M) costs.

Sec. 22. "Operation and Maintenance (O & M) Costs" shall mean costs, direct and indirect, (other than debt service), necessary to ensure adequate wastewater treatment on a continuing basis, to conform with all related federal, state, and local requirements, and to assure optimal long term facility management. O & M costs include replacement costs to allow necessary expenditures for obtaining and installing equipment and plant appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed.

163.053 Person.

Sec. 23. "Person" shall mean any individual, firm, company, association, society, corporation or group.

163.054 pH.

Sec. 24. "pH" shall mean the logarithm of the reciprocal of the concentration of hydrogen ions in grams per liter of solution.

163.055 Pretreatment.

Sec. 25. "Pretreatment" shall mean the treatment of extra strength wastewater flows in privately owned facilities prior to discharge into publicly owned sewage works.

163.056 Properly shredded garbage.

Sec. 26. "Properly Shredded Garbage" shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in dimension.

163.057 Public sewer.

Sec. 27. "Public sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and which is controlled by public authority.

163.058 Sanitary sewer.

Sec. 28. "Sanitary sewer" shall mean a sewer which carries sewage and is not intended to carry storm, surface and ground waters.

163.059 Sewage.

Sec. 29. "Sewage" shall mean a combination of the water carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and storm waters as may be present. The two most common types of sewage are:

(a) "Sanitary sewage" shall mean a combination of liquid and water carried wastes discharged from toilet and other sanitary plumbing facilities.

(b) "Industrial sewage" shall mean a combination of liquid and water carried wastes discharged from an industrial establishment and resulting from any trade or process carried on in that establishment (this shall include the wastes from pretreatment facilities and polluted cooling water).

163.060 Sewage treatment facility.

Sec. 30. "Sewage treatment facility" shall mean a publicly owned arrangement of devices and structures used for treating sewage.

163.061 Sewage works.

Sec. 31. "Sewage works" shall mean all facilities for collecting, pumping, treating and disposing of sewage.

163.062 Sewer.

Sec. 32. "Sewer" shall mean a pipe or conduit for carrying sewage. This shall include pressurized and non-pressurized pipe.

163.063 Shall; may.

Sec. 33. "Shall" is mandatory, "May" is permissive.

163.064 Slug.

Sec. 34. "Slug" shall mean any discharge of sewage or industrial waste, which, in concentration of any given constituent, exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration during normal operation.

163.065 Storm drain.

Sec. 35. "Storm drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

163.066 Suspended solids.

Sec. 36. "Suspended solids" shall mean solids that either float on the surface of, or in suspension in, water, sewage, or other liquids and which can be removed by laboratory filtering.

163.067 City.

Sec. 37. "City" shall mean the City of McBain, Michigan, as represented by their Operator.

163.068 Watercourse.

Sec. 38. "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

163.069 Wye branch.

Sec. 39. "Wye branch" shall mean a local service connection to the sewer that is made at an angle similar to a "wye" so that a sewer cleaning rod will not come into the sewer at a right angle and penetrate the far side, but will travel down the course of the sewer.

163.070 Privy.

Sec. 40. "Privy" shall mean an outdoor toilet.

163.071 Privy vault.

Sec. 41. "Privy vault" shall mean an outdoor toilet with a lined vault.

163.072 Septic tank.

Sec. 42. "Septic tank" shall mean an underground tank in which waste matter is decomposed through bacterial action.

163.073 Cesspool.

Sec. 43. "Cesspool" shall mean a walled-up hole in the ground into which the house sewer pipe empties and from which liquids seep through the soil.

163.074 Groundwater discharge permit.

Sec. 44. "Groundwater discharge permit" shall mean the permit issued pursuant to Act 245, Public Acts of 1929, as amended, for the discharge of treated wastewater into the groundwaters of the State.

163.075 COD.

Sec. 45. "COD" (denoting the Chemical Oxygen Demand) shall mean the oxygen equivalent of that portion of the organic matter in a sample that is susceptible to oxidation by a strong chemical oxidant.

163.076 Grinder pump station.

Sec. 46. "Grinder pump station" shall mean a pumping station into which a building sewer directly discharges and shall be considered a part of the public sewer.

163.077 Operator.

Sec. 47. "Operator" shall mean the agent of the City designated as being responsible for the operation of the sewage works.

ARTICLE IV

163.090 USE OF PUBLIC SEWERS REQUIRED

163.091 Unlawful disposal.

Sec. 1. It shall be unlawful for any person to place, deposit or permit to be deposited, in an unsanitary manner, upon public property within the, City or in any area under the jurisdiction of the City, any human or animal excrement, garbage or other objectionable waste which ordinarily would be regarded as sewage or industrial wastes.

163.092 Unlawful discharge to natural outlet.

Sec. 2. It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of the City, any sanitary sewage, industrial waste, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance [part].

163.093 Unlawful private sewage construction and maintenance.

Sec. 3. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for disposal of sewage.

163.094 Private toilet facilities and connection to public system.

Sec. 4. The owner of any house, building or property used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way, in which there is located, or may in the future be located, a public sanitary sewer within 200 feet at the nearest point from the structure in which sewer originates, is hereby required, at his expense, to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer, in accordance with the provision of this ordinance [part], when given official notice to do so, provided that such connection shall not be required to be made less than six months after the sewer is made available for connection thereto.

163.095 Reports filed for industrial or problem sewage discharge.

Sec. 5. Any industry or structure discharging industrial wastes to the sanitary sewer, storm sewer or receiving stream shall file the material listed below with the City.

The City may require each person who applies for sewer service, receives sewer service, or through the nature of the enterprise creates a potential environmental problem, to file the material listed below:

(a) File a written statement setting forth the nature of the enterprise, the source and amount of water used, and the amount of water to be discharged, with the present or expected bacterial, chemical, radioactive or other pertinent characteristics of the wastes.

(b) Provide a plan map of the building, works or complex, with each outfall to the surface waters, sanitary sewer, storm sewer, natural watercourse, or ground waters noted, described and the waste stream identified.

(c) Sample, test and file reports with the City and the appropriate State agencies on appropriate characteristics of wastes on a schedule, at locations, and according to methods outlined in Article VII, Section 8 [163.148] of this ordinance [part].

(d) An affidavit placing waste treatment facilities, process facilities, waste streams, or other potential waste problems under the specific supervision and control of persons who have been certified by an appropriate State agency as properly qualified to supervise such facilities.

(e) Provide a report on raw materials entering the process or support system, intermediate materials, final product, and waste by products as those factors may affect waste control.

(f) Maintain records and file reports on the final disposal of specific liquid, solids, sludge, oil, radioactive material, solvent or other waste.

(g) If any industrial process is to be altered so as to include or negate a process waste or potential waste, written notification shall be given to the City. No process shall be so altered prior to receiving written approval by the Director.

ARTICLE V

163.110 PRIVATE SEWAGE DISPOSAL

163.111 Private disposal required if public sanitary sewer not available.

Sec. 1. Where a public sanitary or combined sewer is not available under the provisions of Article IV, Section 4 [163.094], the building sewer shall be connected to a private sewage disposal system complying with all requirements of the local health department.

163.112 Connection to public sanitary sewer required when available.

Sec. 2. At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in Article IV, Section 4 [163.094], a direct connection shall be made to the public sewer in compliance with this ordinance [part]; any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned, pumped out and filled with suitable material.

163.113 Private disposal operation and cost.

Sec. 3. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.

163.114 MDPH requirements have priority.

Sec. 4. No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the Michigan Department of Public Health.

ARTICLE VI

163.120 BUILDING SEWERS AND CONNECTIONS

163.121 Permit required for connection to public sewer.

Sec. 1. No one, except a drain layer licensed by the City, shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenances thereof, without first obtaining a written permit from the City. Before a general license or particular permit may be issued for excavating for plumbing or drain laying in any public street way or alley, the person applying for such permit shall execute unto the City and deposit with the Treasurer, a bond with corporate surety in the sum of $1,000.00, conditioned that he will faithfully perform all work with due care and skill, and in accordance with the laws, rules and regulations established under the authority of the City pertaining to sewers and plumbing. This bond shall state that the person will indemnify and save harmless the City and the owner of the premises against all damages, costs, expenses, outlays and claims of every nature and kind arising out of mistakes or negligence on his part in connection with plumbing, sewer line connection, or excavating for plumbing or sewer connection as prescribed in this ordinance [part]. Such bond shall remain in force and must be executed for a period of one year, except that, upon such expiration, it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration. The license shall also provide public liability insurance for the protection of the City, the property owner, and all persons, to indemnify them for all damages caused by accidents attributable to the work, with limits of $100,000.00 for one person, $300,000.00 for bodily injuries per accident, and $50,000.00 for property damages.

163.122 Two classes of building permits.

Sec. 2. There shall be two classes of building sewer permits: (1) permits for residential and commercial service; and (2) permits for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the City. A minimum permit and inspection fee of $15.00 for a residential, $25.00 for a commercial, and $50.00 for an industrial

building sewer permit shall be paid to the City at the time the application is filed. The amount of the inspection fee may be amended from time to time by resolution of City.

163.123 Incidental costs.

Sec. 3. All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner or the person installing the building sewer for said owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

163.124 Private disposal system required if public sanitary sewer not available.

Sec. 4. A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. Other exceptions will be allowed only be special permission granted by the City.

163.125 Use of old existing sewers.

Sec. 5. Old building sewers or portions thereof may be used in connection with new buildings only when they are found, on examination and tested by the inspector or his representative, to meet all requirements of this ordinance [part].

163.126 Pipe material requirements.

Sec. 6. The building sewer shall be constructed of either of the following types of pipe meeting the current ASTM specifications:

(a) Plastic (ABS) ASTM D 1527 SDR 35 [Schedule 40]

(b) Plastic (PVC) ASTM D 1785 SDR 35 [Schedule 40]

(c) Vitrified Clay (VC) ASTM C-700 Extra Strength

(d) Asbestos Cement (AC) ASTM C-428 CI-2400

(e) Cast Iron Extra Heavy ASTM A-74

(f) Non-reinforced Concrete ASTM C-12 Extra Strength

If installed in filled or unstable ground, the building sewer shall be of cast iron extra heavy pipe, except that the other types of pipe may be used if laid on a suitable improved bed or cradle as approved by the Inspector.

163.127 Joints and connection requirements.

Sec. 7. All building sewer joints and connections shall be made gas tight and water tight and shall conform to the requirements of the current building and plumbing codes. Vitrified clay sewer pipe shall be fitted with factory-made resilient compression joints meeting the current ASTM specifications for vitrified clay pipe joints having resilient properties. Asbestos cement or concrete sewer pipe joints shall be of rubber ring, flexible compression type, similar and equal to joints specified for vitrified clay pipe. The joints and connections shall conform to the manufacturer's recommendations.

163.128 Size and slope of building sewers.

Sec. 8. The size and slope of the building sewers shall be subject to the approval of the Inspector, but in no event shall the diameter be less than four inches. Minimum grade shall be as follows:

Six-inch pipe—One-eighth inch per foot or one inch per eight feet

Four-inch pipe—One-fourth inch per foot or two inches per eight feet

163.129 Elevation of sewer at building.

Sec. 9. Whenever possible, the building sewer shall be brought to the buildings at an elevation below the basement floor. No building sewer shall be laid parallel to, or within three feet of any bearing wall which might thereby be weakened. The depth shall be sufficient to afford protection from frost. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the Inspector. Pipe laying and backfill shall be performed in accordance with current ASTM specifications, except that no backfill shall be placed until the work has been inspected by the Inspector or his representative.

163.130 Sewage lift for low building drain.

Sec. 10. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drains shall be lifted by approved artificial means and discharged to the building sewer.

163.131 Connection by wye at public sewer.

Sec. 11. The connection of the building sewer into the public sewer shall be made at the "wye" branch designated for the property if such branch is available at a suitable location. Any connection not made at the designated "wye" branch in the main sewer shall be made only as directed by the Inspector.

163.132 Supervision of connection to public sewer.

Sec. 12. The applicant for the building sewer shall notify the Inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Inspector or his representative.

163.133 Protected excavation.

Sec. 13. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

163.134 System capacity not to be exceeded.

Sec. 14. No connection will be allowed unless there is capacity available in downstream sewers, pump stations, interceptors, force mains and treatment plant including capacity for BOD and suspended solids in the treatment plant.

ARTICLE VII

163.140 USE OF THE PUBLIC SEWERS

163.141 Improper type of discharge.

Sec. 1. No person shall discharge, or cause to be discharged, any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

163.142 Non-polluted discharge to other areas.

Sec. 2. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the appropriate state agency. Industrial uncontaminated cooling water or unpolluted process waters may be discharged, upon approval of the appropriate state agency, to a storm sewer or natural outlet.

163.143 Discharge quality limits.

Sec. 3. Except as hereinafter provided by specific limits, no person shall discharge any of the following described waters or wastes to any public sewers:

(a) BOD in excess of 200 mg/l.

(b) COD in excess of 450 mg/l.

(c) Chlorine demand in excess of 15 mg/l.

(d) Color (as from, but not limited to, dyes, inks or vegetable tanning solutions) shall be controlled to prevent light absorbency which would interfere with treatment plant processes or that prevent analytical determinations.

(e) Explosive liquid, solid or gas, gasoline, benzene, naphtha, fuel oil or other flammable waste.

(f) Garbage not properly shredded (no particle size greater than one-half inch).

(g) Grease, oil, wax or fat, whether emulsified or not, in excess of 50 mg/l, or other substances which may solidify or become viscous at temperatures between 32 degrees F. and 150 degrees F.

(h) Industrial wastes listed below in concentrations above those limitations set forth by appropriate state agencies to comply with federal guidelines for protection of treatment plant and receiving watercourse, and limitations set forth in Groundwater Discharge Permit.

Cd	Fe
Cn	Ni
Cr + 6	Pb
Cr Total	Phenols
Cu	Zn

Or any other metallic compounds in sufficient quantity to impair the operations of the sewage treatment processes.

(i) Inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate) in unusual concentrations.

(j) Insoluble, solid or viscous substances (such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, tar, feathers, plastics, wood, hair, fleshings, etc.).

(k) Noxious or malodorous gas (such as, but not limited to, hydrogen sulfide, sulphur dioxide, or oxides of nitrogen) and other substances capable of public nuisance.

(l) pH less than 6.5 and greater than 9.5.

(m) Radioactive wastes or isotopes of such half-life or concentration which may exceed limits established by applicable state and federal regulations.

(n) Suspended solids in excess of 200 mg/l.

(o) Temperature of wastes less than 32 degrees F. and greater than 150 degrees F.

(p) Water or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are

amenable to treatment to only such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(q) Discharges that would result in excess foaming during the treatment process. Excess foaming is any foam which, in the opinion of the Director, is a nuisance in the treatment process.

163.144 Handling of discharge which exceeds quality limits.

Sec. 4. If any waters or wastes are discharged, or are proposed to be discharged, to the public sewers, that contain the substances or possess the characteristics enumerated in Section 3 [163.143] of this Article, and which in the judgment of the City may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the City may:

(a) Reject the wastes.

(b) Require pretreatment to the level defined as "normal strength sewage".

(c) Require pretreatment to an acceptable level (other than normal strength sewage) for discharge to the public sewers.

(d) Require new industrial customers or industries with significant changes in strength or flow to submit prior information to the City concerning the proposed flows.

(e) Charge a surcharge to the discharger.

If the City permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the City, and subject to the requirements of all applicable codes, ordinances and laws.

163.145 Grease, oil and sand interceptors.

Sec. 5. Grease, oil and sand interceptors shall be provided when, in the opinion of the City, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City, and shall be located as to be readily and easily accessible for cleaning and inspection.

163.146 Operation of preliminary treatment.

Sec. 6. Where preliminary treatment of flow equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

163.147 Manhole for measuring industrial flow.

Sec. 7. When required by the City, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the City. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

163.148 Measurement criteria.

Sec. 8. All measurements, tests and analyses of the characteristics of water and wastes to which reference is made in this ordinance [part] shall be examined in accordance with the most recent edition of "Standard Methods for the Examination of Water and Sewage" and shall be determined at the control manhole provided for, or upon suitable samples taken at, said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards of life and property. The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premise is appropriate or whether samples should be taken. The responsibilities of industry are further defined in the "Industrial Waste Control Program" shown in Article VIII [163.160] of this Ordinance.

163.149 Validity of special agreements with city.

Sec. 9. No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefor, by the industrial concern.

163.150 Pretreatment of industrial cooling waters.

Sec. 10. Industrial cooling water containing such pollutants as insoluble oils or grease, or other suspended solids shall be treated for removal of the pollutants and then discharged to the storm sewer.

163.011 Entrance to private property by city agents.

Sec. 11. Agents of the City, Michigan Department of Natural Resources, or U.S. Environmental Protection Agency shall have the right to enter all properties for the purpose of inspecting, measuring, sampling and testing the wastewater discharge.

163.012 Discontinuing service.

Sec. 12. The City may discontinue sewer service to a user who fails to comply with the conditions of this Article.

ARTICLE VIII

163.160 INDUSTRIAL WASTE CONTROL PROGRAM

163.161 Delegation of responsibility for industrial waste discharge.

Sec. 1. Each industry shall delegate a representative to be responsible for determining the industrial wastes admitted to the City's sewers. He shall be involved with maintaining any pretreatment facility operations and assuring a continual high level of performance. In case no pretreatment is provided, he shall be involved with prevention of accidental discharges of process wastes admitted to the sanitary sewer system. He shall be aware of all potential and routine toxic wastes generated by his industry. He shall be informed of all process alterations which could, in any manner, increase or decrease normal daily flow or waste strength discharged to the sanitary sewers.

163.162 Catalogue of all chemicals stored, used or manufactured by industry.

Sec. 2. This industrial representative shall catalogue all chemicals stored, used or manufactured by his industry. Such a listing shall include specific chemical names, not manufacturer's codes. These wastes admitted to the sanitary sewer are a prime concern; however, all discharges shall be catalogued. An estimate of daily average flows and strengths shall be made including process, cooling, sanitary, etc. Such a determination should separate the flows according to appropriate categories. The aforementioned flow and chemical listing is to be sent to the Director and shall be treated as confidential information.

163.163 Awareness of large process alternatives.

Sec. 3. The industrial representative should attempt to determine whether or not large process alterations will occur during the next few years—one year, two years, five years. He should consult with management to determine if such alterations are scheduled and forthcoming.

163.164 Sketch of plant buildings.

Sec. 4. A sketch of the plant buildings shall be made, including a diagram of process and chemical storage areas. Location of any pretreatment equipment must be indicated, and floor drains located near process and storage areas must be noted. Manhole and sewer locations at the industry's point of discharge into the municipal collection system must be included on the plant layout sketch.

163.165 Separation of spent concentrations.

Sec. 5. There shall be separation of spent concentrates from the sanitary sewer to prevent toxic wastes from upsetting the treatment plant. Supervision and operation of the pretreatment equipment for spent concentrates, as well as all toxic wastes and high strength organic wastes to an acceptable level as outlined in the City's Sewer Use Ordinance, is the responsibility of the industrial representative. All sludges generated by such treatment must be handled in an acceptable manner—such as in a designated area of a sanitary landfill or by a licensed waste hauler. Adequate segregation of those waters and wastes to be pretreated to meet discharge limits is a vital portion of the industrial effort to prevent operational problems at the wastewater treatment plant.

163.166 Adequate secondary containment or curbing.

Sec. 6. Throughout the industry, adequate secondary containment or curbing must be provided to protect all floor drains from accidental spills and discharges to the receiving sewers. Such curbing should be sufficient to hold 150 percent of the total process area tank volume. All floor drains found within the containment area must be plugged and sealed. Spill-through or sumps within process areas must discharge to appropriate pretreatment tanks. Secondary containment should be provided for storage tanks which may be serviced by commercial haulers and for chemical storage areas.

163.167 Sampling vault or manhole for flow measurement and sampling.

Sec. 7. An adequate sampling vault or manhole must be provided in a fully accessible place for City personnel to obtain samples and flow measurement data. The complexity of the vault will vary with the sampling requirements the Director determines necessary to protect the treatment plant and receiving streams. Should the City desire continual flow recording and long duration,

24-hour composite sampling, then a more complex manhole would be mandatory—complete with 110 volt AC. Samples collected may be divided between the industry and City for analysis if so desired by the industry. The sampling vault shall be located so as to give access by Authority personnel without entering the industrial property.

163.168 Yearly surveillance fee.

Sec. 8. A yearly surveillance fee may be initiated to reduce some equipment costs or for maintenance of monitoring devices. If a graduated surcharge is deemed necessary to check industrial discharges, then a factor shall be incorporated to reduce the costs as industry lowers its waste strength. Consequently, a direct dollar incentive shall be given to stimulate continued progress in industrial waste control. A graduated surcharge may not be required if industry provides adequate safeguard devices and treatment facilities to ensure protection of the municipal treatment plant and biological processes involved.

ARTICLE IX

163.180 POWERS AND AUTHORITY OF INSPECTORS

163.181 Permission to enter private property.

Sec. 1. The Operator and other duly authorized employees of the City, bearing proper credentials and identification, shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provision of this ordinance [part]. The Director or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers and waterways or facilities for waste treatment.

163.182 Observation of safety rules.

Sec. 2. While performing the necessary work on private properties referred to in Article IX, Section 1 [163.181] above, the City or duly appointed employees of the Authority shall observe all safety rules applicable to the premises established by the company; and the company shall be held harmless for injury or death to the Operator or duly appointed employees of the Authority, and the City shall indemnify the claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required by applicable Federal and State Safety Regulations.

ARTICLE X

163.190 PROTECTION FROM DAMAGE

163.191 Protection from damage.

Sec. 1. No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

ARTICLE XI

163.200 CONDITIONS OF SERVICE

163.201 City and customer responsibilities at time of sewer construction.

Sec. 1. At the time of original construction of the public sewer, the City shall install that portion of the building sewer from the public sewer to the lot or easement line of all occupied premises. The City shall maintain, at its expense, the public sewer. Those customers making connections at the time of original construction of the public sewer shall install, at their expense, that portion of the building sewer from said lot or easement line to their premises. The customer shall maintain, at his expense, the building sewer.

163.202 City and customer responsibilities after sewer construction.

Sec. 2. Those customers making connections subsequent to the time of original construction of the public sewer shall install, at their expense that portion of the building sewer from the public sewer to the lot or easement line in addition to that portion of the building sewer from said lot or easement line to their premises.

163.203 Liability for sewer malfunctions.

Sec. 3. The City shall, in no event, be held responsible for claims made against it by reason of the breaking of any mains or service laterals, or by reason of any other interruption of the service caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption.

163.204 Inspection of service area.

Sec. 4. The premises receiving sanitary sewer service shall, at all reasonable hours, be subject to inspection by duly authorized personnel of the City.

163.205 Rules may be amended.

Sec. 5. These rules may be changed or amended.

ARTICLE XII

163.210 PENALTIES

163.211 Notice of violation.

Sec. 1. Any person found to be violating any provision of this ordinance, except Article VIII [163.160], shall be served with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

163.212 Penalty.

Sec. 2. Any person who shall violate any provision of this ordinance [part] shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101—600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than $500.00. Each day this ordinance [part] is violated shall be considered as a separate violation.
(Ord. No. 63, § 15, 8-15-2001)

163.213 Enforcement.

Sec. 3. The Superintendent of the City DPW is hereby designated as the authorized city official to issue municipal civil infraction citations directing alleged violators of this ordinance [part] to appear in court.
(Ord. No. 63, § 16, 8-15-2001)

163.214 Lien; termination of service.

Sec. 4.

(a) The charges and rates for sewer services which are under the provisions of Section 21, Act 94, Public Acts of Michigan, 1933, as amended, shall constitute a lien on all premises served thereby whenever any such charges or rates shall be delinquent for six months or more, unless notice is given that a tenant is responsible for the payment of all such charges and rates. On April 1 of each year, the City official in charge of the collection of the charges and rates shall certify to the tax assessing officers of the City, the fact of such delinquency, whereupon such delinquent charges and rates shall be entered upon the next tax roll as charges against such premises and shall

be collected and the lien thereof enforced in the same manner as general taxes against such premises; provided, however, where notice is given that a tenant is responsible for such charges and service as provided by Section 21 of Act 94, Public Acts of Michigan, 1933, as amended, no further service shall be rendered to such premises until a cash deposit in the amount of $100.00 shall have been made as security for payment of such charges and service.

(b) In addition, the City shall have the right to shut off sewer service to any user for whom charges for sewer service are more than two months delinquent. Before shutting off sewer service, the City shall send written notice by first class mail of its intent to terminate sewer service to the owner of the premises served or to the tenant in possession where a notice is given that the tenant is responsible for such charges and service. If sewer service is shut off pursuant to this section, such service shall not be reestablished until all delinquent charges and penalties and a turn-on charge, to be specified by resolution of the City Council, have been paid. Further, such charges and penalties may be recovered by the City by court action.

(Ord. No. 63, § 17, 8-15-2001)

ARTICLE XIII

163.220 VALIDITY

163.221 Previous ordinances repealed.

Sec. 1. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

163.222 Invalid parts of ordinance do not affect other valid independent parts.

Sec. 2. The invalidity of any section, clause, sentence or provision of this ordinance [part] shall not affect the validity of any other part of this ordinance [part] which can be given effect without such invalid part or parts.

ARTICLE XIV

163.230 ORDINANCE IN FORCE

163.231 Ordinance in force.

Sec. 1. This ordinance [part] shall be in full force and effect from and after its passage, approval, recording and publication as provided by law.

164.000 WATER ORDINANCE

Ord. No. 58
Effective: June 28, 1992

Article I
164.100 Definitions

164.101 Definitions.

Article II
164.200 Connections

164.201 Water connection required.
164.202 Service connections.
164.203 Institution of or restarting water service.
164.204 Meters.
164.205 Access to meters.
164.206 Injury to facilities.
164.207 Reimbursement for damage.
164.208 Responsibility for damages.
164.209 Water leakage.
164.210 Hydrant use.
164.211 Unlawful connections.
164.212 Sale by owner unlawful.
164.213 Cross-connections control.
164.214 Protection of water supply.
164.215 Discontinuance of service.
164.216 Shutoff of water.
164.217 Additional regulations.
164.218 Other laws.

Article III
164.300 Controlled Use

164.301 Limitation of water use.

Article IV
164.400 Water Rates and Charges

164.401 Applicability.
164.402 Residential equivalent unit.
164.403 Commodity charge.
164.404 Service charge.
164.405 Connection charge.
164.406 Review of rates and charges.
164.407 Billing and penalties and remedies for nonpayment or late payment.
164.409 Failure of the system.

164.410 Meter accuracy.

Article V
164.500 Enforcement

164.501 Penalties for violation of ordinance.
164.502 Civil action.
164.503 Lien; termination of service.

Article VI
164.600 Miscellaneous

164.601 [Effective date].
164.602 [Notice of adoption].
164.603 [Right to amend].
164.604 [Repealed].
164.605 [Severability].

[An ordinance of the City of McBain relating to the regulation of water usage.]

THE CITY OF McBAIN ORDAINS:

ARTICLE I

164.100 DEFINITIONS

164.101 Definitions.

Sec. 1.1. In the interpretation of this ordinance [part], the following definitions shall apply unless the context clearly indicates otherwise:

A. "Backflow" means water of questionable quality, wastes, or other contaminants entering a public water supply system due to a reversal of flow.

B. "Commercial user" means a person whose premises are used to offer services and/or products such as, for example, retail and wholesale stores, gasoline stations, restaurants, schools, churches, hotels, motels, nursing homes, private clubs, theaters, and governmental buildings.

C. "Connection charge" means the fixed charged for connection to the system payable by a user at the time of a request for service.

D. "Cross-connection" means a connection or arrangement of piping or appurtenances through which a backflow could occur.

E. "Domestic user" means a person whose premises are domiciles for single-or multiple-family use.

F. "Industrial user" means a person who operates a manufacturing or process facility that is engaged in producing a product.

G. "Local distribution lines" means those pipes that serve only the abutting property within a local service area.

H. "Premises" means each lot or parcel of land, building, premises, dwelling unit, or apartment unit having any connection to the water distribution of the system.

I. "Secondary water supply" means a water supply system maintained in addition to a public water supply, including but not limited to water systems from ground or surface sources not meeting the requirements of Act No. 98 of the Public Acts of 1913, as amended, being Section 325.201 to 325.214 of the Compiled Laws of 1948.

J. "Service charge" or "service charges" means the charges payable by the user based on water service.

K. "Service line" means the line on the premises, installed and maintained by user, connecting the system to the premises.

L. "Submerged inlet" means a water pipe or extension thereto from a public water supply terminating in a tank, vessel, fixture, or appliance that may contain water of questionable quality, waste, or other contaminants and that is unprotected against backflow.

M. "System" or "water distribution system" means the City water supply and distribution system.

N. "City" means the City of McBain, Missaukee County, Michigan.

O. "City Council" means the governing body of the City.

P. "User" means the owner, lessee, or occupant of any premises connected to or served by the system.

Q. "Water connection" means that part of the water distribution system connecting the system to the service line.

R. "Watermain" means the primary and intermediate transmission and local distribution lines of the water distribution system.

ARTICLE II

164.200 CONNECTIONS

164.201 Water connection required.

Sec. 2.1. The owner of each house, building, or property used for human occupancy, employment, recreation, or other purposes, constructed subsequent to the existence of public water, situated within the City, and abutting on any street, alley, or right-of-way in which there is located or may, in the future, be located a watermain or local distribution line of the system shall, provided said watermain is within 200 feet of the nearest property line of said premises, at owner's expense (unless such expense is expressly provided by other sources), install suitable plumbing facilities therein and connect such facilities directly to the water distribution system, provided said watermain is within 200 feet of the nearest property line of said premises.

164.202 Service connections.

Sec. 2.2. Applicants for water connections shall be made to the City on forms prescribed and furnished by it. Water connections, plumbing, and water meters shall be installed in accordance with the specifications, rules, and regulations of the City and upon payment of the connection charge and meter installation fee established, from time to time, by the City Council. Water meters shall be installed by the City, unless otherwise provided by resolution of the City Council. All meters and water connections shall be the property of the City. Water service

will not commence until payment in full for the installation has been made to the City. Construction of a water service line shall be done by and at the expense of the user, as expeditiously as possible after written notice to proceed, but the time for construction of the service line shall be at the convenience of the City.

164.203 Institution of or restarting water service.

Sec. 2.3. Written notice given not less than 48 hours in advance shall be made to the City by the property owner and/or occupant of the premises when water service is desired. It shall be unlawful for any person to connect or use water supplied by the City reserves without first giving notice as provided herein. The City reserves the right to require that an amount of money equal to an anticipated bill for three months of water service be placed on deposit with the City for the purpose of establishing or maintaining any customer's credit. No person, other than an authorized employee of the City, shall turn on or off any water service, except that a licensed plumber may, with the prior express approval of the City, turn on water service for testing his work (it must be turned off immediately following such testing) or upon receiving a written order from the City, provided that, upon written permit from the City, water may be turned on for construction purposes upon payment to the City of the charges applicable thereto.

164.204 Meters.

Sec. 2.4. The City, at its sole discretion, may require that certain users having flow volumes greater than a single family of ordinary size meter all water delivered to the premises. The City reserves the right to determine the size and type of meter used. Meters shall be installed in an accessible location. The City reserves the right the install remote meter-reading equipment. The cost of that equipment and its installation shall be charged to the user at the prevailing rates and actual cost of material and labor.

164.205 Access to meters.

Sec. 2.5. The City shall have the right to shut off the supply of water to any premises where the City is not able to obtain access to the meter. Any qualified employee of the City shall, at all reasonable hours, have the right to enter the premises where such meters are installed for the purpose of reading, testing, removing, or inspecting the same, and no person shall hinder, obstruct, or interfere with such employee in the lawful discharge of his duties in relation to the care and maintenance of such water meter.

164.206 Injury to facilities.

Sec. 2.6. No person, except an employee of the City in the performance of his duties, shall break, damage, destroy, uncover, deface, or tamper with any

structure, appurtenance, or equipment that is a part of the water distribution system. The owner shall at once report any theft or damage to any structure, appurtenance, or equipment that is a part of the water distribution system.

164.207 Reimbursement for damage.

Sec. 2.7. Any damage that a meter may sustain, including that resulting from carelessness of the owner, agent, tenant, or others, or from neglect of either of them to properly secure and protect the meter, as well as any damage that may be wrought by frost, hot water, or steam backing from a boiler, shall be paid by the owner of the property to the City on presentation of a bill therefore; in cases where the bill is not paid, the water may be shut off and shall not be turned on until all such charges have been paid.

164.208 Responsibility for damages.

Sec. 2.8. The City shall not be responsible for any damages because of failures of the system or actions by the City to correct such failures.

164.209 Water leakage.

Sec. 2.9. It shall be the responsibility of the owner to repair any leaks in the service lines within seventy-two (72) hours of notice by the City, or an additional fee shall be charged for estimated water loss.

164.210 Hydrant use.

Sec. 2.10. No person, except an employee of or a person approved by the City in the performance of his duties, shall open or use any fire hydrant, except in case of emergency, without first securing a written permit from the City and paying such charges as may be prescribed by the City.

164.211 Unlawful connections.

Sec. 2.11. Unless by written approval of the City, no person shall make a connection on a service line between the water meter and the local distribution lines or install a bypass around the meter.

164.212 Sale by owner unlawful.

Sec. 2.12. It shall be unlawful for any owner or user to sell water or to make any connection through which water may pass from one property or premises to another, even if the ownership of the property or premises is the same, except as approved by the City.

164.213 Cross-connections control.

Sec. 2.13. It shall be unlawful for any owner to install and the City shall eliminate and prevent all cross-connections, except as authorized by the City and approved by the Department of Public Health, pursuant to the requirements of Sections 325.11401 through 325.11407 of the 1979 Michigan Administrative Code, as the same may be amended from time to time.

A. *Inspections.* It shall be the duty of the City to cause inspections to be made of all premises served by the water distribution system where cross-connection is deemed possible. The frequency of inspections and reinspections, based on potential health hazards involved, shall be established by the City.

B. *Right of entry.* The representative of the City shall have the right to enter, at any reasonable time, any property served by a connection to the water distribution system for the purpose of inspecting the piping system or systems thereof for cross-connections. On request, the owner, lessees, or occupants of any property so served shall furnish to the City any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when reasonably requested, shall be deemed evidence of the presence of cross-connections.

C. *Discontinue service for violation.* The City is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this section exists and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross-connection has been eliminated in compliance with the provisions of this ordinance [part].

164.214 Protection of water supply.

Sec. 2.14. The potable water supply made available on the premises served by the system shall be protected from possible contamination, as specified by this ordinance [part] and by the State of Michigan's and any other applicable plumbing code. Any water outlet that could be used for potable or domestic purposes and that is not supplied by the water distribution system must be labeled in a conspicuous manner as water unsafe for drinking.

164.215 Discontinuance of service.

Sec. 2.15. In the event a user of the system desires water service to be discontinued, said user shall so request in writing not less than 48 hours prior to the time such discontinuance of water service is desired. The City will not recognize the discontinuance of water service unless the provisions of the foregoing sentence have been fully met. Under any other circumstances, discon-

tinuance of service will be charged to the customer at the actual cost of labor, materials, and equipment. The City may refuse or discontinue water service for any violation of any rule, regulation, or condition of service.

164.216 Shutoff of water.

Sec. 2.16. The City reserves the right at all times (and will endeavor to give due notice) to shut off the water at the watermains or local distribution lines or to require reduced use or no use of the system for the purpose of making repairs or extensions or for other purposes. All persons having equipment on their premises and depending on water from the watermains or local distribution lines are hereby cautioned against danger that might arise from emergency shutting off of water. In the event of such emergency, the City may designate, in any notice, the extent of any regulation, limitation, or prohibition and the date and time on which it shall take effect.

164.217 Additional regulations.

Sec. 2.17. The City Council may take and issue additional rules and regulations concerning the water distribution system, connections thereto, meter installations and maintenance, connection and meter installation fees, hydrants, and watermains and the appurtenances thereto, not inconsistent herewith.

164.218 Other laws.

Sec. 2.18. If any statutes of the State of Michigan shall impose greater restrictions than herein set forth, then such ordinances or statutes shall control.

