

CHAPTER 4: PUBLIC AREA REGULATION

Article 1: USE OF PUBLIC AREAS

Section 4101. Definitions. The following defined places constitute "public areas" for purposes of this Code.

4101.1 "Street" means any right-of-way, including an alley, which has been dedicated in the Plat of the City to public use, or which is now or hereafter acquired by the public by prescription, and which is designed for vehicular traffic. This definition includes the full extent of the right-of-way as platted or acquired by prescription, regardless of whether the right-of-way is paved or unpaved.

4101.2 "Sidewalk" means any concrete or paved way used by the general public for pedestrian traffic.

4101.3 "Park" means any area dedicated as a public park in the Plat of the City, any area now or hereafter designated as a public park in any master plan adopted by the City, or any area currently used by the general public as a municipal park of the City.

4101.4 "Beach" means any area within a City park adjacent to a body of water, which is used by the general public for swimming, sunbathing, and similar recreational pursuits.

4101.5 "Property under Marina Authority Jurisdiction" means the Borwell Yacht Basin-Frankfort Municipal Marina, and the Charles J. Kibby Memorial Launching Ramp, as those areas are defined in the Frankfort Marina Authority Rules and Regulations.

Section 4102. Obstructions. No person shall encroach, place any obstruction, or permit any obstruction to remain on a public area in a manner which interferes with or endangers vehicles or pedestrian traffic, or which interferes with the vision of any motorist unless a permit has been obtained under Article 4 of this Chapter; nor shall any person obstruct with his/her body vehicular or pedestrian traffic in a public area; provided that this section shall not apply to a peace officer or other public employee acting in the course of his/her official duty.

Section 4103. Bicycles, Roller Skates, Skateboards, Rollerblades, etc.

4103.1 No bicycles, roller skates, skateboards, rollerblades, coasters, toy vehicles, or any similar devices shall be ridden or used on any sidewalk bordering Main Street between Michigan Avenue and Ninth Street, or on any sidewalk in any park. (*Effective Date October 27, 2006.*)

4103.2 No bicycles, roller skates, skateboards, rollerblades, coasters, toy vehicles, or any similar devices shall be ridden or used in a public area in a manner which interferes with vehicular or pedestrian traffic or in a manner which endangers property.

Section 4104. Motorized Vehicles; Sidewalks, Parks and Beaches. No person shall operate or park any motorized vehicle, motorcycle, moped, or snowmobile, on or in any sidewalk, park, or beach, except in designated areas.

Section 4104A(1). Designated Snowmobile Routes.

The following are “designated snowmobile routes” within the City of Frankfort:

Commencing at the M-22 right-of-way from its intersection with River Road, thence north in the M-22 right-of-way to its intersection with Water Street; thence west on Water Street (between Frankfort Lumber and BLUA) to Day Avenue; thence south on Day Avenue to the approximate southeast corner of Block 36, Map of Town and Harbor; thence northwesterly across Blocks 36, 31 (Luedtke property), and Block 30 (Launch Ramp), to the southerly right-of-way of Ninth Street; thence north on Ninth Street to Forest Avenue; thence returning south from the intersection of Ninth Street and Forest Avenue to the alley separating Block 25, Map of Town and Harbor; thence west through the alley (a/k/a “Anchor”), through Block 25, the Eighth Street intersection, Block 22, the Seventh Street intersection, Block 19, the Sixth Street intersection, and Block 16, to the alley’s intersection with Fifth Street; thence south on Fifth Street across Main Street to Waterfront Drive; thence westerly along Waterfront Drive to its intersection with Second Street; thence southwestly along Second Street to its intersection with Father Marquette Court and Point of Ending.

ALSO Commencing at the Bridge Street/Elm Street intersection, thence west on Elm to Day Avenue, thence south on Day to James Street. From the Day/James intersection: east on James to Parkview Lane, thence south on Parkview Lane to M-115/Forest Avenue; and west on James to Ninth Street, thence south on Ninth Street to Main Street. (Amendment Ordinance D-1 of 2007 adopted April 16, 2007.)

Except as permitted by Section 4104A(2), designated snowmobile routes are the only areas within City Limits where snowmobiles may be legally operated. If directional traffic flow lanes are shown for any designated snowmobile route on the map published pursuant to 4104A(4), those lanes shall be considered part of this Section, and snowmobiles must be operated in conformance with the designated traffic flow direction to be legally operating on a designated snowmobile route.

Section 4104A(2). Permitted Snowmobile Operations in Areas Other Than Designated Snowmobile Routes.

A snowmobile may be legally operated within City Limits, even if not on a designated snowmobile route, under the following circumstances:

(I) A resident of the City of Frankfort may operate a snowmobile on a public alley, street, or highway, within City limits if:

- a. the operator is in transit from his legal residence to a designated snowmobile route or an area outside City Limits; and
- b. the operator is taking the most direct route from the operator’s legal residence to the designated snowmobile route or an area outside the City Limits.

(II) A person may operate a snowmobile on private property within City Limits if:

- a. the operator has obtained the consent of the property owner or the property owner’s agent; and
- b. the operation is confined to the driveway, parking lot, or garage area where private vehicles are normally driven.

(III) A snowmobile may be operated within City Limits in an emergency declared by a law enforcement officer, or by a paramedic or other First Responder at the scene of an accident, at the request of a law enforcement officer, paramedic, or First Responder.

(IV) The City Council, by resolution, may permit snowmobiles to operate in City parks or public ways as part of a special event not exceeding 72 hours in duration. Conditions, other than those imposed by

this ordinance, may be required for snowmobiles to legally participate in the special event, provided these conditions are made part of the resolution, published in the local paper the Wednesday preceding the special event, then prominently posted in the area set aside for the special event at least 4 hours prior to commencement of the special event.

Section 4104A(3). Designated Snowmobile Parking Areas.

The following are “designated snowmobile parking areas” within the City of Frankfort:

- I. Block 30 (the Municipal boat launch parking lot).
- II. The Municipal Marina parking lot between Fourth and Fifth Street.
- III. That part of Lot 1, Block 2, behind the Villa Marine and north of Waterfront Drive.

Designated snowmobile parking areas are the only public areas which may be used for snowmobile parking.

The following private properties have agreed to be designated “snowmobile parking” areas:

- I. The parking lot located on the west side of the Bay Side Printing building (the north side of Main Street).
- II. The Harbor Lights Resort parking lot located west of Second Street.

Section 4104A(4). Ordinance Map. A map shall be published with this ordinance, showing designated snowmobile routes (with directional flow lanes, if any), and designated snowmobile parking areas. This map may not be altered or amended except by also amending this Section and Section 4104A(1) and/or Section 4104A(3). Copies of the map shall be available to the public at City Hall.

Section 4104A(5). Legal Times for Snowmobile Operation. No snowmobile may be operated within City Limits at any time except:

(I) Snowmobiles may be operated on designated snowmobile routes, or outside designated snowmobile routes pursuant to subsections (I) and (II) of Section 4104A(2), between the hours of 7 a.m. to 11 p.m., during the days this ordinance is in force.

(II) Snowmobiles may be operated in an emergency pursuant to Section 4104A(2)(III) at any time.

(III) Snowmobiles may be operated outside the time limits imposed by this Section if allowed as part of a special event declared by Council resolution pursuant to 4104A(2)(IV).

Section 4104A(6). Legal Times for Snowmobile Parking. No snowmobile may be parked within City Limits at any time except:

(I) Snowmobiles may be parked in the Municipal Launch Ramp parking lot (Block 30), 24-hours a day through the effective dates of this Ordinance.

(II) Other than the Municipal Launch Ramp parking lot, snowmobiles may be parked in designated snowmobile parking areas, including designated private snowmobile parking spots, between the hours of 7 a.m. to 11 p.m. during the days this ordinance is in force.

(III) Snowmobiles may be parked in garages, parking lots, or driveways on private property at any time with the consent of the property owner or the property owner’s agent.

(IV) Snowmobiles may be parked in conformance with a special events resolution promulgated by the City Council pursuant to Section 4104A(2)(IV).

(V) This Section shall not be construed to prohibit the trailering of snowmobiles within City Limits at any time, or the parking of such trailers in any legal public parking space, provided the time for utilizing that parking space is not otherwise prohibited by law or ordinance.

Section 4104A(7). Speed Limits. No snowmobile may be operated within City Limits in excess of 15 miles per hour, except:

(I) as a resident in transit pursuant to 4104A(2), if the resident is utilizing the paved portion of a public alley, street, or highway, in which case the posted speed limit for vehicular traffic shall control. However, if the resident in transit is utilizing the shoulder or any portion of unimproved area of the right-of-way, the snowmobile shall not exceed 15 miles per hour regardless of the posted speed limit for vehicular traffic.

