CITY OF BRIGHTON
CITY COUNCIL MEETING
CITY HALL
June 6, 2013

Regular Blue Sky: 7:00 p.m.: Review of Agenda Items for this evening's meeting

REGULAR SESSION - 7:30 P.M.

1. Call to order
2. Pledge of Allegiance
3. Roll Call

4. Consider approval of the Agenda

5. Approval of minutes: Regular Meeting and Closed Session of May 16, 2013

6. Receive presentation from a representative of the D.I.A. regarding the D.I.A. art exhibits on loan in downtown

7. Mayor's Reading of Citizen Inquiries received since the last City Council Meeting

8. Call to the Public

Consent Agenda

9. Consider approval of a tax collection agreement with LESA as recommended by staff (continuation of providing the tax collection service we have been providing for the LESA school district)

10. Consider approval of the Mayor's recommended ZBA Alternate appointment

11. Consider approval of the Mayor's recommended Election Commission appointment

12. Consider approval of a resolution recommending State of Michigan LCC approval of a New Micro Brewer license for the Brauerei microbrewery as recommended by the Police Chief

Policy Development & Customer Communications' action item

13. Consider first reading on a proposed Residential Rental Inspection Program related ordinance

14. Consider first reading of amendments to Chapter 98, Article I. In General, Section 98-3. Definitions, Chapter 98, Article XXIV. Boards of Appeal, Section 98-687. Jurisdiction, and Chapter 98, Article XXV. Temporary Land Uses, Section 98-700. Temporary land uses as recommended by Planning Commission

15. Consider approval of a motion providing direction to Staff and the Planning Commission regarding possible City Council-requested changes to the DBD Zoning District Ordinance's list of permitted uses for the DBD District and/or changes to the definition of the term "kennel" in the definitions section of the Zoning Ordinance , and to follow the related timeline developed by the Planning and Zoning Director that projects final adoption by City Council on August 15th

16. Conduct a discussion and consider possible direction to the City Manager on any requested tasks regarding City revenue options which were preliminarily considered by City Council during recent budget review worksessions

17. Consider possible action as requested by staff and or recommended by the City Attorney to obtain compliance by property owners with City ordinances .

Other Business

18. Information for City Customers

19. Receive updates from Council Member Liaisons to other Boards and Commissions

20. Call to the Public
21. Adjournment

MINUTES OF THE MEETING OF THE CITY COUNCIL OF BRIGHTON
HELD ON MAY 16, 2013 AT THE BRIGHTON CITY HALL
200 N. 1ST STREET, BRIGHTON, MICHIGAN

BLUE SKY SESSION

The Council conducted a Blue Sky Session at 7:00 p.m. Present were Mayor Muzzin, Mayor Pro-Tem Cooper, Councilmembers Bohn, Bandkau, Schillinger, Roblee and Pipoly. The Council reviewed the evening's agenda.

REGULAR SESSION

Mayor Muzzin called the regular meeting to order at 7:30 p.m. Following the Pledge of Allegiance, the roll was called, there being present were Mayor Muzzin, Mayor Pro-Tem Cooper, Councilmembers Bandkau, Schillinger, Pipoly, Roblee and Bohn. Also in attendance were Attorney Brad Maynes, Engineer Gary Markstrom, Special Legal Counsel Dennis Gabrian, Staff members Dana Foster, Dave Blackmar, Denise Meier, Jennifer Burke, Diana Lowe, Amy Cyphert and Tom Wightman and an audience of 3. Press and Media included Tom Tolen of WHMI.

AGENDA APPROVAL

It was moved Mayor Pro-Tem Cooper, seconded by Bandkau to approve the agenda as presented. Motion passed 7-0.

MINUTES APPROVAL

It was moved by Councilmember Roblee, seconded by Cooper to approve the Regular Meeting minutes of May, 2, 2013 as presented. Motion passed 7-0.

It was moved by Mayor Pro-Tem Cooper seconded by Bandkau to approve the Closed Session minutes of May, 2, 2013 as presented. Motion passed 7-0.

CITIZEN INQUIRIES

Mayor Muzzin read an inquiry from Susan Walters-Steinacker, How long can a residential home or a commercial building remain unoccupied before it is considered abandoned? What is the city ordinance for this?

City Attorney, Brad Maynes stated this inquiry is from an agent of a party in active litigation with the City and should not be addressed in a public meeting.

CALL TO THE PUBLIC

Mayor Muzzin opened the Call to the Public at 7:35 p.m. Hearing no comment, the Call to the Public was closed.

CONSENT AGENDA

It was moved by Mayor Pro-Tem Cooper, seconded by Pipoly to approve the Consent Agenda as presented. A roll call vote was taken. Yes: Schillinger, Cooper, Muzzin, Bandkau, Roblee, Pipoly. No: Bohn. Motion passed 6-1.

The following items were approved:

1. Approved Resolution 13-08, Establishing the levy and authorize the collection of taxes, penalties and fees for FY 2013-14.