ARTICLE III

164.300 CONTROLLED USE

164.301 Limitation of water use.

Sec. 3.1. The City Council may regulate, limit, or prohibit the use of water for any purpose. Such regulations shall restrict less essential water uses to the extent deemed necessary to assure an adequate supply for essential domestic and commercial needs and for fire fighting. No such regulation, limitation, or prohibition shall be effective until 24 hours after the publication thereof in a newspaper of general circulation in the City, except in an emergency as may be determined by the City's Department of Public Works superintendent. In case of an emergency, the regulation, limitation, or prohibition shall be and take effect as indicated by the City's Department of Public Works superintendent, and notice

shall be given on a local radio station. Any person violating such rule or regulation shall, upon conviction thereof, be punished as prescribed in this ordinance [part].

ARTICLE IV

164.400 WATER RATES AND CHARGES

164.401 Applicability.

Sec. 4.1. The users of the system shall pay rates and charges as set forth in this section. The rates and charges shall be designed and produce revenues that are proportionate to the cost of providing water service to the users of the system. Such cost shall include but not be limited to the cost of operation, maintenance, replacement, depreciation, administration, and a rate of return on the system's investment. No free water service shall be furnished to any user of the system.

164.402 Residential equivalent unit.

Sec. 4.2. Some components of the water rates and charges described in the succeeding sections may be based on a Residential Equivalent Unit (REU) schedule established from time to time by resolution of the City Council. An REU shall be related to the quantity of water ordinarily used by a structure occupied by a single family of ordinary size. The REU schedule shall be based on studies relative to the quantity of water generated by different types of use and occupancy of premises and shall be updated and revised as needed as new studies are made and through experience gained by the City in actual operation. Not less than one REU shall be assigned to any premises. The City may require any user with an REU greater than one to install a water meter.

164.403 Commodity charge.

Sec. 4.3. If a meter is installed on the premises, a commodity charge shall be payable based on water consumption.

The charges for water consumption for water service provided by the system shall be based on each 1,000 gallons of water consumption as indicated by the water meter and shall be established from time to time by resolution of the City Council.

164.404 Service charge.

Sec. 4.4. A service charge shall be payable by every user of the system. The service charge shall be an amount based on the size of the water meter installed on the premises, payable quarterly. The quarterly service charge shall be established from time to time by resolution of the City Council.

164.405 Connection charge.

Sec. 4.5. A connection charge shall be payable by every user of the system according to the REUs assigned to the premises. Each user requesting service from the system shall pay a connection charge. The connection charge shall be as determined from time to time by resolution of the City Council.

164.406 Review of rates and charges.

Sec. 4.6. The City Council shall annually review the rates and charges. A report of the review of the system shall be prepared and presented to the City Council recommending rates and charges to assure that all costs of the system will be recovered from users of the system.

164.407 Billing and penalties and remedies for nonpayment or late payment.

Sec. 4.7. The owner of the premises serviced and the occupants thereof shall be jointly and severally liable for the water service provided to said premises. Tenants or land contract purchasers requesting water services in their name shall deposit with the City the estimated bill for three months in advance of receiving service. Deposits shall be applied to any bill, including interest, for water service more than 30 days delinquent.

Any deposit so applied shall be promptly refunded by the user. The deposit, in the case of tenant, shall be returned, less any balance due, when service is discontinued. In the case of land contract purchasers, the deposit shall be returned less any balance due when the service is discontinued or the purchaser obtains a deed for the premises.

Bills for rates and charges herein established shall be mailed to users quarterly. All bills shall be due payable on or before the first day of the month following the period of service and shall be payable to the City. If any bill shall not be paid as required, a late charge of ten percent of the amount billed shall be applied to the current amount past due and collected therewith. Penalty charges will not be compounded.

Water service may be discontinued to any premises to enforce the payment of rates and charges after the user has been given the opportunity for review by the City Council or designated representative to show cause why service should not be discontinued. Services so discontinued shall not be restored until such time as all the rates, charges, and penalties are paid or satisfactory arrangements made for the payments thereof.

Delinquent bills may be collected by any method authorized by the law, including, without limitation, making such amounts due a lien on the premises served.

[Sec. 4.8. Repealed by Ord. No. 63, § 18, adopted August 15, 2001.]

164.409 Failure of the system.

Sec. 4.9. There shall be no reduction in water rates or charges in case of failure of the supply of water regardless of the reason for the failure.

164.410 Meter accuracy.

Sec. 4.10. A user may require that the meter be tested by paying the meter test fee.

If the meter registers more than three percent over the actual flow, the meter will be repaired or replaced, the test fee will be refunded, and the bill will be reduced.

If the meter registers from five percent under the actual flow to three percent over the actual flow, the meter is considered correct, and no adjustments or refunds will be made.

If the meter registers more than five percent under the actual flow, the meter will be repaired or replaced, and the bill will be adjusted based on estimated usage.

ARTICLE V

164.500 ENFORCEMENT

164.501 Penalties for violation of ordinance.

Sec. 5.1. Whoever violates or fails to comply with any provision of this ordinance [part] shall be fined up to $500.00, imprisoned not more than 90 days, or both. A separate offense shall be deemed committed for each day during which a violation or noncompliance occurs or continues. The City supervisor or the County sheriff or his deputies may issue appearance citations for violations of this ordinance [part].

164.502 Civil action.

Sec. 5.2. The City may institute any action at law or equity to compel compliance with this ordinance [part] or to collect amounts due under this ordinance [part]. If such action is instituted, the City shall recover the costs and expenses incurred to bring and maintain the action, including, without limitation, actual reasonable attorney's fees.

164.503 Lien; termination of service.

Sec. 5.3.

(a) The charges and rates for water services which are under the provisions of Section 21, Act 94, Public Acts of Michigan, 1933, as amended, shall

constitute a lien on all premises served thereby whenever any such charges or rates shall be delinquent for six months or more, unless notice is given that a tenant is responsible for the payment of all such charges and rates. On April 1 of each year, the City official in charge of the collection of the charges and rates shall certify to the tax assessing officers of the City, the fact of such delinquency, whereupon such delinquent charges and rates shall be entered upon the next tax roll as charges against such premises and shall be collected and the lien thereof enforced in the same manner as general taxes against such premises; provided, however, where notice is given that a tenant is responsible for such charges and service as provided by Section 21 of Act 94, Public Acts of Michigan, 1933, as amended, no further service shall be rendered to such premises until a cash deposit in the amount of $100.00 shall have been made as security for payment of such charges and service.

(b) In addition, the City shall have the right to shut off water service to any user for whom charges for water service are more than two months delinquent. Before shutting off sewer service, the City shall send written notice by first class mail of its intent to terminate water service to the owner of the premises served or to the tenant in possession where a notice is given that the tenant is responsible for such charges and service. If water service is shut off pursuant to this section, such service shall not be reestablished until all delinquent charges and penalties and a turn-on charge, to be specified by resolution of the City Council, have been paid. Further, such charges and penalties may be recovered by the City by court action.

(Ord. No. 63, § 19, 8-15-2001)

ARTICLE VI

164.600 MISCELLANEOUS

164.601 [Effective date].

Sec. 6.1. This ordinance [part] shall take effect 20 days after the date of adoption.

164.602 [Notice of adoption].

Sec. 6.2. The City clerk shall publish a notice of adoption of this ordinance [part] in a newspaper of general circulation in the City of McBain, Missaukee County, Michigan, and shall post a copy of the Ordinance for inspection.

164.603 [Right to amend].

Sec. 6.3. The City reserves the right to amend, revise, repeal, or supplement this ordinance [part].

164.604 [Repealed].

Sec. 6.4. Any ordinances or resolutions or parts of same conflicting with this ordinance [part] are hereby repealed.

164.605 [Severability].

Sec. 6.5. Each section of this ordinance [part] and every paragraph of each section is hereby declared to be separable, and the holding of any section or paragraph thereof to be void, ineffective, or unconstitutional for any cause shall not effect any other section or part thereof.

165.000 STREET AND SIDEWALK OBSTRUCTIONS

Ord. No. 2
Adopted: October 26, 1897

165.001 Obstructions.
165.002 Penalty.
165.003 Enforcement.
165.004 Effective date.

An ordinance of the City of McBain relating to regulation of streets and sidewalks.

THE CITY OF McBAIN ORDAINS:

165.001 Obstructions.

Sec. 1. No person shall obstruct or encumber any public street, alley, or other public space by any article or thing whatever or encroach upon or permit to remain in any such street, alley, or space any building, structure, or thing owned, occupied, or used by him or her, except the temporary obstruction of a sidewalk for the purpose of receiving and carrying away goods and merchandise.
(Ord. No. 63, § 20, 8-15-2001)

165.002 Penalty.

Sec. 2. Any person who shall violate any provision of this ordinance [part] shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101—600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than $500.00. Each day this ordinance [part] is violated shall be considered as a separate violation.
(Ord. No. 63, § 20, 8-15-2001)

165.003 Enforcement.

Sec. 3. The City Ordinance Enforcement Officer is hereby designated as the authorized city official to issue municipal civil infraction citations directing alleged violators of this ordinance [part] to appear in court.
(Ord. No. 63, § 20, 8-15-2001)

165.004 Effective date.

Sec. 4. This ordinance [part] shall take effect 20 days from and after its passage.
(Ord. No. 63, § 20, 8-15-2001)

166.000

CEMETERY REGULATIONS

Ord. No. 63, § 21

Adopted: August 15, 2001

166.001 Definitions.
166.002 Sale of lots or burial spaces.
166.003 Purchase price and transfer fees.
166.004 Grave opening charges.
166.005 Monuments, markers or memorials.
166.006 Internment regulations.
166.007 Ground maintenance.
166.008 Forfeiture of vacant cemetery lots or burial spaces.
166.009 Repurchase of cemetery lots or burial spaces.
166.010 Cemetery records.
166.011 Family independence agency burials.
166.012 Vault.
166.013 Cemetery hours.
166.014 Municipal civil infractions.
166.015 Enforcement.
166.016 Nuisance.
166.017 Injunctive relief.

166.001 Definitions.

Sec. 1. As used in this Chapter [Part],

(a) "Adult burial space" means an area of land within a cemetery lot four feet wide and ten feet long.

(b) "Cemetery lot" means an area of land within a cemetery sufficient to accommodate from one to six adult or infant burial spaces.

(c) "Heirs at law" means a person's spouse, natural and adopted children, natural and adopted grandchildren, parents, grandparents, brothers and sisters.

(d) "Infant or stillborn burial space" means an area of land within a cemetery lot three feet wide and 3½ feet long.

166.002 Sale of lots or burial spaces.

Sec. 2.

(a) After the effective date of this Chapter [Part], cemetery lots or burial spaces shall be sold only to residents or taxpayers of the City for the purpose burying the purchaser or his or her heirs at law. The City Clerk may grant exceptions to this sales restriction, but only when the purchaser discloses sufficient personal reasons for burial in the City. In exercising the discretion granted in this section, the City Clerk shall apply the following standards: (1) whether the prospective purchaser was a previous resident or taxpayer within the City, (2) the length of time the prospective purchaser was a resident or taxpayer within the City, (3) the length of time that has elapsed from when the prospective purchaser was a resident or taxpayer of the City and the application to purchase a cemetery lot or burial space, and (4) whether the prospective purchaser falls within the definition of an heir at law of any person interned within the cemetery.

(b) All such sales shall grant a right of burial only and shall not convey title to the cemetery lot or burial space sold. The sale of a cemetery lot or burial space shall be documented on a form approved by the City Council and shall be executed by the City Clerk.

(c) Cemetery lots and burial spaces may be transferred only to those persons eligible to be original purchasers of cemetery lots or burial spaces under this Chapter [Part]. All such transfers shall be accomplished through the following procedures: (1) the owner of the cemetery lot or burial space to be transferred shall complete and sign the assignment of cemetery lot of burial space on the original burial permit issued by the City Clerk, (2) the City Clerk shall determine whether the assignee is qualified to hold a cemetery lot or burial space under this Chapter [Part], (3) if qualified, the City Clerk shall approve the transfer and enter the assignee's interest in the cemetery

lot or burial space in the official cemetery records, and (4) the City Clerk shall cancel in the official cemetery records the burial permit assigned and issue a new burial permit to the assignee.

166.003 Purchase price and transfer fees.

Sec. 3.

(a) The City Council shall from time to time by separate resolution establish the purchase price for cemetery lots and burial spaces and the fee for transferring one or more cemetery lots or burial fees to a qualified assignee.

(b) The charges and fees established pursuant to subsection (a) above shall be paid to the City Treasurer and deposited in the cemetery fund for the particular cemetery involved in the sale or transfer.

166.004 Grave opening charges.

Sec. 4.

(a) The City Council shall from time to time by separate resolution establish the fee for the opening and closing of a burial space, prior to and following a burial therein, including the internment of ashes.

(b) The fee established pursuant to subsection (a) above shall be paid to the City Treasurer and deposited in the cemetery fund for the particular cemetery involved.

(c) No burial space shall be opened and closed, except under the direction and control of the cemetery sexton. However, this provision shall not apply to proceedings for the removal and re-interment of bodies and remains that are under the supervision of the local health department.

166.005 Monuments, markers or memorials.

Sec. 5.

(a) Only one monument, marker or memorial shall be permitted per burial space.

(b) No monument, marker or memorial larger than the adult burial space to which it applies shall be allowed in any City cemetery.

(c) All permanent monuments, markers and memorials shall be of stone or metal and shall be placed on concrete footings or foundations that are no higher than ground level.

(d) For monuments, markers and memorials existing within any City cemetery on the effective date of this Chapter [Part], the City shall construct the necessary concrete footings or foundations on which to place the monument, marker or memorial.

166.006 Internment regulations.

Sec. 6.

(a) Only one person may be buried in a burial space; provided, however, a parent and his or her child less than two years of age and two children ages ten years or less may be buried at the same time in the same burial space.

(b) Not less than 36 hours advanced notice shall be given to the City Clerk or cemetery sexton of the time for any funeral to allow for the opening of the burial space or spaces.

(c) The burial permit for the burial space involved, together with the identification of the person to be buried, shall be presented to the City Clerk or cemetery sexton prior to internment. Where such burial permit has been lost or destroyed, the City Clerk shall be satisfied from a review of the official cemetery records that the person to be buried in the burial space is eligible for burial in that burial space before any internment is commenced or completed.

(d) All graves shall be located in an orderly and neat appearing manner within the confines of the burial space involved.

166.007 Ground maintenance.

Sec. 7.

(a) No grading, leveling, or excavating upon a burial space shall be allowed without the prior written permission of the City Clerk or cemetery sexton.

(b) No flowers, shrubs, trees or vegetation of any type shall be planted without the prior written approval of the City Clerk or cemetery sexton. Any of the foregoing items planted without such approval may be removed by the City or the cemetery sexton.

(c) The City reserves the right to remove or trim any tree, plant or shrub located within a City cemetery that hinders the use of a lawn mower or other gardening apparatus.

(d) All mounds which hinder the use of a lawn mower or other gardening apparatus are prohibited.

(e) The City or cemetery sexton shall have the right and authority to remove and dispose of any and all growth, emblems, displays or containers therefor that through decay, deterioration, damage or otherwise become a source of litter or a maintenance problem.

(f) Ground surfaces other than earth or sod, such as stones, bark, or wood chips, are prohibited.

(g) All refuge of any kind or nature, including but not limited to dried flowers, wreaths, papers and flower containers must be removed from the cemetery or deposited in containers located within the cemetery for that purpose.

166.008 Forfeiture of vacant cemetery lots or burial spaces.

Sec. 8.

(a) If a cemetery lot or burial space remains vacant for more than ten years after a burial permit is issued to an original purchaser or a qualified assignee, the City Clerk shall send by certified mail to the last owner of record a written notice informing him or her that the ten-year period has expired and that all rights in the cemetery lot or burial space shall be forfeited to the City if he or she fails within 60 days of the date of mailing the notice to affirmatively indicate in writing to the City Clerk his or her desire to retain the cemetery lot or burial space.

(b) If the City Clerk receives no written response within 60 days after mailing the notice required to be sent pursuant to subsection (a) above, the cemetery lot or burial space identified in the notice shall revert to the City free and clear from any claims of that original purchaser or qualified assignee. The City Clerk shall then cancel in the official cemetery records the burial permit issued and indicate in those records that the cemetery lot or burial space is eligible for resale under the terms and conditions of this Chapter [Part].

166.009 Repurchase of cemetery lots or burial spaces.

Sec. 9. Upon the written request of the original purchaser or qualified assignee of any cemetery lot or burial space, or the legal heirs or representatives of the original purchaser or qualified assignee, the City shall repurchase the cemetery lot or burial space from the owner at the original price paid to the City for that cemetery lot or burial space.

166.010 Cemetery records.

Sec. 10. The City Clerk shall maintain records concerning all burials, issuance of burial permits, and any perpetual care fund separate and apart from other City records. These cemetery records shall be open to public inspection during reasonable business hours.

166.011 Family independence agency burials.

Sec. 11. No person whose burial is paid by the Michigan Family Independence Agency shall be eligible for burial in any cemetery within the City of McBain, unless that person was a resident of the City at the time of his or her death.

166.012 Vault.

Sec. 12. All burials shall be within a standard concrete vault installed or constructed in each burial space before internment.

166.013 Cemetery hours.

Sec. 13. The City cemeteries shall be open to the general public daily between the hours of 8:00 a.m. and 9:00 p.m. No person shall be permitted in the City cemeteries at any other time, except after receiving written permission from the City Council or the cemetery sexton.

166.014 Municipal civil infractions.

Sec. 14. Any person who shall violate any provision of this Chapter [Part] shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than $500.00. Each day this Chapter [Part] is violated shall be considered as a separate violation.

166.015 Enforcement.

Sec. 15. The City Ordinance Enforcement Officer is hereby designated as the authorized City official to issue municipal civil infraction citations directing alleged violators of this Chapter [Part] to appear in court.

166.016 Nuisance.

Sec. 16. A violation of this Chapter [Part] is hereby declared to be a public nuisance or a nuisance per se and is declared to be offensive to the public health, safety and welfare.

166.017 Injunctive relief.

Sec. 17. In addition to enforcing this Chapter [Part] through the use of a municipal civil infraction proceeding, the City may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Chapter [Part].

167.000

REFUSE COLLECTION

Ord. No. 63, § 1

Adopted: August 15, 2001

167.001	Definitions.
167.002	Storage, removal of refuse.
167.003	Containers required.
167.004	Refuse not placed in container.
167.005	Collection by City.
167.006	Rates, charges; penalty.
167.007	Penalty/civil infraction.
167.008	Enforcement.
167.009	Nuisance.
167.010	Injunctive relief.
167.011	Validity.

167.001 Definitions.

Sec. 1. As used in this Chapter [Part],

(a) "Ashes" shall mean the residue resulting from the burning of wood, coal, coke or other combustible material.

(b) "Commercial waste" shall mean waste material resulting from the operation of business enterprises and institutions.

(c) "Construction waste" shall mean waste from building construction, alteration, demolition or repair including, but not limited to excavated earth, stones, brick, concrete, plaster, lumber and roofing.

(d) "Disposal" shall include the storage, collection, disposal or handling of refuse.

(e) "Garbage" shall mean all animal and vegetable wastes resulting from the handling, preparation, cooking or consumption of foods. All residential garbage shall be drained of surplus liquids.

(f) "Hazardous waste" shall mean waste, or a combination of waste and other discarded material, including solid, liquid, semisolid or containing gaseous material, which, because of its quality, concentration or physical, chemical or infectious characteristics pose a substantial present or potential hazard to human health or the environment.

(g) "Person" means an individual, firm, corporation, association, partnership, limited liability company, or other legal entity.

(h) "Refuse" shall mean all solid waste, except animal and human excrement, and shall include garbage, ashes and rubbish.

(i) "Residential refuse" shall mean refuse generated from normal household use. Residential refuse does not include commercial waste, construction waste, hazardous waste, residential yard waste or dead animals.

(j) "Residential yard waste" shall mean yard waste generated from single- and two-family households including grass clippings, leaves, and trimmings from shrubs, trees or buses. Residential yard waste does not include tree limbs over four inches in diameter or tree stumps.

(k) "Rubbish" shall include glass, metal, paper, plant growth, wood, or nonputrescible solid wastes.

167.002 Storage, removal of refuse.

Sec. 2.

(a) Every person in charge of any dwelling, business, or manufacturing establishment shall provide an adequate number of approved refuse containers in which to store all refuse created on the property.

(b) No person shall store refuse in the front of their premises except in accordance with the provisions of this Chapter [Part].

167.003 Containers required.

Sec. 3.

(a) Multi-use containers used for the storage of refuse shall be made of durable, watertight, rust-resistant materials, shall be equipped with handles for lifting, and shall not exceed 32 gallons in capacity.

(b) Single-use containers shall be disposed of with the refuse contained therein and shall be of sufficiently sturdy material as to prevent breaking or tearing of the containers prior to its collection.

(c) Every container used for the storage of refuse shall be equipped with a tight-fitting cover.

(d) The combined weight of a container and its contents shall not exceed 50 pounds.

(e) Business and manufacturing establishments may use other containers subject to the approval of the City Council.

167.004 Refuse not placed in container.

Sec. 4. Refuse not placed in a container shall be securely baled, tied, bundled or packaged so as not to exceed 48 inches in length and 50 pounds.

167.005 Collection by City.

Sec. 5.

(a) The City shall collect, or shall contract for the collection of, residential refuse on the days established by resolution of the City Council if placed in approved containers or bundles, which shall be placed at the side of the street or other approved location no sooner than 12:00 noon of the day preceding the day scheduled for collection. Empty containers, excess containers and unacceptable items shall be removed from the side of the street or other approved location the same day that collection is made.

(b) Except as provided by resolution of the City Council, the City or any contractor shall not collect hot ashes, hazardous waste, garbage which has not been drained of excessive amounts of liquid, animal excrement, commercial waste, construction waste, residential yard waste, or any loose material not properly bundled.

167.006 Rates, charges; penalty.

Sec. 6.

(a) The rates for refuse collection shall be established by Council Resolution and amended at such times as deemed necessary by the City Council to defray the cost of collection.

(b) The rate established by resolution shall be included in the city utility bill.

(c) All charges for refuse collection services shall be payable 30 days following the date of billing. Charges not paid within 30 days after the date of billing shall be subject to a collection charge of ten percent for each month that the charges remain unpaid following the due date thereof. Any account not paid within 60 days after the due date of the bill, shall render the subject premises ineligible for continued service.

(d) The charges for refuse collection services are hereby made a lien upon the premises served thereby. Whenever any such charge against any premises shall be delinquent as of September 1st, the City Treasurer shall certify such delinquency to the City Assessor, and such charges may be entered upon the next tax roll as a charge against such premises, and shall be collected and the lien thereof enforced in the same manner as taxes against such premises.

167.007 Penalty/civil infraction.

Sec. 7. Any person who shall violate any provision of this Chapter [Part] shall be guilty of a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101—600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than $500.00. Each day this Chapter [Part] is violated shall be considered as a separate violation.

167.008 Enforcement.

Sec. 8. The Superintendent of the City DPW is hereby designated as the authorized City official to issue municipal civil infraction citations directing alleged violators of this Chapter [Part] to appear in court.

167.009 Nuisance.

Sec. 9. A violation of this Chapter [Part] is hereby declared to be a public nuisance or a nuisance per se and is declared to be offensive to the public health, safety and welfare.

167.010 Injunctive relief.

Sec. 10. In addition to enforcing this Chapter [Part] through the use of a municipal civil infraction proceeding, the City may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Chapter [Part].

167.011 Validity.

Sec. 11. If any section, provision or clause of this Chapter [Part] or the application thereof to any person or circumstances is held invalid, such invalidity shall not effect any remaining portions or application of this Chapter [Part], which can be given effect without the invalid portion or application.

Parts 168—189

(Reserved)

PUBLIC SAFETY

190.000

FIRE DEPARTMENT
Ord. No. 51
Adopted: March 14, 1988

190.001	Title of ordinance.
190.002	Determination of need.
190.003	Creation of authority.
190.004	Management of fire department.
190.005	Operation costs.
190.006	Collecting and disbursing agent.
190.007	Conflicting provisions.
190.008	Effective date.

An ordinance to establish, maintain and operate a Joint Fire Department with the Townships of Riverside and Richland and to provide all other matters necessary and related thereto.

THE CITY OF McBAIN ORDAINS:

190.001 Title of ordinance.

Sec. 1. This ordinance [part] shall be known and may be cited as the McBain Community Fire Department Ordinance.

190.002 Determination of need.

Sec. 2. The City Council of McBain hereby determines that it is necessary for the best interest of the city to have a fire department and to operate it together with the Townships of Riverside and Richland.

190.003 Creation of authority.

Sec. 3. The City Council of McBain is hereby authorized to contractually establish and continue a joint fire department with the Townships of Riverside and Richland as authorized by 1951 P.A. 33, as amended; 1951 P.A. 35, as amended; and 1967 (Ex Sess) P.A. 7, as amended.

190.004 Management of fire department.

Sec. 4. The joint fire department shall be managed and supervised pursuant to a Joint Fire Department Agreement by a Fire Commission whose members shall be separately but proportion ally appointed by the municipalities involved: the Townships of Riverside and Richland and the City of McBain.

190.005 Operation costs.

Sec. 5. The City Council may budget and provide funds for the operation of this Joint Fire Department as well as provide a fire station for the department's use.

190.006 Collecting and disbursing agent.

Sec. 6. The City of McBain may act as the collecting and disbursing agent for the Joint Fire Department with the city treasurer collecting, accounting for and disbursing the funds from a restricted fire fund pursuant to the Joint Fire Department Agreement.

190.007 Conflicting provisions.

Sec. 7. All ordinances, resolutions, or orders, or parts thereof, in conflict with the provisions of this ordinance [part] are, to the extent of such conflict, hereby repealed.

190.008 Effective date.

Sec. 8. This ordinance shall become effective 30 days after adoption.

191.000

BURNING ORDINANCE
Ord. No. 56
Effective: September 29, 1991

191.001	Title.
191.002	Definitions.
191.003	Burning regulations.
191.004	Penalties.
191.004a	Enforcement.
191.005	Effective date.

An Ordinance of the City of McBain to regulate open burning in the city limits and to provide penalties for the violation of this Ordinance.

THE CITY OF McBAIN ORDAINS:

191.001 Title.

Sec. 1. This ordinance [part] shall be known and cited as the "Burning Ordinance."

191.002 Definitions.

Sec. 2. *Approved incinerator:* An incinerator that has been manufactured according to nationally accepted standards for refuse-burning equipment and that bears the label of approval of any nationally recognized testing agency, such as but not limited to Underwriters' Laboratories or the American Gas Association.

191.003 Burning regulations.

Sec. 3.

A. Burning in any container that is not an approved incinerator is prohibited.

B. No open burning of leaves is permitted with the city limits at any time.

C. No other open burning shall be allowed unless a permit has been obtained from the McBain Fire Chief. If allowed, all burning shall be carried out in accordance with the written specifications of the McBain Fire Chief.

D. It shall not be lawful for any person within the city limits of the City of McBain to burn in a manner that will cause a smoke or odor nuisance or health hazard.

E. The following burning uses are permitted without a permit:

1. The burning of wood, charcoal, coke, or other acceptable fuel for the preparing of food in any form in stoves, ovens, braziers, or grills, or similar devices.

2. The use of approved gaseous or liquid-fired salamanders commonly employed in conjunction with building and construction operations when being used in accordance with accepted safety standards.

3. Roofers, plumbers, tinners, or other mechanics pursuing a business requiring the use of fire; or for the purpose of boiling tar, pitch, or oil used in the course of an approved business or trade and while being used in a safe and sanitary manner.

4. Open burning specifically permitted in writing by the McBain Fire Chief for fire department purposes after determination by the McBain Fire Chief that such open burning will occur under the following circumstances:
   a) The area will be adequately protected by firemen or fire department trainees.
   b) The fire will be of short duration.
   c) The atmosphere will be relatively free of pollutants.

191.004 Penalties.

Sec. 4. Any person who shall violate any provision of this ordinance [part] shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101—600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than $500.00. Each day this ordinance [part] is violated shall be considered as a separate violation.
(Ord. No. 63, § 29, 8-15-2001)

191.004a Enforcement.

Sec. 4a. The City Ordinance Enforcement Officer is hereby designated as the authorized city official to issue municipal civil infraction citations directing alleged violators of this ordinance [part] to appear in court.
(Ord. No. 63, § 30, 8-15-2001)

191.005 Effective date.

Sec. 5. This ordinance shall take effect on the 29th day of September, 1991.

192.000 DANGEROUS STRUCTURES

Ord. No. 63, § 23
Adopted: August 15, 2001

192.001	"Dangerous structure" defined.
192.002	Prohibition.
192.003	Notice.
192.004	Inspection.
192.005	Penalty.
192.006	Enforcement.
192.007	Nuisance.
192.008	Injunctive relief.
192.009	Abatement by City.
192.010	Cost recovery; lien.
192.011	Validity.

192.001 "Dangerous structure" defined.

Sec. 1. As used in this Chapter [Part] a "dangerous structure" means a building or structure that has one or more of the following defects or is in one or more of the following conditions:

(a) A portion of the building or structure is damaged by fire, wind, flood, or other cause so that the structural strength or stability of the building or structure is appreciably less than it was before the catastrophe and does not meet the minimum requirements of the building code enforced within the City for a new building or structure.

(b) A part of the building or structure is likely to fall, become detached or dislodged, or collapse and injure persons or damage property.

(c) A portion of the building or structure has settled to such an extent that walls or other structural portions of the building or structure have materially less resistance to wind than is required in the case of new construction by the building code enforced within the City.

(d) The building or structure, or a part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, or the removal or movement of some portion of the ground necessary for the support, or for other reasons, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way.

(e) The building, structure, or a part of the building or structure is manifestly unsafe for the purpose for which it is used.

(f) The building or structure is damaged by fire, wind, or flood, or is dilapidated or deteriorated and has become an attractive nuisance to children who might play in the building or structure to their danger.

(g) The building or structure is vacant, dilapidated, and opened at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

192.002 Prohibition.

Sec. 2. No person, corporation or business organization shall own, occupy or maintain any dangerous structure within the City.

192.003 Notice.

Sec. 3. If a building or structure is found to be a dangerous structure, the City shall give the owner of the building or structure written notice of the dangerous condition and 30 days to demolish and remove the dangerous structure from the

property or to repair the dangerous structure to make it safe. The notice may be personally delivered to the owner or mailed to the owner by first class mail at the address shown on the assessor's rolls.

192.004 Inspection.

Sec. 4. City representatives shall have the right to inspect buildings or structures to determine violations of or compliance with this Chapter [Part]. City representatives may exercise this right to inspection by consent of the person having the right to possession of the building or structure or any part thereof, or by administrative search warrant.

192.005 Penalty.

Sec. 5. Any person who shall violate any provision of this Chapter [Part] shall be guilty of a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101—600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than $500.00. Each day this Chapter [Part] is violated shall be considered as a separate violation.

192.006 Enforcement.

Sec. 6. The City Ordinance Enforcement Officer is hereby designated as the authorized City official to issue municipal civil infraction citations directing alleged violators of this Chapter [Part] to appear in court.

192.007 Nuisance.

Sec. 7. A violation of this Chapter [Part] is hereby declared to be a public nuisance or a nuisance per se and is declared to be offensive to the public health, safety and welfare.

192.008 Injunctive relief.

Sec. 8. In addition to enforcing this Chapter [Part] through the use of a municipal civil infraction proceeding, the City may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Chapter [Part].

192.009 Abatement by City.

Sec. 9. If a Court of competent jurisdiction finds the owner or occupant of a building or structure in violation of this Chapter [Part], the Court, in addition to ordering the owner or occupant to demolish the dangerous structure and remove it from the property or to repair the dangerous structure to make it safe, may authorize the City to demolish the dangerous structure and remove it from the property or to repair the dangerous structure to make it safe. The Court, however,

shall not authorize the City to demolish the dangerous structure if the cost of repairing the building or structure to a safe condition is less than the state equalized value for the building or structure.

192.010 Cost recovery; lien.

Sec. 10.

(a) The costs incurred by the City in demolishing the dangerous structure and removing it from the property or repairing the dangerous structure to a safe condition, including reasonable attorney fees, shall be reimburse to the City by the owner or party in interest in whose name the property appears.

(b) The owner or party in interest in whose name the property appears upon the last local tax assessment roll shall be notified by the assessor of the amount of the costs of the demolition or repair of the dangerous structure by first-class mail at the address shown on the records. If the owner or party in interest fails to pay the costs within 30 days after mailing by the assessor of the notice of the amount of the costs, the City shall have a lien for the costs incurred by the City to bring the property into compliance with this Chapter [Part]. The lien shall not take effect until notice of the lien has been filed or recorded as provided by law. The lien provided for in this subsection does not have priority over previously filed or recorded liens and encumbrances. The lien for the costs shall be collected and treated in the same manner as provided for property tax liens under the state General Property Tax Act.

192.011 Validity.

Sec. 11. If any section, provision or clause of this Chapter [Part] or the application thereof to any person or circumstances is held invalid, such invalidity shall not effect any remaining portions or application of this Chapter [Part], which can be given effect without the invalid portion or application.

Parts 193—219

(Reserved)

CONSTRUCTION

REGULATIONS

AND

HOUSING

Parts 220—249

CONSTRUCTION REGULATIONS AND HOUSING

(Reserved)

PLANNING

250.000

PLANNING COMMISSION
Ord. No. 47
Adopted: May 11, 1987

250.001	Title of ordinance.
250.002	Definitions.
250.003	Determination of necessity.
250.004	Establishment of commission.
250.005	Description of master plan.
250.006	Members, appointments, terms, removal, vacancy.
250.007	Compensation.
250.008	Powers of the commission.
250.009	Fiscal year; adoption of budget.
250.010	Employees, contracts for services, expenditures.
250.011	Section headings, severability, repealer.
250.012	Publication, recording and filing.
250.013	Effective date.

An ordinance to establish a Municipal Planning Commission in the City of McBain, Michigan, Missaukee County, pursuant to Act 285, Public Acts of Michigan, 1931 as amended; and authorized by the charter of the City of McBain; to provide for the appointment of Commission members; to define the responsibilities of the Commission; and to provide for all other matters.

THE CITY OF McBAIN, MISSAUKEE COUNTY, MICHIGAN HEREBY ORDAINS:

250.001 Title of ordinance.

Sec. 1. This ordinance [part] shall be known and may be cited as the "City Planning Commission Ordinance."

250.002 Definitions.

Sec. 2. The terms used in this ordinance [part] shall have the same meaning as given to them in Act 285 or as hereinafter in this section provided unless the context clearly indicates to the contrary. As used in this ordinance [part]:

"Commission" means the City of McBain Planning Commission created by this ordinance [part].

"Act 285" means Act No. 285 of the Public Acts of Michigan of 1931, as amended, now in effect or hereafter amended.

"Commission Member" or "Commissioners" means the Members of the City Planning Commission.

"Ex officio" means because of their office.

"City" means the City of McBain, Michigan.

"Mayor" means chief executive officer of the municipality whether the official designation of his office be Mayor, City Manager or otherwise.

"County Commissioners" means the chief administrative or legislative body or board of the County of Missaukee.

"Streets" includes streets, avenues, boulevards, roads, lanes, alleys, viaducts and other ways.

"Plan" means the Master Plan designated by Act 285 as now existing or hereafter amended.

"Council" or "City Council" means the chief legislative body of the City of McBain, Michigan.

250.003 Determination of necessity.

Sec. 3. The City Council of the City of McBain hereby determines that it is necessary for the best interests of the City to provide for municipal planning; the

regulation and subdivision of land; make, adopt, amend, extend, add to or carry out a municipal plan; and to provide penalties for violation of the provisions of this Act by establishing a City Planning Commission pursuant to Act 285, 1931 as amended.

250.004 Establishment of commission.

Sec. 4. There is hereby established pursuant to Act 285, 1931, a City Planning Commission for the City of McBain, Michigan. The Commission shall be a public body and shall be known and exercise its powers under the title of "City of McBain Planning Commission". The Commission shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings and determinations which record shall be a public record.