(II) This speed limit shall not apply to emergency snowmobile operation at the request of a law enforcement officer, paramedic, or First Responder, pursuant to Section 4104A(2)(III).

(III) This speed limit shall not apply to snowmobile operation by a law enforcement officer in fulfillment of his law enforcement duties.

Section 4104(8). Miscellaneous Operating Violations. No person shall operate a snowmobile within City Limits:

(I) with more than two (2) people on a snowmobile at one time.

(II) in any manner which injures trees, shrubs, plants, flowers, growing vegetation, or which destroys or damages other property in any manner.

(III) in violation of the Uniform Traffic Code, Michigan Motor Vehicle Code, or the Michigan Snowmobile Act, being MCL 324.82101 *et seq.*

Section 4104(9). Miscellaneous Parking Violations.

(I) No snowmobile shall be left unattended at any time on a designated snowmobile route, public street, alley, highway, park, or sidewalk, unless specifically authorized by a special events resolution promulgated by the City Council pursuant to Section 4104A(2)(IV) of this ordinance.

(II) No snowmobile shall be parked in violation of the Uniform Traffic Code.

(III) No one shall rev the engine of a parked snowmobile so as to cause excessive noise or exhaust, nor shall anyone idle the engine of a parked snowmobile at any speed for more than 60 seconds.

Section 4104A(10). Operating Violations. An operating violation of this ordinance shall subject the snowmobile operator to a fine not exceeding \$250 for a first offense, and \$500 for second and subsequent offenses. In addition, any snowmobile operated in violation of this ordinance may be impounded by the City, regardless of whether the violation was committed by the snowmobile's owner. Furthermore, upon order of the Magistrate or District Court, any impounded snowmobile may be forfeited to the City of Frankfort for auction as surplus property. As used herein, "operating violation" means a violation of Sections 4104A(1), (2), (5), (7), and (8) of this ordinance, or any violation of the Uniform Traffic Code, Michigan Motor Vehicle Code, or MCL 324.82101 *et seq.*, committed while the snowmobile is moving, regardless of whether it is being pushed, towed, or operated under its own power.

Section 4104A(11). Parking Violations. A parking violation of this ordinance shall subject the owner of the snowmobile to a fine not exceeding \$50 for a first offense, and \$150 for second and subsequent offenses. In addition, any snowmobile parked in violation of this ordinance may be impounded by the

City, regardless of whether the violation was committed by the snowmobile's owner. Furthermore, upon order of the Magistrate or District Court, any impounded snowmobile may be forfeited to the City of Frankfort for auction as surplus property. As used herein, "parking violation" means a violation of Sections 4104A(3), (6), or (9) of this ordinance, or any violation of the Uniform Traffic Code, Michigan Motor Vehicle Code, or MCL 324.82101 *et seq*, committed while the snowmobile is stationary.

Section 4104A(12). Violation of Other Laws; No Preemption; Multiple Counts.

(I) The City has adopted the Uniform Traffic Code (UTC) and the Michigan Motor Vehicle Code (MVC) by reference as part of the City of Frankfort's Municipal Code. The State of Michigan has adopted MCL 324.82101 *et seq* as a statutory chapter specifically regulating snowmobiles. This ordinance is not intended to preempt the UTC, the MVC, or any other state law.

(II) If an alleged violation of this ordinance also appears to have violated the UTC, the MVC, or MCL 324.82101 *et seq*, any resulting citation may charge a violation of this ordinance, the UTC, the MVC, MCL 324.82101 *et seq*, or any or all of these laws. Multiple counts alleging violation of this ordinance, or the UTC and/or the MVC as Municipal Code violations, shall give the City Attorney discretion whether to proceed under this ordinance, or the UTC and/or MVC as Municipal Code violations.

(III) If the citation charges only a violation of MCL 324.82101 *et seq*, or if it charges a violation of the MVC as State law, the citation shall be referred to the County Prosecutor for disposition.

Section 4104A(13). Definitions. Words or phrases not specifically defined in this ordinance shall have the same meaning as defined in the UTC, the MVC, another section of the Frankfort Municipal Code, or MCL 324.82101 *et seq*.

Section 4104A(14). Effective Date; "Sunset" Provision. This ordinance shall be effective from November 1, 2006 through April 1, 2007. It shall not be renewed for the winter season of 2007-2008, or any subsequent season, without an affirmative vote of the majority of the Council.

Section 4104A(15). Summary Renewal Procedure.

(I) Renewal of this ordinance as originally promulgated, or as subsequently amended by Charter procedure, may be announced by summary publication in the same way that seasonal parking restrictions are announced; the entire ordinance need not be republished, but the notice shall specify that copies of the ordinance are available at City Hall.

(II) This Section shall not be construed to override Charter procedure for adopting or amending ordinances; provided that the summary renewal procedure may specify different inception and termination dates from season to season without being considered an ordinance amendment requiring adoption by Charter procedure.

(III) This Section shall not be construed to override Charter procedure for adopting or amending ordinances.

Ordinance No. 1 of 2006 was hereby renewed on the 16th day of April 2007, by the Frankfort City Council.

Ordinance No. 1 of 2006 was hereby renewed on the 23rd day of April 2008, by the Frankfort City Council.

Ordinance No. 1 of 2006 was hereby renewed on the 17th day of April 2012, by the Frankfort City Council.

Section 4105. Recreational Vehicles.

4105.1 “Recreational vehicle” means a vehicular-type structure, primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered, including the following:

- a) A travel trailer, which is a vehicular portable structure, mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a vehicle, primarily designed and constructed to provide temporary living quarters for recreational, camping, or travel use.
- b) A camping trailer, which is a vehicular portable structure mounted on wheels and constructed with collapsible partial sidewalls of fabric, plastic, or other pliable material which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.
- c) A motor home, which is a vehicular structure built on a self-propelled motor vehicle chassis, primarily designed to provide temporary living quarters for recreational, camping, or travel use.
- d) A truck camper, which is a portable structure designed to be loaded onto, or affixed to, the bed or chassis of a truck, constructed to provide temporary living quarters for recreational, camping, or travel use. Truck campers are of 2 basic types:
 - (i) A slide-in camper, which is a portable structure designed to be loaded onto and from the bed of a pickup truck, constructed to provide temporary living quarters for recreational, camping, or travel use.
 - (ii) A chassis-mount camper, which is a portable structure designed to be affixed to a truck chassis, and constructed to provide temporary living quarters for recreational, camping, or travel use.
- e) A single sectional mobile home used only to provide temporary living quarters for recreational, camping, or travel use. “Recreational vehicle” does not include a mobile home used as a permanent dwelling, residence, or living quarters.

4105.2 No person shall park any recreational vehicle in any public parking area other than streets, between the hours of 2:00 a.m. and 5:00 a.m., except as provided in Section 4105.3.

4105.3 Each owner of a boat moored overnight at the Frankfort Municipal Marina is entitled to park one motor home or truck camper in specially designed parking spaces at the Marina. Permits for such parking shall be issued by the Marina Manager at no additional charge. However, recreational vehicles parked under such permits may not be used for overnight shelter.

Section 4106. Camping. Except for special events authorized by the Council, no person shall remain overnight or erect tents or other temporary overnight shelter in any park, beach, or public parking area.

Section 4107. Fish Disposal. No person shall dispose of fish offal, fish parts, or whole fish, in any public area, except in marked containers in a City fish-cleaning facility.

Section 4108. Animal Control.

Section 4108.1. Lake Michigan Beach.

- a) No person shall permit any animal owned by him/her or in his/her custody to enter or remain on the public park known as the “Lake Michigan Beach”, except as provided in subsection (b).
- b) Animals are permitted on the beach north of Miami Street and on the concrete walkways within the park, except for July 4 or the day of the Independence Day fireworks display if not held on July 4.

Section 4108.2. Leashes. No person shall permit any animal owned by him/her or in his/her custody to be in any public area, including the Lake Michigan Beach, unless on a leash or rope not over six (6) feet in length, except in certain areas designated by the Superintendent. All such areas shall be prominently posted.

Section 4108.3. Cleanup. No owner or person having custody of any dog or other animal shall permit the animal to defecate on any public area, unless the defecation is removed immediately.

Section 4108.4. Wild Animal Feeding. No person, other than municipal employees or agents of a state or federal agency, acting in their official capacity, shall feed any wild animals in any public area. As used in this Section, “feed” means to place, throw, or otherwise distribute food of a type edible by wild animals.