2. Approved the Music at the Pond Civic Event.

3. Approved Resolution 13-09, Placing liens on properties for unpaid weed cutting for related code violation abatement.

MILL POND DREDGING

City Manager, Dana Foster stated sampling and testing must be done to determine if the material from the Mill Pond dredging is not contaminated. If it is not, Mike Corrigan has given a conditional donation proposal letter for removal of the dredged material. He discussed funding options for the project.

City Engineer, Gary Markstrom briefed the Council on the proposed Mill Pond Dredging, cleanup and improvement project engineering services proposal. He stated that samples could be taken within the next few weeks, the possibility of contaminants in the samples and what to do with the material that is removed.

It was moved by Councilmember Roblee, seconded by Cooper to take the Engineer's proposal to the DDA Board to see if they would be interested in paying for this proposal and if not, reallocate the $16,000 from the General Fund for weed control for the testing. Motion passed 5-2 with Councilmember Bohn and Schillinger voting "no".

CITY CUSTOMER INFORMATION

Assistant Department of Public Works Director, Dave Blackmar stated yard waste pickup is underway and if you have any questions please call 810-225-8001.

Police Chief, Tom Wightman stated the Micro Brewer liquor license will be coming to the next City Council meeting.

City Manager, Dana Foster gave condolences to the family of Dick Harris, owner of Cap-n-Cork. Mr. Harris had a significant presence in our community for many years.

Mayor Pro-Tem Cooper stated the SELCRA Golf Outing is June 6, 2013 at the Huntmore Golf Course.

Councilmember Bandkau stated the Veteran's Memorial have a booth at the Farmer's Market and the Chamber of Commerce Civic Events. The dedication will be Veteran's Day in November.

Councilmember Roblee stated this Saturday is Flower Day at the Farmer's Market. The Inside-Out Program begins July 10, 2013. The Farmed Table Event will be September 21st, in which a local chef will be using all locally grown products to make a meal.

Councilmember Bohn asked if there is conversation going on between Pawsitively Spoiled's attorney and the City Attorney?

Mayor Muzzin stated they have withdrawn their Zoning Board of Appeals application and asking the City for a Zoning Ordinance amendment.

City Manager, Dana Foster stated they have ceased the boarding activity in order to comply with the City's Ordinance.

Mayor Muzzin request that the City Attorney give an update on the Ordinance amendment at the next City Council meeting.

Mayor Muzzin expressed his sympathy to the family of Dick Harris. He stated Mr. Harris was very proud of the City of Brighton. He expressed his sympathy for the family of Bob Bohm of Bob's Tire and Auto, as he also passed away this week.

Mayor Muzzin gave a Brighton Area Fire Authority update.

CALL TO THE PUBLIC

Mayor Muzzin gave a Call to the Public at 8:34 p.m. Hearing no comment, the Call to the Public was closed.

PENDING LABOR NEGOTIATIONS CLOSED SESSION

It was moved by Councilmember Bandkau, seconded by Cooper to go into Closed Session to receive pending labor negotiations updates from the City Labor Attorney. A roll call vote was taken. Yes: Schillinger, Bohn, Cooper, Muzzin, Bandkau, Roblee, Pipoly. No: none. Motion passed 7-0.

The Council convened into Closed Session at 8:39 p.m.

The Council reconvened the Regular Meeting at 8:56 p.m.

ADJOURNMENT

It was moved by Mayor Pro-Tem Cooper, seconded by Pipoly to adjourn the meeting at 8:56 p.m. Motion passed 7-0.

_____ _____

Diana Lowe, City Clerk Jim Muzzin, Mayor

FINANCE POLICY REPORT

Consider a Request from the Livingston Educational Service Agency to Collect all of their Operating Property Taxes on the City's Summer 2013 Tax Bills

May 20, 2013

Prepared by:

Denise Meier
Asst. Finance Director

Reviewed by:

Dana William Foster
City Manager

ISSUE:
Consider a Request from the Livingston Educational Service Agency to collect their operating property taxes on the City's Summer 2013 Tax Bills.

STAFF RECOMMENDATION:
It is staff's recommendation to approve the attached request from the Livingston Educational Service Agency (LESA) to collect all of their operating property taxes on the City's Summer 2013 Tax Bills, per the terms and conditions of the attached contractual agreement between the City and Livingston Educational Service Agency (LESA).

BACKGROUND:
State law allows for the City to charge a fee for the collection of school taxes in the summer to recoup the treasury and assessing costs associated with providing this service. It has been determined and agreed to that $3.00 per parcel is an acceptable fee for this service

BUDGET IMPACT:
Of the approximate 4,200 taxable parcels, there are approximately 2,164 parcels (real & personal) in the City, which at $3.00 per parcel will generate $6,492 of revenue for the City's General Fund in FY 2013-14, which is reflected in the Adopted FY 2013-14 Budget.

RELATIONSHIP TO GOALS:
Related to the City's Previous Goal of Responding to Formal Service Requests through Regional Cooperation.

ACTION/MOTION:
Motion to approve the attached Agreement for Collection of Livingston Education Service Agency Property Taxes.

LESA
Livingston Educational Service Agency

Received 5/17/13

May 14, 2013

Dear Township/City Treasurer,

Please find enclosed the summer Tax Collection Agreement for your signature and board approval if necessary.