250.005 Description of master plan.

Sec. 5. The Commission shall make and adopt a master plan for the physical development of the municipality, including any areas outside of its boundaries which in the Commission's judgment, bear relation to the planning of the municipality. The plan, with the accompanying maps, plats, charts and descriptive matter shall show the commission's recommendations for the development of the territory, including, among other things, the general location, character and extent of streets, viaducts, subways, bridges, waterways, flood plains, waterfronts, boulevards, parkways, playgrounds and open spaces, the general location of public buildings and other public property, and the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power and other purposes; also the removal, relocation, widening, narrowing, vacating, abandonment, change or use or extension of any of the foregoing ways, grounds, open spaces, buildings, property utilities or terminals; the general location, character, layout and extent of community centers and neighborhood units; and the general character, extent and layout of the replanning and redevelopment of blighted districts and slum areas; as well as a zoning plan for the control of the height, area, bulk, location and use of buildings and premises. As the work of making the whole master plan progresses, the Commission from time to time may adopt and publish parts thereof, any such part to cover one or more major sections or division of the municipality or one or more of the aforesaid or other functional matters to be included in the plan. The Commission from time to time may amend, extend or add to the plan.

250.006 Members, appointments, terms, removal, vacancy.

Sec. 6.

(1) The city planning commission shall consist of five [members]. One member shall be a member of the city council selected by resolution of the council as

an ex officio member. The other remaining members shall be appointed by the mayor, subject to the approval by a majority vote of the entire city council. All appointed members of the planning commission may be compensated at a rate to be determined by the city council. An appointed member shall not hold another municipal office, except that one of the appointed members may be a member of the city zoning board of appeals. The term of the ex officio member shall be determined by the city council and shall be stated in the resolution selecting the ex officio member, but the term shall not exceed the member's term of office as a member of the city council. The term of each appointed member shall be three years or until his or her successor takes office, except that the respective terms of one of the members first appointed shall be for one year and the respective terms of two of the members first appointed shall be for two years. After a public hearing, a member other than the member selected by the city council may be removed by the mayor for inefficiency, neglect of duty, or malfeasance in office. The city council may for like cause remove the council member selected by the council. The ex officio member appointed under this subsection shall have full voting rights.

(2) A vacancy on the city planning commission occurring otherwise than through the expiration of a member's term shall be filled for the unexpired term by the mayor, subject to the approval by a majority vote of the entire city council, in the case of the members selected by the mayor, and by the village council in the case of the member appointed by the council.

(Ord. No. 63, § 2, 8-15-2001)

250.007 Compensation.

Sec. 7. All appointed members of the Commission may be compensated at a rate to be determined by the legislative body.

250.008 Powers of the commission.

Sec. 8. Except as specifically otherwise provided in this ordinance [part], the Commission shall have all powers provided by law subject to the limitations imposed by law and herein.

250.009 Fiscal year; adoption of budget.

Sec. 9.

(a) The fiscal year of the Commission shall be the same as that currently used by the City, or such other fiscal year as may hereafter be adopted by the City.

(b) The Commission shall annually prepare a budget and shall submit it to the Council on the same date that the proposed budget for the City is submitted to the Council. The Commission shall not finally adopt a budget for any fiscal year until the budget has been approved by the City Council.

250.010 Employees, contracts for services, expenditures.

Sec. 10. The Commission may appoint such employees as it may deem necessary for its work, whose appointment, promotion, demotion and removal shall be subject to the same provision of law as govern other corresponding civil employees of the municipality. The Commission may also contract with city planners, engineers, architects and other consultants for such services as it may require. The expenditures of the Commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by council, which shall provide the funds, equipment, and accommodations necessary for the Commission's work.

250.011 Section headings, severability, repealer.

Sec. 11. Section headings are provided for convenience only and are not intended to be part of this ordinance [part]. If any portion of this ordinance [part] shall be held to be unlawful, the remaining portions shall remain in full force and effect. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

250.012 Publication, recording and filing.

Sec. 12. This ordinance [part] shall be published once after its adoption in full in the Waterfront, a newspaper of general circulation in the County of Missaukee and the City Clerk shall obtain certification as to the publication of the ordinance promptly after its adoption.

250.013 Effective date.

Sec. 13. This ordinance [part] shall be effective immediately following publication.

251.000 DOWNTOWN DEVELOPMENT AUTHORITY

Ord. No. 39
Adopted: July 25, 1983

251.001	Title of ordinance.
251.002	Definitions.
251.003	Determination of necessity.
251.004	Creation of authority.
251.005	Description of Downtown District.
251.006	Board of Trustees.
251.007	Powers of the authority.
251.008	Fiscal year; adoption of budget.
251.009	Downtown Development Authority finances.
251.010	Section headings; severability; repealer.
251.011	Publication, recording and filing.
251.012	Effective date.

Exhibit "A"
251.020 Boundaries of Downtown District

An ordinance to establish a Downtown Development Authority in the City of McBain, Michigan, Missaukee County, pursuant to Act 197, Public Acts of Michigan, 1975; to provide for establishment of a Board of Trustees for the Authority; to define the boundaries of the downtown district constituting the Downtown Development Authority; to provide for levy and collection of a downtown development tax; and to provide for all other matters necessary and related thereto.

THE CITY OF McBAIN ORDAINS:

251.001 Title of ordinance.

Sec. 1. This ordinance [part] shall be known and may be cited as the "Downtown Development Authority Ordinance".

251.002 Definitions.

Sec. 2. The terms used in this ordinance [part] shall have the same meaning as given to them in Act 197 or as hereinafter in this section provided unless the context clearly indicates to the contrary. As used in this ordinance [part]:

"Authority" means the McBain Downtown Development Authority created by this ordinance [part].

"Act 197" means Act No. 197 of the Public Acts of Michigan of 1975, as amended, now in effect or hereafter amended.

"Board" or "Board of Trustees" means the Board of Trustees of the Authority, the governing body of the Authority.

"Chief Executive Officer" means the City Mayor of the City.

"City" means the City of McBain, Michigan.

"Downtown District" means the downtown district designated by this ordinance [part] as now existing or hereafter amended.

"Council" or "City Council" means the City Council of the City of McBain, Michigan.

251.003 Determination of necessity.

Sec. 3. The City Council of the City of McBain hereby determines that it is necessary for the best interests of the City to halt property value deterioration and increase property tax valuation where possible in the business district of the City of McBain, to eliminate the causes of that deterioration and to promote economic growth by establishing a downtown development authority pursuant to Act 197.

251.004 Creation of authority.

Sec. 4. There is hereby created pursuant to Act 197, a downtown development authority for the City of McBain, Michigan. The Authority shall be a public body corporate and shall be known and exercise its powers under the title of "McBain Downtown Development Authority". The Authority may adopt a seal, may sue and be sued in any court of this state and shall possess all of the powers necessary to carry out the purpose of its incorporation as provided by this ordinance [part] and Act 197. The enumeration of a power in this ordinance [part] or in Act 197 shall not be construed as a limitation upon the general powers of the Authority.

251.005 Description of Downtown District.

Sec. 5. The Downtown District in which the Authority shall exercise its powers as provided by Act 197 shall consist of the territory in the City of McBain, Michigan, described in Exhibit A [251.020], attached hereto and made a part hereof, subject to such changes as may hereinafter be made pursuant to this ordinance [part] and Act 197.

251.006 Board of Trustees.

Sec. 6. The Authority shall be under supervision and control of a Board of Trustees consisting of the Chief Executive Officer of the City and eight members as provided by Act 197. The members shall be appointed by the Chief Executive Officer, subject to approval by the Council and shall hold office for the terms provided in Act 197. All members shall hold office until the member's successor is appointed.

251.007 Powers of the authority.

Sec. 7. Except as specifically otherwise provided in this ordinance [part] the authority shall have all powers provided by law subject to the limitations imposed by law and herein.

251.008 Fiscal year; adoption of budget.

Sec. 8.

(a) The fiscal year of the Authority shall begin on May 1 of each year and end on April 30 of the following year, or such other fiscal year as may hereafter be adopted by the City.

(b) The Board shall annually prepare a budget and shall submit it to the Council on the same date that the proposed budget for the City is submitted to the Council. The Board shall not finally adopt a budget for any fiscal year until the budget has been approved by the City Council. The Board may,

however, temporarily adopt a budget in connection with the operation of any improvements which have been financed by revenue bonds where required to do so by the ordinance authorizing the revenue bonds.

(c) The Authority shall submit financial reports to the Council at the same time and on the same basis as departments of the City are required to submit reports. The Authority shall be audited annually by the same independent auditors auditing the City and copies of the audit report shall be filed with the Council.

251.009 Downtown Development Authority finances.

Sec. 9. The Authority is hereby authorized by the City to effect financing for authority needs from one or more of the sources authorized by Act 197.

251.010 Section headings; severability; repealer.

Sec. 10. Section headings are provided for convenience only and are not intended to be part of this ordinance [part]. If any portion of this ordinance [part] shall be held to be unlawful, the remaining portions shall remain in full force and effect. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

251.011 Publication, recording and filing.

Sec. 11. This ordinance [part] shall be published once after its adoption in full in the Waterfront, a newspaper of general circulation in the County of Missaukee and the City Clerk shall file a certified copy of the ordinance with the Michigan Secretary of State promptly after its adoption.

251.012 Effective date.

Sec. 12. This ordinance [part] shall be effective 37 days after adoption.

EXHIBIT "A"

251.020 BOUNDARIES OF DOWNTOWN DISTRICT

The boundaries of the downtown district over which the downtown development authority will exercise its powers are as follows:

Commencing at the intersection of Maple Street and North Pine Street;

Thence Northerly along the centerline of North Pine Street approximately one-half block to the centerline of the east-west alleyway parallel to Maple Street;

Thence Easterly along the centerline of said alleyway to the centerline of Roland Street;

Thence Southerly along the centerline of Roland Street to the intersection of Roland Street and Maple Street;

Thence Easterly along the centerline of Roland Street to the centerline of the alleyway between Roland Street and Hemlock Street;

Thence Southerly along the centerline of said alleyway and along the centerline of Hughston Street to its dead end;

Thence Westerly to the Easterly right-of-way of The Ann Arbor & Chesapeake Railroad;

Thence Northwesterly along the said Railroad right-of-way to a point directly south of the centerline of the North-South alleyway between Grace Street and Roland Street;

Thence Northerly along the centerline of said alleyway between Grace Street and Roland Street to the intersection of said alleyway and Euclid Street;

Thence Westerly along the centerline of Euclid Street to the lot line between Lot 1 and Lots 2 and 13 of John McBain's 1st Addition to the Village of McBain;

Thence Northerly on said lot line between Lot 1 and Lots 2 and 13 of John McBain's 1st Addition to the Village of McBain to the centerline of Maple Street;

Thence Easterly along the centerline of Maple Street to the point of beginning.

252.000 DOWNTOWN DEVELOPMENT AUTHORITY; FIRST AMENDMENT
Ord. No. 43
Adopted: August 13, 1984

252.001 Title of ordinance.
252.002 Definitions.
252.003 Determination of necessity.
252.004 Amending of Authority.
252.005 Description of Downtown District.
252.006 Board of Trustees.
252.007 Compensation.
252.008 Powers of the Authority.
252.009 Fiscal year; adoption of budget.
252.010 Downtown Development Authority finances.
252.011 Section headings, severability, repealer.
252.012 Publication, recording and filing.
252.013 Effective date.

An ordinance to amend a Downtown Development Authority in the City of McBain, Michigan, Missaukee County, pursuant to Act 197, Public Acts of Michigan, 1975; adopted by the City Council on July 25, 1984 and filed with the Secretary of State on September 6, 1984; to provide for establishment of a Board of Trustees for the Authority; to define the boundaries of the downtown district constituting the Downtown Development Authority; to provide for levy and collection of a downtown development tax; and to provide for all other matters necessary and related thereto.

THE CITY OF McBAIN ORDAINS:

252.001 Title of ordinance.

Sec. 1. This ordinance [part] shall be known and may be cited as the "Downtown Development Authority Ordinance".

252.002 Definitions.

Sec. 2. The terms used in this ordinance [part] shall have the same meaning as given to them in Act 197 or as hereinafter in this section provided unless the context clearly indicates to the contrary. As used in this ordinance [part]:

"Authority" means the McBain Downtown Development Authority created by this ordinance [part].

"Act 197" means Act No. 197 of the Public Acts of Michigan of 1975, as amended, now in effect or hereafter amended.

"Board" or "Board of Trustees" means the Board of Trustees of the Authority, the governing body of the Authority.

"Chief Executive Officer" means the City Mayor of the City.

"City" means the City of McBain, Michigan.

"Downtown District" means the downtown district designated by this ordinance [part] as now existing or hereafter amended.

"Council" or "City Council" means the City Council of the City of McBain, Michigan.

252.003 Determination of necessity.

Sec. 3. The City Council of the City of McBain hereby determines that it is necessary for the best interests of the City to halt property value deterioration and increase property tax valuation where possible in the business district of the City of McBain, to eliminate the causes of that deterioration and to promote economic growth by amending a downtown development authority pursuant to Act 197.

252.004 Amending of Authority.

Sec. 4. There is hereby amended pursuant to Act 197, a downtown development authority for the City of McBain, Michigan. The Authority shall be a public body corporate and shall be known and exercise its powers under the title of "McBain Downtown Development Authority". The Authority may adopt a seal, may sue and be sued in any court of this state and shall possess all of the powers necessary to carry out the purpose of its incorporation as provided by this ordinance [part] and Act 197. The enumeration of a power in this ordinance [part] or in Act 197 shall not be construed as a limitation upon the general powers of the Authority.

252.005 Description of Downtown District.

Sec. 5. The amended Downtown District in which the Authority shall exercise its powers as provided by Act 197 shall consist of the territory in the City of McBain, Michigan, described as follows:

> Part of the City of McBain, Missaukee County, Michigan, described as commencing at the centerline intersection of Euclid Street and a 16-foot alleyway located between Roland Street and Hemlock Street; thence southerly along the centerline of said alleyway to the centerline of Elm Street; thence east along said centerline to its platted end; thence south 710 feet; thence westerly to the easterly right-of-way line of the Tuscola Saginaw Bay Railroad; thence northwesterly along said Railroad right-of-way to its intersection with the centerline of Grace Street; thence northerly along said centerline to the centerline of Euclid Street; thence easterly along said centerline to the place of beginning.

252.006 Board of Trustees.

Sec. 6. The Authority shall be under supervision and control of a Board of Trustees consisting of the Chief Executive Officer of the City and eight members as provided by Act 197. The members shall be appointed by the Chief Executive Officer, subject to approval by the Council and shall hold office for the terms provided in Act 197. All members shall hold office until the member's successor is appointed.

252.007 Compensation.

Sec. 7. The Board may employ and fix the compensation of a director who must, before entering upon the duties of his office, furnish bond, by posting a bond in the penal sum of $2,000.00 to the authority and filed with the municipal clerk.

252.008 Powers of the Authority.

Sec. 8. Except as specifically otherwise provided in this ordinance [part], the authority shall have all powers provided by law subject to the limitations imposed by law and herein.

252.009 Fiscal year; adoption of budget.

Sec. 9.

(a) The fiscal year of the Authority shall begin on May 1 of each year and end on April 30 of the following year, or such other fiscal year as may hereafter be adopted by the City.

(b) The Board shall annually prepare a budget and shall submit it to the Council on the same date that the proposed budget for the City is submitted to the Council. The Board shall not finally adopt a budget for any fiscal year until the budget has been approved by the City Council. The Board may, however, temporarily adopt a budget in connection with the operation of any improvements which have been financed by revenue bonds where required to do so by the ordinance [part] authorizing the revenue bonds.

(c) The Authority shall submit financial reports to the Council at the same time and on the same basis as departments of the City are required to submit reports. The Authority shall be audited annually by the same independent auditors auditing the City and copies of the audit report shall be filed with the Council.

252.010 Downtown Development Authority finances.

Sec. 10. The Authority is hereby authorized by the City to effect financing for authority needs from one or more of the sources authorized by Act 197.

252.011 Section headings, severability, repealer.

Sec. 11. Section headings are provided for convenience only and are not intended to be part of this ordinance [part]. If any portion of this ordinance [part] shall be held to be unlawful, the remaining portions shall remain in full force and effect. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

252.012 Publication, recording and filing.

Sec. 12. This ordinance [part] shall be published once after its adoption in full in the Waterfront, a newspaper of general circulation in the County of Missaukee and the City Clerk shall file a certified copy of the ordinance with the Michigan Secretary of State promptly after its adoption.

252.013 Effective date.

Sec. 13. This ordinance [part] shall be effective immediately following publication.

253.000 DOWNTOWN DEVELOPMENT AUTHORITY; SECOND AMENDMENT
Ord. No. 44
Adopted: November 12, 1984

253.001 Title of ordinance.
253.002 Definitions.
253.003 Determination of necessity.
253.004 Amending of Authority.
253.005 Description of Downtown District.
253.006 Board of Trustees.
253.007 Compensation.
253.008 Powers of the Authority.
253.009 Fiscal year; adoption of budget.
253.010 Downtown Development Authority finances.
253.011 Section headings, severability, repealer.
253.012 Publication, recording and filing.
253.013 Effective date.

An ordinance to amend a Downtown Development Authority in the City of McBain, Michigan, Missaukee County, pursuant to Act 197, Public Acts of Michigan, 1975; adopted by the City Council on November 12, 1984 and promptly filed with the Secretary of State; to provide for establishment of a Board of Trustees for the Authority; to define the boundaries of the downtown district constituting the Downtown Development Authority; to provide for levy and collection of a downtown development tax; and to provide for all other matters necessary and related thereto.

THE CITY OF McBAIN ORDAINS:

253.001 Title of ordinance.

Sec. 1. This ordinance [part] shall be known and may be cited as the "Downtown Development Authority Ordinance".

253.002 Definitions.

Sec. 2. The terms used in this ordinance [part] shall have the same meaning as given to them in Act 197 or as hereinafter in this section provided unless the context clearly indicates to the contrary. As used in this ordinance [part]:

"Authority" means the McBain Downtown Development Authority created by this ordinance [part].

"Act 197" means Act No. 197 of the Public Acts of Michigan of 1975, as amended, now in effect or hereafter amended.

"Board" or "Board of Trustees" means the Board of Trustees of the Authority, the governing body of the Authority.

"Chief Executive Officer" means the City Mayor of the City.

"City" means the City of McBain, Michigan.

"Downtown District" means the downtown district designated by this ordinance [part] as now existing or hereafter amended.

"Council" or "City Council" means the City Council of the City of McBain, Michigan.

253.003 Determination of necessity.

Sec. 3. The City Council of the City of McBain hereby determines that it is necessary for the best interests of the City to halt property value deterioration and increase property tax valuation where possible in the business district of the City of McBain, to eliminate the causes of that deterioration and to promote economic growth by amending a downtown development authority pursuant to Act 197.

253.004 Amending of Authority.

Sec. 4. There is hereby created pursuant to Act 197, a downtown development authority for the City of McBain, Michigan. The Authority shall be a public body corporate and shall be known and exercise its powers under the title of "McBain Downtown Development Authority". The Authority may adopt a seal, may sue and be sued in any court of this state and shall possess all of the powers necessary to carry out the purpose of its incorporation as provided by this ordinance [part] and Act 197. The enumeration of a power in this ordinance [part] or in Act 197 shall not be construed as a limitation upon the general powers of the Authority.

253.005 Description of Downtown District.

Sec. 5. The amended Downtown District in which the Authority shall exercise its powers as provided by Act 197 shall consist of the territory in the City of McBain, Michigan, described as follows:

> Part of the City of McBain, Missaukee County, Michigan, described as commencing at the centerline intersection of Maple Street and Grace Street: thence Easterly along the centerline of Maple Street to the Northeast corner of the Alice Phillips' Addition to the Village of McBain; thence Southerly along the East line of said Addition to the centerline of Euclid Avenue; thence westerly along said centerline to the centerline of Cottage Grove Avenue; thence northerly along said centerline to the intersection of the extension of the North line of lot 10 of the Alice Phillips' addition to Village of McBain; thence westerly along said lot line to the east line of lot 14; thence southerly to the Southeast corner of said Lot 14; thence westerly along the South line of Lots 14 and 35 to the centerline of an alleyway located between Harrison Street and Cottage Grove Avenue; thence northerly along said centerline to the intersection of the extension of the South line of lot 20 of G & J McBain's Addition to Village of Owens; thence westerly along said lot line to the intersection of the centerline of Harrison Street; thence southerly to the intersection of the extension of the South line of lot 17 of G & J McBain's Addition to Village of Owens; thence westerly along the South line of said Lot 17 to the centerline of an alleyway located between Hemlock Street and Harrison Street; thence southerly to the intersection of the extension of the South line of lot 2 of G & J McBain's Addition to Village of Owens; thence westerly along the South line of said Lot 2 and the South line of Lot 12 of the Map of Owens extended to the centerline of a 16 foot alleyway located between Roland Street and Hemlock Street; thence southerly along the centerline of said alleyway to the centerline of Elm Street; thence east along said centerline to the East line of G & J McBain's Addition to the Village of Owens; thence south 710 feet; thence westerly to the easterly right-of-way line of the Tuscola Saginaw Bay Railroad; thence

northwesterly along said Railroad right-of-way to its intersection with the centerline of Grace Street; thence northerly along said centerline to the place of beginning.

253.006 Board of Trustees.

Sec. 6. The Authority shall be under supervision and control of a Board of Trustees consisting of the Chief Executive Officer of the City and eight members as provided by Act 197. The members shall be appointed by the Chief Executive Officer, subject to approval by the Council and shall hold office for the terms provided in Act 197. All members shall hold office until the member's successor is appointed.

253.007 Compensation.

Sec. 7. The Board may employ and fix the compensation of a director who must, before entering upon the duties of his office, furnish bond, by posting a bond in the penal sum of $2,000.00 to the authority and filed with the municipal clerk.

253.008 Powers of the Authority.

Sec. 8. Except as specifically otherwise provided in this ordinance [part], the authority shall have all powers provided by law subject to the limitations imposed by law and herein.

253.009 Fiscal year; adoption of budget.

Sec. 9.

(a) The fiscal year of the Authority shall begin on May 1 of each year and end on April 30 of the following year, or such other fiscal year as may hereafter be adopted by the City.

(b) The Board shall annually prepare a budget and shall submit it to the Council on the same date that the proposed budget for the City is submitted to the Council. The Board shall not finally adopt a budget for any fiscal year until the budget has been approved by the City Council. The Board may, however, temporarily adopt a budget in connection with the operation of any improvements which have been financed by revenue bonds where required to do so by the ordinance authorizing the revenue bonds.

(c) The Authority shall submit financial reports to the Council at the same time and on the same basis as departments of the City are required to submit reports. The Authority shall be audited annually by the same independent auditors auditing the City and copies of the audit report shall be filed with the Council.

253.010 Downtown Development Authority finances.

Sec. 10. The Authority is hereby authorized by the City to effect financing for authority needs from one or more of the sources authorized by Act 197.

253.011 Section headings, severability, repealer.

Sec. 11. Section headings are provided for convenience only and are not intended to be part of this ordinance [part]. If any portion of this ordinance [part] shall be held to be unlawful, the remaining portions shall remain in full force and effect. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

253.012 Publication, recording and filing.

Sec. 12. This ordinance [part] shall be published once after its adoption in full in the Waterfront, a newspaper of general circulation in the County of Missaukee and the City Clerk shall file a certified copy of the ordinance with the Michigan Secretary of State promptly after its adoption.

253.013 Effective date.

Sec. 13. This ordinance [part] shall be effective immediately following publication.

254.000 DOWNTOWN DEVELOPMENT AUTHORITY; THIRD AMENDMENT
Ord. No. 46
Adopted: Oct. 14, 1985

254.001	Title of ordinance.
254.002	Definitions.
254.003	Determination of necessity.
254.004	Amending of Authority.
254.005	Description of Downtown District.
254.006	Board of Trustees.
254.007	Compensation.
254.008	Powers of the Authority.
254.009	Fiscal year; adoption of budget.
254.010	Downtown Development Authority finances.
254.011	Section headings, severability, repealer.
254.012	Publication, recording and filing.
254.013	Effective date.

An ordinance to amend a Downtown Development Authority in the City of McBain, Michigan, Missaukee County, pursuant to Act 197, Public Acts of Michigan, 1975; adopted by the City Council on October 14, 1985 and promptly filed with the Secretary of State; to provide for establishment of a Board of Trustees for the Authority; to define the boundaries of the downtown district constituting the Downtown Development Authority; to provide for levy and collection of a downtown development tax; and to provide for all other matters necessary and related thereto.

THE CITY OF McBAIN ORDAINS:

254.001 Title of ordinance.

Sec. 1. This ordinance [part] shall be known and may be cited as the "Downtown Development Authority Ordinance".

254.002 Definitions.

Sec. 2. The terms used in this ordinance [part] shall have the same meaning as given to them in Act 197 or as hereinafter in this section provided unless the context clearly indicates to the contrary. As used in this ordinance [part]:

"Authority" means the McBain Downtown Development Authority created by this ordinance [part].

"Act 197" means Act No. 197 of the Public Acts of Michigan of 1975, as amended, now in effect or hereafter amended.

"Board" or "Board of Trustees" means the Board of Trustees of the Authority, the governing body of the Authority.

"Chief Executive Officer" means the City Mayor of the City.

"City" means the City of McBain, Michigan.

"Downtown District" means the downtown district designated by this ordinance [part] as now existing or hereafter amended.

"Council" or "City Council" means the City Council of the City of McBain, Michigan.

254.003 Determination of necessity.

Sec. 3. The City Council of the City of McBain hereby determines that it is necessary for the best interests of the City to halt property value deterioration and increase property tax valuation where possible in the business district of the City of McBain, to eliminate the causes of that deterioration and to promote economic growth by amending a downtown development authority pursuant to Act 197.

254.004 Amending of Authority.

Sec. 4. There is hereby amended pursuant to Act 197, a downtown development authority for the City of McBain, Michigan. The Authority shall be a public body corporate and shall be known and exercise its powers under the title of "McBain Downtown Development Authority". The Authority may adopt a seal, may sue and be sued in any court of this state and shall possess all of the powers necessary to carry out the purpose of its incorporation as provided by this ordinance [part] and Act 197. The enumeration of a power in this ordinance [part] or in Act 197 shall not be construed as a limitation upon the general powers of the Authority.

254.005 Description of Downtown District.

Sec. 5. The amended Downtown District in which the Authority shall exercise its powers as provided by Act 197 shall consist of the territory in the City of McBain, Michigan, described as follows:

> Part of the City of McBain, Missaukee County, Michigan, described as commencing at the centerline intersection of Maple Street and Grace Street; thence Easterly along the centerline of Maple Street to the Northeast corner of the Alice Phillips' Addition to the Village of McBain; thence Southerly along the East line of said Addition to the Southeast corner of Lot 23; thence westerly to the Southeast corner of Lot 1 of Alice Phillips' addition; thence northerly to the Northeast corner of Lot 10 of said Addition; thence westerly to the Northwest corner of said Lot 10; thence southerly to the Southeast corner of Lot 14 of said Addition; thence westerly along the South line of Lots 14 and 35 of Alice Phillips' Addition to the centerline of an alleyway located between Harrison Street and Cottage Grove Avenue; thence northerly along said centerline to the intersection of the extension of the South line of lot 20 of G & J McBain's Addition to Village of Owens; thence westerly along said lot line to the intersection of the centerline of Harrison Street; thence southerly along the centerline of Harrison Street to the intersection of the extension of the South line of lot 17 of said G & J McBain's Addition; thence westerly along the South line of said Lot 17 to the centerline of an alleyway located between Hemlock Street and Harrison Street; thence Southerly along the centerline of said alleyway to the intersection of the extension of the South line of lot 2 of G & J McBain's Addition; thence westerly along the South line of said Lot 2 of G & J McBain's addition to the South line of Lot 12 of the Map of Owens extended to the centerline of a 16 foot alleyway located between Roland Street and Hemlock Street; thence Southerly along the centerline of said alleyway to the North right-of-way of Elm Street; thence Easterly along said right-of-way to the Southeast corner of G & J McBain's addition to the Village of Owens; thence Southerly along the Easterly line of said addition extending to the South to a point of

intersection with the South line of the Alice Phillips' addition to the Village of McBain extended Westerly; thence Easterly to the Southeast corner of said Alice Phillips' addition and East line of the West ½ of the Southeast ¼ of the Northwest ¼ of Section 30; thence Southerly along said East line approximately 743.69'; thence westerly to the easterly right-of-way line of the Tuscola Saginaw Bay Railroad; thence northwesterly along said Railroad right-of-way to its intersection with the centerline of Grace Street; thence northerly along said centerline to the place of beginning.

254.006 Board of Trustees.

Sec. 6. The Authority shall be under supervision and control of a Board of Trustees consisting of the Chief Executive Officer of the City and eight members as provided by Act 197. The members shall be appointed by the Chief Executive Officer, subject to approval by the Council and shall hold office for the terms provided in Act 197. All members shall hold office until the member's successor is appointed.

254.007 Compensation.

Sec. 7. The Board may employ and fix the compensation of a director who must, before entering upon the duties of their office, furnish bond, by posting a bond in the penal sum of two thousand dollars ($2,000.00) to the authority and filed with the municipal clerk.

254.008 Powers of the Authority.

Sec. 8. Except as specifically otherwise provided in this ordinance [part], the authority shall have all powers provided by law subject to the limitations imposed by law and herein.

254.009 Fiscal year; adoption of budget.

Sec. 9.

(a) The fiscal year of the Authority shall begin on May 1 of each year and end on April 30 of the following year, or such other fiscal year as may hereafter be adopted by the City.

(b) The Board shall annually prepare a budget and shall submit it to the Council on the same date that the proposed budget for the City is submitted to the Council. The Board shall not finally adopt a budget for any fiscal year until the budget has been approved by the City Council. The Board may, however, temporarily adopt a budget in connection with the operation of any improvements which have been financed by revenue bonds where required to do so by the ordinance authorizing the revenue bonds.

(c) The Authority shall submit financial reports to the Council at the same time and on the same basis as departments of the City are required to submit reports. The Authority shall be audited annually by the same independent auditors auditing the City and copies of the audit report shall be filed with the Council.

254.010 Downtown Development Authority finances.

Sec. 10. The Authority is hereby authorized by the City to effect financing for authority needs from one or more of the sources authorized by Act 197.

254.011 Section headings, severability, repealer.

Sec. 11. Section headings are provided for convenience only and are not intended to be part of this ordinance [part]. If any portion of this ordinance [part] shall be held to be unlawful, the remaining portions shall remain in full force and effect. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

254.012 Publication, recording and filing.

Sec. 12. This ordinance [part] shall be published once after its adoption in full in the Waterfront, a newspaper of general circulation in the County of Missaukee and the City Clerk shall file a certified copy of the ordinance with the Michigan Secretary of State promptly after its adoption.

254.013 Effective date.

Sec. 13. This ordinance [part] shall be effective immediately following publication.

255.000 DOWNTOWN DEVELOPMENT AUTHORITY; DEVELOPMENT PLAN

Ord. No. 41

Adopted: October 10, 1983

255.001 Definitions.
255.002 Approval and adoption of Development Plan.
255.003 Boundaries of the Development Area.
255.004 Establishment of project fund; approval of depositary.
255.005 Use of moneys in the project fund.
255.006 Annual report.
255.007 Effective date.

An ordinance adopting and approving the Development Plan or Tax Increment Financing Plan of the Downtown Development Authority in the City of McBain, Michigan, Missaukee County, pursuant to Act 197, Public Acts of Michigan, 1975 and to provide for all other matters necessary and related thereto.

THE CITY OF McBAIN ORDAINS:

255.001 Definitions.

Sec. 1. The terms used in this ordinance [part] shall have the following meaning unless the context clearly requires otherwise:

A. "Development Area" consists of a parcel of land lying directly south of the intersection of Elm Street and Roland Street, McBain, Michigan, which is presently unoccupied, vacant land, which land is more particularly described as follows, to-wit:

> Part of the Northwest ¼ of Section 30, Riverside Township, Missaukee County, Michigan, described as: Commencing at the intersection of the centerline of Roland Street and the South boundary of the City of McBain; Thence North 90°00'00" East 197.26 feet; Thence South 01°11'00" West 288.41 feet to the place of beginning; Thence North 90°00'00" West 419.73 feet; Thence South 11°56'30" East 526.28 feet; Thence North 90°00'00" East 300.20 feet; Thence North 01°11'00" East 515.00 feet to the place of beginning; containing 4.2558 acres.

B. "Development Plan" means the "Tax Increment and Development Plan-McBain Downtown Development Authority dated September 13, 1983 as transmitted to the City Council by the Downtown Development Authority for public hearing, as approved by action of the City Council and confirmed by this ordinance [part], copies of which are on file in the office of the City Clerk.

C. "Downtown Development Authority" means the City of McBain Downtown Development Authority.

255.002 Approval and adoption of Development Plan.

Sec. 2. The Development Plan as submitted by the Downtown Development Authority is hereby approved and adopted. The duration of the plan shall be until fulfillment of the Plan as outlined in the Development Plan, except as it may be extended by subsequent amendment of the plan and this ordinance [part]. A copy of the plan and all amendments thereto shall be maintained on file in the City Clerk's office and cross-indexed to this ordinance [part].

255.003 Boundaries of the Development Area.

Sec. 3. The boundaries of the Development Area are hereby adopted and confirmed.

255.004 Establishment of project fund; approval of depositary.

Sec. 4. The Treasurer of the Downtown Development Authority shall establish a separate fund which shall be kept in a depositary bank account or accounts in a bank or banks approved by the Director of Finance of the City, to be designated Downtown Development Authority Project No. 1. All monies received by the Downtown Development Authority pursuant to the Development Plan shall be deposited in the Project Fund. All monies in that fund and earnings thereon shall be used only in accordance with the Development Plan and this ordinance [part].

255.005 Use of moneys in the project fund.

Sec. 5. The money credited to the Project Fund and on hand therein from time to time shall annually be used in the following order of priority:

A. To pay the administrative and operating costs of the DDA and City for the development area, including planning and promotion, to the extent provided in the annual budget of the DDA.

B. To reimburse the City for funds advanced to acquire property, clear land, make preliminary plans, and improvements necessary for the development of the development area in accordance with this plan.

255.006 Annual report.

Sec. 6. Within 90 days after the end of each fiscal year, the Downtown Development Authority shall submit to the City Council, a report on the status of the Project Fund. The report shall include the amount and source of revenue in the Account, the amount and purpose of expenditures from the account, the amount of any surplus from the prior year, and any additional information requested by the City Council or deemed appropriate by the Downtown Development Authority. The secretary of the Downtown Development Authority shall cause a copy of the report to be published once in full in a newspaper of general circulation in the County of Missaukee.

255.007 Effective date.

Sec. 7. This ordinance [part] shall be effective immediately after adoption.

256.000 DOWNTOWN DEVELOPMENT AUTHORITY; TAX INCREMENT FINANCING AND DEVELOPMENT PLAN APPROVAL

Ord. No. 45

Adopted: December 27, 1984

WHEREAS, the City of McBain has held a public hearing on a tax increment financing and development plan for the Downtown Development Authority, pursuant to Act 197, Public Acts of 1975 as amended; and

WHEREAS, the City Council has approved a resolution determining that the plan constitutes a public purpose; and

WHEREAS, the formation of a development area citizens council was not necessary; and

WHEREAS, the plan meets the requirements set forth in Section 17 (2) and Section 14 (2) of the Act; and

WHEREAS, the proposed method of financing the development is feasible and the authority has the ability to arrange the financing; and

WHEREAS, the development is reasonable and necessary to carry out the purposes of this act; and

WHEREAS, the amount of captured assessed value estimated to result from adoption of the plan is reasonable; and

WHEREAS, the land to be acquired within the development area is reasonably necessary to carry out the purposes of the plan and the Act; and

WHEREAS, an approved master plan of the municipality does not exist; and

WHEREAS, public services, such as fire and police protection and utilities are or will be adequate to service the development area; and

WHEREAS, changes in zoning, streets, street levels, intersections and utilities are reasonably necessary for the project and for the municipality.

NOW, THEREFORE, BE IT RESOLVED, as follows:

The City Council of the City of McBain, Missaukee County, Michigan, hereby approves the Tax Increment Financing and Development Plan of the McBain Downtown Development Authority without modification.