Section 4108.5. Violations; Fines. Violation of this section shall be a municipal civil infraction, for which the fine for a first violation shall be \$75. Repeat offenses shall be governed by Section 3504.3 of the Municipal Code.

Section 4109. Improper Use of Facilities. No person shall intentionally deface, tamper with or remove any structures, equipment, or facilities located in a public area, or use such structures, equipment or facilities for purposes for which they were not designed.

Section 4110. Trees, Shrubs, and Plants. Repealed by Ordinance D-2 of 2009 and replaced by Chapter 4, Section 9.

Section 4111. Public Disturbances. No person shall intentionally disturb or interfere unreasonably with the enjoyment of others of any public place.

Section 4112. Vending. Except for special events authorized under Section 4113, no person shall engage in the business of sale or delivery of goods in any park or beach. This Section does not apply to sale of goods in the course of operation of the City Marina.

Section 4113. Special Event Permits. The City may authorize use of a designated public area or City-owned facility on the following conditions.

4113.1 Any person or non-profit enterprise, as that term is defined in Section 6103.2 of this Code, wishing to use a public area or facility shall submit a written application to the Superintendent at least 45 days prior to the date for which the use is requested. The application shall contain:

- a) the name, address, and telephone number of the applicant, or if the applicant is not a natural person, the name, address, and telephone number of the person who will be in charge of the event;
- b) the nature of the event;
- c) the facility requested;
- d) the date and hours of the event;

- e) the number of people expected to attend;
- f) the insurance coverage which will be provided for the event;
- g) any other information which the Superintendent may reasonably request.

4113.2 The Superintendent may issue a permit if he/she finds:

- a) That the proposed event will not unreasonably interfere with or detract from the general public enjoyment of the public area or the primary use of the City-owned facility.
- b) That the proposed event will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation.
- c) That the proposed event is not reasonably anticipated to incite violence, crime or disorderly conduct.
- d) That the proposed event will not entail unusual, extraordinary or burdensome expense or police operation by the City.
- e) That the facilities desired have not been reserved for other use at the day and hour requested in the application.

The Superintendent may impose reasonable conditions on the permit.

4113.3 Within ten (10) days after receipt of an application, the Superintendent shall notify an applicant in writing of his or her decision. The applicant shall have the right to appeal an adverse decision to the City Council, within twenty one (21) days of the Superintendent's decision. The Council shall hear the appeal within thirty (30) days of the date of filing the appeal or at the next regularly scheduled meeting.

4113.4 The person or persons to whom a permit is issued shall be liable for any loss, damage or injury arising out of the event and, to that end, shall provide the Superintendent, at least fifteen (15) days prior to the event, evidence of a general liability policy covering the event, in the amount of \$1,000,000, naming the City as an additional insured. The Superintendent may waive the insurance requirement if the nature and size of the event are such that the event exposes the City to no significant additional liability.

4113.5 The Superintendent shall have the authority to revoke a permit upon a finding of violation of any rule or ordinance or condition of the permit. Notice of the revocation shall be served as provided by Section 1201.

Section 4114. Enforcement. In addition to remedies prescribed in Chapter 3 of this Code, any person violating this Article may be ejected from the public area by duly authorized City officials.

CHAPTER 4: PUBLIC AREA REGULATION

Article 2: PROPERTY UNDER MARINA AUTHORITY JURISDICTION

Section 4201. Rules and Regulations. In addition to the provisions of this Code, all property under Marina Authority jurisdiction shall be governed by rules and regulations promulgated by the Frankfort Marina Authority, and approved by the DNR and ratified by the Council.

Section 4202. Penalties. All violations of Marina Authority rules and regulations shall be punishable in the same manner as violations of other sections of this Chapter.

CHAPTER 4: PUBLIC AREA REGULATION

Article 3. SIDEWALK, CROSSWALKS, AND TREE-TRIMMING

Section 4301. Sidewalk: Construction Standards. All sidewalks shall be constructed of Portland cement upon a proper foundation. All sidewalks shall be constructed according to lines and grades established by the Superintendent.

Section 4302. Sidewalks: Mandatory Construction

4302.1 The Council may by resolution order that sidewalks be constructed or repaired. Such resolution shall specify the points of terminus and width of such sidewalk, the grade, and the manner of the construction.

4302.2 Within five (5) days after passage of such resolution, the Superintendent shall give notice, in accordance with Section 1201 of this Code, to the owner of any lot or premises adjacent to which the sidewalk is to be constructed or repaired, requiring the owner to construct or repair such sidewalk or any portion thereof within thirty (30) days from the date of the notice.

4302.3 If any owner shall fail to comply with the terms of the notice, the Superintendent shall have authority to perform the construction or repair.

Section 4303. Sidewalks: Special Assessments

4303.1 When any sidewalk has been constructed or repaired by the City pursuant to Section 4302, the Superintendent shall report to the Council the cost of the work, and the proportion of such cost allocated to each lot or premises.

4303.2 Upon receipt of said report, the Council shall take the entire amount reported and direct the Assessor to levy a special assessment therefore upon the appropriate premises or lot, according to the procedure established by City Charter. The amount assessed shall become a lien upon said lot or premises, and may be collected by suit or in the same manner as City property taxes.

4303.3 Nothing in this Section shall be construed to prevent any property owner and City from entering into an agreement for the construction of sidewalks upon such conditions, and with such cost allocations, as the Council may by resolution authorize.

Section 4304. Crosswalks. All crosswalks shall be constructed and kept in repair by the City under the direction of the Street Administrator at such time, in such manner, and in such places as the Street Administrator may determine.

Section 4305. Trees and Shrubs: Duty of Owner

Repealed by Ordinance D-1 of 2004. Replaced by Section 4907.

Section 4306. Maintenance of Driveways Intersecting Streets or Sidewalks: Duty of Owner

4306.1 Every owner of property on which there is located a driveway which intersects a street, alley, or sidewalk, shall maintain the driveway and keep it in good repair, so that no dirt, sand, gravel or other material washes onto the adjacent street, alley, or sidewalk.

4306.2 If any owner does not comply with this Section, the Superintendent may issue a corrective order as provided by Section 3403. Should the owner fail to comply with this order, the City may perform the necessary maintenance or repairs, and the cost of cleanup or repair of any washout which occurs after a corrective order issued, may be collected by suit or in any other manner permitted by law.

Section 4307. Snow Removal; Sidewalks; Duty of Owner/Tenant.

Section 4307.1 No owner or commercial tenant of property abutting Main Street between First and Seventh Streets shall permit snow in excess of three (3) inches deep to remain on a sidewalk abutting his or her property longer than 48 hours; provided that this section shall not apply to snow accumulation attributable to acts of the City.

Section 4307.2 If any person does not comply with this section, in addition to the remedies prescribed in Chapter Three of this Code, the Superintendent may issue a corrective order as provided by Section 3403. Should the owner or tenant fail to comply with this order, the City may perform the necessary snow removal. The cost of snow removal may be collected by suit or in any other manner permitted by law. *(Effective October 27, 2006.)*

CHAPTER 4: PUBLIC AREA REGULATION

Article 4. EXCAVATIONS AND OBSTRUCTIONS

Section 4401. Permits: When Required

4401.1 No person shall do any of the following without first obtaining a permit as provided in this Article:

- a) Make or cause to be made any excavation or opening in or under the surface or pavement of any street, sidewalk, or any other public place;
- b) Place any obstruction on any part of any street, sidewalk, or public place;
- c) Occupy any part of any street, sidewalk, or public place for the purpose of construction, maintenance, or repair of property immediately adjacent thereto;
- d) Make or cause to be made any opening in or through any curb of any street or public place; or
- e) Construct a driveway which connects to any street or alley.

4401.2 This Article shall not apply to a City official or employee acting in the course of his/her employment, to a person acting under contract with the City, or to any person acting in any emergency under contract with the City, or to any person acting in an emergency to preserve property or the public safety, if the emergency has been reported to the Police Department, and permission obtained from the Department to make the excavation or obstruction.

Section 4402. Permits: Application and Issuance. Any person desiring a permit shall make application to the Superintendent. The application shall state the name and address of the applicant, the location and nature of the work, the date of commencement and date of completion, and other data as may reasonably be required by the Superintendent. On receipt of such application, the Superintendent shall investigate, and if satisfied that such work is necessary, shall issue the permit; provided that the Superintendent may impose those conditions necessary to protect the public health and safety.