257.000 DOWNTOWN DEVELOPMENT AUTHORITY; TAX INCREMENT FINANCING AND DEVELOPMENT PLAN MODIFICATIONS

Ord. No. 53

Adopted: July 11, 1988

An ordinance to approve modifications to the Development and Tax Increment Finance Plan of the City of McBain Downtown Development Authority pursuant to Section 19 of Act 197, Public Acts of 1975 as amended.

THE CITY OF McBAIN, MISSAUKEE COUNTY, MICHIGAN ORDAINS:

WHEREAS, the City of McBain Downtown Development Authority has adopted a Tax Increment Finance and Development Plan that identifies specific development and rehabilitation activities to occur in the district established by Ordinance No. 46 [254.000] on October 14, 1985.

WHEREAS, the city council has held a public hearing on modifications to the Tax Increment Financing and Development Plan for the McBain Downtown Development Authority, pursuant to Act 197, Public Acts of 1975 as amended; and

WHEREAS, the city council has approved a resolution determining that the modifications constitute a public purpose; and

WHEREAS, the formation of a development area citizens council was not necessary; and

WHEREAS, the modifications meet the requirements set forth in Section 14(2) and Section 17(2) of the Act; and

WHEREAS, the proposed method of financing the modifications is feasible and the authority has the ability to arrange the financing; and

WHEREAS, the modifications are reasonable and necessary to carry out the purposes of Act 197; and

WHEREAS, the land to be acquired within the development area is reasonably necessary to carry out the purposes of the plan and the act; and

WHEREAS, an approved master plan of the municipality does not exist; and

WHEREAS, public services, such as fire and police protection and utilities, are or will be adequate to service the development area; and

WHEREAS, changes in zoning, streets, street levels, intersections and utilities are reasonably necessary for the project and for the municipality.

NOW, THEREFORE, BE IT ORDAINED, as follows:

The city council of the City of McBain, Missaukee County, Michigan hereby approves the proposed modifications to the Tax Increment Financing and Development Plan of the McBain Downtown Development Authority without modification.

EXISTING PROJECTS:

Item 6—Sidewalks—Add as an additional project replacement of sidewalk on the south side of Maple Street between Roland and Harrison Street as well as building new sidewalk where it does not now exist. Also replacement of existing sidewalk on the south side of Euclid between Roland and the alley between Roland and Hemlock. Also other sidewalk projects that present themselves in the district boundaries.

Estimated Cost—$25,000.00

Estimated Completion—2000

Item 16—Business Development—Establishment of a business development fund to be used at the authority's discretion for new business start-up.

Estimated Cost—$60,000.00

Estimated Completion—2000

NEW PROJECTS:

Item 17—New City Maintenance Building—To finance the construction of a new city maintenance building to be used for the city's equipment.

Estimated Cost—$105,000.00

Estimated Completion—1988

Item 18—District Beautification—To finance stump removal as well as tree plantings, landscape maintenance, etc.

Estimated Cost—$10,000.00

Estimated Completion—2000

258.000 ELIMINATION OF THE NECESSITY OF A DEVELOPMENT AREA CITIZENS COUNCIL

Ord. No. 61

Effective: February 1, 1996

258.001 Elimination of necessity of a development area citizens council.
258.002 Effective date.
258.003 Publication.
258.004 Repeal.

An ordinance to eliminate the necessity of a Development Area Citizens Council.

WHEREAS, pursuant to the provisions of Act No. 197 of the Michigan Public Acts of 1975, as amended ("Act 197"), the City of McBain has established the City of McBain Downtown Development Authority (the "Authority") and has approved a Tax Increment Finance and Development Plan (the "Plan"); and

WHEREAS, the Board of the Authority has determined that it is necessary to amend the Plan to achieve the purposes of Act 197; and

WHEREAS, Act 197 provides that, if a proposed development area has residing within it 100 or more residents, a development area citizens council must be established at least 90 days before the public hearing on the Plan to act as an advisory body to the Authority and the City; and

WHEREAS, Act 197 further provides that a development area citizens council may not be required if, on petition of note less than 20 percent of the adult resident population of the development area by the last federal decennial or municipal census, the City, after notice and a public hearing, by a two-thirds vote may adopt an ordinance for the development area to eliminate the necessity of a development area citizens council; and

WHEREAS, the City has received petitions signed by not less than 20 percent of the adult resident population of the development area requesting the City to adopt and ordinance for the development area which eliminates the necessity of a development area citizens council pursuant to the requirements of Act 197; and

WHEREAS, a public hearing on the elimination of the necessity of a development area citizens council was held on January 8, 1996, following notice as required by Act 197; and

WHEREAS, the City Council has determined that it is in the best interest of the City to eliminate the necessity of a development area citizens council.

THE CITY OF MCBAIN ORDAINS:

258.001 Elimination of necessity of a development area citizens council.

Sec. 1. A development area citizens council shall not be required in connection with the proposed amendment of the Tax Increment Finance and Development Plan for the City of McBain Downtown Development Authority.

258.002 Effective date.

Sec. 2. This ordinance [part] shall become effective on February 1, 1996.

258.003 Publication.

Sec. 3. This ordinance [part] or a synopsis thereof shall be published in the Missaukee Sentinel, a newspaper of general circulation in the City.

258.004 Repeal.

Sec. 4. All ordinances and resolutions and parts thereof, insofar as the same conflict with the provisions of this ordinance [part], are hereby repealed.

259.000 DOWNTOWN DEVELOPMENT AUTHORITY TAX INCREMENT FINANCING AND DEVELOPMENT PLAN MODIFICATIONS; AMENDED

Ord. No. 62

Adopted: June 10, 1996

259.001 Amendment to ordinance.
259.002 Effective date.
259.003 Publication.
259.004 Repeal.

An ordinance to amend Ordinance No. 62 entitled "An Ordinance to Approve the Amended and Restated Tax Increment Financing and Development of the City of McBain Downtown Development Authority Pursuant to Section 19 of Act 197, Public Acts of 1975 as amended."

WHEREAS, pursuant to the provisions of Act No. 197 of the Michigan Public Acts of 1975, as amended ("Act 197"), the Downtown Development Authority of the City of McBain (the "Authority") has prepared and recommended and Amended and Restated Development Plan and Tax Increment Financing Plan (sometimes together referred to herein as the "Plan") to the City Council of the City of McBain for adoption and implementation; and

WHEREAS, the City Council has adopted an ordinance to Eliminate the Necessity of a Development Area Citizens Council in accordance with the requirements of Act 197; and

WHEREAS, the City Council has provided a reasonable opportunity to the taxing jurisdictions located in the development area to express their views and recommendations regarding the Tax Increment Financing Plan as required by Act 197; and

WHEREAS, a public hearing was held on the Plan following notice as required by Act 197; and

WHEREAS, the City Council has determined that it is in the best interest of the City to approve the Plan and has determined that the Plan constitutes a public purpose; and

WHEREAS, the City Council has determined that the Tax Increment Financing Plan contained within the Plan is necessary to achieve the purpose of Act 197; and

WHEREAS, the City Council has determined that the Development Plan contained within the Plan meets the requirements set forth in Section 17 of Act 197 and that the Tax Increment Financing Plan contained within the Plan meets the requirements set forth in Section 14 of Act 197; and

WHEREAS, the City Council has determined that the proposed method of financing the development is feasible and the Authority has the ability to arrange the financing; and

WHEREAS, the City Council has determined that the development is reasonable and necessary to carry out the purposes of Act 197; and

WHEREAS, the City Council has determined that the amount of captured assessed value estimated to result from adoption of the Plan is reasonable; and

WHEREAS, the City Council has determined that the land within the development area to be acquired under the Development Plan, if any, is reasonable necessary to carry out the purposes of the Plan and the purposes of Act 197 in an efficient and economically satisfactory manner; and

WHEREAS, the City Council has determined that the Development Plan is in reasonable accord with the approved master plan of the City of McBain; and

WHEREAS, the City Council has determined that public services, such as fire and police protection and utilities, are or will be adequate to service the development area; and

WHEREAS, the City Council has determined that any changes in zoning, streets, street levels, intersections, and utilities are reasonably necessary for the project and for the City of McBain.

THE CITY OF McBAIN ORDAINS:

259.001 Amendment to ordinance.

Sec. 1. Ordinance No. 62 entitled "An Ordinance to Approve the Amended and Restated Tax Increment Financing and Development Plan of the Downtown Development Authority Pursuant to Section 19 of Act 197, Public Acts of 1975, as Amended," adopted by the McBain City Council on November 27, 1985, is hereby amended to add the following paragraph:

> The City Council of the City of McBain hereby adopts and approves the Amended and Restated Tax Increment Financing and Development Plan of the Downtown Development Authority of the City of McBain, effective July 1, 1996.

259.002 Effective date.

Sec. 2. This ordinance [part] shall become effective on July 1, 1996.

259.003 Publication.

Sec. 3. This ordinance [part] or a synopsis thereof shall be published in the Missaukee Sentinel, a newspaper of general circulation in the City of McBain.

259.004 Repeal.

Sec. 4. All ordinances and resolutions and parts thereof, insofar as the same conflict with the provisions of this ordinance [part], are hereby repealed.

260.000 DOWNTOWN DEVELOPMENT AUTHORITY BOUNDARY AMENDMENT (2001)

Ord. No. 64

Adopted: October 8, 2001

260.001 Determination of necessity.
260.002 Description of property to be removed from the district.
260.003 Publication and filing.
260.004 Effective date.

Exhibit A

260.010 Legal Description of Downtown Development Area

An ordinance to amend the boundaries of the City of McBain Downtown Development Authority.

THE CITY OF McBAIN ORDAINS:

260.001 Determination of necessity.

Sec. 1. The City of McBain hereby finds that it is necessary for the best interests of the public to amend the exiting boundaries of the City of McBain Downtown Development Authority to halt property value deterioration within the City and eliminate the causes of said deterioration, to increase property tax valuation where possible, to clarity the boundaries of a residential area within the City, and to promote economic growth.

260.002 Description of property to be removed from the district.

Sec. 2. The following property, currently part of the City of McBain Downtown Development Authority, is hereby removed from the boundaries of the City of McBain Downtown Development Authority:

See attached exhibit "A" [263.010].

260.003 Publication and filing.

Sec. 3. This ordinance [part] shall be published once after its adoption in full in a newspaper of general circulation in the City of McBain. The City Clerk shall file a certified copy of this ordinance [part] with the Michigan Secretary of State.

260.004 Effective date.

Sec. 4. This ordinance [part] shall be effective 20 days after its enactment.

EXHIBIT A

260.010 LEGAL DESCRIPTION OF DOWNTOWN DEVELOPMENT AREA

The Legal Description of the Downtown Development Area, City of McBain Downtown Development Authority, Missaukee County, Michigan, is as follows:

Part of the City of McBain, Missaukee County, Michigan, described as commencing at the centerline intersection of Maple Street and Grace Street; thence Easterly along the centerline of Maple Street to the Northeast corner of the Alice Phillips' addition to the Village of McBain; thence Southerly along the East line of said addition to the Southeast corner of Lot 23; thence Westerly to the Southeast corner of Lot 1 of Alice Phillips' addition; thence Northerly to the Northeast corner of Lot 10 of said addition; thence Westerly to the Northwest corner of said Lot 10; thence Southerly to the Southeast corner of said Lot 14 of said addition; thence Westerly along the South line

of Lots 14 and 35 of Alice Phillips' addition to the centerline of an alleyway located between Harrison Street and Cottage Grove Avenue; thence Northerly along said centerline to the intersection of the extension of the South line of Lot 20 of G & J McBain's addition to Village of Owen; thence westerly along said lot line to the intersection of the centerline of Harrison Street; thence Southerly along the centerline of Harrison Street to the intersection of the extension of the South line of Lot 17 of said G & J McBain's addition; thence Westerly along the South line of said Lot 17 to the centerline of an alleyway located between Hemlock Street and Harrison Street; thence Southerly along the centerline of said alleyway to the intersection of the extension of the South line of Lot 2 of G & J McBain's addition; thence Westerly along the South line of said Lot 2 of G & J McBain's addition and the South line of Lot 12 of the Map of Owens extended the centerline of a 16 foot alleyway located between Roland Street and Hemlock Street; thence Southerly along the centerline of said alleyway to the North right-of-way of Elm Street; thence Easterly along said right-of-way to the Northerly extension of the Westerly right-of-way of Hemlock Street according to Hughston Estates; thence Southerly along said Westerly right-of-way to the Northerly corner of Unit 1 at Hughston Estates; thence Southwesterly along the Northwesterly line of said Unit 1 to the Westerly corner of said Unit 1; thence Southeasterly along the Southwesterly line of said Unit 1 to a point that is approximately 743.69 feet South of the South line of Alice Phillips' Addition to the Village of McBain; thence Westerly to the Easterly right-of-way line of the Tuscola Saginaw Bay Railroad; thence Northwesterly along said railroad right-of-way to its intersection with the centerline of Grace Street; thence Northerly along said centerline to the place of beginning.

Parts 261—279

(Reserved)

280.000

PARCEL DIVISION

Ord. No. 63, § 31

Adopted: August 15, 2001

280.001	Title.
280.102	Purpose.
280.003	Definitions.
280.004	Approval of land divisions or property transfers required; establishment of exempt splits.
280.005	Procedure for division or property transfer.
280.006	Standards for approval of divisions or property transfers.
280.007	Land configuration variances.
280.008	Appeals to the Zoning Board of Appeals.
280.009	Violations and penalties.
280.010	Enforcement officer.
280.011	Nuisance per se.
280.012	Separate court action.
280.013	Validity.

280.001 Title.

Sec. 1. This ordinance [part] shall be known as the City of McBain Parcel Division Ordinance.

280.102 Purpose.

Sec. 2. The purpose of this ordinance [part] is to carry out the provisions of the Land Division Act (Act 288 of the Public Acts of 1967, as amended, formerly known as the Subdivision Control Act), to prevent the creation of lots and parcels that do not comply with applicable City of McBain ordinances, to minimize potential boundary disputes, to maintain the orderly development of the City, and to otherwise protect the public health, safety and general welfare of the residents and the present and future property owners of City of McBain. This shall be accomplished by regulating the division of existing lots and parcels and the property transfer between two or more adjacent lots or parcels. It is further the purpose of this ordinance [part] to prescribe the procedures for the submission and review of proposed lot and parcel divisions and property transfers, to authorize fees for the review of applications submitted under this ordinance [part], and to provide penalties for violations of this ordinance [part].

280.003 Definitions.

Sec. 3. As used in this ordinance [part],

(a) "Accessible" in reference to a lot or parcel means that the lot or parcel meets one or both of the following requirements:

(1) Has an area where a driveway provides vehicular access to an existing road or street and meets all applicable location standards of the state transportation department or county road commission under Act 200 of the Public Acts of 1969, as amended, or has an area where a driveway can provide vehicular access to an existing road or street and can meet all such applicable location standards.

(2) Is served by an existing easement that provides vehicular access to an existing road or street and meets all applicable location standards of the state transportation department or county road commission under Act 200 of the Public Acts of 1969, as amended, or can be served by a proposed easement that will provide vehicular access to an existing road or street and that will meet all such applicable location standards.

(b) "Applicant" means an owner of a lot or parcel of land, or his or her designee.

(c) "Convey" or "Conveyance" means a transfer of an ownership interest in real property.

(d) "Development site" means any lot, parcel, or tract of land on which exists or which is intended for building development other than the following:

(1) Agricultural use involving the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities.

(2) Forestry use involving the planting, management, or harvesting of timber.

(e) "Divide" or "Division" means the partitioning or splitting of a lot, parcel or tract of land by the owner for the purpose of sale, lease for more than one year, building development, or the creation of separate lots, parcels or tracts of land on the tax roll that results in one or more lots or parcels of less than 40 acres or the equivalent. "Divide" or "Division" does not include a property transfer between two or more adjacent lots or parcels, if the property taken from one lot or parcel is added to an adjacent lot or parcel; and any resulting lot or parcel shall not be considered a building site unless the lot or parcel conforms to the requirement of the Land Division Act, being Act No. 288 of the Public Acts of 1967, as amended, the City of McBain Zoning Ordinance, as amended, and this ordinance [part].

(f) "Exempt split" means the partitioning or splitting of a lot, parcel or tract of land by the owner that does not result in one or more lots or parcels of less than 40 acres or the equivalent. For a property transfer between two or more adjacent lots or parcels, if the property taken from one lot or parcel is added to an adjacent lot or parcel, any resulting lot or parcel shall not be considered a building site unless the lot or parcel conforms to the requirement of the Land Division Act, being Act No. 288 of the Public Acts of 1967, as amended, the City of McBain Zoning Ordinance, as amended, and this ordinance [part].

(g) "40 acres or the equivalent" means 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.

(h) "Land" means all land areas occupied by real property, except the submerged bottomlands of inland lakes, rivers, and streams.

(i) "Lot" means a measured portion of a parcel or tract of land, which is described and fixed in a recorded plat. A lot's legal description is referred to as Lot (#) of the Plat of (Name of Plat).

(j) "Metes and bounds" means a description of land by boundary lines with their terminal points and angles.

(k) "Owner" means a person holding any legal, equitable, option or contract interest in a lot or parcel of land.

(l) "Parcel" means a continuous area or acreage of land of any size, shape or nature, which is described by metes and bounds.

(m) "Parent parcel" means first a tract of land lawfully in existence on March 31, 1997, if one exists in connection with a proposed division, or, if one does not exist, a parcel lawfully in existence on March 31, 1997.

(n) "Person" means an individual, firm, corporation, association, partnership, estate, trust, limited liability company, or other legal entity.

(o) "Planning Commission" means the City of McBain Planning Commission.

(p) "Plat" or "Recorded plat" means a map or chart of a subdivision of land created pursuant to the Land Division Act of 1967, being Act 288 of the Public Acts of 1967, as amended, or predecessor statutes to this act.

(q) "Property transfer" means a transfer of property between two or more adjacent lots or parcels, if the property taken from one lot or parcel is added to an adjacent lot or parcel and if all resulting lots or parcels conform to the requirements of the Land Division Act, being Act 288 of the Public Acts of 1967, as amended, the City of McBain Zoning Ordinance, as amended, and this ordinance [part]. If the property transferred does not independently conform to the requirements of the Land Division Act, being Act 288 of the Public Acts of 1967, as amended, the City of McBain Zoning Ordinance, as amended, and this ordinance [part], then it shall not be considered a development site, but may only be used in conjunction with the lot or parcel to which it was transferred.

(r) "Tract of land" means two or more parcels that share a common property line and are under the same ownership.

(s) "Zoning Administrator" means the City of McBain Zoning Administrator.

(t) "Zoning Board of Appeals" means the City of McBain Zoning Board of Appeals.

280.004 Approval of land divisions or property transfers required; establishment of exempt splits.

Sec. 4.

(a) The owner of a lot, parcel, or tract of land shall not divide or effect a property transfer involving, or cause any person to divide or effect a property transfer involving, that lot, parcel, or tract of land except as provided in this ordinance [part], unless the division or property transfer is approved as part of a subdivision plat at the time of plat approval under the Land Division Act of 1967, being Act 288 of the Public Acts of 1967, as amended, the division

or property transfer is part of a condominium project developed under the Condominium Act, being Act 59 of the Public Acts of 1978, as amended, or the division or property transfer is done pursuant to an order of a court of competent jurisdiction.

(b) The owner of a lot, parcel, or tract of land claiming an exempt split as defined in Section 3 [280.003] (f) of this ordinance [part] shall submit to the Zoning Administrator either a survey map of the land claimed to be an exempt split prepared pursuant to the survey map requirements of Act 132 of the Public Acts of 1970, as amended, certified by a land surveyor licensed by the State of Michigan, or other clear evidence documenting that the proposed exempt split of a parcel or tract of land will not result in one or more parcels of less than 40 acres or the equivalent. In addition, the owner of a lot, parcel, or tract of land claiming an exempt split shall submit to the Zoning Administrator a permit or other documentation from the state transportation department or the Missaukee County Road Commission documenting that each new lot, parcel, or tract of land resulting from the proposed exempt split has or can have a driveway or easement that provides vehicular access to an existing road or street and meets all applicable location standards of the state transportation department or the Missaukee County Road Commission under Act 200 of the Public Acts of 1969, as amended. If the Zoning Administrator finds that the proposed division is an exempt split and that each new lot, parcel, or tract of land that will result from the division is accessible, then no further action under this ordinance [part] shall be required. If the Zoning Administrator finds that the proposed division is either not an exempt split or that each new lot, parcel, or tract of land that will result from the division is not accessible, then he or she shall give the owner written reasons for his or her decision. In that event the owner shall be required to proceed under Section 5 [280.005] of this ordinance [part] to obtain approval of the proposed division. If the owner disagrees with the Zoning Administrator's decision, the owner can submit revised information to the Zoning Administrator or appeal the Zoning Administrator's decision to the Zoning Board of Appeals pursuant to Section 8 [280.008] of this ordinance [part].

(c) In addition, an exempt split or other partitioning or splitting of a parcel or tract of land that only results in parcels of 20 acres or more in size is not subject to approval under this ordinance [part] if the parcel or tract of land being partitioned or split is not accessible and was in existence on March 31, 1997 or resulted from an exempt split or a partitioning or splitting under Section 109b of the Land Division Act, as amended.

280.005 Procedure for division or property transfer.

Sec. 5. The following procedure shall be followed to divide a lot, parcel or tract of land or to effect a property transfer:

(a) Because of the many requirements that must be met to obtain approval to divide a lot, parcel, or tract of land, or to effect a property transfer, an Applicant may request an informal meeting with the Zoning Administrator to discuss the application procedures prior to submitting a formal application under Section 5 [280.005] (b) of this ordinance [part]. At this informal meeting the Applicant and the Zoning Administrator shall review the proposed division or property transfer, discuss the information that must be submitted with the application, and review the standards the Planning Commission will use to render its decision on the application.

(b) When formal approval of a division or property transfer is desired, the Applicant shall submit an application for that approval to the Zoning Administrator on a form supplied by the City for that purpose. The application shall include, but not be limited to the following:

(1) Proof of ownership of the lot, parcel, or tract of land to be divided, or of the lots or parcels involved in a property transfer.

(2) The names and addresses of all persons having an interest in the lot, parcel, or tract of land to be divided, or of the lots or parcels involved in a property transfer and a statement of the type of interest each holds.

(3) A brief statement as to the purpose of the proposed division or property transfer and whether the lots, parcels or tracts of land that will result from the division or property transfer will be used for residential (single-family, multi family, etc.), commercial, or manufacturing purposes.

(4) The history of the prior divisions of the parent parcel from which the Applicant's parcel or tract of land came and proof that the Applicant holds the right to divide the parcel or tract of land proposed for division.

(5) A survey map of the land proposed to be divided or the land involved in the property transfer prepared pursuant to the survey map requirements of Act 132 of the Public Acts of 1970, as amended, certified by a land surveyor licensed by the State of Michigan and depicting the dimensions of the lot, parcel, or tract of land to be divided, or the lots or parcels involved in a property transfer, the dimensions of the lots, parcels, or tracts of land that will result from the division or property transfer, the location of all current easements on the lot, parcel, or tract of land to be divided, or on the lots or parcels involved in a

property transfer, and the location of all proposed easements on the lots, parcels or tracts of land that will result from the division or property transfer. The easements required by this subsection shall include both utility easements and ingress/egress easements. The survey shall also depict all buildings and structures on the lot, parcel, or tract of land to be divided, or on the lots or parcels involved in a property transfer and the distances between these buildings and structures and the original property lines of the lot, parcel, or tract of land to be divided, or the lots or parcels involved in a property transfer and shall depict the distances between these buildings and structures and the property lines of the lots, parcels, or tracts of land that will result from the division or property transfer. The Planning Commission may waive the survey map requirement if it finds that, considering the size, simple nature of the divisions, and the undeveloped character of the parent parcel, a survey map is not needed to determine compliance with this ordinance [part] and the Land Division Act, as amended.

(6) A map showing the location of the lot, parcel, or tract of land to be divided, or the lots or parcels involved in a property transfer within the City.

(7) Legal descriptions, certified by a land surveyor licensed by the State of Michigan, of the lots, parcels, or tracts of land that will result from the division or property transfer.

(8) If the lot, parcel, or tract of land that will result from the division or property transfer will be a development site, then the Applicant shall submit a permit or other documentation from the state transportation department or the Missaukee County Road Commission that each such resulting lot, parcel, or tract of land has or can have a driveway or easement that provides vehicular access to an existing road or street and meets all applicable location standards of the state transportation department or the Missaukee County Road Commission under Act 200 of the Public Acts of 1969, as amended. In addition, the Applicant shall submit evidence establishing adequate easements for public utilities from each such resulting lot, parcel, or tract of land to existing public utility facilities.

(9) Such other documentation that the Zoning Administrator may require relating to the application.

(c) The application shall be accompanied by an application fee as established and set forth in a City fee schedule. This fee schedule shall also establish "after the fact" fees that must be paid when an otherwise lawful division or property transfer occurs but without first complying with the procedural

requirements of this ordinance [part]. This "after the fact" fee is not intended to be a penalty, but shall consist of the normal application fee plus an amount equal to the legal and administrative costs incurred by the City as the result of the Applicant's failure to initially comply with the requirements of this ordinance [part].

(d) After receiving the application and the information required in subsection 5 [280.005] (b) above, the Zoning Administrator shall refer the application to the Planning Commission for its consideration. The Planning Commission shall decide whether to approve a proposed division or property transfer within 45 days after all the information required in subsection 5 [280.005] (b) above is given to the Zoning Administrator. If the Applicant fails to provide all the information required in subsection 5 [280.005] (b) above, then the application shall be deemed incomplete and may be denied on that basis. The Planning Commission's decision to approve the division or property transfer shall be made pursuant to the standards contained in Section 6 [280.006] of this ordinance [part]. The Planning Commission may grant conditional approval of an application, subject to the Applicant obtaining any necessary variances from the Zoning Board of Appeals pursuant to Section 7 [280.007] of this ordinance [part]. If the Planning Commission fails to grant approval of a proposed division or property transfer, written reasons for its decision shall be given to the Applicant. The Applicant shall then have the option of resubmitting information for approval to the Planning Commission or appealing the Planning Commission's decision to the Zoning Board of Appeals pursuant to Section 8 [280.008] of this ordinance [part].

(e) If the Planning Commission approves a proposed division or property transfer, then the Zoning Administrator shall send a letter indicating such approval to the Applicant with copies to the City of McBain Supervisor, the City of McBain Assessor, and the Missaukee County Equalization Department. This letter shall contain the following statement: "The City of McBain, its officers and employees are not liable if a building permit is not issued pursuant to Section 109a of the Land Division Act, as amended, for a parcel less than one acre in size that resulted from an approved division under the City of McBain Parcel Division Ordinance." The copy of this letter shall be retained by the Planning Commission in its official records.

(f) Because zoning requirements may change over time, any approval of an application for a division or property transfer by the Planning Commission under Section 5 [280.005] (d) above shall expire and a new approval required after 90 days from the date of the approval, unless the Applicant records in the Missaukee County Register of Deeds Office an instrument(s) of conveyance documenting the division or property transfer and files a copy of that recorded instrument(s) with the Zoning Administrator. If the grantor

intends to convey the right to future divisions of the parcel being conveyed, the deed or land contract shall contain the following statement as required by the Land Division Act, as amended: "The grantor grants to the grantee the right to make (insert number) division(s) under section 108 of the Land Division Act, Act No. 288 of the public Acts of 1967." Finally, for all deeds and land contracts of unplatted land shall contain the following statement as required by the Land Division Act, as amended: "This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan Right to Farm Act."

280.006 Standards for approval of divisions or property transfers.

Sec. 6. An application to divide a lot, parcel, or tract of land, or to effect a property transfer shall be granted when all of the following standards are met:

(a) The proposed division or property transfer shall comply with all requirements of the Land Division Act of 1967, being Act 288 of the Public Acts of 1967, as amended.

(b) The lots, parcels, or tracts of land that will result from the division or property transfer shall comply with all requirements of the City of McBain Zoning Ordinance, as amended, including but not limited to the requirements relating to area and width for the newly created lots, parcels, or tracts of land, the requirements relating to lake and/or road frontages, and the requirements relating to setbacks if the newly created lots, parcels, or tracts of land have buildings or structures on them. The addition of land to an already lawful nonconforming lot or parcel is permitted without a zoning variance, provided that the lot or parcel from which the land is taken will not become a nonconforming lot or parcel or, if already nonconforming, will not become more nonconforming.

(c) Each lot, parcel, or tract of land that will result from the division or property transfer shall have an adequate and accurate legal description certified by a land surveyor licensed by the State of Michigan, shall be serviced by a public utility easement, and shall be accessible.

(d) Each new lot, parcel, or tract of land that will result from the division, including those lots, parcels, and tracts of land greater than ten acres, shall have a depth of not more than four times its width as measured under the requirements of the City of McBain Zoning Ordinance. This standard shall not apply to a property transfer.

(e) If a lot, parcel, or tract of land that will result from the division or property transfer will be a development site, then each such resulting lot, parcel, or

tract of land shall have adequate easements for public utilities from each such resulting lot, parcel, or tract of land to existing public utility facilities.

(f) If the land proposed to be transferred between two or more adjacent lots or parcels does not independently conform to the requirements of the Land Division Act, being Act 288 of the Public Acts of 1967, as amended, the City of McBain Zoning Ordinance, as amended, and this ordinance [part], then the land proposed to be transferred shall not thereafter be independently considered a development site, but may only be used in conjunction with an adjoining lot(s), parcel(s), or tract(s) of land.

(g) Each lot, parcel, or tract of land that will result from the division or property transfer shall be accessible.

(h) The owner of the parcel or tract of land shall possess the right to divide the parcel or tract of land. This standard shall not apply to a property transfer.

(i) The property lines of the lots, parcels, or tracts of land that will result from the division or property transfer shall be consistent and in harmony with the property lines of the lot, parcel, or tract of land to be divided, or the lots or parcels involved in a property transfer, and/or the property lines of adjacent lots, parcels, or tracts of land.

280.007 Land configuration variances.

Sec. 7.

(a) If a lot, parcel, or tract of land that will result from a division or property transfer does not meet the requirements of the City of McBain Zoning Ordinance as specified in Section 6 [280.006] (b) of this ordinance [part], then the Applicant may seek a variance from those zoning requirements from the Zoning Board of Appeals pursuant to the procedures of the City of McBain Zoning Ordinance.

(b) If a lot, parcel, or tract of land that will result from a division does not meet the depth to width requirements of Section 6 [280.006] (d) of this ordinance [part], then the Applicant may seek a variance from those requirements from the Zoning Board of Appeals pursuant to the procedures of this section.

(c) The Zoning Board of Appeals may grant a variance under this ordinance [part] from the depth to width requirement of Section 6 [280.006] (d) of this ordinance [part], if all of the following exist:

(1) Exceptional or extraordinary circumstances or conditions exist on the parent parcel, including exceptional topographic or physical conditions, that do not generally apply to other lots, parcels, or tracts of land in the City.

(2) The exceptional or extraordinary circumstances or conditions existing on the parent parcel are not the result of any act or omission by the Applicant or his or her predecessors in title.

(3) The granting of the variance shall not be injurious or otherwise detrimental to adjoining lots, parcels, or tracts of land or to the general health, safety, and general welfare of the City.

(4) The resulting lots, parcels, or tracts of land with the variance granted shall be compatible with surrounding lots, parcels, or tracts of land.

(5) The variance granted shall be the minimum variance that will make possible the reasonable use of the parent parcel.

(d) The Zoning Board of Appeals shall follow the procedures of the City of McBain Zoning Ordinance relating to variances when deciding whether to grant a variance under this section.

(e) In granting any variance under this ordinance [part], the Zoning Board of Appeals may prescribe appropriate conditions and safeguards in order to ensure that the lot, parcel, or tract of land that will result from the division or property transfer complies with the variance granted under this ordinance [part]. Violations of such conditions and safeguards shall be deemed a violation of this ordinance [part], punishable under Section 9 [280.009] of this ordinance [part].

280.008 Appeals to the Zoning Board of Appeals.

Sec. 8. Any person aggrieved by a decision of the Zoning Administrator or the Planning Commission may appeal that decision to the Zoning Board of Appeals following the procedures of the City of McBain Zoning Ordinance, as amended, for appeals to the Zoning Board of Appeals. Any such appeal shall be filed within 30 days from the date of the decision from which the appeal is taken. During the appeal, the Zoning Board of Appeals shall conduct a de novo hearing of the matter and to that end shall have all the powers of the Zoning Administrator and/or the Planning Commission. In rendering its decision, the Zoning Board of Appeals shall receive and consider evidence and data relevant to the case and shall issue its decision in writing within 30 days after receiving all evidence and data in the case. The decision of the Zoning Board of Appeals shall then be sent promptly to the Applicant, to the person who filed the appeal (if different than the Applicant), to the Zoning Administrator, and to the Planning Commission.

280.009 Violations and penalties.

Sec. 9. Any person who shall violate any provision of this ordinance [part] shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101—600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than $500.00.

Each day this ordinance [part] is violated shall be considered as a separate violation. Any action taken under this Section shall not prevent civil proceedings for abatement or termination of the prohibited activity.

280.010 Enforcement officer.

Sec. 10. The Zoning Administrator is hereby designated as the authorized city official to issue municipal civil infraction citations directing alleged violators of this ordinance [part] to appear in court.

280.011 Nuisance per se.

Sec. 11. A violation of this ordinance [part] is hereby declared to be a nuisance per se and is declared to be offensive to the public health, safety and welfare.

280.012 Separate court action.

Sec. 12. In addition to enforcing this ordinance [part] through the use of a municipal civil infraction proceeding, the City may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this ordinance [part].

280.013 Validity.

Sec. 13. If any section, provision or clause of this ordinance [part] or the application thereof to any person or circumstances is held invalid, such invalidity shall not effect any remaining portions or application of this ordinance [part], which can be given effect without the invalid portion or application.

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SUBDIVISION

CONTROL

CITY OF MCBAIN
SUBDIVISION CONTROL ORDINANCE

Prepared By:

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SUBDIVISION CONTROL ORDINANCE
CITY OF MCBAIN, MICHIGAN
ORDINANCE _____, EFFECTIVE _____, 1988

An ordinance regulating the subdivision of land in the City of McBain requiring and regulating the preparation and presentation of pre-preliminary, preliminary and final plats for such purpose; establishing minimum subdivision standards; providing for minimum improvements to be made or guaranteed to be made by the subdivider; setting forth the procedures to be followed by the city council and planning commission in applying these rules, regulations and standards; and prescribing penalties for the violation of its provisions;

The City of McBain ordains:

ARTICLE I

GENERAL PROVISIONS

SECTION 1.1: SHORT TITLE

This ordinance shall be known and may be cited as the "City of McBain Subdivision Ordinance."

SECTION 1.2: PURPOSE

The purpose of this ordinance is to regulate and control the subdivision of land within the City of McBain in order to promote the safety, public health and general welfare of the community. These regulations are specifically designed to:

A. Provide for orderly growth and harmonious development of the community, consistent with orderly growth policies.

B. Secure safe and convenient traffic circulation through coordinated street systems with proper relation to major thoroughfares, adjoining subdivisions and public facilities.

C. Achieve individual property lots of maximum utility and livability.

D. Insure adequate provisions for water, drainage and sanitary sewer facilities and other health requirements.

E. Plan for the provision of adequate recreational areas, school sites and other public facilities.

F. Insure that subdivision improvements are properly installed and completed in compliance with the regulations contained in the Subdivision Control Act of 1967, as amended.

SECTION 1.3: LEGAL BASIS

This ordinance is enacted pursuant to the statutory authority granted by the Subdivision Control Act of 1967, Act 288, P.A., 1967, as amended.

SECTION 1.4: SCOPE

This ordinance shall not apply to any lot or lots forming a part of a subdivision created and recorded prior to the effective date of this ordinance except for the further dividing of lots. Nor is it intended by this ordinance to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws, ordinances or regulations, or with private restrictions placed upon property by deed, covenant, or other private agreements, or with restrictive covenants, or other private agreements, or with restrictive covenants running with the land to which the City is a party. Where this ordinance imposes a greater restriction upon land than is imposed or required by such existing provision of any other ordinance of this City, the provisions of this ordinance shall control.

SECTION 1.5: SCHEDULE OF FEES AS ESTABLISHED BY THE MCBAIN CITY COUNCIL

A fee shall be required for the review and inspection of preliminary and final plats.

ARTICLE II

DEFINITIONS

The following definitions shall apply in the interpretation and enforcement of this ordinance, unless otherwise specifically stated. The word "shall" is always mandatory and not merely directory.

ALLEY: A public or private right-of-way shown on a plat which provides secondary access to a lot, block or parcel of land.

AS-BUILT PLANS: Revised construction plans in accordance with all approved field changes.

BLOCK: An area of land within a subdivision that is entirely bounded by streets, highways or ways, except alleys and the exterior boundary or boundaries of the subdivision.

BUILDING LINE OR SETBACK LINE: A line parallel to a street right-of-way line, shore of a lake, edge of a stream or river bank, established on a parcel of land or on a lot for the purpose of prohibiting construction of a building between such line and a right-of-way, other public area or the shore of a lake or the edge of a stream or river bank.

CAPTION: The name by which the plat is legally and commonly known.

COUNTY DRAIN COMMISSIONER: The Missaukee County Drain Commissioner.

COUNTY HEALTH DEPARTMENT: The Missaukee County Health Department.

COUNTY PLAT BOARD: The Missaukee County Plat Board.

COUNTY ROAD COMMISSION: The Missaukee County Road Commission.

CROSSWALKWAY (PEDESTRIAN WALKWAY): Right-of-way, dedicated to public use, which crosses a block to facilitate pedestrian access to adjacent streets and properties.

DEDICATION: The intentional appropriation of land by the owner to public use.

GOVERNING BODY (OR CITY COUNCIL): The McBain City Council.

GREENBELTS OR BUFFER PARKS: A strip or parcel of land, privately restricted or publicly dedicated as open space located between incompatible uses for the purpose of protecting and enhancing the residential environment.

IMPROVEMENTS: Any structure incident to servicing or furnishing facilities for a subdivision such as grading, street surfacing, curb and gutter, driveway approaches, sidewalks, crosswalks, water mains and lines, sanitary sewers, storm sewers, culverts, bridges, utilities, lagoons, slips, waterways, lakes, bays, canals and other appropriate items with appurtenant construction.

LOT: A measured portion of a parcel or tract of land, which is described and fixed in a recorded plat.

A. Lot Depth: The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

B. Lot Width: The horizontal distance between the side lot lines measured at the setback line and at right angles to the lot depth.

OUTLOT: When included within the boundary of a recorded plat, means a lot set aside for purposes other than a building site, park or other land dedicated to public use or reserved to private use.

PARCEL OR TRACT: A continuous area or acreage of land which can be described as provided for in the Subdivision Control Act.

PLANNING COMMISSION: The planning commission of the City of McBain as established under Act 285, Public Acts of 1931 as amended.

PLANNED UNIT DEVELOPMENT: A land area which has both individual building sites and common property, such as a park and which is designated and developed under one (1) owner or organized group as a separate neighborhood or community unit.

PLAT: A map or chart of a subdivision of land.

A. Pre-Preliminary Plat: An informal plan or sketch drawn to scale and in pencil, if desired, showing the existing features of a site and its surroundings and the general layout of a proposed subdivision.

B. Preliminary Plat: A map showing the salient features of a proposed subdivision of land submitted to an approving authority for purposes of preliminary consideration.

C. Final Plat: A map of a subdivision of land made up on final form ready for approval and recording.

PROPRIETOR, SUBDIVIDER OR DEVELOPER: A natural person, firm, association, partnership, corporation or combination of any of them which may hold any recorded or unrecorded ownership interest in land. The proprietor is also commonly referred to as the owner.

PUBLIC UTILITY: All persons, firms, corporations, co-partnerships, or municipal or other public authority providing gas, electricity, water, steam, telephone, telegraph, storm sewers, sanitary sewers, transportation or other services of a similar nature.

PUBLIC OPEN SPACE: Land dedicated or reserved for use by the general public. It includes parks, parkways, recreation areas, school sites, community or public building sites, streets and highways and public parking spaces.

REPLAT: The process of changing, or the map or plat which changes the boundaries of a recorded subdivision plat or part thereof. The legal dividing of an outlot with a recorded subdivision plat without changing the exterior boundaries of the outlot is not a replat.

RIGHT-OF-WAY: Land reserved, used, or to be used for a street, alley, walkway, or other public purposes.

SIGHT DISTANCE: The unobstructed vision on a horizontal plane along a street centerline from a driver-eye height of 3.75 feet and an object height of 6 inches.

SKETCH PLAN: A pre-preliminary plat.

STREET: A right-of-way which provides for vehicular and pedestrian access to abutting properties.

A. Major Arterial: Those streets which have greater continuity and are intended to serve a large volume of traffic for both the city and region.

B. Minor Arterial: Those streets of considerable continuity which are used primarily to carry traffic from collector streets to major arterials.

C. Collector Street: Those streets used to carry traffic from minor streets to arterial streets, including principal entrance streets to large residential developments.

D. Minor or Local Street: A street which is intended primarily for access to abutting properties.

E. Marginal Access Street: A minor street which is parallel and adjacent to arterial streets and which provides access to abutting properties and protection from through traffic and not carrying through traffic.

F. Cul-de-sac: A minor street of short length having one end terminated by a vehicular turn-around.

G. Street Width: The shortest distance between the lines delineating the right-of-way of streets.

SUBDIVIDE OR SUBDIVISION: The partitioning or dividing of a parcel or tract of land by the proprietor thereof or by his heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale, or lease of more than one year, or of building development, where the act of division creates 5 or more parcels of land each of which is 10 acres or less in area; or 5 or more parcels of land each of which is 10 acres or less in area are created by successive divisions within a period of 10 years.

SUBDIVISION CONTROL ACT: Act 288, P.A. 1967, State of Michigan.

SURVEYOR: Either a land surveyor who is registered in this state as a registered land surveyor or a civil engineer who is registered in the state as a registered professional engineer.

TOPOGRAPHICAL MAP: A map showing existing physical characteristics, with contour lines at sufficient intervals to permit determination of proposed grades and drainage.

ARTICLE III

PLATTING PROCEDURE AND DATA REQUIRED

SECTION 3.1: PRE-PRELIMINARY PLAT

3.11 PURPOSE:

It is recommended that before any extensive work is done on any subdivision that the owner, or his representative, discuss their plans with the planning commission who will give assistance concerning requirements and further procedures, the purpose being to determine whether the proposed subdivision will fit into the development of the area.

3.12 REQUIREMENTS:

The drawing shall contain enough information so that an accurate analysis can be made. The planning commission shall advise and aid the developer, or owner, in obtaining the best possible layout for all concerned. After an appropriate solution has been worked out, the developer, or owner, may proceed with his Preliminary Plat.

3.13 PROCEDURE:

A. The planning commission may review the plat with the subdivider or his agent.

B. The planning commission shall inform the subdivider or his agent of the City's development policies and make appropriate comments and suggestions concerning the proposed development scheme.

C. The planning commission shall inform the city council of the results of the review of the pre-preliminary plat.

SECTION 3.2: PRELIMINARY PLATS

3.21 REQUIREMENTS:

A preliminary plat containing all the information as required by Sections 111 to 120 of the Subdivision Control Act and these regulations must be submitted to the planning commission for processing. The drawing shall be prepared by a registered surveyor or civil engineer.

A. Submittal: The subdivider shall submit eight (8) copies of the preliminary plat on a topographic map to the city clerk at least 10 days before a meeting of the planning commission.

B. Size and Scale: The preliminary plat may be on paper and shall be not less than 24 inches by 36 inches, at a scale of at least 1 inch to 100 feet showing the date and north arrow.

C. Information Required: The following shall be shown on the preliminary plat or submitted with it.

1. The name of the proposed subdivision.

2. Names, addresses and telephone numbers of the subdivider and the surveyor preparing the plat.

3. Location of the subdivision, giving the numbers of section, township and range.

4. Statement of intended use of the proposed plat, such as, residential single family, two-family and multiple housing; commercial; industrial; recreational; or agricultural. Also proposed sites, if any, for multi-family dwellings, shopping centers, churches, industry and other nonpublic uses exclusive of single-family dwellings. Also, any sites proposed for parks, playgrounds, schools, or other public uses.

5. A map of the entire area scheduled for development, if the proposed plat is a portion of a larger holding intended for subsequent development.

6. A location map showing the relationship of the proposed plat to the surrounding area.

7. The land use of the proposed subdivision and the adjacent tracts.

8. Streets, street names, right-of-way and roadway widths.

9. Lot lines and the total number of lots by block.

10. Contours shall be shown on the preliminary plat at 5 foot intervals where slope is greater than 10%, and 2 foot intervals where slope is 10% or less.

11. A site report, as described in the rules of the State Department of Public Health, shall be required if the proposed subdivision is not to be served by public sewer and water systems.

12. Proposed and existing storm and sanitary sewers, water mains and their respective profiles or indicate alternative methods.

13. Eight (8) copies of proposed protective covenants and deed restrictions, or state in writing that none are proposed.

14. Right-of-way easements showing location, width and purpose.

D. Preliminary Engineering Plans:

1. The subdivider shall submit eight (8) sets of preliminary engineering plans for streets, water, sewers, sidewalks and other required public improvements. The engineering plans shall contain enough information and detail to enable the planning commission to make preliminary determination as to conformance of the proposed improvements to applicable City regulations and standards.

3.22 PROCEDURES:

A Validation: The subdivider shall first submit to the city clerk for validation a sufficient number of copies of the preliminary plat to meet the requirements of Sections 112(1) and/or 113 to 119 of the Subdivision Control Act. The subdivider shall also submit a written application for approval and also the fee established by this ordinance for review of plats.

B. Tentative Approval: The city council may tentatively approve or reject the preliminary plat under Section 112(4) of the Subdivision Control Act before distribution to other approving authorities.

C. Distribution to Authorities: The subdivider shall submit to the various approving authorities the number of validated copies of the preliminary plat required by Sections 112 to 119 of the Subdivision Control Act.

D. List of Authorities - Filing: The subdivider shall then file with the city clerk a list of all authorities to whom validated copies of the preliminary plat have been distributed.

3.23 ACTIONS:

A. Letters of Conditional Approval or Rejection: When the Subdivider has secured the approvals of the various approving authorities as required by Section 113 to 119 of the Subdivision Control Act, he shall deliver all copies to the city clerk who shall promptly transmit them to the city council.

B. Planning Commission:

1. The planning commission shall review the preliminary plat and if it meets all requirements, shall provide for an adequate public hearing, giving not less than five days notice before the public hearing to the Owner of the proposed plat and to the Owners of land immediately adjoining the plat.

2. If the preliminary plat does not meet all requirements, the planning commission shall notify the subdivider by letter, giving the earliest date for resubmission of the plat and additional information required.

3. The planning commission shall give its report to the city council not more than 60 days after submission of the preliminary plat in accordance with Section 3.23A.

4. The 60 day period may be extended if the applicant consents. If no action is taken within 60 days, the preliminary plat shall be deemed to have been approved by the planning commission.

C. City Council:

1. The city council shall not review, approve or reject a preliminary plat until it has received from the planning commission its report and recommendations.

2. The city council shall consider the preliminary plat at its next meeting, but no later than 20 days after receipt from the planning commission.

3. The city council shall within 20 days either reject the preliminary plat and give its reasons, or set forth in writing the conditions for granting approval.

SECTION 3.3: FINAL PLATS

3.31 REQUIREMENTS:

A. General:

1. Final plats shall be prepared and submitted as provided for in the Subdivision Control Act.

2. A written application for approval and the recording fee shall accompany all final plats.

3. The subdivider shall submit proof of ownership of the land included in the final plat in the form of an abstract of title certified to the date of the proprietor's certificate, or a policy of title insurance currently in force.

4. The City may require such other information as it deems necessary to establish whether the proper parties have signed the plat.

3.32 PROCEDURES:

A. Submittal to Approving Authorities: Final or as-built engineering plans shall be submitted to all agencies as required by the Subdivision Control Act and to the city clerk at least ten days before a meeting of the planning commission (except as provided in Section 5.6). The developer shall also provide approved sewer and water plans according to the State of Michigan minimum requirements and the City of McBain Master Plan.

3.33 ACTIONS:

A. Planning Commission:

1. The planning commission shall examine the plat at its next regular meeting, or within 30 days of receipt thereof, for conformance to:

   a. The provisions of the Subdivision Control Act.

   b. The provision of this ordinance.

   c. The preliminary plat, as approved.

2. The time for review and recommendations by the planning commission may be extended by agreement with the subdivider.

3. If the planning commission recommends disapproval of the plat by the city council it shall state its reasons in its official minutes and forward same to the city council, and recommend that the city council disapprove the final plat until the objections causing disapproval have been changed to meet with the approval of the planning commission.

4. Recommendations for approval of the plat by the city council shall be accompanied by a report.

B. City Council:

1. The city council shall review the final plat and the report from the planning commission at its next regular meeting, or at a meeting to be called within 20 days of receipt from the planning commission.

2. The city council shall approve the plat, or disapprove it. If disapproved, the city council shall give the subdivider its reasons in writing and rebate the recording fee and whatever portion of the review fee is provided for in this ordinance.

3. The city council shall instruct the Clerk to record all proceedings in the minutes of the meeting, which shall be open for inspection and to sign the municipal certificate on the approved plat in behalf of the city council.

4. The city clerk shall forward a copy of the plat to the clerk of the county plat board, together with the filing and recording fees.

ARTICLE IV

SUBDIVISION DESIGN STANDARDS

SECTION 4.1: TRAFFICWAYS - STREETS AND ROADS

4.11 GENERAL:

The standards set forth in this ordinance shall be the minimum standards for streets, roads and intersections. Generally, all streets shall be dedicated to public use. Arterial streets shall be dedicated to public use in all cases.

4.12 LOCATION:

A. Local or Minor Streets: Such streets shall be so arranged as to discourage their use by through traffic.

B. Street Continuation and Extension: The arrangement of streets shall provide for the continuation of existing streets from adjoining areas into new subdivisions, unless otherwise approved by the planning commission and the County Road Commission.

C. Stub Streets: Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall be extended to the boundary line of the tract to make provision for the future projection of streets into adjacent areas (see Section 4.72B).

D. Relation to Topography: Streets shall be arranged in proper relation to topography so as to result in usable lots, safe streets and reasonable gradients.

E. Marginal Access Streets: Where a subdivision abuts or contains an arterial street, the City may require:

1. Marginal access streets approximately parallel to and on each side of the right-of-way.

2. Such other treatment as it deems necessary for the adequate protection of residential properties and to afford separation of through and local traffic.

F. Cul-de-sac Streets: Cul-de-sacs shall not be more than 600 feet in length. Special consideration shall be given to longer cul-de-sacs under certain topographic conditions or other unusual situations. Cul-de-sacs shall terminate with an adequate turnaround with a minimum radius of 75 feet for right-of-way and 50 feet for pavement.

G. Half Streets: Half streets shall generally be prohibited except where unusual circumstances make it essential to the reasonable development of a tract in conformance with these regulations and where satisfactory assurance for dedication of the remaining part of the street is provided. Whenever a tract to be subdivided borders on an existing half or partial

street, the other part of the street shall be dedicated within such tract, according to the requirements of the County Road Commission.

H. Private Streets: Private streets and roads shall be built to the same specifications as city public road specifications.

4.13 SPECIFICATIONS:

A. Street Rights-of-Way Roadway Widths:

1. Street right-of-way widths shall conform to the following minimums:

Street Types	R.O.W. Widths
Major Arterial	150 feet
Minor Arterial	100 feet
Collector Street	100 feet
Minor or Local Street	66 feet

4.14 STREET NAMES:

Street names shall not duplicate any existing street name in the city, except where a new street is a continuation of an existing street.

Street names that may be spelled differently but sound the same shall also be avoided.

All new streets shall be named as follows: Streets with predominant north-south directions shall be named "Avenue" or "Road"; streets with predominant east-west direction shall be named "Street" or "Highway"; meandering streets shall be named "Drive", "Lane", "Path" or "Trail"; and cul-de-sacs shall be named "Circle", "Court", "Way", or "Place".

SECTION 4.2: INTERSECTIONS

4.21 ANGLE OF INTERSECTION:

Streets shall intersect at ninety (90) decrees or closely thereto and in no case at less than eighty (80) degrees.

4.22 NUMBER OF STREETS:

No more than two (2) streets shall cross at any one intersection.

4.23 "T" INTERSECTIONS:

Except on arterials and certain collectors, "T" type intersections shall be used where practical.

4.24 CENTERLINE OFFSETS:

Slight jogs at intersections shall be avoided. Where such jogs are unavoidable, street centerlines shall be offset by a distance of one hundred twenty-five (125) feet or more.

SECTION 4.3: PEDESTRIANWAYS

4.31 CROSSWALKS:

Right-of-way for pedestrian crosswalks in the middle of long blocks shall be required where necessary to obtain convenient pedestrian circulation to schools, parks or shopping areas.

The right-of-way shall be at least ten (10) feet wide and extend entirely through the block.

4.32 SIDEWALKS:

Sufficient right-of-way shall be provided so that sidewalks may be installed on both sides of all residential streets.

SECTION 4.4: EASEMENTS

4.41 LOCATION:

Easements shall be provided along front lot lines for utilities and also along side lot lines when necessary. The total width shall not be less than fifteen (15) feet.

4.42 DRAINAGEWAY:

The subdivider shall provide drainageway easements as required by the rules of the County Drain Commissioner.

SECTION 4.5: BLOCKS

4.51 ARRANGEMENTS:

A block shall be so designed as to provide two (2) tiers of lots, except where lots back onto an arterial street, natural feature or subdivision boundary.

4.52 MINIMUM LENGTH:

Blocks shall not be less than five hundred (500) feet long.

4.53 MAXIMUM LENGTH:

The maximum length allowed for residential blocks shall be one thousand three hundred twenty (1,320) feet long from center of street to center of street.

Note: Minimum and maximum lengths apply to block faces and not to block widths.

SECTION 4.6: LOTS

4.61 LOT LINES:

Side lot lines shall be essentially at right angles to straight streets and radial to curved streets.

4.62 WIDTH RELATED TO LENGTH:

Narrow deep lots shall be avoided. The depth of a lot generally shall not exceed two and one-half (2-1/2) times the width as measured at the building line and shall not be less than one hundred (100) feet in depth.

4.63 CORNER LOTS:

Corner lots shall have extra width to permit appropriate building setback from both streets or orientation to both streets.

4.64 LOT FRONTAGE:

All lots shall front upon a publicly dedicated street. In the case of a subdivision with ten (10) or less homes, all lots may front upon a private street. Variances may be permitted for approved planned community unit developments. All residential lots shall have a minimum of sixty-six (66) feet width at the property line.

4.65 SAFE ACCESS:

Each lot must be plotted to allow safe access to a street.

SECTION 4.7: PLANTING STRIPS AND RESERVE STRIPS

4.71 PLANTING STRIPS:

Planting strips may be required to be placed next to incompatible features such as highways, railroads, commercial, or industrial uses to screen the view from residential properties. Such screens shall be a minimum of twenty (20) feet wide and shall not be part of the normal roadway right-of-way or utility easement.

4.72 RESERVE STRIPS:

A. Reserve Strips - Private: Privately held reserve strips controlling access to streets shall be prohibited.

B. Reserve Strip - Public: A one-foot reserve may be required to be placed at the end or "stub" of "dead-end" streets which terminate at subdivision boundaries and between half-streets. These reserves shall be deeded in fee simple to the City for future street purposes.

SECTION 4.8: PUBLIC SITES AND OPEN SPACE

4.81 PUBLIC USES:

The planning commission may specify the dedication of a reasonable amount of land for parks, playgrounds and other public open spaces.

4.82 NATURAL FEATURES:

Existing natural features which add value to residential development and enhance the attractiveness of the community (such as trees, watercourses, historic spots and similar irreplaceable assets) shall be preserved, insofar as possible, in the design of the subdivision.

ARTICLE V

SUBDIVISION IMPROVEMENTS

SECTION 5.1: PURPOSE

It is the purpose of this section to establish and define the public improvements which will be required to be constructed by the subdivider as conditions for final plat approval and also to outline the procedures and responsibilities of the subdivider and the various public officials and agencies concerned with the administration, planning, design, construction and financing of public facilities and to further establish procedures for assuring compliance with these requirements.

SECTION 5.2: RESPONSIBILITY FOR PLANS

It shall be the responsibility of the subdivider of every proposed subdivision to have prepared by a registered engineer, a complete set of construction plans, including profiles, cross-section, specifications and other supporting data, for the hereinafter required public streets, utilities and other facilities. Such construction plans shall be based on preliminary plans which have been approved with the preliminary plat, and shall be prepared in conjunction with the final plat. Construction plans are subject to approval by the responsible public agencies shown. All construction plans shall be prepared in accordance with their standards or specifications.

SECTION 5.3: PROCEDURE

When construction has been completed at the time of filing the final plat, two (2) complete copies of as-built engineering plans of each required public improvement shall be filed with the city clerk (one (1) for the city clerk and one (1) for the Department of Public Works) coincident with the filing of the final plat. Other requirements and procedures in the submittal of final plats shall be as provided in Section 3.3.

SECTION 5.4: REQUIRED PUBLIC IMPROVEMENTS

Every subdivider shall be required to install the following public and other improvements in accordance with the conditions and specifications as follows:

5.41 MONUMENTS:

Monuments shall be set in accordance with the State Subdivision Control Act of 1967, Act No. 288 of the Public Acts of 1967, and the rules of the State Department of Treasury.

5.42 STREETS AND ALLEYS:

All streets and alleys shall be constructed in accordance with the standards and specifications adopted by the City of McBain.

5.43 CURBS AND GUTTERS:

Valley gutters or curbs and gutters shall be required on all residential streets. All streets shall be constructed in accordance with the standards and specifications adopted by the City of McBain.

5.44 INSTALLATION OF PUBLIC UTILITIES:

Public utilities and driveways shall be located in accordance with the rules of the City of McBain. The underground work for utilities shall be stubbed to the property line.

5.45 DRIVEWAYS:

All driveway openings in curbs shall be as specified by the City of McBain, County Road Commission or the Department of State Highways.

5.46 STORM DRAINAGE:

An adequate storm drainage system, including necessary storm sewers, drain inlets, manholes, culverts, bridges, and other appurtenances, shall be required in all subdivisions. The requirements for each particular subdivision shall be established by the County Drain Commissioner and the City of McBain.

Construction shall follow the specifications and procedures established by the County Drain Commissioner. All proposed storm drainage construction plans for proposed plats shall be approved by the County Drain Commissioner.

5.47 WATER SUPPLY SYSTEM:

All proposed subdivisions shall be serviced by the City of McBain water supply system and shall meet the city and state specifications of the McBain water supply system. Fire hydrants and other required water system appurtenances shall be provided by the subdivider.

5.48 SANITARY SEWER SYSTEM:

All proposed subdivisions shall be serviced by the City of McBain sanitary sewerage system. Sanitary sewers and other required appurtenances thereto shall be provided by the subdivider. Sewer systems shall comply with the requirements of Act 98, P.A. 1913, as amended and City of McBain specifications.

5.49 STREET NAME SIGNS:

Street name signs shall be installed in the appropriate locations at each street intersection in accordance with the requirements of City of McBain ordinances and state guidelines.

5.410 SIDEWALKS AND CROSSWALKS:

Sidewalks shall be required to be put in by the developer on both sides of residential streets.

Crosswalks, when required by the City shall have easements at least ten (10) feet in width and include a paved walk at least five (5) feet in width, located generally along the centerline of the easement, dedicated as a public pedestrian walkway.

Sidewalks and crosswalks shall be constructed in accordance with the requirements of the City of McBain specifications.

5.411 STREET LIGHTING:

Street lights shall be required to be installed at intersections throughout the subdivision. The council may require additional lighting where they deem necessary. A subdivider shall conform to the requirements of the public utility providing such lighting.

SECTION 5.5: OPTIONAL PUBLIC IMPROVEMENTS

5.51 RECREATIONAL:

Where a school site, neighborhood park, recreation area, or public access to water frontage, as previously delineated or specified by official action of the planning commission, is located in whole or part in the proposed subdivision, the city council may request the reservation of such open space for school, park and recreation or public access purposes. All such areas shall either be reserved for the respective school district in the case of school sites or for the City in all other cases; however, voluntary dedication of these land areas will be accepted.

5.52 GREENBELTS:

It is desirable for the protection of residential properties to have greenbelts or landscaped screen plantings located between a residential development and adjacent major arterial streets and railroad rights-of-way. Where a subdivider desires to protect his development in this respect, a proposed subdivision plat shall show the location of said greenbelts.

5.53 STREET TREES:

Street trees may be planted between the street curb and sidewalk in accordance with the standards adopted by the City. The location of street trees shall be approved by the County Road Commission.

SECTION 5.6: GUARANTEE OF COMPLETION OF IMPROVEMENTS REQUIRED BY THE CITY:

5.61 FINANCIAL GUARANTEE ARRANGEMENTS, EXCEPTIONS:

In lieu of the actual installation of required public improvements, the city council on recommendation of the planning commission may permit the subdivider to provide a financial guarantee of performance in one or a combination of the following arrangements for those requirements which are over and beyond the requirements of the County Road Commission, County Drain Commissioner or any other agency responsible for the administration, operation and maintenance of the applicable public improvement. The planning commission may recommend and the city council may waive financial guarantees of performance under this ordinance for sidewalks, street lights,

or streets trees. In case these improvements are specified, completion shall be required prior to the issuance of occupancy permits.

A. Cash Deposit, Certified Check or Irrevocable Bank Letter of Credit:

1. Treasurer, Escrow Agent or Trust Company: A cash deposit, certified check or an irrevocable bank letter of credit, such surety acceptable by the city council, shall accrue to the City. These deposits shall be made with the Treasurer, or deposited with a responsible escrow agent, or trust company, subject to the approval of the city council.

2. Dollar Value: The dollar value of the cash deposit, certified check or an irrevocable bank letter of credit, shall be equal to the total estimated cost of construction of the specific public improvement including contingencies, as estimated by the city council.

3. Escrow Time: The escrow time for the cash deposit, certified check or irrevocable bank letter of credit, shall be for a period to be specified by the city council.

4. Progressive Payment: In the case of cash deposits or certified checks, an agreement between the City and the subdivider may provide for progressive payment out of the cash deposit or reduction of the certified check or irrevocable bank letter of credit, to the extent of the cost of the completed portion of the public improvement in accordance with a previously entered into agreement.

5.62 CONDITIONS OF APPROVAL OF FINAL PLAT - FINANCIAL GUARANTEES:

With respect to financial guarantees, the approval of all final subdivision plats shall be conditioned on the accomplishment of one of the following:

A. The construction of improvements required by this ordinance shall have been completed by the subdivider and approved by the city clerk.

B. Surety acceptable to the City shall have been filed in the form of a cash deposit, certified check or irrevocable bank letter of credit.

5.63 SPECIAL AGREEMENTS:

A special agreement shall be entered into between the subdivider and the city council where street trees and street lights have been required by the city council.

5.64 INSPECTION OF PUBLIC IMPROVEMENTS UNDER CONSTRUCTION:

Before approving a final plat and construction plans and specifications for public improvements, an agreement between the subdivider and the city council shall be made to provide for checking or inspecting the construction and its conformity to the submitted plans.

5.65 PENALTY IN CASE OF FAILURE TO COMPLETE THE CONSTRUCTION OF A PUBLIC IMPROVEMENT

In the event the subdivider shall, in any case, fail to complete such work within such period of time as required by the conditions of the guarantee for the completion of public improvements, it shall be the responsibility of the city council to prove to have such work completed. In order to accomplish this, the city council shall reimburse itself for the cost and expense thereof by appropriating the cash deposit, certified check or irrevocable bank letter of credit provided by the subdivider to the city.

5.66 RELEASE OF FINANCIAL GUARANTEE

The city shall not release any financial guarantee until the final or as-built engineering plans have been submitted pursuant to Section 3.32(A).

ARTICLE VI

VARIANCES

SECTION 6.1: GENERAL

The planning commission may recommend to the city council a variance from the provision of this ordinance on a finding that undue hardship may result from strict compliance with specific provisions or requirements of the ordinance or that application of such provision or requirement is impracticable. The planning commission shall only recommend variances that it deems necessary to or desirable for the public interest. In making its findings, as required herein below, the planning commission shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be recommended unless the planning commission finds after a public hearing:

A. That there are such special circumstances or conditions affecting said property that the strict application of the provision of this ordinance would clearly be impracticable or unreasonable. In such cases, the subdivider shall first state his reasons in writing as to the specific provision or requirement involved and submit them to the planning commission.

B. That the granting of the specified variance will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.

C. That such variance will not violate the provisions of the State Subdivision Control Act.

D. The planning commission shall include its findings and the specific reasons therefore in its report of recommendations to the city council and shall also record its reasons and actions in its minutes.

E. That such variance will not have the effect of nullifying the interest and purpose of this ordinance.

SECTION 6.2: TOPOGRAPHICAL-PHYSICAL LIMITATION VARIANCE

Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this ordinance would result in extraordinary hardship to the subdivider because of unusual topography, other physical conditions or other such conditions which are not self-inflicted, or that these conditions would result in inhibiting the achievement of the objectives of this ordinance, the planning commission may recommend to the city council that variance modification or a waiver of these requirements be granted.

SECTION 6.3: PLANNED UNIT DEVELOPMENT VARIANCE:

The developer may request a variance from specified portions of this ordinance in the case of a planned unit development. If in the judgment of the planning commission such a plan provides adequate public spaces and includes provisions for efficient circulation, light and air and other needs, it shall make findings,

as required herein below. The planning commission shall take into account the nature of the proposed use of land and existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. The planning commission shall report to the city council whether:

A. The proposed project will constitute a desirable and stable community development.

B. The proposed project will be in harmony with adjacent areas.

ARTICLE VII

ENFORCEMENT AND PENALTIES FOR FAILURE TO COMPLY WITH THIS ORDINANCE

SECTION 7.1: ENFORCEMENT

No subdivision plat required by this ordinance or the Subdivision Control Act shall be admitted to the public land records of the County or received or recorded by the county Register of Deeds, until such subdivision plat has received final approval by the city council. No public board, agency, commission, official or other authority shall proceed with the construction of or authorize the construction of any of the public improvements required by this ordinance unless such public improvement shall have already been accepted, opened or otherwise received the legal status of a public improvement prior to the adoption of this ordinance unless such public improvement shall correspond in its location and to the other requirements of this ordinance.

SECTION 7.2: PENALTIES

Penalties for failure to comply with the provisions of this ordinance shall be as follows: Violation of any of the provisions of this ordinance or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than one hundred dollars ($100) or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. The landowner, tenant, subdivider, builder, public official or any other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the city council or any other public official or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this ordinance or of the Subdivision Control Act.

ARTICLE VIII

AMENDMENTS

SECTION 8.1: PROCEDURES

The city council may from time to time, amend, supplement, or repeal the regulations and provisions of this ordinance. A proposed amendment supplement, or repeal may be originated by the city council, planning commission, or by petition. All proposals not originating with the planning commission shall be referred to it for a report thereon before any action is taken on the proposal by the city council.

ARTICLE IX

MISCELLANEOUS PROVISIONS

SECTION 9.1: VALIDITY:

Should any section, clause, or provision of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.

SECTION 9.2: EFFECTIVE DATE

This ordinance shall take effect after recommendation of the planning commission, adoption by the city council and publication and recording pursuant to the requirements of the City of McBain City Charter. This ordinance shall become effective 20 days after adoption.

Authentication:

Richard Scheanwald, Mayor — Date

Evelyn Lucas, City Clerk — 12-12-88 Date

ZONING

City Of McBain

Zoning Ordinance
Ordinance No: 57

Effective: December 1, 1991

CITY OF MCBAIN PLANNING COMMISSION

Charles Heethuis, Chairperson
Ronald Lutke, Vice Chairperson
Cathy Schepers, Secretary

Charlie Decker
Clark Dykhouse
Craig Fisher
Audrey Gumm
Bruce McNally, Jr.
Pearl Taylor

CITY OF MCBAIN CITY COUNCIL

Richard Scheanwald, Mayor

Clark Dykhouse
Randy Heeress
Harvey Lucas
Elroy Noordhoek
Ray Schepers
James Van Wieren

Ev Lucas, City Clerk
508 West Maple Street
McBain, MI 49657
616/825-2322

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THE CITY OF MCBAIN ZONING ORDINANCE

Ordinance No. 57

AN ORDINANCE to establish zoning for the City of McBain, Missaukee County, Michigan pursuant to the provisions of Act 207 of the Public Acts of 1921, as amended, to meet the needs of the city's residents for food, fiber, energy and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land; to ensure that uses of the land shall be situated in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of population and transportation systems and other public facilities; to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility needs; and to promote public health, safety, and welfare. The land development regulations and districts of this Ordinance shall be made and modified in accordance with a plan adopted pursuant to Act 285 of 1931.

WHEREAS, Act 207, P.A. 1921 as amended, empowers the City to enact a zoning ordinance and to provide for its administration, enforcement, and amendment; and

WHEREAS, the City Council of the City of McBain deems it necessary for the purpose of promoting and protecting the health, safety, morals, and general welfare of the people of the City to enact such an ordinance; and

WHEREAS, the City Council, pursuant to the provisions of Act 285, P.A. 1931, as amended, has appointed a Planning Commission to recommend the boundaries of the various zoning districts and appropriate regulations to be enforced therein; and

WHEREAS, the Planning Commission has divided the City into districts and has prepared regulations pertaining to such districts in accordance with a basic plan; and

WHEREAS, all requirements of Act 207, P.A. 1921, as amended, and Act 285, P.A. 1931, as amended, with regard to the preparation of this Ordinance and subsequent action of the City Council have been met;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF MCBAIN, MISSAUKEE COUNTY, MICHIGAN AS FOLLOWS:

CHAPTER 1
TITLE

1.01 TITLE

This Ordinance shall be known and may be cited as the "City of McBain Zoning Ordinance."

CHAPTER 2
PURPOSE, SCOPE, AND LEGAL BASIS

2.01 PURPOSE

This Ordinance is based upon the City of McBain Master Plan and is designed (1) to promote the public health, safety, morals, and general welfare; (2) to encourage the use of land in accordance with its character and adaptability and limit the improper use of land; (3) to avoid the overcrowding of population; (4) to provide adequate light and air; (5) to lessen congestion on the public roads and streets; (6) to reduce hazards to life and property; (7) to facilitate the adequate provision of a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements; and (8) to conserve the expenditures of funds for public improvements and services so as to obtain the most advantageous uses of land, resources, and properties. This Ordinance is adopted with reasonable consideration, among other things, of the character of each zoning district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, buildings and population development.

2.02 SCOPE AND INTERPRETATION

This Ordinance shall not repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws, ordinances or regulations, except those repealed herein by specific reference, or with private restrictions placed upon property by covenant, deed or other private agreements, or with restrictive covenants running with the land to which the City is a party. Where this Ordinance imposes greater restrictions, limitations, or requirements upon (1) the use of buildings, structures or land; (2) the height of buildings or structures; (3) lot coverage; (4) lot areas; (5) yards or other open spaces or (6) any other use or utilization of land than are imposed or required by such existing laws, ordinance, regulations, private restrictions, or restrictive covenants, the provisions of this Ordinance shall control. In the case of mobile home parks, any higher standard than imposed by state law must be approved pursuant to Rule 120 of the Mobile Home Commission Rules, 1987, as amended.

2.03 EFFECT OF ZONING

Zoning applies to every building, structure, or use. No building, structure, or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except in conformity with this Ordinance.

2.04 LEGAL BASIS

This Ordinance is enacted to protect the public health, safety, and general welfare of the residents of City of McBain pursuant to the provisions of the City or Village Zoning Act, P.A. 1921, No. 207 of the Public Acts of the State of Michigan, MCLA 125.58 et seq., as amended.

CHAPTER 3
DEFINITIONS

3.01 RULES APPLYING TO THE TEXT

The following listed rules of construction shall apply to the text of this Ordinance;

A. The particular shall control the general.

B. With the exception of this chapter, the headings which title a chapter, section or subsection are for convenience only and are not to be considered in any way construction or interpretation of this Ordinance or as enlarging or restricting the terms and provisions of this Ordinance in any respect.

C. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

D. Unless the context clearly indicates to the contrary, (1) words used in the present tense shall include the future tense; (2) words used in the singular number shall include the plural number; and (3) words used in the plural number shall include the singular number.