Section 4403. Deposit for Repairs. Before any permit is issued, the Superintendent may require a deposit to cover the cost of repair or re-paving made necessary by the work. The sum so deposited shall be paid to the Clerk and be used solely for the purpose of paying for the repairing and re-paving. After completion of the repair or re-paving, the Superintendent shall certify to the Clerk the cost of the work, and the amount of any surplus remaining from the amount deposited shall be returned to the applicant.

Section 4404. Mandatory Repairs; Costs.

4404.1 After the completion of the work, all trenches and excavations shall be promptly back-filled and thoroughly settled by mechanical compaction, and all excess material promptly removed from the job. After proper settlement has occurred, the City will repave the openings. The cost of such re-paving shall be charged to the person to whom the permit was granted and may be collected by suit.

4404.2 Each person opening or excavating any street, for one year after such opening or excavation, shall keep the same filled and in repair. Should such person fail to do so, the Superintendent shall issue a corrective order as provided by Section 3403, ordering the person to make repairs within ten days, and if said person shall still fail to make such repairs the Superintendent shall cause such repairs to be made, and the cost of the same shall be charged to the person to whom the permit was granted.

Section 4405. Revocation of Permit. If any person receiving a permit under this Article shall fail to comply with the conditions imposed by the Superintendent, the Superintendent may revoke the permit. Notice of the revocation shall be served as provided by Section 1201.

Section 4406. Compliance with Street Tree Construction Requirements. All work under this Article must also comply with the provisions of Section 4812 of this Code. (Added by Ordinance D-2 of 2009).

CHAPTER 4: PUBLIC AREA REGULATION

Article 5. VENDING MACHINES, DISPLAY MERCHANDISE, NEWSRACKS, AND OTHER SIDEWALK OBSTRUCTIONS.

Section 4501. Declaration.

The City of Frankfort declares that the uncontrolled placement of newsracks, vending machines, display merchandise, and other similar obstructions on streets and sidewalks presents a hazard to the safety and welfare of people using the streets and sidewalks and creates an aesthetically displeasing environment.

Section 4502. Definitions.

4502.1 "Display Merchandise" means any product or sample of a product which is offered for sale to the public.

4502.2 "Newsrack" means any vending machine whose purpose is to dispense newspapers, magazines, or other communicative material.

4502.3 "Vending Machine" means any self-service or coin operated structure whose purpose is to dispense any product. Examples of vending machines are telephones, pop and cigarette machines, pinball machines, amusement devices, scales, and newsracks.

Section 4503. Placement of Vending Machines, Display Merchandise, and Sidewalk Obstructions

4503.1 No person shall place any vending machine or display merchandise in any public area, as defined by Section 4101, without the permission of the City Council, except that newsracks may be placed on public areas under Section 4504.

4503.2 No person shall place any vending machine or display merchandise on private property so that it protrudes more than 36 inches into the sidewalk, as defined by Section 4101.2, or into any paved area within any street right-of-way, except that newsracks may be placed under Section 4504, and display merchandise may be placed on the sidewalk or within a street right-of-way for special events, such as the annual street sale, which are authorized by the Council, in such locations and under such conditions as the Council may prescribe.

Upon written application, the Council may also permit the placement of display merchandise which protrudes more than 36 inches into the sidewalk or a paved area within the street right-of-way, if the Council determines that one of the following conditions exists:

- a. There are practical difficulties or unnecessary hardships resulting from the physical characteristics of the property in question which make it unfeasible to carry out the strict letter of this section. Increased financial return to the applicant shall not be considered just cause for a permit under this section.
- b. There are exceptional or extraordinary circumstances or conditions which apply to the property in question which do not apply to other properties in the vicinity and which have not resulted from acts of the applicant subsequent to the adoption of this section.

Any permit granted under this section shall:

- a. Not be contrary to the public interest or the general intent and purpose of this section.
- b. Not permit the establishment of a use, condition, or activity which is prohibited by another chapter of this Code.
- c. Not cause substantial adverse affect to properties located in the immediate vicinity.
- d. Relate only to property that is described in the application for the permit.
- e. Not allow placement prohibited by Section 4503.4.

In granting a permit, the Council may specify, in writing, such other conditions regarding the placement of merchandise that will, in the Council's judgment, be reasonably necessary to further the intent of this section and protect the public interest. Breach of any such conditions will automatically invalidate the permit. Each permit shall be valid for two (2) years from the date granted or until the applicant no longer occupies the property, whichever occurs first.

4503.3 No more than two (2) vending machines shall be placed in front of any business establishment having a width of one hundred (100) feet or less, measured along the sidewalk or street right-of-way. Groups of vending machines shall be placed at least one hundred fifty (150) feet apart.

4503.4 No vending machine, newsrack, display merchandise, or other object which protrudes more than one inch above the level of the surrounding sidewalk shall be placed:

- a. within fifteen (15) feet of any fire hydrant, fire or police alarm box, or other emergency facility;
- b. within fifteen (15) feet of marked crosswalks or driveways;
- c. within thirty (30) feet of the curb intersection of any two streets, except as provided in Section 4503.5;
- d. within three (3) feet of any area improved with lawn, flowers, shrubs, or trees, except as provided in Section 4503.5;
- e. within five (5) feet of the door of any building;
- f. so as to reduce the width of the sidewalk or other clear space for pedestrian access to less than four (4) feet.

If there is a conflict between section 4503.2 and this section, this section shall control.

4503.5 The City has planted trees within the sidewalk at varying intervals on Main Street between Third and Sixth Streets. The owner or occupant of property adjoining the sidewalk in which a tree has been planted may plant flowers or place other decorative landscaping material within a circle extending twelve inches from the tree, unless the City landscapes or otherwise improves this area.

Other seasonal landscaping devices such as portable planters or flower boxes, may be placed on sidewalks with the permission of the Council, in places where the Superintendent determines they do not constitute a hazard to pedestrian or vehicular traffic.

4503.6 All portable objects, including vending machines and newsracks, and all landscaping materials, which do not meet the requirements of this section shall be removed by the person responsible for their placement within 30 days after the effective date of this ordinance. If the responsible person fails to do so, the City may remove the object at the person's expense. This provision shall not apply to existing light and utility poles, fire hydrants, public mailboxes, or other similar objects which serve a public function.

Section 4504. Procedure for Placement of Newsracks

4504.1 Permit Required. No person shall place, maintain, or operate any newsrack which is located completely or partially on, in, or above any public area, as defined by Section 4101, without a permit.

4504.2 Applications for Permits. Applications for newsrack permits shall be made on forms supplied by the Superintendent and shall contain the name and address of the applicant, the proposed specific location of each newsrack, and the name, address, and telephone of a local agent for the applicant. All applications shall be granted or denied within seven (7) days after their receipt by the Superintendent. The Superintendent shall grant a permit if the proposed location complies with the restrictions of Section 4505.

4504.3 Fees. When a permit is granted, the applicant shall pay an initial permit fee of \$25.00. A permit is valid for one (1) year and may be renewed automatically upon payment of a renewal fee of \$15.00, so long as the newsrack complies with all provisions of this article.

4504.4 Denial of Application. If an application is denied, it shall be denied in writing with a statement of reasons for the denial.

4504.5 Conditions of the Permit. As a condition of all permits, the person to whom the permit is granted shall agree to indemnify the City and its officers and employees against any loss or damage sustained by any person as a result of the installation, use, or maintenance of the newsrack for which the permit is granted, and shall maintain liability insurance naming the City as an additional insured in an amount of \$10,000 per person and \$20,000 per occurrence. The holder of the permit shall furnish a copy of the liability insurance policy to the City within thirty days after the permit is issued and shall furnish evidence of insurance annually thereafter.

4504.6 Standards for Maintenance and Installation of Newsracks. Any newsrack which rests completely or partially on, in, or above any public area shall comply with the following standards:

- a. No newsrack shall exceed five (5) feet in height, 30 inches in width or 30 inches in depth.

- b. No newsrack shall be used for advertising or publicity purposes other than for the display, sale, or purchase of the newspaper or periodical sold in it.
- c. Each newsrack shall be equipped with a coin return mechanism to permit a person using the machine to secure an immediate refund in the event he or she is unable to receive the publication paid for. The coin return mechanism shall be maintained in good working order.
- d. Each newsrack shall have affixed to it in a readily visible place a notice setting forth the name and address of the distributor and a telephone number to call to report a malfunction or to secure a refund if the coin return mechanism malfunctions.
- e. Each newsrack shall be maintained in a neat and clean condition and in good repair, including:
 - 1) being reasonably free of dirt, grease, chipped or peeling paint, rust, or corrosion;
 - 2) the plastic or glass parts unbroken and reasonably free of cracks, dents, or blemishes;
 - 3) the structural components unbroken.