E. A "building" or "structure" includes any part thereof.

F. The word "person" includes a firm, association, partnership, joint venture, corporation, trust, or equivalent entity or a combination of any of them as well as a natural person.

G. The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended," "arranged," "designed to use," "be used," or "occupied."

H. Any word or term not defined herein shall have the meaning as defined in the Webster's New World Dictionary, second college edition.

3.02 ACCESSORY USE OR STRUCTURE

A use, building or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use, building or structure. Freestanding satellite dishes and antennas, solar panels, and wind generators shall be considered accessory structures.

3.03 ALTERATIONS, STRUCTURAL

Any change in the supporting members of a building or structure such as bearing walls, columns, beams or girder, any substantial change in the roof or an addition to or diminution of a structure or building.

3.04 AUTOMOBILE REPAIR

A. Major Automobile Repair: General repair, rebuilding, or reconditioning of engines or vehicles, collision service (including body-repair and frame straightening), painting, or upholstering; or vehicle steam cleaning and undercoating, as a business.

B. Minor Automobile Repair: Minor repairs, incidental replacement of parts, or motor service to passenger automobiles and trucks not exceeding 2 tons capacity; provided, however, there is excluded any repair or work included in the definition of "Major Automobile Repair."

3.05 BASEMENT

A portion of a building, or a portion of a room, located wholly or partially below grade, but not including any part thereof not so located. The term basement shall not include an earth bermed or earth sheltered home.

3.06 BILLBOARDS AND SIGNS

A. Billboard: Any structure, including the wall of any building, on which lettered, figured or pictorial matter is displayed for advertising a business, service, or entertainment which is not conducted on the land upon which the structure is located or products not primarily sold, manufactured, processed or fabricated on such land.

B. Business Sign: Any structure, including the wall of any building, on which lettered, figured, or pictorial matter is displayed for advertising a business, service, or entertainment conducted on the land where the structure is located or products primarily sold, manufactured, processed or fabricated on such land.

C. Identifying Sign: Any structure on the same premises it identifies which serves only (1) to tell the name or use of any public or semi-public building or recreation space, club, lodge, church, or institution; (2) only to tell the name or address of an apartment house or motel; or (3) only to inform the public as to the use of a parking area.

D. Name Plate: A structure affixed flat against the wall of a building which serves solely to designate the name or the name and profession or business occupation of a person or persons occupying the building.

E. Political Sign: A sign used in conjunction with a local, state, or national election or referendum.

F. Real Estate Sign: Any temporary structure used only to advertise with pertinent information on the sale, rental, or leasing of the premises upon which it is located.

G. Roof Sign: A sign located upon or structurally attached to a roof of a building or structure.

3.07 BUILDING

Anything that is constructed or erected having a roof supported by columns, walls, or other supports, which is used for the purpose of housing or storing of persons, animals, or personal property or carrying on business activities or other similar uses.

3.08 BUILDING HEIGHT

A vertical distance measured from the top of the main or ground level foundation wall, whichever is lowest, to the highest point of the roof surface of flat roofs, to the deck of mansard roofs, and to the mean height level between eaves and ridge of gable, hip and gambrel roofs.

3.09 BUILDING SETBACK

The measurement from the road right-of-way line to the nearest point of the main wall of the building or structure. Steps may be located within the building setback. Porches are considered as part of the building or structure and may not be located within the building setback.

3.10 COMMERCIAL RECREATION

Commercial establishments related to recreation activities such as, but not limited to, billiard or pool hall, indoor theater, bowling alley, miniature golf, driving ranges, skating rinks, and video arcades.

3.11 DAY-CARE FACILITY

A facility for the care of children under 18 years of age, as licensed and regulated by the state under Act 116 of the Public Acts of 1973 and the associated rules promulgated by the State Department of Social Services. Such organizations shall be further defined as follows:

A. Family Day-Care Home: A private home in which 1 to 6 children are received for care and supervision including those children less than 7 years old in the resident family. This number shall not include more than 2 children less than 12 months old.

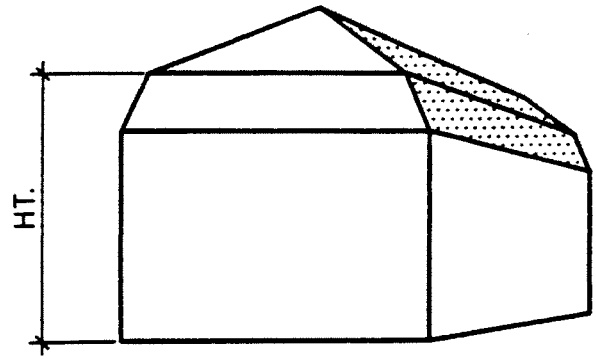
B. Group Day-Care Home: A private home where 7 to 12 children are received for care and supervision. This number shall not include more than 2 children younger than 2 years old.

C. Child-Care Center: A facility, other than a private home, where 1 or more children are received for care and supervision.

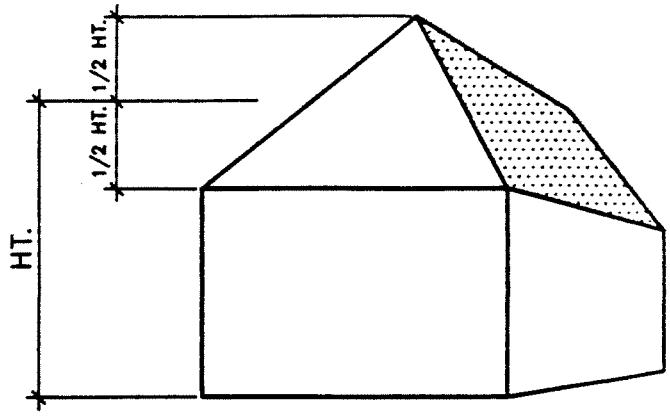
3.12 DWELLING

Any building or portion thereof which is occupied in whole or in part as a home residence, or sleeping place, either permanently or temporarily, by 1 or more families, but not including motels, hotels, tourist rooms, or cabins.

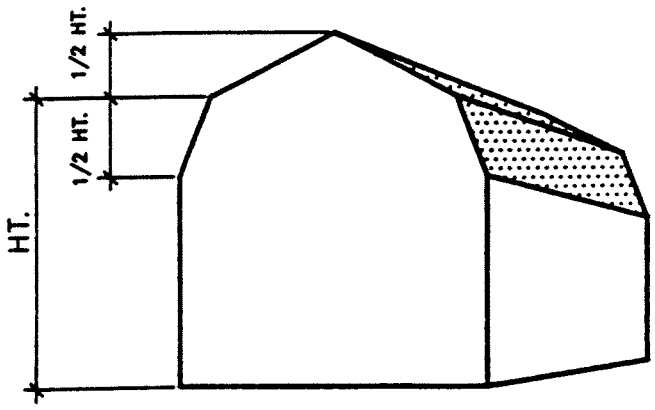
A. Dwelling, Single Family: A building designed for use and occupancy by family only.



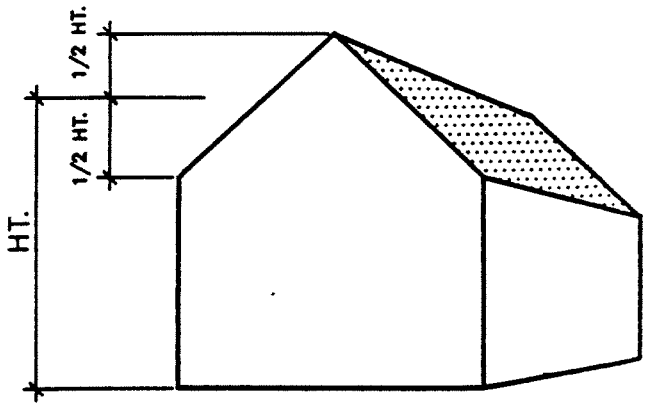
MANSARD ROOF



HIP ROOF



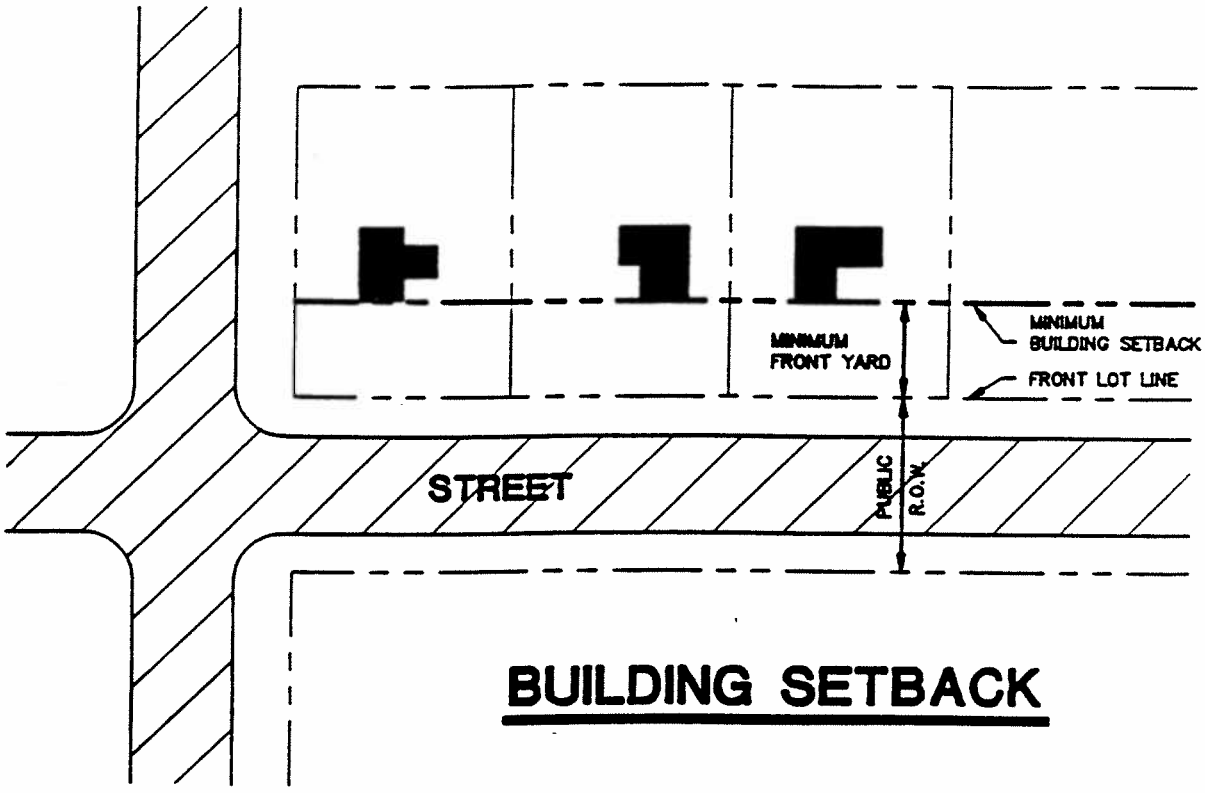
GAMBREL ROOF



GABLE ROOF

NOTE:
HT. = HEIGHT OF BUILDING

BUILDING HEIGHT



BUILDING SETBACK

B. Dwelling, Two Family: A building designed for use and occupancy by 2 families living independently of each other.

C. Dwelling, Multifamily: A building designed for use and occupancy by 3 or more families, living independently of each other.

3.13 DWELLING UNIT

A building or portion thereof designed for use or occupancy by 1 family for living and sleeping purposes with housekeeping facilities.

3.14 FAMILY

One or more persons living together as a single nonprofit housekeeping unit, organized as a single entity in which the members share common kitchen facilities in a domestic relationship based on consanguinity, marriage, adoption, or other domestic bond. This definition does not include any society, association, organization, or any other group whose domestic relationship is of a transitional or seasonal nature or for an anticipated limited duration.

3.15 FARM

A contiguous tract of land which is directly farmed or used for commercial agriculture including greenhouses, nurseries, orchards, vineyards, tree farms, and apiaries. A farm includes a farm dwelling and accessory buildings necessary for the storage or housing of farm implements, farm products, or farm animals or used for the operation of the farm. The place of confined keeping of livestock or other animals in yards, lots, pens, buildings, or other areas not normally used for pasture or crops and in which abnormal amounts of manure or related other animal wastes may originate by reason of keeping of such animals shall not be considered a "farm."

3.16 FLOOR AREA

The floor area of all floors of a building or an addition to an existing building. For all buildings, except dwelling units used for dwelling purposes, floor area shall include the basement.

3.17 HOME OCCUPATION

An income generating occupation traditionally or customarily carried on in the home as a use incidental to the use of the home as a dwelling place which conforms to the provisions in Section 4.11.

3.18 HOUSEHOLD PETS

Animals that are customarily kept for personal, noncommercial use within the home. Household pets shall include but not be limited to domestic dogs, domestic cats, rabbits, birds, fish, and domestic rodents.

3.19 LOT

A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory structures or utilized for a principal use and accessory uses, together with such open spaces as are required by this Ordinance. Lot area cannot include any part of a public right-of-way. In the case of division of land on the basis of condominium ownership (site condominium), "lot" shall also include the portion of the condominium project designed and intended for separate ownership and use as described in the master deed.

A. Corner Lot: A lot which has at least 2 contiguous sides abutting upon a street for their full length.

B. Interior Lot: A lot other than a corner lot.

C. Through Lot: An interior lot having frontage on 2 streets which do not intersect at a point contiguous to such lot.

3.20 LOT LINE

The line which defines the boundaries of a lot or parcel of land.

A. Front Lot Line: The line which separates the front yard from the street right-of-way line. In the case of a corner lot or through lot, the lines separating the lot from each road right-of-way.

B. Rear Lot Line: Lot line which is opposite the front line. In the case of a corner lot, the rear lot line may be opposite either front lot line, but there shall only be 1 rear lot line. In the case of a lot with side lot lines converging at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than 20 feet long, lying farthest from the lot line and wholly within the lot.

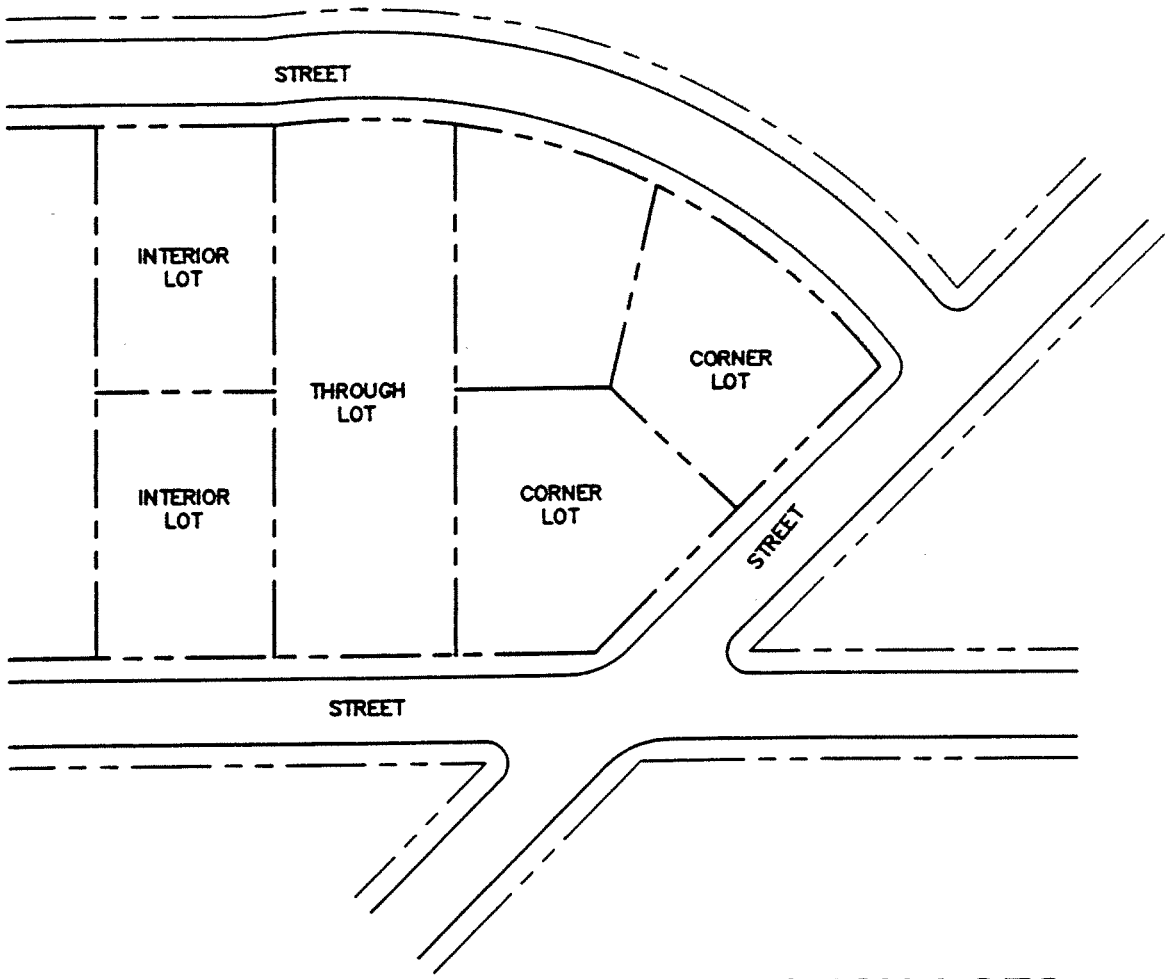
C. Side Lot Line: Any lot line other than the front lot line or rear lot line.

3.21 MOBILE HOME

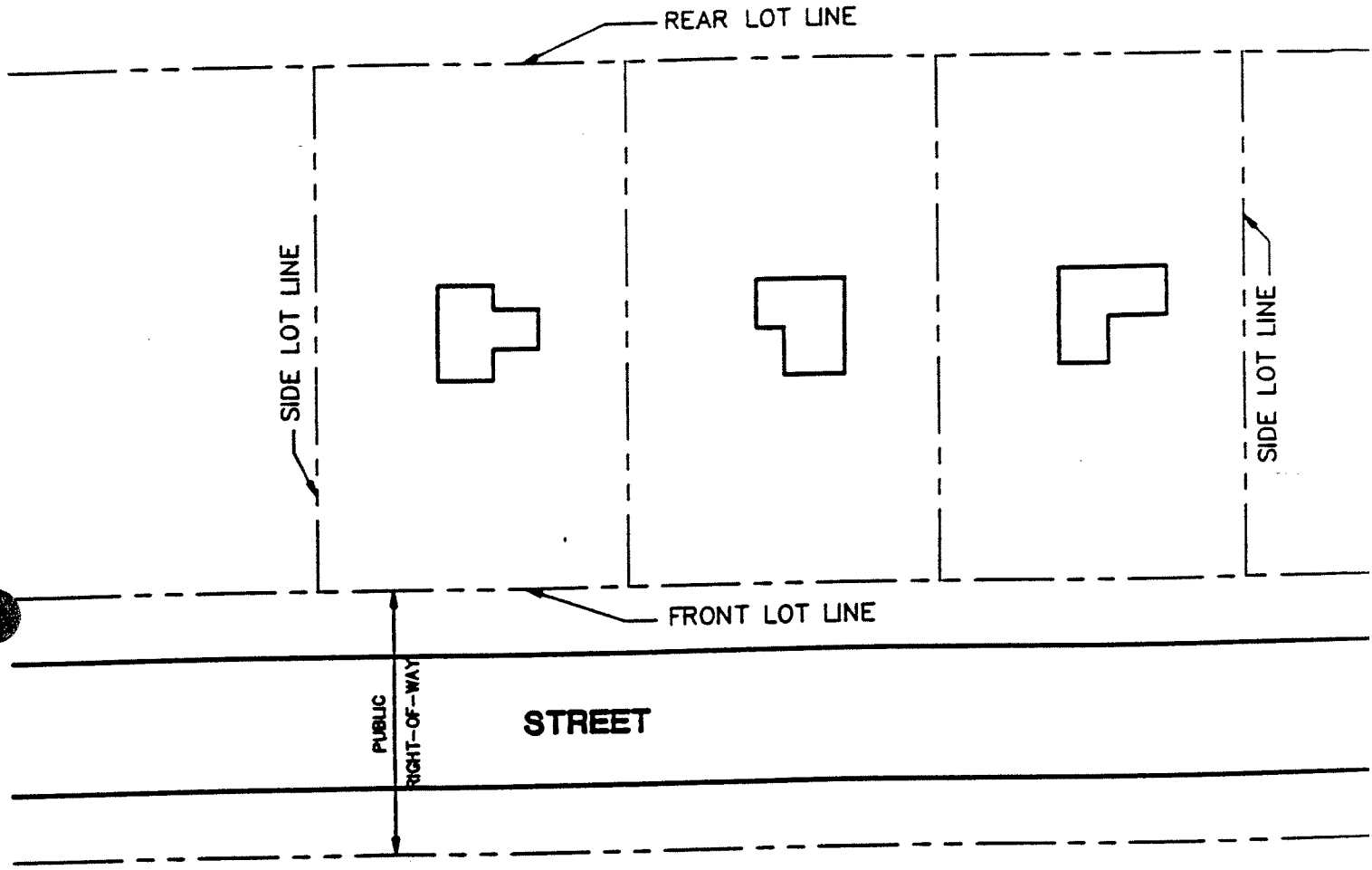
A structure, transportable in 1 or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems in the structure. Mobile home does not include a recreational vehicle.

3.22 MOBILE HOME PARK

A parcel or tract of land upon which 3 or more mobile homes are located on a continual nonrecreational basis which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for the occupancy of a mobile home.



CORNER, INTERIOR & THROUGH LOTS


REAR LOT LINE
SIDE LOT LINE
SIDE LOT LINE
FRONT LOT LINE
PUBLIC RIGHT-OF-WAY
STREET

LOT LINES

3.23 MOTEL

A building or group of buildings on the same lot, whether detached or in connected rows, containing sleeping or dwelling units which may or may not be independently accessible from the outside with garage or parking space located on the lot and designed for, or occupied by, automobile travelers. The terms shall include any building or building groups designated as motor lodges, transient cabins, or by any other title intended to identify them as providing lodging with or without meals for compensation on a transient basis.

3.24 OUTDOOR SALES

Retail businesses whose principal activity is the sale or rental of merchandise in an outdoor setting, such as, but not limited to, farm implements, plants and trees, mobile homes, building supplies, and vehicles.

3.25 PRINCIPAL OR MAIN USE

The primary or predominant use of a lot.

3.26 PUBLIC OR INSTITUTIONAL USES

Churches; accredited public, parochial or private schools; trade schools or colleges; hospitals and nursing homes; parks, nonprofit recreational uses; libraries; government owned facilities; cemeteries; fire stations or similar uses providing service necessary to the community.

3.27 RECREATIONAL VEHICLE

A vehicular transportable structure mounted on wheels that is self-propelled or towed by a motor vehicle. A travel trailer is designed to provide temporary living quarters for recreational, camping or travel use. This definition includes, but is not limited to, portable structures commonly known as: travel trailers, travel homes, fold down campers, truck mounted campers, converted buses, and fifth wheels.

3.28 SALVAGE YARDS

Where junk, waste, or discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including wrecked vehicles, used building materials, structural materials, and equipment and other manufactured goods that are worn, deteriorated, or obsolete.

3.29 SIGNS

See "Billboards and Signs."

3.30 SITE CONDOMINIUM SUBDIVISION

The division of land on the basis of condominium ownership whereby a master deed is required in accordance with the Condominium Act, Act 59 of 1978, as amended.

3.31 STATE LICENSED RESIDENTIAL FACILITY

A structure constructed for residential purposes that is licensed by the state pursuant to Act 287 of the Public Acts of 1972 as amended, or Act 116 of the Public Acts of 1973 as amended which provides resident services for 7 or more persons under 24-hour supervision or care for persons in need of that supervision or care.

3.32 STREET

A publicly owned and maintained right-of-way which affords traffic circulation and principal means of access to abutting property, including any avenue, place, way, drive, land, boulevard, highway, road, or other thoroughfare, except an alley. A street may also include a private road as approved pursuant to Section 4.14 of this Ordinance.

3.33 STRUCTURE

Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground.

3.34 VEHICLE

Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices propelled by human power or used exclusively upon stationary rails or tracks.

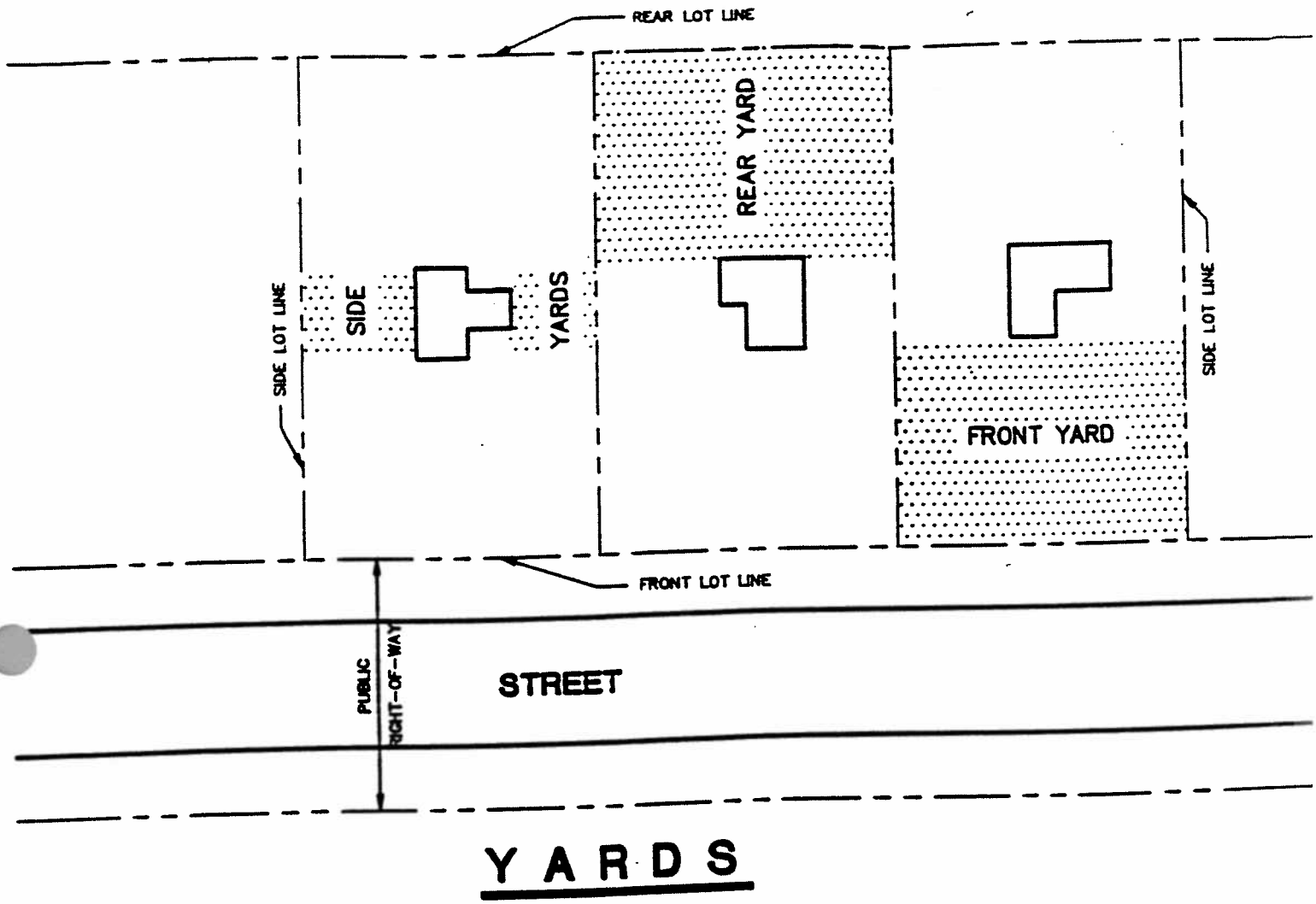
3.35 YARD

A required open space unoccupied and unobstructed by any building or structure or portion thereof from 30 inches above the general ground level of the lot upward; provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility. Accessory buildings may be permitted as regulated in Section 4.02.

A. Front Yard: A yard extending across the full width of the lot, the depth of which is the distance between the street right-of-way line and the nearest point of the main building.

B. Rear Yard: A yard extending across the full width of the lot, the depth of which is the distance between the rear lot line and the nearest point of the main building.

C. Side Yard: A yard between a main building and the side lot line, extending from the front of the main building to the rear of the main building. The width of the required side yard shall be measured from the nearest point of the side lot line to the nearest part of the main building.


REAR LOT LINE
REAR YARD
SIDE
YARDS
SIDE LOT LINE
SIDE LOT LINE
FRONT YARD
FRONT LOT LINE
PUBLIC
RIGHT-OF-WAY
STREET

YARDS

CHAPTER 4
GENERAL PROVISIONS

4.01 ACCESS TO A STREET

Any lot of record created after the effective date of this Ordinance shall have frontage on a street for a distance equal to the minimum lot width requirement of the district it is located in. In the case of a lot abutting the turnaround area of a dead-end street, the frontage on a street shall be a minimum of 30 feet provided that the lot width at the building setback shall meet the lot width requirements of the district it is located in.

4.02 ACCESSORY BUILDINGS OR STRUCTURES

A. In any zoning district, an accessory building or structure may be erected detached from the permitted principal building or as an integral part of the permitted principal building. When erected as an integral part of the permitted principal building, it shall comply in all respects with the requirements of this Ordinance applicable to the permitted principal building.

B. Detached accessory buildings or structures shall not be located closer than 5 feet to the rear or side lot line. They shall not be located closer to the front lot line than the principal building is permitted.

C. The distance between a detached accessory building and any principal building shall not be less than 10 feet. Accessory buildings shall be considered as attached to a principal building when the distance between the 2 buildings is solidly covered by a breezeway, portico, covered colonnade, or similar architectural device.

D. No accessory building or structure shall include residential or living quarters for human beings.

4.03 ACCESSORY USES

In any zoning district, accessory uses incidental to a permitted principal use are permitted when located on the same lot.

4.04 ANIMALS, KEEPING OF

The keeping of animals other than customary household pets shall not be permitted in the R-2 or R-3 District, within 50 feet of a lot line located in an R-2 or R-3 District, or within 50 feet of any public building, commercial building, or neighboring residence.

4.05 BASEMENT DWELLINGS

The use of any basement as a residence or dwelling unit is prohibited in all districts. The temporary use of a basement during construction work may be authorized by permit by the zoning administrator after issuance of a building permit for the proposed structure. The temporary permit shall terminate 12 months after the date of its issuance. The zoning administrator may renew the permit for 1 additional 12-month period if construction of the principal structure has been progressing in a reasonable manner.

4.06 CORNER AND DOUBLE FRONTAGE LOTS

Buildings on lots having frontage on 2 or more intersecting or nonintersecting streets shall comply with front yard requirements on all such streets.

4.07 DWELLING UNITS

All dwelling units located outside of a mobile home park shall comply with the following conditions:

A. All dwelling units shall meet the height and area requirements of the district in which it is located.

B. There shall be a minimum width throughout the entire length of the dwelling unit of 20 feet measured between the outside walls having the greatest length.

C. Each single- and two-family dwelling unit shall have a minimum of 800 square feet of floor area.

D. All wheels, towing mechanisms, and tongues of mobile homes shall be removed and none of the undercarriage shall be visible from outside the mobile home.

E. Exterior building materials of all dwelling units shall extend to the foundation on all sides.

F. All dwellings shall be firmly attached to the foundation so as to be water tight as required by the construction code adopted by the County or if a mobile home shall be anchored to the foundation by an anchor system designed and constructed in compliance with the United States Department of Housing and Urban Development Regulations entitled "Mobile Home Construction and Safety Standards."

G. All additions to dwellings shall meet all of the requirements of this Ordinance.

H. All mobile homes must meet standards for mobile home construction as contained in the United States Department of Housing and Urban Development (HUD) Regulations entitled "Mobile Home Construction and Safety Standards" effective June 15, 1976, as amended. All other dwellings shall meet the requirements of the construction code adopted by the City.

4.08 ESSENTIAL SERVICES

The erection, construction, alteration, or maintenance by public utilities or governmental units, boards, or commissions of overhead or underground gas, electrical, steam or water distribution, transmission, collection, communication or supply systems including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, electrical substations, gas regulator stations, utility pump and metering stations and other similar equipment and accessories in connection therewith which are reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission for the public health, safety or general welfare is permitted in any zoning district.

4.09 HEALTH DEPARTMENT APPROVAL

No permit shall be issued for the construction of a building to be located on a lot which is not served by both public water and sewer facilities if its water supply and/or sewage disposal facilities are not authorized by the Missaukee County Health Department.

4.10 HEIGHT EXCEPTIONS

The following buildings and structures shall be exempt from height regulations in all zoning districts; parapet walls not exceeding 4 feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, grain elevators, silos, stacks, elevated water towers, storage towers, scenery lofts, monuments, cupolas, domes, spires, penthouses housing necessary mechanical appurtenances, and television and radio reception and transmission antennas and towers which are controlled by the FCC.

4.11 HOME OCCUPATION REQUIREMENTS

All home occupations shall meet all of the following conditions:

A. Home occupations shall only be located in "R-1," "R-2," or "R-3" Districts.

B. The home occupation must be operated in its entirety within the principal dwelling or accessory building located upon the premises.

C. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants.

D. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation other than 1 nonilluminated sign.

E. The occupation shall not involve any alteration or construction not customarily found in dwellings.

F. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fume, odors, or electrical interference detectable to the normal senses off the premises.

4.12 JUNK VEHICLES

The storage of junk vehicles is not allowed in any district in the City, except as permitted by the City of McBain Junk Vehicle Ordinance. Ordinance No. 54, of 1989.

4.13 PRINCIPAL BUILDING ON A LOT

In all districts, no more than 1 principal building shall be placed on a lot.

4.14 PRIVATE ROADS

A. Private roads shall include all nonpublic roads providing access to 2 or more dwelling units.

B. The owner shall submit an application for a preliminary private road permit, together with the application review fee, to the zoning administrator. The application package shall include detailed construction plans, a detailed description of how the road will be operated and maintained, and how the costs of operation and maintenance will be apportioned and paid for by the benefitting property owners. An architect, engineer, or other persons will be consulted if deemed necessary. The applicant shall pay all costs incurred by the City in reviewing the application materials.

C. If the application materials meet the requirements of this section, the zoning administrator shall issue a preliminary private road permit to the owner upon payment of the construction review fee. No construction shall begin on the private road or on adjacent properties which depend on the private road for access until the preliminary private road permit has been issued.

D. Construction plans showing the proposed location, adjacent properties, proposed street grades, drainage, and proposed improvements shall be prepared by a registered engineer or registered land surveyor and shall be submitted to the zoning administrator as part of the preliminary private road permit application.

E. Upon completion of construction, the owner shall submit a certification signed by a registered engineer that the road has been completed in accordance with the approved site plan and construction plan. The owner shall correct any deficiencies identified. Upon final review and approval of the completed private road improvement, the City clerk shall issue a final private road permit to the owner. Building permits for construction on properties served by the private road shall not be issued until the final private road permit has been issued.

F. Maintenance, repair, and liability for private roads shall be the responsibility of property owners adjacent to the private road and not the responsibility or liability of the City. The developer or homeowners shall establish by appropriate deed provisions an association which shall be responsible for road maintenance and repair and which shall have the authority to apportion and collect the cost of maintenance and repair from benefitting property owners.

G. The construction of the roadway shall conform to Missaukee County Road Commission Street Standards and Specifications Procedures for Plat Development, as amended provided that a bituminous surface shall not be required.

4.15 SITE CONDOMINIUM SUBDIVISIONS

Pursuant to the authority of Section 141 of the Condominium Act, Public Act 59 of 1978, as amended, all site condominium subdivisions shall meet the following requirements and procedures:

A. All site condominium subdivisions shall require site plan approval by the Planning Commission in accordance with Chapter 17 of this Ordinance. In addition to the information required in Chapter 17 of this Ordinance, the following information shall also be included for site plan review:

1. A condominium subdivision plan as required in Section 66 of the Condominium Act.

2. All information as required in the City of McBain Subdivision Regulations, as amended.

3. Documented proof of review by the Missaukee County Road Commission, Drain Commissioner, Health Department, Michigan Department of Transportation, and the Michigan Department of Natural Resources.