Section 4505. Location of Newsracks

4505.1 Any newsrack which rests completely or partially on, in, or above any public area shall comply with the provisions of this section.

4505.2 No newsrack shall be placed so as to project into the roadway of any street, as defined by Section 1.030 of the Uniform Traffic Code.

4505.3 No newsrack shall be chained, bolted, or otherwise attached to any fixture, except to other newsracks.

4505.4 All newsracks shall be anchored so as to prevent their overturn.

4505.5 No newsrack shall be placed in any location prohibited by Section 4503.4, except that if compliance with these restrictions would prohibit the placement of any newsracks for a distance of 150 feet, the City Superintendent shall designate an area within that distance on which newsracks may be placed.

4505.6 Newsracks may be placed next to each other, but no group of newsracks shall extend for a distance of more than four (4) feet along a curb, and a space of at least fifty (50) feet shall separate each group of newsracks.

Section 4506. Removal of Newsracks. If any newsrack violates any provision of this article, or if the conditions of any permit are not met, the Superintendent may issue a corrective order pursuant to Section 3303, giving the holder of the permit seven (7) days to remedy the violation. If the violation is not corrected within seven (7) days, the City may remove the newsrack.

Section 4507. Revocation. If a newsrack is removed pursuant to section 4506, or if more than three corrective orders are issued pursuant to Section 4506 to any holder of a permit, all permits held by that entity shall be revoked.

Section 4508. Abandonment of Newsracks. In the event that any newsrack remains empty for a period of 30 continuous days, it shall be considered abandoned and may be treated in the same manner as provided by section 4506 for newsracks violating the provisions of this article.

Section 4509. Judicial Review. Any person aggrieved by any decision of the Council or Superintendent under this article may appeal the decision to the Circuit Court by filing a petition for an order of superintending control within sixty (60) days from the date of decision.

CHAPTER 4: PUBLIC AREA REGULATION

Article 6. MICHIGAN CONSOLIDATED GAS FRANCHISE ORDINANCE

Section 4601. Grant of Gas Franchise and Consent to Laying of Pipes, Etc. Subject to all the terms and conditions mentioned in this ordinance, and in conformance with City Charter requirements, consent is hereby given to Michigan Consolidated Gas Company, a corporation organized under the laws of the State of Michigan (the "Company"), and to its successors and assigns, to lay, maintain, operate, and use gas pipes, mains, conductors, service pipes, and other necessary equipment in the highways, streets, alleys, and other public places in the City of Frankfort, Benzie County, Michigan, and a franchise is hereby granted to the Company, its successors and assigns, to transact local business in said City of Frankfort for the purposes of conveying gas into and through and supplying and selling gas in said City of Frankfort and all other matters incidental thereto.

Section 4602. Gas Service and Extension of System. If the provisions and conditions herein contained are accepted by the Company, as in Section 6 hereof provided, then the Company shall furnish gas to applicants residing therein in accordance with applicable laws, rules and regulations; and provided further that such initial installation and any extensions shall be subject to the Main Extension provisions, the Area Expansion Program provisions (if and where applicable), and other applicable provisions now or from time to time hereafter contained in the Company's Rules and Regulations for Gas Service as filed with the Michigan Public Service Commission or successor agency having similar jurisdiction.

Section 4603. Use of Streets and Other Public Places. The Company, its successors and assigns, shall not unnecessarily obstruct the passage of any of the highways, streets, alleys, or other public places within said City of Frankfort and shall within a reasonable time after making an opening or excavation, repair the same and leave it in as good condition as before the opening or excavation was made. The Company, its successors and assigns, shall use due care in exercising the privileges herein contained and shall be liable to said City of Frankfort for all damages and costs which may be recovered against the City of Frankfort arising from the default, carelessness, or negligence of the company or its officers, agents, and servants.

No road, street, alley, or highway shall be opened for the laying of trunk lines or lateral mains except upon application to the Street Administrator or the City of Frankfort or other authority having jurisdiction in the premises, stating the nature of the proposed work and the route. Upon receipt of such application, it shall be the duty of the Street Administrator or the City Council, or such other authority as may have jurisdiction, to issue a permit to the Company to do the work proposed.

Section 4604. Standards and Conditions of Service; Rules, Regulations and Rates. The Company is now under the jurisdiction of the Michigan Public Service Commission to the extent provided by statute; and the rates to be charged for gas, and the standards and conditions of service and operation hereunder, shall be the same as set forth in the Company's schedule of rules, regulations, and rates as applicable in the several cities, villages, and townships in which the Company is now rendering gas service, or as shall hereafter be validly prescribed for the City of Frankfort under the orders, rules, and regulations of the Michigan Public Service Commission or other authority having jurisdiction in the premises.

Section 4605. Successors and Assigns. The words "Michigan Consolidated Gas Company and "the Company", wherever used herein, are intended and shall be held and construed to mean and include both Michigan Consolidated Gas Company and its successors and assigns, whether so expressed or not.

Section 4606. Effective Date; Term of Franchise Ordinance; Acceptance by Company. This ordinance shall take effect on August 23, 1996, and shall continue in effect for a period of thirty (30) years thereafter, subject to revocation at the will of the City of Frankfort at any time during said thirty (30) year period; provided, however, that when this ordinance shall become effective the City Clerk shall deliver to the Company a certified copy of the ordinance accompanied by written evidence of publication and recording thereof as required by law, and the Company shall, sixty (60) days after receiving the above mentioned documents, file with the City Clerk its written acceptance of the conditions and provisions hereof.

Section 4607. Effect and Interpretation of Ordinance. All ordinances and resolutions, and parts thereof, which conflict with any of the terms of this ordinance are hereby rescinded. In the case of conflict between this ordinance and any such ordinances or resolutions, this ordinance shall control. The catch line headings which precede each Section of this ordinance are for convenience in reference only and shall not be taken into consideration in the construction or interpretation of any of the provisions of this ordinance.

CHAPTER 4: PUBLIC AREA REGULATION

Article 7. BASIC CABLE TV REGULATION

Section 4701. Definitions. For purposes of this Article:

4701.1 "Act" shall mean the Communications Act of 1934, as amended (and specifically as amended by the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. 102-385), and as may be amended from time to time.

4701.2 "FCC" shall mean the Federal Communications Commission

4701.3 "FCC Rules" shall mean all rules of the FCC promulgated from time to time pursuant to the Act.

4701.4 "Basic cable service" shall mean "basic service" as defined in the FCC Rules, and any other cable television service which is subject to rate regulation by the City pursuant to the Act and the FCC Rules.

4701.5 "Associated equipment" shall mean all equipment and services subject to regulation pursuant to 47 CFR §76.923;

4701.6 "Increase" in rates shall mean an increase in rates or a decrease in programming or customer services.

All other words and phrases used in this Article shall have the same meaning as defined in the Act and FCC Rules.

Section 4702. Purpose; Interpretation. The purpose of this Article is to: 1) adopt regulations consistent with the Act and the FCC Rules with respect to basic cable service rate regulation, and 2) prescribe procedures to provide a reasonable opportunity for consideration of the views of interested parties in connection with basic cable service rate regulation by the City. This Article shall be implemented and interpreted consistent with the Act and FCC Rules.

Section 4703. Rate Regulations Promulgated by FCC. In connection with the regulation of rates for basic cable service and associated equipment, the City of Frankfort shall follow all FCC Rules.

Section 4704. Filing; Additional Information; Burden of Proof

4704.1 A cable operator shall submit its schedule of rates for the basic service tier and associated equipment or a proposed increase in such rates in accordance with the Act and the FCC Rules. The cable operator shall include as part of its submission such information as is necessary to show that its schedule of rates or its proposed increase in rates complies with the Act and the FCC Rules. The cable operator shall file ten (10) copies of the schedule or proposed increase with the City Clerk. For purposes of this Article, the filing of the cable operator shall be deemed to have been made when at least ten (10) copies have been received by the City Clerk. The City Council may, by resolution or otherwise, adopt rules and regulations prescribing the information, data and calculations which must be included as part of the cable operator's filing of the schedule of rates or a proposed increase.

4704.2 In addition to information and data required by rules and regulations of the City pursuant to Section 4(a) above, a cable operator shall provide all information requested by the City Superintendent in connection with the City's review and regulation of existing rates for the basic service tier and associated equipment or a proposed increase in these rates. The City Superintendent may establish deadlines for submission of the requested information and the cable operator shall comply with such deadlines.

4704.3 A cable operator has the burden of proving that its schedule of rates for the basic service tier and associated equipment or a proposed increase in such rates complies with the Act and the FCC Rules including, without limitation, 47 USC 543 and 47 CFR 76.922 and 76.923.

Section 4705. Proprietary Information

4705.1 If this Article, any rules or regulations adopted by the City pursuant to Section 4(a), or any request for information pursuant to Section 4(b) requires the production of proprietary information, the cable operator shall produce the information. However, at the time the allegedly proprietary information is submitted, a cable operator may request that specific, identified portions of its response be treated as confidential and withheld from public disclosure. The request must state the reason why the information should be treated as proprietary and the facts that support those reasons. The request for confidentiality will be granted if the City determines that the preponderance of the evidence shows that non-disclosure is consistent with the provisions of the Freedom of Information Act, 5 U.S.C. §552. The City shall place in a public file for inspection any decision that results in information being withheld. If the cable operator requests confidentiality and the request is denied, (1) where the cable operator is proposing a rate increase, it may withdraw the proposal, in which case the allegedly proprietary information will be returned to it; or (2) the cable operator may seek review within five working days of the denial in any appropriate forum. Release of the information will be stayed pending review.

4705.2 Any interested party may file a request to inspect material withheld as proprietary with the City. The City shall weigh the policy considerations favoring non-disclosure against the reasons cited for permitting inspection in light of the facts of the particular case. It will then promptly notify the requesting entity and the cable operator that submitted the information as to the disposition of the request. It may grant, deny or condition a request. The requesting party or the cable operator may seek review of the decision by filing an appeal with any appropriate forum. Disclosure will be stayed pending resolution of any appeal.

4705.3 The procedures set forth in this section shall be construed as analogous to and consistent with the rules of the FCC regarding requests for confidentiality including, without limitation, 47 CFR 0.459.

Section 4706. Public Notice; Initial Review of Rates. Upon the filing of ten (10) copies of the schedule of rates or the proposed increase in rates pursuant to Section 4704.1 above, the City Clerk shall publish a public notice in a newspaper of general circulation in the City which shall state that: 1) the filing has been received by the City Clerk and (except those parts which may be withheld as proprietary) is available for public inspection and copying, and 2) interested parties are encouraged to submit written comments on the filing to the City Clerk not later than seven (7) days after the public notice is published. The City Clerk shall give notice to the cable operator of the date, time, and place of the meeting at which the City Council shall first consider the schedule of rates or the proposed increase. This notice shall be mailed by first-class mail at least three (3) days before the meeting. In addition, if a written staff or consultant's report on the schedule of rates or the proposed increase is prepared for consideration of the

City Council, then the City Clerk shall mail a copy of the report by first-class mail to the cable operator at least three (3) days before the meeting at which the City Council shall first consider the schedule of rates or the proposed increase.

Section 4707. Tolling Order. After a cable operator has filed its existing schedule of rates or a proposed increase in these rates, the existing schedule of rates will remain in effect or the proposed increase in rates will become effective after thirty (30) days from the date of filing under Section 4704.1 above unless the City Council (or other properly authorized body or official) tolls the thirty (30) day deadline pursuant to 47 CFR §76.933 by issuing a brief written order, by resolution or otherwise, within thirty (30) days of the date of filing. The City Council may toll the thirty (30) day deadline for an additional 90 days in cases not involving cost-of-service showings and for an additional 150 days in cases involving cost-of-service showings.

Section 4708. Public Notice; Hearing on Basic Cable Service Rates Following Tolling of 30-Day Deadline. If a written order has been issued pursuant to Section 7 and 47 CFR §76.933 to toll the effective date of existing rates for the basic service tier and associated equipment or a proposed increase in these rates, the cable operator shall submit to the City any additional information required or requested pursuant to Section 4704 of this Article. In addition, the City Council shall hold a public hearing to consider the comments of interested parties within the additional 90 day or 150 day period, as the case may be. The City Clerk shall publish a public notice of the public hearing in a newspaper of general circulation within the City which shall state: 1) the date, time, and place at which the hearing shall be held, 2) interested parties may appear in person, by agent, or by letter at such hearing to submit comments on or objections to the existing rates or the proposed increase in rates, and 3) copies of the schedule of rates or the proposed increase in rates and related information (except those parts which may be withheld as proprietary) are available for inspection or copying from the office of the Clerk. The public notice shall be published not less than fifteen (15) days before the hearing. In addition, the City Clerk shall mail by first-class mail a copy of the public notice to the cable operator not less than fifteen (15) days before the hearing.

Section 4709. Staff or Consultant Report; Written Response. Following the public hearing, the City Superintendent shall cause a report to be prepared for the City Council which shall (based on the filing of the cable operator, the comments or objections of interested parties, information requested from the cable operator and its response, staff or consultant's review, and other appropriate information) include a recommendation for the decision of the City Council pursuant to Section 4710. The City Clerk shall mail a copy of the report to the cable operator by first-class mail not less than twenty (20) days before the City Council acts under Section 4710. The cable operator may file a written response to the report with the City Clerk within ten (10) days after the report is mailed to the cable operator, the City Clerk shall forward it to the City Council.

Section 4710. Rate Decisions and Orders. The City Council shall issue a written order, by resolution or otherwise, which in whole or in part, approves the existing rates for basic cable service and associated equipment or a proposed increase in such rates, denies the existing rates or proposed increase, orders a rate reduction, prescribes a reasonable rate, allows the existing rates or proposed increase to become effective subject to refund, or orders other appropriate relief, in accordance with the FCC Rules. If the City Council issues an order allowing the existing rates or proposed increase to become effective subject to refund, it shall also direct the cable operator to maintain an accounting pursuant to 47 CFR §76.933.

The order specified in this Section shall be issued within 90 days of the tolling order under Section 4707 in all cases not involving a cost-of-service showing. The order shall be issued within 150 days after the tolling order under Section 4707 in all cases involving a cost-of-service showing.

Section 4711. Refunds; Notice. The City Council may order a refund to subscribers as provided in 47 CFR §76.942. Before the City Council orders any refund to subscribers, the City Clerk shall give at least seven (7) days written notice to the cable operator by first-class mail of the date, time, and place at which the City Council shall consider issuing a refund order and shall provide an opportunity for the cable operator to comment. The cable operator may appear in person, by agent, or by letter at such time for the purpose of submitting comments to the City Council.

Section 4712. Written Decisions; Public Notice. Any order of the City Council pursuant to Section 4710 or Section 4711 shall be in writing, shall be effective upon adoption by the City Council, and shall be deemed released to the public upon adoption. The Clerk shall publish a public notice of any such written order in a newspaper of general circulation within the City which shall: 1) summarize the written decision, and 2) state that copies of the text of the written decision are available for inspection or copying from the office of the Clerk. In addition, the City Clerk shall mail a copy of the text of the written decision to the cable operator by first-class mail.

Section 4713. Rules and Regulations. In addition to rules promulgated pursuant to Section 4704, the City Council may, by resolution or otherwise, adopt rules and regulations for basic cable service rate regulation proceedings (including, without limitation, the conduct of hearings), consistent with the Act and the FCC Rules.

Section 4714. Failure to Give Notice. The failure of the City Clerk to give the notices or to mail copies of reports as required by this Article shall not invalidate the decisions or proceedings of the City Council.

Section 4715. Additional Hearings. In addition to the requirements of this Article, the City Council may hold additional public hearings upon such reasonable notice as the City Council, in its sole discretion, shall prescribe.

Section 4716. Additional Powers. The City shall possess all powers conferred by the Act, the FCC Rules, the cable operator's franchise, and all other applicable law. The powers exercised pursuant to the Act, the FCC Rules, and this Article shall be in addition to powers conferred by law or otherwise. The City may take any action not prohibited by the Act and the FCC Rules to protect the public interest in connection with basic cable service rate regulation.

Section 4717. Failure to Comply; Remedies. The City may pursue any and all legal and equitable remedies against the cable operator (including, without limitation, all remedies provided under a cable operator's franchise with the City) for failure to comply with the Act, the FCC Rules, any orders or determinations of the City pursuant to this Article, any requirements of this Article, or any rules or regulations promulgated hereunder. Subject to applicable law, failure to comply with the Act, the FCC Rules, any orders or determinations of the City pursuant to this Article, any requirements of this Article, or any rules and regulations promulgated hereunder, shall also be sufficient grounds for revocation or denial of renewal of a cable operator's franchise.

CHAPTER 4: PUBLIC AREA REGULATION

Article 8. Telecommunications Ordinance

Section 4801. Purpose. The purposes of this ordinance 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.

Section 4802. Conflict. Nothing in this ordinance shall be construed in such a manner as to conflict with the Act or other applicable law.