B. All site condominium subdivisions shall meet the requirements of the zoning district in which it is located, including minimum lot size and minimum setbacks.

C. All site condominium subdivisions shall meet the subdivision design standards and subdivision improvement requirements of the City of McBain Subdivision Regulations, as amended.

D. The City of McBain clerk shall be furnished with a copy of the recorded master deed, as defined in Section 8 of the Condominium Act. The master deed must ensure that the City of McBain will not be responsible for maintenance or liability of the nondedicated portions of the subdivision, that all private roads will be properly maintained, that snow removal will be provided, and that there is adequate access and turnaround for emergency vehicles. Responsibility for the maintenance of storm water retention areas, drainage easements, drainage structures, lawn cutting, and other general maintenance of common areas must be clearly stated.

E. The zoning administrator shall be furnished with 2 copies of all "as-built" drawings for review by the City engineer for compliance with all City ordinances prior to the issuance of any building permits. Fees for this review shall be established by the City Council.

4.16 TEMPORARY STRUCTURES INCIDENTAL TO CONSTRUCTION WORK

Temporary accessory structures for uses incidental to construction work may be authorized by permit by the zoning administrator after issuance of a building permit for the proposed structure. The temporary permit shall specify the location of the temporary accessory structure and shall terminate 12 months after the date of its issuance. The zoning administrator may renew the permit for 1 additional 12-month period if construction of the principal structure has been progressing in a reasonable manner.

CHAPTER 5
NONCONFORMING USES, BUILDINGS OR STRUCTURES, AND LOTS

5.01 NONCONFORMING USES

Except where specifically provided to the contrary, and subject to the provisions of this chapter, the lawful use of any building or structure or of any land or premises which is existing and lawful on the effective date of this Ordinance or amendments thereto, may be continued although such use does not conform with the provisions of this Ordinance or any amendments thereto.

A. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.

B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.

C. Any nonconforming use may be extended throughout any parts of a building designed for such use at the time of adoption of amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.

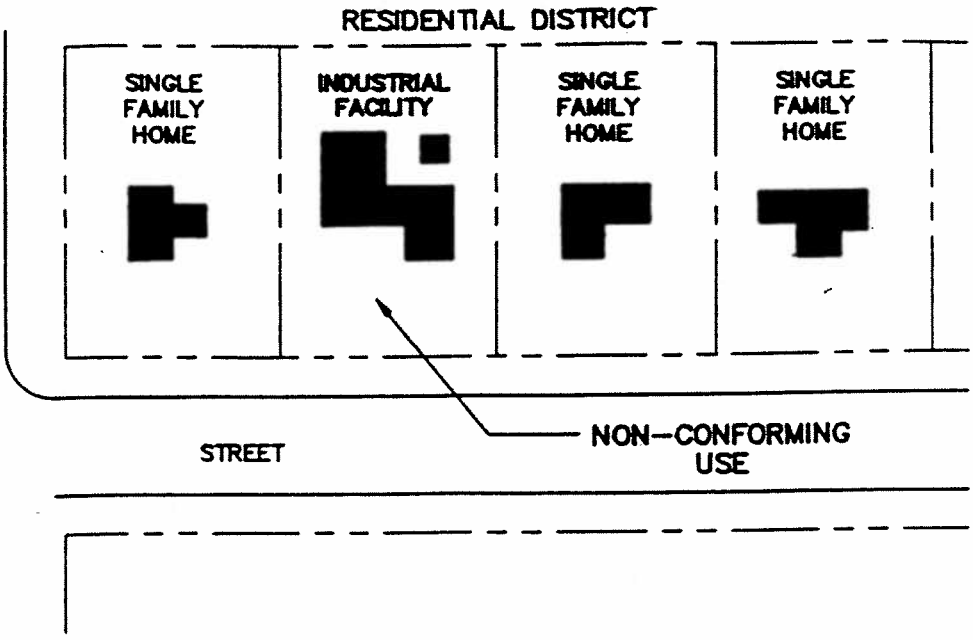
D. No existing structure devoted to a use not permitted in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered unless it is changed to a use permitted in the district in which it is located.

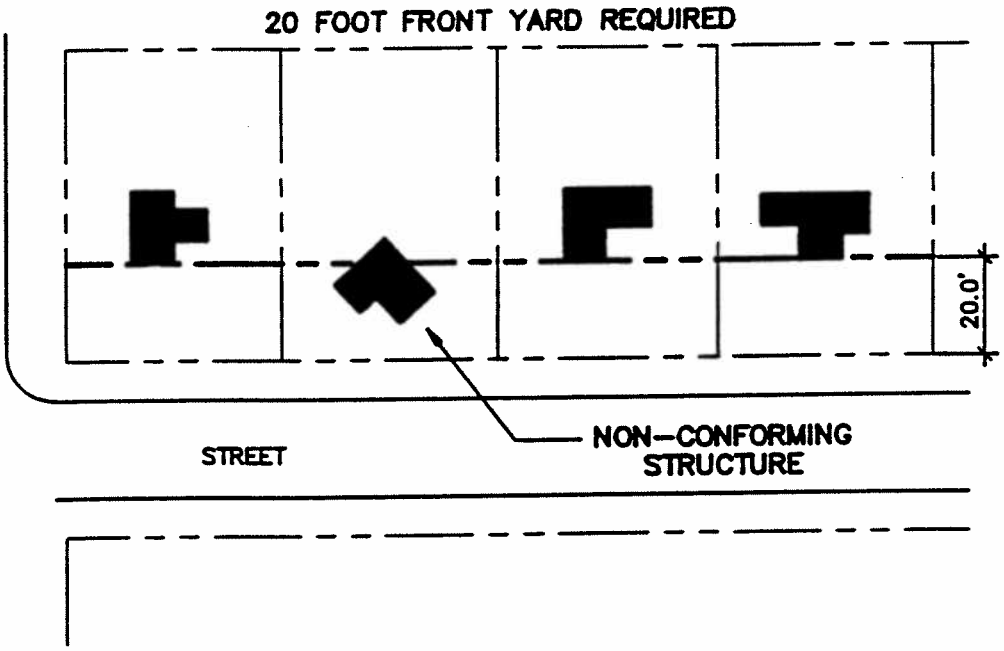
5.02 NONCONFORMING BUILDINGS OR STRUCTURES

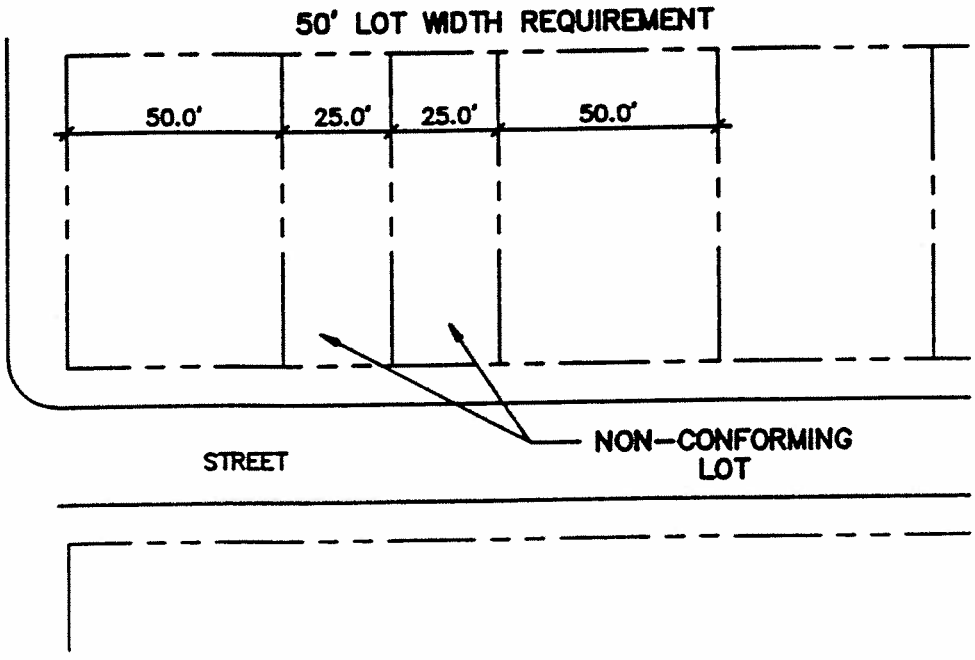
Except where specifically provided to the contrary and subject to the provisions of this chapter, a building or structure which is existing and lawful on the effective date of this Ordinance or amendments thereto, may be maintained and continued although such building or structure does not conform with the provisions of this Ordinance or any amendments thereto.

A. No such structure may be enlarged or altered in a way which increases its nonconformity. However, a structure may be enlarged beyond the required setback area provided that it is not placed closer to the property line than a distance measured between the existing structure and the property line. In no cases, shall an enlargement or alteration of non-conforming building or structure extend beyond a neighboring property line.

B. Should such structure be moved for any reason, it shall thereafter conform to the regulations for the district in which it is located after it is moved.


RESIDENTIAL DISTRICT
SINGLE FAMILY HOME
INDUSTRIAL FACILITY
SINGLE FAMILY HOME
SINGLE FAMILY HOME
NON-CONFORMING USE
STREET


20 FOOT FRONT YARD REQUIRED
20.0'
NON-CONFORMING STRUCTURE
STREET


50' LOT WIDTH REQUIREMENT
50.0'
25.0'
25.0'
50.0'
NON-CONFORMING LOT
STREET

5.03 NONCONFORMING LOTS

A. If a lot which is platted or otherwise of record as of the effective date of this Ordinance, does not comply with the area, depth or width requirements of its zoning district, then such lot may be used as authorized by the Planning Commission as a special land use pursuant to the general standards and procedures specified in Chapter 15. However, a lot to be used for a single- or two-family residential dwelling that is platted or otherwise of record as of the effective date of this Ordinance may be used without authorization from the Planning Commission as a special land use if the lot has a minimum lot area of 8,000 square feet and if there is compliance with all yard requirements for the zoning district in which the lot is located.

B. Where 2 or more noncomplying lots are adjacent to each other and in common ownership, such lots shall be combined so that the lot or lots created by this combination comply with the minimum requirements of this Ordinance.

5.04 CHANGE OF NONCONFORMING USE

A nonconforming use may be changed to another nonconforming use as a special land use if the Planning Commission finds that such new use would decrease the degree of nonconformance and would not adversely affect adjacent property owners of the City for reasons of health, safety, or general welfare. Whenever a nonconforming use is changed to a more conforming use, such use shall not thereafter revert to the prior nonconforming use.

5.05 DISCONTINUANCE

If a nonconforming use is discontinued for a period of 1 year or more, it may not thereafter be continued. No nonconforming use, if changed to a use permitted in the district in which it is located, shall be resumed or changed back to a nonconforming use.

5.06 RESTORATION AND REPAIR

A. Only repairs and maintenance work required to keep a nonconforming structure in sound condition may be made. Provided, however, that nonconforming structures may be enlarged, altered, and moved in accordance with Section 5.02.

B. A structure or use damaged by the elements, public enemy or other casualty may be rebuilt or restored to its size prior to such damage and its use resumed.

5.07 BUILDING OR STRUCTURE UNDER CONSTRUCTION

Any building or structure shall be considered existing and lawful and for purposes of Section 5.02 to have been in use for the purpose for which constructed if on the effective date of this Ordinance, a building permit has been obtained therefore, if an effort has been made toward construction and construction is completed within a 12-month period.

CHAPTER 6
ZONING DISTRICT REGULATIONS

6.01 ESTABLISHMENT OF ZONING DISTRICTS

The City of McBain is hereby divided into the following zoning districts:

"R-1" - Low Density Residential District.
"R-2" - Medium Density Residential District.
"R-3" - High Density Residential District.
"C-1" - General Commercial District.
"C-2" - Highway Commercial.
"I-1" - Industrial District.

6.02 AUTHORITY OF OFFICIAL ZONING MAP

The locations and boundaries of the zoning districts are hereby established as shown on a map, as the same may be amended from time to time, entitled "The Zoning Map of City of McBain, Missaukee County, Michigan," which accompanies and is hereby made a part of this Ordinance. Where uncertainty exists as to the boundaries of zoning districts as shown on the zoning map, the following rules of construction and interpretation shall apply:

A. Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines.

B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

C. Boundaries indicated as approximately following shorelines, lake, or stream beds shall be construed as following such shorelines, lake, or stream beds. In the event of change in the location of shorelines, lake, or stream beds, boundaries shall be construed as moving with the shoreline, lake, or stream bed.

D. Boundaries indicated as approximately following City boundaries shall be construed as following City boundaries.

E. Boundaries indicated as approximately following property lines, section lines, or other lines of a government survey shall be construed as following such property lines, section lines, or other lines of a government survey as they exist as of the effective date of this Ordinance or applicable amendments thereto.

6.03 IDENTIFICATION OF OFFICIAL ZONING MAP

The official zoning map shall be identified by the signature of the Mayor, attested by the City clerk, and bear the following words: "This is to certify that this is the official zoning map referred to in the City of McBain Zoning Ordinance of (date)," together with the effective date of this Ordinance.

6.04 CHANGES TO OFFICIAL ZONING MAP

If, in accordance with the procedure of this Ordinance and of Act 184 of the Public Acts of 1943 as amended, a change is made in a zoning district boundary, such change shall be entered on the official zoning map by the Mayor promptly after the amendment authorizing such change shall have been adopted and published, with an entry on the official zoning map as follows: "On (date) by official action of the City Council, the following change(s) were made in the official zoning map:" (brief description of change) which entry shall be signed by the Mayor and attested by the City clerk. No change in the official zoning map of any other nature shall be made unless authorized by the City Council and then only by the Mayor.

6.05 REPLACEMENT OF OFFICIAL ZONING MAP

In event that the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes made thereto, the City Council may, by ordinance, adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions on the prior official zoning map, but no such correction shall have the effect of amending the zoning ordinance or the prior official zoning map. The new official zoning map shall be identified by the signature of the Mayor, attested by the City clerk, and bear the following words: "This is to certify that this is the official zoning map referred to in the zoning ordinance of City of McBain, adopted on (date) which replaces and supersedes the official zoning map which was adopted on (date)."

6.06 SCHEDULE OF DISTRICT REGULATIONS

The use of land and principal buildings in all zoning districts in the City shall meet the area, depth, frontage, setback, and height regulations of the following table:

SECTION 6.06
SCHEDULE OF DISTRICT REGULATIONS

Zoning District	Minimum Lot Area (sq ft)[1]	Min. Lot Depth[1]	Min. Lot Width[1]	Min. Front Yard	Min. Side Yard	Min. Rear Yard	Maximum Height[2]
"R-1" Low-Density Residential	40,000	100'[3]	100'	25'	10'	20'	35'
"R-2" Medium-Density Residential							
One-Family Dwelling	10,000	100'[3]	66'	25'	10'	20'	35'
Two-Family Dwelling	15,000	100'[3]	80'	25'	15'	20'	35'
"R-3" High-Density Residential							
One-Family Dwelling	10,000	100'[3]	66'	25'	10'	20'	35'
Two-Family Dwelling	15,000	100'[3]	80'	25'	15'	20'	35'
Multifamily Dwelling	20,000[4]	100'[3]	100'	25'	30'	30'	35'
"C-1" General Commercial	5,000	---	50'	0'	0'[5]	10'	35'
"C-2" Highway Commercial	12,000	---	80'	25'	10'[6]	20'[6]	35'
"I-1" Industrial	40,000	---	100'	25'	20'[6]	20'[6]	35'

[1]A lot that is platted or otherwise of record as of the effective date of this Ordinance may be used as regulated in Section 5.03.

[2]Refer to Section 4.10 for exceptions to the height requirements.

[3]The depth of the lot shall not exceed 2-1/2 times the lot width as measured at the building setback.

[4]A minimum of 3,500 square feet shall be provided for each dwelling unit.

[5]If the building is not structurally attached to an adjacent building or is not located immediately upon the property line, a side yard setback of 10 feet shall be required.

[6]If the side or rear yard abuts a property zoned R-2 or R-3, a 30-foot side or rear yard is

CHAPTER 7
"R-1" LOW-DENSITY RESIDENTIAL DISTRICT

7.01 DESCRIPTION AND PURPOSE

This district is intended for low density single-family dwellings located in areas generally not suited for higher density development. The intent of this district is to encourage large lots and low intensity uses in areas not appropriate for development, while encouraging development to locate in more suitable areas of the City. The district is generally not intended for public sewer and water, so that large lot sizes are required to protect ground and surface waters. Agricultural activities are also allowed in this district.

7.02 PERMITTED LAND USES

The following uses of land and buildings are permitted by right:

A. Farms.

B. Family and group day-care centers.

C. Home occupations, as permitted in Section 4.11.

D. Signs, as permitted in Chapter 14.

E. Single-family dwellings.

7.03 SPECIAL LAND USES

The following uses of land and buildings may be permitted upon obtaining a special land use approval permit pursuant to Chapter 15:

A. Public or institutional uses.

B. State licensed residential facilities.

7.04 HEIGHT AND AREA REGULATIONS

The use of land and buildings within this district shall meet all regulations of Section 6.06.

7.05 PARKING REQUIREMENTS

All uses permitted in this district shall meet the off-street parking requirements of Chapter 13.

CHAPTER 8
"R-2" MEDIUM-DENSITY RESIDENTIAL DISTRICT

8.01 DESCRIPTION AND PURPOSE

This zoning district is intended for medium-density, single-family, and two-family dwellings serving the majority of the housing needs of the City. This district is intended for complete access to public services, such as sewers and water, sidewalks, roads, and street lighting.

8.02 PERMITTED LAND USES

The following uses of land and buildings are permitted by right:

A. Family and group day-care centers.

B. Home occupations, as permitted in Section 4.11.

C. Signs, as permitted in Chapter 14.

D. Single-family dwellings.

E. Two-family dwellings.

8.03 SPECIAL LAND USES

The following uses of land and buildings may be permitted upon obtaining a special land use permit pursuant to Chapter 15:

A. Planned unit developments.

B. Public or institutional uses.

C. State licensed residential facilities.

8.04 HEIGHT AND AREA REGULATIONS

The use of land and buildings in this district shall meet all regulations of Section 6.06.

8.05 PARKING REQUIREMENTS

All uses permitted in this district shall meet the off-street parking requirements of Chapter 13.

CHAPTER 9
"R-3" HIGH-DENSITY RESIDENTIAL DISTRICT

9.01 DESCRIPTION AND PURPOSE

This zoning district is intended for higher-density single, two, and multifamily residential dwellings and related uses. This district is located in close proximity to necessary goods and services and may serve as a transition area between nonresidential districts and lower-density residential districts. It is intended for complete public services such as public sewer and water.

9.02 PERMITTED LAND USES

The following uses of land and buildings are permitted by right in the "R" District:

A. Family and group day-care centers.

B. Home occupations, as permitted in Section 4.11.

C. Single-family dwellings.

D. Signs, as permitted in Chapter 14.

E. Two-family dwellings.

9.03 SPECIAL LAND USES

The following uses of land and buildings may be permitted upon obtaining a special land use permit pursuant to Chapter 15:

A. Mobile home parks.

B. Multifamily dwellings.

C. Planned unit developments.

D. Public or institutional uses.

E. State licensed residential facilities.

9.04 HEIGHT AND AREA REGULATIONS

The use of land and buildings in this district shall meet all regulations of Section 6.06.

9.05 PARKING REQUIREMENTS

All uses permitted in this district shall meet the off-street parking requirements of Chapter 13.

CHAPTER 10
"C-1" GENERAL COMMERCIAL DISTRICT

10.01 DESCRIPTION AND PURPOSE

This zoning district is intended for retail businesses or service establishments which supply commodities or perform services which meet the daily needs of the residents with a minimal impact on adjacent residential development. In order to promote a sound business environment, uses which could create hazards, offensive or loud noises, vibration, smoke, glare, or heavy truck traffic are not permitted. This district should serve as the major commercial retail and service area of the City. Appropriate setbacks and screening shall be provided for special uses abutting residential districts.

10.02 PERMITTED LAND USES

The following uses of land and buildings are permitted by right:

A. Generally recognized retail businesses whose principal activity is the sale or rental of merchandise in an enclosed building.

B. Personal service establishments which perform services on the premises, such as, but not limited to: Repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty parlors or barber shops, health clubs, photographic studios, self-service laundries, and dry cleaners.

C. Banks, credit unions, and savings and loan associations.

D. Child care centers.

E. Commercial recreation establishments provided all activities are located in a fully enclosed building.

F. Dental and medical clinics.

G. Funeral homes.

H. Motels.

I. Offices.

J. Restaurants or other places serving food or beverages.

K. Service stations including minor auto repairs. All tires, auto parts, and bodies must be removed or kept in an enclosed building.

L. Signs, as permitted in Chapter 14.

10.03 SPECIAL LAND USES

The following uses of land and buildings may be permitted upon obtaining a special land use permit pursuant to Chapter 15:

A. Car wash.

B. Commercial recreation (outdoor).

C. Oil change establishments.

D. Outdoor sales.

E. Public or institutional uses.

F. Wholesale sales.

10.04 HEIGHT AND AREA REGULATIONS

The use of land and buildings in this district shall meet all regulations of Section 6.06.

10.05 PARKING REQUIREMENTS

All uses permitted in this district shall meet the off-street parking requirements of Chapter 13, with the exception of the Downtown Parking Overlay District. The Downtown Parking Overlay District shall be defined as all parcels directly fronting upon Roland Street between Maple Street and Euclid Avenue. Due to the practical difficulty of obtaining off-street parking in the Downtown Parking Overlay District as a result of the existing non-conforming lots, and the level of existing development, no off-street parking shall be required.

10.06 SITE PLAN REVIEW

All proposed uses and structures shall be subject to the review and approval of a site plan in accordance with Chapter 17.

CHAPTER 11
"C-2" HIGHWAY COMMERCIAL DISTRICT

11.01 DESCRIPTION AND PURPOSE

This district is intended for larger scale and higher intensity commercial land uses that would not be appropriate in the downtown area of the City due to possible objectionable conditions. This district is also appropriate for uses serving the motoring public. Increased setbacks and screening are required to protect neighboring land uses from any objectionable conditions.

11.02 PERMITTED LAND USES

The following uses are permitted by right:

A. All uses permitted by right in the "C-1" District.

B. Automobile repair (major and minor).

C. Car washes.

D. Commercial recreation (indoor and outdoor).

E. Lumber yards.

F. Oil change establishments.

G. Outdoor sales.

H. Wholesale sales.

11.03 SPECIAL LAND USES

The following uses of land and buildings may be permitted upon obtaining a special land use permit pursuant to Chapter 15:

A. Public or institutional uses.

11.04 HEIGHT AND AREA REGULATIONS

The use of land and buildings in this district shall meet all regulations of Section 6.06.

11.05 PARKING REQUIREMENTS

All uses permitted in this district shall meet the off-street parking requirements of Chapter 13.

11.06 SITE PLAN REVIEW

All proposed uses and structures shall be subject to the review and approval of a site plan in accordance with Chapter 17.

CHAPTER 12
"I" INDUSTRIAL DISTRICT

12.01 DESCRIPTION AND PURPOSE

This zoning district is intended for general industrial activities, such as compounding, assembling or treatment of articles or materials, light manufacturing, processing of raw materials, and other similar industrial uses. Uses permitted shall be free from excessive danger of fire, explosions, toxic and noxious matter, radiation and other hazards, and from offensive noise, vibration, smoke, odor, and other objectionable influences. Residential and commercial uses are determined to be incompatible with the industrial character of this district and are therefore not permitted.

12.02 PERMITTED LAND USES

The following uses of land and buildings are permitted by right within the "I" District.

A. The manufacture, compounding, processing, packaging. or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceutical, toiletries, and food products, except the rendering or refining of fats and oils.

B. The manufacture, compounding, assembly or treatment of articles from the following previously prepared materials: Aluminum, bone, cellophane, canvas, cloth, cork, feathers, felt, fibers, fur, glass, hair, horn, leather, paint, paper, plastics, precious or semiprecious metals or stones, shell, rubber, tin, iron, steel, tobacco, wood, and yarn.

C. Auto body repair and paint shops.

D. Central dry cleaning and laundry plants.

E. Contractor yards.

F. Lumber yards.

G. Office uses accessory to other permitted uses.

H. Printing and publishing shops.

I. Research establishments and experimental laboratories.

J. Residential use limited to watchman, police, or security purposes.

K. Retail sales of food, beverages, and other convenience items to occupants and employees, provided such sales are not offered to the general public.

L. Signs, as permitted in Chapter 14.

M. Warehouses, storage, and trucking facilities.

N. Wholesale sales.

12.03 SPECIAL LAND USES

The following uses of land and buildings may be permitted upon obtaining a special land use permit pursuant to Chapter 15:

A. Public or institutional uses.

B. Salvage yards.

12.04 HEIGHT AND AREA REGULATIONS

The use of land and buildings in this district shall meet all regulations of Section 6.06.

12.05 SCREENING PROVISIONS

A fence, wall, or planted material as approved by the Planning Commission shall be provided along all side and rear yards abutting a property line in any residential district.

12.06 PARKING REQUIREMENTS

All uses permitted in this district shall meet the off-street parking requirements of Chapter 13.

12.07 SITE PLAN REVIEW

All proposed uses and structures shall be subject to the review and approval of a site plan in accordance with Chapter 17.

12.08 ADDITIONAL REGULATIONS

A. All uses shall be conducted within a completely enclosed building or within an area enclosed on all sides by a fence or wall at least 6 feet in height. No outdoor storage or processing shall be located in the required front-yard setback.

B. There shall be no emission of any smoke, atomic radiation, fumes, gas, dust, odors, or any other atmospheric pollutant which will disseminate beyond the boundaries of the lot in such a manner as to create a public nuisance.

C. The discharge of industrial waste into a body of water or onto the ground is prohibited.

D. There shall be no vibration which is discernable to the human senses beyond the property line of the site on which such use is conducted.

E. There shall be no noise emanating from the operation which will be more audible beyond the boundaries of the site than the volume of traffic noise on the nearest adjacent street.

F. There shall be no direct or sky-reflected glare exceeding 1-1/2 footcandles or which would be damaging to the human eye measured at the property line of the lot occupied by such use. This regulation shall not apply to lights used at the entrance or exit or service drives leading to a parking lot. Exterior lighting sources shall be directed away from any neighboring residential district.

CHAPTER 13
PARKING AND LOADING REQUIREMENTS

13.01 SCOPE

In all zoning districts, with the exception of the C-1 District off street parking and loading facilities for the parking of vehicles for the use of occupants, employees, and patrons of the buildings hereafter erected, altered or extended after the effective date of this Ordinance, shall be provided as herein prescribed.

13.02 MEASUREMENT UNITS

For the purpose of determining the off-street parking and loading facilities required as accessory to a use, definitions and standards are established as follows:

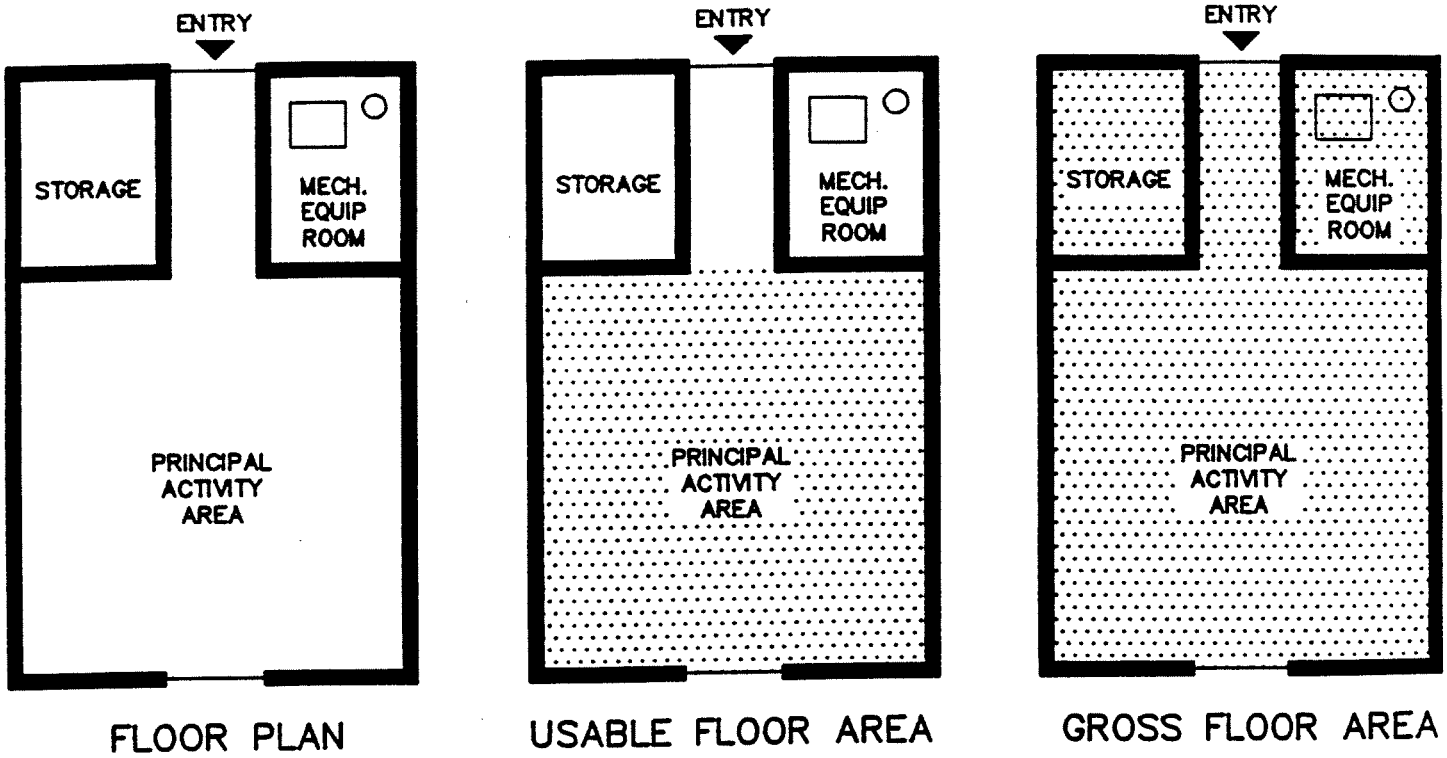
A. Off-street parking area shall mean an open or enclosed area directly accessible from a public or private street for parking of automobiles of owners, occupants, employees, customers, or tenants of the main use. Each space shall be directly accessible from a drive or aisle.

B. Usable floor area shall mean the total area of all the floors of the building used by the principal activities measured from the exterior faces of the building. The areas used for storage, mechanical equipment, stairwells, or otherwise not occupied by people shall be excluded from the usable floor area calculation.

C. Gross floor area shall mean the total floor area used for the main and accessory activities and storage areas of the building served.

13.03 SCHEDULE OF PARKING REQUIREMENTS

The zoning administrator shall determine the minimum number of spaces required for accessory off-street parking by applying the Schedule of Parking Requirements and any other applicable provisions of this Ordinance. Where the computation results in a fractional space, it shall be counted as 1 additional space required. The Planning Commission may vary the parking requirements of this section where it finds that due to the nature of the particular use, said requirements will not be adequate to provide sufficient parking or where the strict application of the requirements will result in an excess amount of parking related to the particular use.


ENTRY
STORAGE
MECH. EQUIP ROOM
PRINCIPAL ACTIVITY AREA
FLOOR PLAN
ENTRY
STORAGE
MECH. EQUIP ROOM
PRINCIPAL ACTIVITY AREA
USABLE FLOOR AREA
ENTRY
STORAGE
MECH. EQUIP ROOM
PRINCIPAL ACTIVITY AREA
GROSS FLOOR AREA

FLOOR AREA

SCHEDULE OF PARKING REQUIREMENTS

USE	MINIMUM PARKING SPACES REQUIRED
(1) Single-family, two-family, and multifamily dwellings	2 for each dwelling unit
(2) Professional offices and buildings	1 for each 200 square feet of usable floor area
(3) Restaurants	1 for each 2 seats plus 1 for each employee
(4) Motels	1 for each sleeping room
(5) Car wash, oil change	3 for each stall plus 1 for each employee
(6) Beauty parlor or barber shop	3 for each 2 chairs
(7) Service station	2 for each stall plus 1 for each gasoline pump
(8) Retail stores, supermarkets, department stores, personal service shops	1 for each 150 square feet of usable floor area plus 1 for each employee
(9) Manufacturing, processing, or fabricating	1 for each employee
(10) Warehousing and storage buildings	1 for each employee or 1 for each 1,700 square feet of gross floor area, whichever is greater

13.04 USES NOT SPECIFICALLY MENTIONED

In the case of uses not specifically mentioned, those provisions for off-street parking facilities for a use which is mentioned and to which said use is similar in terms of parking demand shall apply as determined by the Planning Commission.

13.05 JOINT USE OF FACILITIES

Provision of common parking areas for several uses in the same vicinity is encouraged. In such cases, the total space requirements is the sum of the maximum individual requirements. In cases where the hours of operation are significantly different between two or more uses, a reduction in the total space requirements may be permitted by the Planning Commission.

13.06 SIZE OF PARKING SPACE

Each off-street parking space shall have an area of not less than 180 square feet (exclusive of access drives or aisles) and shall be a minimum of 10 feet in width.

13.07 REQUIREMENTS OF PARKING AREAS

Every parking area containing 6 or more spaces shall require site plan review in accordance with Section 17 and be developed and maintained in accordance with the following requirements:

A. The parking area and its driveway shall be:

1. Designed to provide adequate drainage.

2. Surfaced with concrete or asphalt pavement or gravel.

3. Maintained in good condition, free of dust, trash, and debris.

B. The parking area shall be provided with entrances and exits so located as to minimize traffic congestion.

C. Lighting facilities shall be so arranged as to reflect the light away from adjoining properties.

D. No part of any parking area shall be closer than 10 feet to the street right-of-way or closer than 5 feet to a lot line in any residential district.

13.08 OFF-STREET LOADING SPACES

A. For every building or addition to an existing building requiring the receipt or distribution in vehicles of materials or merchandise, there shall be provided and maintained on the same lot an area adequate for maneuvering and ingress and egress for delivery vehicles and off-street loading spaces as follows:

1. Up to 20,000 square feet of gross floor area - 1 space.

2. From 20,000 to 50,000 square feet of gross floor area - 2 spaces.

3. 1 additional space for each additional 50,000 square feet of gross floor area or fraction thereof.

B. Each such loading space shall be at least 10 feet in width, 35 feet in length and 14 feet in height. No such space shall be located within the front setback area or closer than 20 feet to a lot line in any residential district.

CHAPTER 14
SIGNS AND BILLBOARDS

14.01 GENERAL SIGN AND BILLBOARD REGULATIONS

A. No sign or billboard shall be erected at any location whereby reason of position, size, shape, color, movement or illumination, said sign may interfere with or obstruct the view of or be confused with any authorized traffic sign, signal or device so as to interfere with, mislead or confuse traffic. Consideration of traffic visibility and injurious effect on adjacent properties is essential.

B. No sign or billboard shall be erected at any location whereby such structure partially or wholly obstructs adjoining commercial or industrial properties from enjoying equal opportunity for advertising.

C. No sign or billboard shall be placed within 10 feet of the road right-of-way or any adjacent property lines.

D. No sign or billboard shall exceed a height of 35 feet above ground level.

14.02 PERMITTED SIGNS IN ALL DISTRICTS

In all districts in the City, the following signs shall be permitted:

A. Real estate signs.

B. Name plates.

C. Signs advertising a recorded subdivision or development.

D. Identifying signs.

E. Political signs.

14.03 PERMITTED SIGNS IN COMMERCIAL DISTRICTS

The following signs are permitted in any commercial District.

A. Business signs on or affixed flat against the wall of the building.

B. One freestanding business sign, provided such sign does not exceed 80 square feet in area.

C. One roof sign, provided such sign does not exceed 40 square feet in area.

14.04 PERMITTED SIGNS IN INDUSTRIAL DISTRICTS

The following signs are permitted in the industrial District:

A. Business signs on or affixed flat against the wall of the building. The total aggregate amount of signs shall be 1 square foot for each front foot of property or 3 square feet for each front foot of building, whichever is greater.