Section 4803. Terms Defined. The terms used in this ordinance shall have the following meanings:

4803.1 *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.

4803.2 *City* means the City of Frankfort.

4803.3 *City Council* means the City Council of the City of Frankfort 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.

4803.4 *City Superintendent* means the City Superintendent or his or her designee.

4803.5 *Permit* means a non-exclusive permit issued pursuant to the Act and this ordinance to a telecommunications provider to use the public rights-of-way in the City for its telecommunications facilities.

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

4803.6 *Authority* means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to Section 3 of the Act.

4803.7 *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.

4803.8 *Person* means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

4803.9 *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.

4803.10 *Telecommunication 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.

4803.11 *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 all of the following:

- (a) A cable television operator that provides a telecommunications service.
- (b) Except as otherwise provided by the Act, a person who owns telecommunication facilities located within a public right-of-way.
- (c) A person providing broadband internet transport access service.

Section 4804. Permit Required.

4804.1 *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 ordinance.

4804.2 *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 Superintendent. 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.

4804.3 *Confidential Information.* If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain 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.

4804.4 *Application Fee.* Except as otherwise provided by the Act, the application shall be accompanied by a one-time non-refundable application fee in the amount of \$500.00.

4804.5 *Additional Information.* The City Superintendent may request an applicant to submit such additional information which the City Superintendent 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 Superintendent. 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.

4804.6 *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 ordinance.

4804.7 *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 ordinance. 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 4804.4 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.

Section 4805. Issuance of Permit.

4805.1 *Approval or Denial.* The authority to approve or deny an application for a permit is hereby delegated to the City Superintendent. Pursuant to Section 15(3) of the Act, the City Superintendent shall approve or deny an application for a permit within forty-five (45) days from the date a telecommunications provider files an application for a permit under Section 4804.2 of this ordinance for access to a public right-of-way within the City. Pursuant to Section 6(6) of the Act, the City Superintendent shall notify the MPSC when the City Superintendent 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 Superintendent shall not unreasonably deny an application for a permit.

4805.2 *Form of Permit.* If an application for permit is approved, the City Superintendent 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.

4805.3 *Conditions.* Pursuant to Section 15(4) of the Act, the City Superintendent 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.

4805.4 *Bond Requirement.* Pursuant to Section 15(3) of the Act, and without limitation on subsection 4805.3 above, the City Superintendent 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.

Section 4806. Construction/Engineering Permit.

A telecommunications provider shall not commence construction upon, over, across, or under the public rights-of-way in the City without first obtaining a construction or engineering permit as required under Chapter 4, Article 4 of this Code, as amended, for construction within the public rights-of-way. No fee shall be charged for such a construction or engineering permit.

Section 4807. Conduit or Utility Poles.

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

Section 4808. 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 MPSC determines otherwise, in accordance with Section 6(8) of the Act.

Section 4809. 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.

Section 4810. Establishment and Payment of Maintenance Fee.

In addition to the non-refundable application fee paid to the City set forth in subsection 4804.4 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.

Section 4811 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.

Section 4812. 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 4811 above shall be void from the date the modification was made.

Section 4813. Use of Funds.

Pursuant to Section 10(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.

Section 4814. Annual Report.

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

Section 4815. 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.

Section 4816. 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.

Section 4817. 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 hereof should be construed in such a manner as to achieve that purpose. The City shall comply in all respects with the requirements of the Act, including but not limited to the following:

(a) Exempting certain route maps from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, as provided in Section 4804.3 of this ordinance;

(b) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with Section 4804.6 of this ordinance;

(c) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the \$500 application fee, in accordance with Section 4804.7 of this ordinance;

(d) Approving or denying an application for a permit within forty-five (45) days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the City, in accordance with Section 4805.1 of this ordinance;

(e) Notifying the MPSC when the City has granted or denied a permit, in accordance with Section 4805.1 of this ordinance;

(f) Not unreasonably denying an application for a permit, in accordance with Section 4805.1 of this ordinance;

(g) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in Section 4805.2 of this ordinance;

(h) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider's access and usage of the public right-of-way, in accordance with Section 4805.3 of this ordinance;

(i) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider's access and use, in accordance with Section 4805.4 of this ordinance;

(j) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with Section 4806 of this ordinance;

(k) Providing each telecommunications provider affected by the City's right-of-way fees with a copy of this ordinance, in accordance with Section 4811 of this ordinance;

(l) Submitting an annual report to the Authority, in accordance with Section 4814 of this ordinance; and

(m) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with Section 4815 of this ordinance.

Section 4818. 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.

Section 4819. 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.

Section 4820. Authorized City Officials.

The City Superintendent 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 ordinance as provided by the City Code.

Section 4821. Municipal Civil Infraction.

A person who violates any provision of this ordinance or the terms or conditions of a permit is responsible for a municipal civil infraction, and shall be subject to Chapter 3, Article 3 of this Code. 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 ordinance or a permit.

Section 4822. Repealer.

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

(Effective May 30, 2003)

CHAPTER 4: PUBLIC AREA REGULATION

Article 9. Tree Management

Section 4901. Purpose and Intent. The City of Frankfort finds that trees provide many benefits to the City, including shade, increased property values, homes for wildlife, and a healthy enjoyable environment in which people can live. The City therefore determines that it is in the best interest of the City, and its citizens, that a master plan for planting and maintaining trees within the City be adopted, and that uniform laws be adopted for the purpose of regulating and providing for the planting and maintenance of trees within the City to better control problems of flooding, soil conservation, air pollution, and noise. The purpose of this ordinance is protect and encourage the protection of trees and shrubs to provide for the public health, safety, and general welfare, to promote and preserve the City’s aesthetic values, and to define the powers and duties of those who administer this ordinance.

Section 4902. Definitions.

- 4902.1 The terms “public area”, “street”, “sidewalk”, and “park” shall have the same meanings as found in Section 4101 of this Code.
- 4902.2 “Curb tree lawn” means any part of a street not covered by sidewalk or paving and lying within the right of way line.
- 4902.3 “Trees” and “Shrubs” means all woody vegetation growing in a public area or, if applicable, on private property.
- 4902.4 Street Construction means all repair, maintenance and improvement projects located within the City of Frankfort streets and right of ways, including but not limited to streetscapes, water and sewer projects, curbing, asphalt and concrete work, and construction of private drives or driveways connecting to streets.

Section 4903. Tree Board. There is hereby established a Tree Board for the City of Frankfort, which shall consist of two (2) citizen members, who shall be either residents or property owners in the City, a member at-large, a member of the City Council, and the City Superintendent.

- 4903.1 The members of the Tree Board shall be appointed by the Mayor, upon recommendation of the City Superintendent.
- 4903.2 The first three citizen (3) members of the Board shall be appointed for one (1), two (2), and three (3) year terms. Thereafter, the new member appointed annually shall be appointed for a three (3) year term. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.
- 4903.3 The Council Member shall be appointed for a term coincident with his or her term on the Council, and may be re-appointed.
- 4903.4 The City Superintendent shall be a permanent member of the Board.

Section 4904. Duties of the Tree Board.

- 4904.1 The Tree Board shall provide the City Council with a professional inventory of the trees in public areas, including species, location, and condition. The Tree Board may consult with State or County foresters. The Council may appropriate the necessary funds for such a plan.
- 4904.2 The Tree Board shall develop and recommend to the Council a comprehensive community tree management program, which shall include policies for planting, maintenance, and removal of trees in public areas, including approved and prohibited

species. The program shall include a work plan addressing the care, maintenance, and removal of dead or hazardous trees, pruning requirements, and insect and disease control.

Section 4905. Responsibilities of the Council.

- 4905.1 The Council, with the assistance of the Tree Board, shall adopt and update periodically a comprehensive community tree management program.
- 4905.2 The Council may receive gifts or bequests from any person or group for the planting and/or maintenance of trees. These gifts or bequests shall be maintained by the City in a special fund.

Section 4906. Administration and Enforcement. The City Superintendent, with the cooperation of the Tree Board and the Parks and Recreation Committee, is responsible for administering the tree management program.

Section 4907. Trees and Shrubs: Duties of Owners.