B. No sign shall extend above the roof line of the building.

C. No sign shall be lighted by means of flashing or intermittent illumination.

14.05 BILLBOARDS

A. Billboards shall only be permitted in commercial districts and shall not be located within 100 feet of any residential district.

B. Billboards shall not exceed 300 square feet in area and shall be spaced a minimum of 500 feet measured on either side of the street.

CHAPTER 15
SPECIAL LAND USES

15.01 PURPOSE

Special land uses are those uses of land which are not essentially incompatible with the uses permitted in a zoning district, but possess characteristics or locational qualities which require individual review and discretion in order to avoid incompatibility with the character of the surrounding area, public services and facilities and adjacent uses of land. The purpose of this chapter is to establish equitable procedures and criteria which shall be met before the following special land uses are permitted.

A. Car wash.

B. Commercial recreation (outdoor).

C. Mobile home parks.

D. Multifamily dwellings

E. Oil change establishments.

F. Outdoor sales.

G. Planned unit developments.

H. Public or institutional uses.

I. Salvage yards.

J. State licensed residential facilities.

K. Wholesale sales.

15.02 APPLICATION PROCEDURES

An application for a special land use shall be submitted and acted upon in accordance with the following procedures:

A. Applications for a special land use shall be submitted through the zoning administrator to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the City Council to cover the costs of processing the application. No part of this fee shall be refundable.

B. An application for a special land use shall be accompanied by the following documents and information:

   1. A special land use application form submitted to the zoning administrator which has been completed in full by the applicant.

   2. A site plan as required in Chapter 17.

C. Upon receipt of an application for a special land use, the Planning Commission shall publish notice of a public hearing for a special land use in a newspaper which circulates in the City and in addition, said notice shall be sent by mail or personal delivery to the owners of the property for which approval is being considered, to all persons to whom real property is assessed and to the occupants of all structures with 1 through 4 units within 300 feet of the boundary of the property in question. Notice shall also be given to the owner or manager of all structures with 5 or more dwelling units within 300 feet of the property in question who shall be requested to post the notice at the primary entrance to the structure. The notice shall be given not less than 5 nor more than 15 days before the application will be considered. The notice shall:

1. Describe the nature of the special land use request.

2. Indicate the property which is subject to the special land use request.

3. State when and where the special land use request will be considered.

4. Indicate when and where written comments will be received concerning the request.

D. The Planning Commission shall hold a public hearing to receive public comment on the request. The Planning Commission, based upon its review of the application for a special land use, comments received at the public hearing and other material submitted in relation to the request, shall make a determination on the special land use application. Such determination shall be in accordance with the criteria for approval stated in Section 15.03 and such other standards contained in this Ordinance which relate to the special land use under consideration.

E. The decision of the Planning Commission on a special land use shall be incorporated in a statement which sets forth the findings, determinations and conclusion relative to the special land use under consideration. Said statement shall specify the basis for the decision of the Planning Commission and any conditions imposed.

15.03 BASIS OF DETERMINATION

Prior to the approval of a special land use application, the Planning Commission shall ensure that the standards specified in this section, as well as applicable standards established elsewhere in this Ordinance, shall be satisfied by the completion and operation of the special land use under consideration.

A. The Planning Commission shall review the particular circumstances of the special land use request under consideration in terms of the following general standards, and shall approve a special land use only upon finding, by a preponderance of the evidence, of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance:

1. The special land use shall be designed, constructed, operated, and maintained in a manner harmonious with the character of adjacent property.

2. The special land use shall not impair the essential character of the surrounding area.

3. The special land use shall not be hazardous to the adjacent property or involve uses, activities, materials, or equipment which will be detrimental to the general health, safety and welfare.

4. The special land use shall not place demands on public services and facilities in excess of current capacities.

5. The special land use is in general agreement with the City's master plan.

B. The Planning Commission may impose conditions with the approval of a special land use which are necessary to ensure compliance with the standards for approval stated in this section or any other applicable standards contained in this Ordinance. Such conditions shall be considered an intricate part of the special land use permit and shall be enforced by the zoning administrator.

15.04 APPEAL

The Planning Commission's decisions on the special land use application may not be appealed to the Zoning Board of Appeals.

15.05 SURETY

The Planning Commission may require reasonable surety arrangement to be posted by the applicant at appropriate stages of development to ensure that the development will be executed in accordance with the approved permit.

15.06 DESIGN STANDARDS

All special land uses shall be subject to the requirements of the district in which they are located in addition to the following design standards:

A. Car Wash:

1. All structures shall be setback a minimum of 30 feet from any lot line in a residential district.

2. The Planning Commission may require a fence, wall, or planted material to screen the use from adjacent residential districts.

B. Commercial Recreation (Outdoor):

1. All activities shall be setback a minimum of 50 feet from any lot line in a residential district.

2. The Planning Commission may require a fence, wall, or planted material to screen the use from adjacent residential districts.

C. Mobile Home Parks:

1. All mobile home parks shall conform to the standards specified in Act 96 of the Public Acts of 1987 as amended, the Mobile Home Commission Rules, March 1987 as amended and the Department of Public Health, Bureau of Environmental and Occupational Health, Mobile Home Parks and Seasonal Mobile Home Parks Health Standards, May 26, 1984 as amended.

2. All mobile homes shall be skirted within 90 days of placement within the mobile home park and must meet the standards of Act 96 of the Public Acts of 1987, as amended.

3. All mobile homes shall be anchored when installed in a mobile home park with only those systems which are approved by Act 96 of the Public Acts of 1987, as amended.

4. Mobile homes, permanent buildings and facilities, and other structures shall not be located closer than 20 feet from the property boundary line. If said structures abut a public right-of-way, they shall not be located closer than 50 feet from the boundary line, except that if the boundary line runs through the center of the public road, the 50 feet shall be measured from the road right-of-way.

5. Mobile home parks shall be screened from view as follows:

   a) If the mobile home park abuts an existing residential development, the park shall be required to provide screening along the park boundary abutting the residential development.

   b) If the park abuts a nonresidential development, the park need not provide screening.

   c) In all cases, however, a park shall provide screening along the park boundary abutting a public right-of-way.

6. The screening shall consist of evergreen trees or shrubs of a minimum 5 feet in height that are spaced so they provide a continuous screen upon maturity. Alternative screening devices may be utilized if they conceal the mobile home park as effectively as the required landscaping described above.

7. The sales of new or used mobile homes are only permitted within the mobile home park on sites approved for permanent occupancy and accessory to the use of the park for dwelling purposes.

8. All public and private utilities shall be stored underground.

9. A preliminary plan shall be submitted to the City for preliminary approval. The preliminary plan shall include the location, layout, general design, and a general description of the project.

D. Multifamily dwellings:

1. All structures shall be setback a minimum of 50 feet from any property line in an "R-1" or "R-2" District.

2. The Planning Commission may require a fence, wall, or planted material to screen the multifamily dwellings from adjacent residential districts.

E. Oil Change Establishments:

1. All structures shall be setback a minimum of 30 feet from any lot line in a residential district.

2. The Planning Commission may require a fence, wall, or planted material to screen the use from adjacent residential districts.

F. Outdoor Sales:

1. No merchandise shall be located in the road right-of-way or within 5 feet of any adjacent lot line.

2. All structures shall be setback a minimum of 30 feet from any lot line in a residential district.

3. The Planning Commission may require a fence, wall, or planted material to screen the use from adjacent residential districts.

G. Planned Unit Developments (PUDs):

See Chapter 16 for planned unit development standards.

H. Public or Institutional Uses:

1. Such use shall be in conformance with the character of the adjacent neighborhood and shall be essential to service the neighborhood or community.

2. The Planning Commission shall establish requirements for setback, lot size, side yard, parking, screening, and other conditions necessary for the use to conform with the character of the adjacent neighborhood and to protect adjacent property owners.

I. Salvage Yards:

1. Minimum lot size shall be 3 acres.

2. All salvage materials must be screened from outside view by a solid 7-foot-high fence.

3. All uses shall be established and maintained in accordance with all applicable state and county laws.

4. All storage areas shall be set back at least 75 feet from any street right-of-way or property line and 500 feet from any

residential district. Such setbacks shall be landscaped to minimize the appearance and impact of the operation. The spacing and type of plant materials shall be approved by the Planning Commission.

5. No open burning shall be permitted.

6. All industrial processes involving the use of equipment for cutting, compressing, or packaging shall be conducted within a completely enclosed building.

7. All regulations cited in Section 12.08 shall be met.

J. State Licensed Residential Facilities:

1. Such use shall be in conformance with the character of the adjacent neighborhood.

2. The Planning Commission shall establish requirements for setback, lot size, side yard, parking, screening and other conditions necessary for the use to conform with the character of the adjacent neighborhood and to protect adjacent properties.

K. Wholesale Sales:

1. All structures shall be setback a minimum of 30 feet from any residential district.

2. The Planning Commission may require a fence, wall, or planted material to screen the use from adjacent residential districts.

CHAPTER 16
PLANNED UNIT DEVELOPMENTS (PUDs)

16.01 PURPOSE

A. The Planned Unit Development is a method by which creative large scale development of land is encouraged in appropriate locations. The PUD is a device which makes use of varying lot sizes and integrates different building structures. Typically, structures in these developments are clustered in such a manner as to achieve the same overall density that would be achieved if the developer had laid out the development in the conventional grid zoning pattern while preserving important natural features, open space, and recreational opportunities.

B. The general objectives of a PUD are as follows:

1. To provide more desirable living and shopping environments by preserving the natural character of open fields, stands of trees, wetland and surface water features, floodplains, hills, and similar natural assets.

2. To encourage the provision of open space and the development of recreational facilities and neighborhood commercial facilities in a generally central location within reasonable distance of all living units.

3. To encourage developers to use a more creative and imaginative approach in the development of land.

4. To promote more efficient and aesthetic use of land.

16.02 APPLICATION PROCESS

A. Applications for a PUD shall follow the same procedures for a special land use permit as described in Chapter 15.

B. In formulating its decision, the Planning Commission shall consider the following:

1. General standards for special land uses as stated in Section 15.03.

2. General objectives of a PUD as stated in Section 16.01.

3. The description and purpose of the district in which the proposed PUD is located.

C. Final approval or disapproval of the site plan shall be made by the Planning Commission. The Planning Commission shall prepare a report stating its conclusions on the request for a Planned Unit Development, the basis for its decision to approve or disapprove the request, the decision and the conditions relating to that approval. A copy of the report and the approved final site plan, shall be forwarded to the City clerk.

16.03 PERMITTED USES

A. Permitted uses for a PUD in the "R-2" or "R-3" District are all uses allowed by right or by special land use in their respective districts.

B. In PUDs with a minimum size of 20 acres, not more than 10 percent of the land area may be used for commercial retail and service uses primarily serving the residents of the PUD and adjacent areas. Such commercial uses shall be encouraged to locate at major intersections, rather than on local residential streets. The Planning Commission may require appropriate screening between commercial and residential uses.

16.04 REQUIRED CONDITIONS

The following minimum conditions and requirements shall be complied with and shown on all site plans:

A. The density of the PUD shall not exceed the density of the district in which the proposed PUD is located except that the Planning Commission may authorize a density increase of up to 20 percent where evidence is documented which shows no adverse effect on public services and facilities, on adjacent properties, the natural environment or City plans, provided that an equal amount of land is preserved as usable open space. In determining the gross site area of the proposed development, wetlands or lands within the floodplain shall not be included.

B. The front, side and rear yard requirements of the District in which the PUD is located shall serve as the building space standards for all PUD's although the Planning Commission has the discretion of altering these standards where necessary.

C. Off street parking and signs shall meet the provisions of Chapter 13 and Chapter 14.

D. PUD's shall be designed to enhance environmental features such as the preservation of trees, flood plains, natural areas and shall promote proper site landscaping.

E. Private roads shall meet the procedures and requirements of Section 4.14.

F. To ensure the PUD is compatible with adjacent land uses, a buffer zone may be required surrounding the development. This buffer zone shall be left to the discretion of the Planning Commission to ensure uniformity with adjacent districts.

CHAPTER 17
SITE PLAN REVIEW

17.01 PURPOSE

It is the purpose of this chapter to require site plan approval for buildings, structures and uses that can be expected to have a significant impact on natural resources, traffic patterns, adjacent parcels and land uses, and on the character of future development. It is further the purpose of this chapter to achieve safe and convenient traffic movement; harmonious relationships of buildings, structures and uses; and the conservation of natural features and resources.

17.02 USES REQUIRING SITE PLAN APPROVAL

The following buildings, structures and uses require site plan approval by the Planning Commission.

A. Commercial uses.

B. Industrial uses.

C. Parking areas containing 6 or more parking spaces.

D. Site condominium subdivisions.

E. Special land uses.

17.03 SITE PLAN REQUIREMENTS

Each site plan submitted shall contain the following information, unless specifically waived by the Planning Commission, in whole or in part;

A. The date, north arrow, and scale. The scale shall be not less than 1 inch = 20 feet for property under 3 acres and at least 1 inch = 100 feet for those 3 acres or more.

B. All lot and/or property lines are to be shown and dimensioned, including building setback lines on corner lots.

C. The location and height of all existing and proposed structures on and within 100 feet of the subject property's boundary.

D. The location and dimensions of all existing and proposed drives, sidewalks, curb openings, signs, exterior lighting, curbing, parking areas (show dimensions of a typical parking space), unloading areas, recreation areas, common use areas, and areas to be conveyed for public use and purpose.

E. The location and pavement width and right-of-way width of all abutting roads, streets, alleys, or easements.

F. The name and address of the individual or firm responsible for the preparation of the site plan.

G. The name and address of the property owner or petitioner.

H. A locational sketch drawn to scale.

I. The respective zoning abutting the subject property.

J. The location, height and types of fences, walls, and landscaping.

K. All existing and proposed utilities, including proposed connections to public sewer or water systems.

L. All existing and proposed surface water drainage facilities.

M. For multiple family developments and parking areas with 6 or more spaces, contour intervals shall be shown (2 foot intervals for average slopes 10 percent and under, 5 foot intervals for slopes over 10 percent). Topography, however, may be required on all site plans at the discretion of the Planning Commission.

17.04 REVIEW PROCEDURE

The proposed site plan shall be submitted in 5 copies to the zoning administrator who shall keep 1 copy of the proposed site plan and deliver 4 copies of the proposed site plan to the secretary of the Planning Commission. The Planning Commission shall study the site plan and shall within 60 days of its submittal to the zoning administrator either approve or disapprove the proposed site plan. If the site plan is disapproved, the reasons for the disapproval shall be stated. Upon approval of a site plan, at least 2 copies of the site plan as finally approved shall be signed and dated by the secretary of the Planning Commission. One copy of the signed site plan shall be kept on file with the zoning administrator and the other returned to the applicant.

17.05 STANDARDS FOR SITE PLAN REVIEW

In reviewing a site plan, the Planning Commission shall determine whether the applicant has established that the site plan is consistent with this Ordinance and in accordance with the adopted plan of the City and more specifically:

A. That the movement of vehicular and pedestrian traffic within the site and in relation to access streets will be safe and convenient.

B. That the site plan is harmonious with, and not injurious or objectionable to, existing and projected uses in the immediate area.

C. That the site plan shows the use will be adequately served by necessary improvements including, but not limited to, sewage collection and treatment, potable water supply, storm drainage, lighting, roads, and parking. The peak rate of storm water runoff from the site shall not increase as a result of the proposed development.

D. That the site plan is adequate to provide for the health, safety, and general welfare of the persons and property on the site and in the neighboring community.

17.06 REGULATIONS

The following regulations shall apply to all land uses, with the exception of mobile home parks that are regulated pursuant to Act 96 of the Public Acts of 1987.

A. The secretary of the Planning Commission shall not sign the approved site plan until the applicant has submitted 3 copies of all permits which may be required by the county or the state for the construction of the use such as, but not limited to, permits for on-site wastewater disposal, and permits required under the Soil Erosion and Sedimentation Act, Act 347 of the P.A. of 1972, the Inland Lakes and Streams Act, Act 346 of the P.A. of 1972, and the Wetland Protection Act, Act 203 of the P.A. of 1979.

B. No grading, removal of trees or other vegetation, land filling, or construction of improvements shall commence for any development which requires a site plan approval until an approved site plan has been signed by the Secretary of the Planning Commission.

C. The zoning administrator shall not issue a zoning permit for any use requiring site plan approval until an approved site plan has been signed by the secretary of the Planning Commission.

D. The building inspector shall not issue a building permit for any use requiring site plan approval until an approved site plan has been signed by the secretary of the Planning Commission.

CHAPTER 18
ADMINISTRATION AND ENFORCEMENT

18.01 ZONING ADMINISTRATOR

A. The provisions of this Ordinance shall be administered and enforced by the zoning administrator.

B. The zoning administrator shall be appointed by the City Council for such term and subject to such conditions and at such rate of compensation as the City Council shall determine.

18.02 ZONING PERMITS

A. No building, structure or dwelling unit shall be erected, moved, placed, reconstructed, extended, enlarged or altered and no land shall be used, unless an application for a zoning permit shall be made in writing and upon printed forms furnished by the City. A zoning permit issued by the zoning administrator is nontransferable and must be obtained before any work, excavations, erection, alteration or movement is commenced. Satisfactory evidence of ownership of the lot or premises may be required by the zoning administrator and shall be furnished upon request.

B. If the application is approved, the zoning administrator shall so mark both copies of the application over his signature and file 1 copy with the City clerk and return the other copy to the applicant.

18.03 CONTENTS OF APPLICATION

A. Each application for a zoning permit shall include such reasonable information as may be requested by the zoning administrator in order to determine compliance with the terms and provisions of this Ordinance and shall include the following information:

1. The location and actual dimension of the lot or premises to which the permit is to apply.

2. The width of all abutting streets.

3. The area, size, and location of all buildings or structures to which the permit is to apply.

4. The type of use to be made of the building, structure, or land to which the permit is to apply.

5. The use of buildings, structures, or land on adjoining properties.

6. The estimated cost of the building or structure.

B. The zoning administrator may waive the inclusion of any of the foregoing information in an application if it is determined that such information is not reasonably necessary to determine compliance with the terms and provisions of this Ordinance.

18.04 ACCESSORY BUILDINGS OR STRUCTURES

Accessory buildings or structures, when erected, moved, placed, reconstructed, extended, enlarged, or altered, at the same time as the principal building on the same lot or premises and when shown on the application for the zoning permit for the principal building, shall not require the issuance of a separate zoning permit. A separate zoning permit shall be required if any accessory building or structure is erected, moved, placed, reconstructed, extended, enlarged or altered separately or at a different time than the principal building on the same lot or premises, provided, it is 101 square feet or larger.

18.05 PERMIT PROCESS

A. When the terms and provisions of this Ordinance require authorization by the Planning Commission by special land use permit and such authorization is given, then both copies of the zoning permit shall be marked approved by the secretary of the Planning Commission in addition to being marked as provided above by the zoning administrator.

B. Within 10 days after the receipt of any application, the zoning administrator shall either (1) issue a permit if the proposed work is in conformance with the terms and provisions of this Ordinance; or (2) deny issuance of a permit and state the reason(s) or cause(s) for such denial in writing. In each case, the permit or the written reason(s) or cause(s) for denial shall be transmitted to the owner or his agent.

C. A permit for any building or structure for which all construction work has not been completed within 1 year from the date of issuance shall expire automatically. A permit expiring automatically pursuant to this subsection shall, upon reapplication, be renewable for additional terms of 1 year on payment of an additional fee equal to one-half of the original permit fee.

D. The zoning administrator shall have the power to revoke and cancel any permit in the event of failure or neglect to comply with all of the terms and provisions of this Ordinance or in the event of any false permit. Notice of such cancellation and revocation shall be securely posted on the construction, such posting to be considered as service upon and notice to the permit holder of the cancellation and revocation of the permit.

18.06 CERTIFICATION OF COMPLIANCE

No building or structure which is erected, moved, placed, reconstructed, extended, enlarged, or altered shall be used in whole or in part until the owner thereof shall have been issued a certificate of compliance by the zoning administrator affirming that such building or structure conforms in all respects to the provisions of this Ordinance. Such certification shall be issued after the work is complete and final inspection has been made.

18.07 FEES

The City Council shall establish a schedule of fees for administering this Ordinance. The schedule of fees shall be posted on public display in the City office and the office of the zoning administrator and may be changed only by the City Council. No permit or certificate shall be issued unless such fees have been paid in full.

18.08 ENFORCEMENT

The City Council, Planning Commission, Board of Appeals, Zoning Administrator, the duly authorized attorney for the City, the prosecuting attorney for Missaukee County, or any owners or occupants of any real estate within the City may institute appearance tickets, injunction, mandamus, abatement, or any other appropriate action or proceedings to prevent, enjoin, abate, or remove any violation of this Ordinance. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law.

18.09 PENALTIES

A. Any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained or used, or any use of a lot or land which is begun, maintained, or changed in violation of any term or provision of this Ordinance, is hereby declared to be a nuisance per se.

B. Any person who violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement or any term or provision of this Ordinance or any amendment thereof shall be guilty of a misdemeanor and upon conviction shall be fined not more than $500 or shall be imprisoned for not more than 90 days or both such fine and imprisonment in the discretion of the court. Each and every day during which any violation continues shall be deemed a separate offense. The duly authorized attorney for the City is empowered to prosecute such violations.

CHAPTER 19
ZONING BOARD OF APPEALS

19.01 CREATION

A. The legislative body may act as a Board of Appeals upon all questions arising under this zoning ordinance, and in such event the legislative body may fix rules and regulations to govern its procedure sitting as a Board of Appeals.

B. In the event that the legislative body so desires, it may appoint a Board of Appeals consisting of not less than 5 members, each to be appointed for a term of 3 years. Appointments for the first year shall be for a period of 1, 2, and 3 years, respectively, so as to provide for the appointment of an equal number each year, depending on the number of members. Each member thereafter shall hold office for the full 3 year term.

19.02 MEETINGS

Meetings of the Board of Appeals shall be held at the call of the chair and at such other times as the board in its rules of procedure may specify. The chair, or in his/her absence the acting chair, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Appeals shall be open to the public. The board shall maintain a record of its proceedings which shall be filed in the office of the City clerk and shall be a public record.

19.03 JURISDICTION AND POWERS

The Board of Appeals shall have all powers and jurisdiction granted by the City or Village Zoning Act, Act 207 of 1921. The Board of Appeals shall have the following major responsibilities, as described in more detail below.

A. Interpretations

B. Appeals

C. Variances

19.04 DECISIONS

The concurring vote of a majority of the members of the Board of Appeals shall be necessary to make an interpretation, to reverse an order, requirement, decision, or determination of the administrative official or body, or decide in favor of the applicant any matter upon which they are required to pass under or to effect variation in this Ordinance.

19.05 INTERPRETATION

The Board of Appeals, when requested by an administrative official, Planning Commission, city, county, or individual, shall make an interpretation of the zoning ordinance wording and the zoning ordinance map. Such interpretation shall be made a part of the record and shall be forwarded to the zoning administrator, City clerk, building inspector, Planning Commission, and the party seeking the interpretation.

19.06 APPEALS

A. The Board of Appeals shall hear and decide appeals from and review any order, requirements, decision, or determination made by an administrative official or body charged with the administration or enforcement of this Ordinance.

B. The Board of Appeals shall fix a reasonable time for hearing the appeal, give due notice as required in Section 19.08 and decide the appeal within a reasonable time.

C. At the hearing, a party may appear in person or by agent or by attorney.

D. The Board of Appeals may reverse or affirm, wholly or partly or may modify the order, requirement, decision, or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer or body from whom the appeal was taken and may issue or direct the issuance of a permit.

19.07 VARIANCES

A. The board, after public hearing with notice given as required in Section 19.08, shall have the power to decide applications for variances as follows:

1. Where the literal enforcement of this Ordinance would involve practical difficulties or would cause undue hardship by reason of the exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographical conditions or other extraordinary situation of the premises or of the use of the premises immediately adjoining the premises in question.

2. Where there is practical difficulty or unnecessary hardship in meeting the strict letter of the Ordinance so that the spirit of the Ordinance may be observed, public safety secured and substantial justice done.

3. Where the condition or situation of the property or the intended use of the property is not of so general or recurrent a nature as to make reasonably practical a general regulation as part of the Ordinance.

B. No variance shall be authorized unless the board finds from reasonable evidence that such variance will not be detrimental to adjacent property and will not impair the intent and purposes of the Ordinance or the public health, safety and general welfare. In addition, the Board of Appeals must make the following findings in detail:

1. There are exceptional or extraordinary circumstances or conditions applying to the specific property that do not apply generally to other properties in the district affected.

2. Such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the district.

3. The condition or situation of the property or the intended use is not of so general or recurrent in nature as to make reasonably practical an amendment of the Ordinance.

C. Reasonable conditions may be required with the approval of a variance. The conditions may include, but are not limited to, conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements.

1. Be designed to protect natural resources, the health, safety, and welfare, and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, or the community as a whole.

2. Be related to the valid exercise of the police power.

3. Be necessary to meet the intent and purpose of the Zoning Ordinance, related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

19.08 PUBLIC HEARINGS

A. When an application for appeal or variance has been filed in proper form and the required fee paid, the secretary of the board shall immediately place the same upon the calendar for public hearing and serve required notices.

B. Notice shall be published once in a newspaper of general circulation in the City at least 5 days, but not more than 15 days, prior to such hearing. Copies of such notice shall be served upon the applicant and the zoning administrator or other administrative officers from which such appeal is taken. A like notice shall be sent at least 5 days prior to the hearing to all owners of real property and to the occupants of all 1 through 4 unit dwellings within 300 feet of the premises involved by regular U.S. mail and addressed to the last known address of such owners as determined by the City records. Notice shall also be given to the owner or manager of all structures with 5 or more dwelling units within 300 feet of the premises involved who shall be requested to post the notice at the primary entrance to the structure.

C. The secretary shall record the grounds for each decision. The board shall render its decision upon any matter within 60 days after the matter is heard. A copy of each decision shall be sent to the zoning administrator, City clerk, building inspector, Planning Commission and the applicant. No building permit shall be issued by the building inspector until such decision is received.

CHAPTER 20
ORDINANCE AMENDMENT

20.01 INITIATION OF AMENDMENTS

Amendments to this Ordinance may be initiated by the Planning Commission by resolution or by an interested person or persons by petition to the Planning Commission.

20.02 AMENDMENT PETITION PROCEDURE

All petitions for amendment to this Ordinance shall be in writing, signed, and filed with the zoning administrator for presentation to the Planning Commission. Such petitions shall include the following:

A. The petitioner's name, address, and interest in the petition as well as the name, address, and interest of every person having a legal or equitable interest in any land which is to be rezoned.

B. The nature and effect of the proposed amendment.

C. If the proposed amendment would require a change in the zoning map, a fully dimensioned map showing the land which would be affected by the proposed amendment, a legal description of such land, the present zoning district of the land, the zoning district of all abutting lands, and all public and private right-of-way and easements bounding and intersecting the land to be rezoned.

D. The alleged error, if any, in the Ordinance which would be corrected by the proposed amendment, with a detailed explanation of such alleged error and detailed reason why the proposed amendment will correct the same.

E. The changed or changing conditions in the area or in the City that make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.

F. All other circumstances, factors, and reasons which the petitioner offers in support of the proposed amendment.

20.03 AMENDMENT PROCEDURE

A. The Planning Commission shall authorize notice of the proposed amendment upon payment of the required fees.

B. The Planning Commission shall set a time and place for a least 1 public hearing, notice of which shall be published in a newspaper of general circulation in the City not less than 15 days prior to the public hearing. Not less than 15 days' notice of the public hearing shall also be given by mail to each public utility company and to each railroad company owning or operating any public utility or railroad within the districts or zones affected that registers its name and mailing address with the City clerk for the purpose of receiving the notice. An affidavit of mailing shall be maintained.

C. In the case of map change requests, at least 15 days notice of the public hearing shall be given to the owner of the property in question and to all real property owners and occupants of all 1 through 4 unit dwellings within 300 feet of the property proposed to be rezoned. Notice shall also be given to the owner or manager of all structures with 5 or more dwelling units within 300 feet of the property requested to be rezoned, who shall be requested to post the notice at the primary entrance to the structure.

20.04 STANDARDS FOR APPROVAL

In reviewing any petition for a zoning amendment, the Planning Commission shall identify and evaluate all factors relevant to the petition. The facts to be considered by the Planning Commission shall include, but shall not be limited to, the following:

A. Whether or not the requested zoning change is justified by a change in conditions since the original Ordinance was adopted or by an error in the original Ordinance, and whether the property can reasonably be used for uses permitted within the district it is located.

B. The precedents and the possible effects of such precedents which might result from approval or denial of the petition.

C. The capability of the City or other government agencies to provide any services, facilities, and/or programs that might be required if the petition were approved.

D. Effect of approval of the petition on the condition and/or value of property in the City or in adjacent civil divisions.

E. Effect of approval of the petition on adopted master plans or development policies of City of McBain and other governmental units.

All findings of fact shall be made a part of the public records of the meetings of the Planning Commission.

20.05 DECISION

A. The Planning Commission shall forward its decision, a copy of the minutes of the public hearing and the proposed amendment to the City Council with its recommendation for approval or denial.

B. The City Council shall consider the amendment request, the Planning Commission's recommendations, and all comments made at the public hearing and shall make a decision to approve, deny,or approve with conditions the request, stating the reasons for its actions.

20.06 ADOPTION

A. The City Council may adopt the amendment at any regular meeting or at any special meeting called for such purpose with or without amendments that have been previously considered by the Planning Commission or at a public hearing.

B. A majority vote of the members of the city council shall be required to adopt any amendment.

C. Amendments shall be published in a newspaper of general circulation in the city within 15 days after adoption. The notice shall include the following information:

1. In the case of a newly adopted zoning ordinance the following statement: "A zoning ordinance regulating the development and use of land has been adopted by the city council of the City of McBain".

2. In the case of an amendment to an existing ordinance, either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment.

3. The effective date of the Ordinance.

4. The place and time where a copy of the Ordinance may be purchased or inspected.

CHAPTER 21
MISCELLANEOUS PROVISIONS

21.01 ADMINISTRATIVE LIABILITY

No officer, agent, employee, or member of the Planning Commission or Board of Appeals or City Council shall be held personally liable for any damage that may accrue to any person as a result of any act, decision, or other consequence or occurrence arising out of the discharge of his/her duties and responsibilities pursuant to this Ordinance.

21.02 SEVERABILITY

This Ordinance and the various parts, sections, subjects, paragraphs, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, section, subsection, paragraph, sentence, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance shall not be affected thereby.

21.03 NOTICE OF ADOPTION

Following adoption of this ordinance and subsequent amendments by the City Council, one notice of adoption shall be published in a newspaper of general circulation in the City within 15 days after adoption. Notice shall be given pursuant to Section 4 (7) of the City or Village Zoning Act, Act 207 of 1921.

21.04 EFFECTIVE DATE

This Zoning Ordinance was approved by the City Council on November 11, 1991, and is ordered to take effect 20 days after adoption.

Richard Scheanwald — 11/11/91
Richard Scheanwald, Mayor — Date

Evelyn Lucas — 11/11/91
Evelyn Lucas, City Clerk — Date

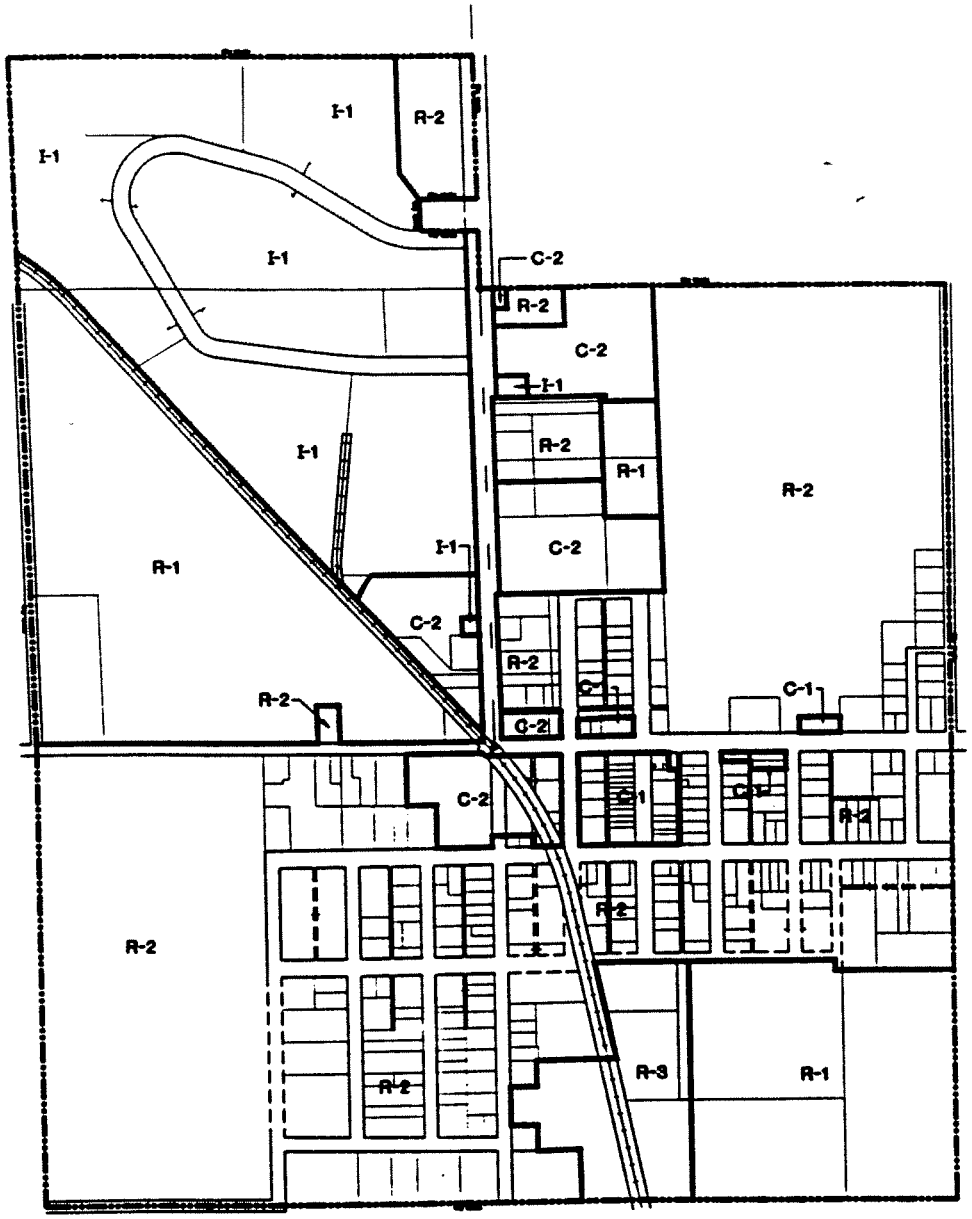
Recommended By
McBain Planning Commission

Charles Heethuis — 11/11/91
Charles Heethuis, Chairman — Date

11/11/91
Date Adopted

11/22/91
Notice of Adoption Published

12/1/91
Effective Date



THE ZONING MAP OF THE CITY OF McBAIN, MISSAUKEE COUNTY, MICHIGAN

THIS IS TO CERTIFY THAT THIS IS THE OFFICIAL ZONING MAP REFERRED TO IN THE CITY OF McBAIN ZONING ORDINANCE OF 1991.

Richard Engelhardt — 12-9-91
Mayor — DATE

Ev Lucas — 12-9-91
EV LUCAS, CLERK — DATE

Charles Heethuis — 12-9-91
CHARLES HEETHUIS, PLANNING COMMISSION CHAIR — DATE

EFFECTIVE DATE: DEC. 5, 1991

ZONING LEGEND

R-1	LOW DENSITY RESIDENTIAL DISTRICT
R-2	MEDIUM DENSITY RESIDENTIAL DISTRICT
R-3	HIGH DENSITY RESIDENTIAL DISTRICT
C-1	GENERAL COMMERCIAL DISTRICT
C-2	HIGHWAY COMMERCIAL DISTRICT
I-1	INDUSTRIAL DISTRICT

Progressive
Architects Engineers Planners