- 4907.1 Every owner of any tree located within 10 feet of the streets or alleys of the City shall trim the branches so that such branches do not obstruct the light from any street lamp or the view of any street intersection, and so that there exists a clear space of 12 feet above the surface of the street or alley.
- 4907.2 No owner shall permit any trees, bushes, shrubs or plants located within 10 feet of the right of way of any street or alley on any corner lot within the City to grow to a height of more than three (3) feet from the surface of the roadway, in order that the view of the driver of a vehicle approaching the street intersection shall not be obstructed.
- 4907.3 Every owner shall remove all dead or dangerous trees on his or her property. If the City Superintendent learns that any tree growing on private property within the City is afflicted with a dangerous insect, infestation, disease, or condition, which threatens other trees or the public health, safety, or welfare, the Superintendent shall immediately notify the owner, describing the tree or trees, their location, the nature of the problem, and the corrective measures required to be taken. These measures may include pruning, treatment, or destruction of the affected tree or trees as necessary.
- 4907.4 If any owner does not comply with this section, the Superintendent may issue corrective orders as provided by Section 3403. Should the owner fail to comply with this order, the City may perform the necessary work. The cost of the work may be collected by suit or any other manner provided by law.

Section 4908. Trees and Shrubs, Public Areas.

- 4908.1 Except as provided in Section 4503.5, no person shall plant trees, bushes, shrubs or other plants in the public right of way without written permission of the City Superintendent. Ownership of such trees, bushes, shrubs, or other plants located in the public right of way shall remain with the City. All plantings shall conform to the community tree management program.

Section 4909. Prohibited Acts.

- 4909.1 Unless written permission is given by the City Superintendent, no person shall do any of the following in any public area, including curb tree lawns or parks:
- a) Tear down, destroy, or damage any tree, shrub or plant.
 - b) Fasten any sign, card, poster, wire, rope or other material to, around, or through any tree or its guard, except in emergencies such as storms or accidents, and except for any nursery tag identifying its species or care.

- c) Permit any fire to burn where such fire will injure any portion of any tree or shrub.
- d) Permit any toxic chemical to seep, drain or to be emptied on or about any tree or shrub.
- e) Deposit, store, place or maintain on any street, highway, or other public place, any stone, brick, sand, concrete, or other material which may impede free passage of water, air or fertilizer to the roots of any tree or shrub.
- f) Fail to repair or stop any leak existing or occurring in any gas pipe or main within a radius of forty (40) feet of any tree.
- g) Knowingly permit any utility or commercial electrical wires to come into contact with any tree or shrub.
- h) Allow excavations or driveways to be placed within five (5) feet of any tree. Any person making such excavations or construction shall guard any tree within six (6) feet of the excavation or construction with a substantial frame box approved by the City Superintendent. All building materials or other debris shall be kept at least four (4) feet from any tree.

Section 4910. Compensation for Trees Destroyed or Damaged is amended to read as follows:

Any person destroying or causing damage to any tree(s) in any public area shall be liable for damages, which shall include the value of the destroyed or damaged tree(s), which cost may be imposed as a condition of restitution in a civil infraction proceeding, or which may be collected by suit or any other legal means. The value of tree(s) shall be determined by guidelines established in the most recent version of the “Guide for Plant Appraisal” in conjunction with the most recent version of the “Michigan Tree Evaluation Supplement”.

Section 4911. Arbor Day Observance. The City Council will annually issue a proclamation to observe Arbor Day, as is generally observed by other communities and the National Arbor Day Foundation.

Section 4912. Movement of Structures.

4912.1 No person shall move any building or other structure of wood, metal, stone, or concrete measuring over 8’ 6” wide or over 12 feet high, as measured from the surface of the roadway, along any street or highway, or across any public area within the City of Frankfort, without first obtaining a permit as provided in this section.

4912.2 This section shall not apply to a City official or employee acting in the course of his/her employment, or a person acting under contract with the City, or to any person acting in an emergency to preserve property or the public safety, if the emergency has been reported to the Police Department, and permission obtained from the Department to move the structure.

4912.3 Any person desiring a permit shall make application to the Superintendent. The application shall state the name and address of the applicant, the place from and to which the building or structure will be moved, and the route along which it will be moved, the date and time proposed for movement, and the method proposed for the moving, and such other data as may reasonably be required by the Superintendent. On receipt of such application, the Superintendent shall investigate, and shall issue the permit if satisfied that the proposed method will not damage public or private property or trees or shrubs located in any public area. The Superintendent may refuse to issue the permit or impose conditions, including changing the route, to avoid damage to public or private property or trees or shrubs located in any public area.

4912.4 Before any permit is issued, the Superintendent may require a deposit to cover the cost of inspection and possible damage that may result from the moving. The sum so deposited shall be paid to the Clerk and be used solely for the purpose of any necessary repairs and to cover the costs of inspection. After completion any repair, the Superintendent shall certify to the Clerk the cost of the work, and the amount of any surplus remaining from the amount deposited shall be returned to the applicant.

Section 4913. Standards for Street Tree Protection During Construction.

Street Construction shall be done in a manner to avoid erosion, and to preserve existing trees which provide wind blocking, noise buffers and privacy. All Street Construction projects require site approval by the City Superintendent or his/her designee, including a certified arborist if the Superintendent deems necessary, before construction begins.

4913.1 The site approval application must:

- a. Identify any trees which may need to be removed.
- b. Establish methods to minimize destruction around existing trees, including designation of tree protection zones, installation of protective fences, and methods to protect root systems and provide temporary drainage and irrigation during construction.
- c. Designate an individual from the street construction company to be responsible for implementing the plan.

4913.2 All Street Construction shall comply with the following procedures:

- a. Preconstruction pruning must be done to allow work to proceed without damage to trees which will be left standing.
- b. The contractor must avoid excavating or backfilling which undermines tree root systems, unless the contractor can establish good cause for doing so.
- c. Retaining walls must be built where grades have been raised or lowered around trees to minimize future erosion in the root zone of remaining trees.
- d. Silt compaction must be kept to a minimum where heavy machinery crosses the root zone.
- e. Tree protection zones must be marked by highly visible barriers, such as orange plastic snow fences or similar materials, around all trees to be left standing.
- f. Where construction below trees is necessary, tunneling beneath roots rather than trenching and severing roots is recommended.
- g. Construction materials and supplies must be disposed of in such a fashion as to avoid damaging trees and tree roots.
- h. Sidewalk removal must include clean cut root pruning of trees.
- i. Soil approved by the City Superintendent or his/her designee must be used to finish grade.
- j. Any branches injured during construction must be pruned or removed with final approval by the City Superintendent or his/her designee.

4913.3 Penalty. Violation of this section shall be a municipal civil infraction. The penalty for a first violation shall be \$500, plus the cost of restoration of any trees removed or damaged. Penalty for a second violation shall be \$1,000, plus the cost of restoration; penalty for a third violation shall be \$2,000, plus the cost of restoration

Ordinance No. 4 of 2006

AN ORDINANCE PURSUANT TO SECTION 3(7) OF ACT 299 OF THE PUBLIC ACTS OF 1996, AS AMENDED, TO PERMIT TOURIST-ORIENTED DIRECTIONAL SIGNS WITHIN THE CITY LIMITS

Section 1. Tourist-oriented Directional Signs.

Tourist -oriented directional signs, as defined in Section 1 of Act 299 of the Public Acts of 1996, as amended, being MCL 247.401, are permitted within the jurisdictional boundaries of the City of Frankfort under the terms and conditions of this Ordinance.

Section 2. Application and Fee.

- (a) A person who desires to place a tourist-oriented directional sign within the City of Frankfort shall file a written application with the City Clerk. The application shall specify the proposed size and location of the tourist-oriented directional sign and shall contain the same information submitted to the Michigan tourist-oriented directional sign program.
- (b) The application shall be accompanied by a fee as established from time to time by resolution of the City Council.
- (c) After receiving a complete application and the required fee, the City Clerk shall forward the application to the City Council for its consideration.

Section 3. Standards for Approving a Tourist-oriented Directional Sign.

The City Council shall approve a tourist-oriented directional sign within the City of Frankfort if both of the following standards are met:

- (a) The application for that specific tourist-oriented directional sign is approved under the Michigan tourist-oriented directional sign program for the specific location proposed.
- (b) The size of the proposed tourist-oriented directional sign or the proposed location of the tourist-oriented directional sign will not substantially interfere with the vision of drivers using a public or private street, alley, driveway, parking lot or other route providing ingress or egress to any premises.

Section 4. Violations and Penalties.

- (a) Any person who places a tourist-oriented directional sign within the City of Frankfort in violation of this Ordinance 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 Five Hundred and 00/100 (\$500.00) Dollars. Each day this Ordinance is violated shall be considered as a separate violation.
- (b) Police officers of the Frankfort Police Department are hereby designated as the authorized officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.
- (c) A violation of this Ordinance 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.
- (d) In addition to enforcing this Ordinance through the use of municipal civil infraction proceedings, the City may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.