Please return the signed agreement as soon as possible, but no later than May 30, 2013.

If you have any questions, please don't hesitate to contact me.

Thank you,

Chris Gray
Budget Supervisor
Livingston Educational Service Agency
517-540-6866
chrisgray@livingstonesa.org

enc

SUMMER TAX COLLECTION AGREEMENT

The City of Brighton with offices located at 200 N. First., Brighton, Michigan (the "city") pursuant to 1976 PA 451, as amended, for the purposes of providing for the collection by the City of a summer levy of Livingston Educational Service Agency, Michigan (the "Agency") property taxes for the year 2013 and hereafter as provided below:

The Agency and the City agree as follows:

1. The City agrees to collect 100% of the total millage in the summer as certified by the Agency for levy on all taxable property in addition to and not within the K-12 school district summer tax collection, including principal residence and other exempt property not subject to the 18 mill levy within the Brighton Area Schools.

2. ~~Interest earned on the investment of said taxes collected by the City prior to the payment to the Agency shall be transferred to the Agency when the taxes are transferred to the Agency.~~

3. All interest and penalties, other than collection fees, that are imposed prior to the date the taxes are returned delinquent and that are attributable to school taxes, shall belong to the Agency.

4. The Agency agrees to pay the City costs of assessment and collection at $3.00 per parcel which represents reasonable expenses incurred by the City in assessing and collecting Agency taxes, to the extent that the expenses are in addition to the expenses of assessing and collecting other taxes at the same time.

5. No later than June 15 of each year, the Agency shall certify to the City Treasurer the school millage to be levied on taxable property for summer collection.

6. The City Treasurer shall account for and deliver summer school tax collections to the Agency within ten (10) business days from the 1st and 15th of each month via electronic transfer, if and when possible.

7. In the event that state law is amended necessitating changes to this Agreement, the parties agree to negotiate changes to the Agreement in good faith to conform the Agreement to state law. Collection of summer taxes and payment for said collection shall not be disrupted or delayed due to the negotiation of or revision to this Agreement.

8. By execution of this Agreement, both parties certify and represent that the Agreement is authorized by the laws of the State of Michigan, that the individuals responsible for collecting the Agency taxes are and will be in compliance with all laws pertaining to their duties and responsibilities as a tax collecting agent, and that the signors are authorized by their respective governing bodies to execute this Agreement.

9. This Agreement is effective on the date of its execution and shall expire on June 30, 2014.

IN WITNESS WHEREOF, the parties have executed this Agreement on the respective dates indicated below.

LIVINGSTON EDUCATIONAL SERVICE AGENCY, MICHIGAN

By_____

Its_____

Dated_____

CITY OF BRIGHTON: _____

By_____

Its_____

Dated_____

POLICY REPORT NO. BPD 13-06
REQUEST FOR NEW LIQUOR LICENSE
500 W. MAIN STREET, BRIGHTON
JUNE 6, 2013

Prepared by:

Thomas Wightman
Chief of Police

Reviewed by:

Dana W. Foster
City Manager

ISSUE:
Brauerei Becker, LLC is requesting a new Micro Brewer License to be held at 500 W. Main Street in Brighton.

BACKGROUND:
Brauerei Becker, LLC is entirely owned by Matthew Becker of Green Oak Township. Mr. Becker is currently the Controls Engineer and IT Director for J.L. Becker Co. of Plymouth, Michigan. The building at 500 W. Main Street is owned by Brighton Building Investments, LLC and will be leased by Brauerei Becker, LLC.

Mr. Becker has not previously held a liquor license and therefore has no prior record with the Michigan Liquor Control Commission (MLCC). A criminal record check reveals no criminal arrests or convictions of any type.

The investigation indicates that if approved, the applicant will be in compliance with the City of Brighton code of ordinances regarding sale of alcoholic liquors, specifically sections 6-31 through 6-41. The building site plan was approved on 9/1/2011 and will require a final site inspection prior to issuance of a Certificate of Occupancy.

BUDGET IMPACT:
None.

COUNCIL ACTION:
A new Micro Brewer License requires local legislative approval in the form of a Council Resolution.

STAFF RECOMMENDATION:
The Police Department recommends approval of the request.

Attachment: MLCC resolution form

Michigan Department of Licensing and Regulatory Affairs
Liquor Control Commission (MLCC)
7150 Harris Drive, P.O. Box 30005 - Lansing, Michigan 48909-7505
Toll Free (866) 813-0011 • www.michigan.gov/lcc

Business ID: 232792
Request ID: 702189
(For MLCC use only)

Local Government Approval

(Authorized by MCL 436.1501)

Instructions for Applicants:

- You must obtain a recommendation from the local legislative body for a new license application and/or a new banquet facility permit.

Instructions for Local Legislative Body:

- Complete this resolution, or provide a resolution, along with certification from the clerk, or adopted minutes from the meeting at which this request was considered.

At a _____ meeting of the _____ council/board
(regular or special) (township, city, village)

called to order by _____ on _____ at _____
(date) (time)

the following resolution was offered:

Moved by _____ and supported by _____

that the application from Brauerei Becker LLC
(name of applicant)

for the following license(s): New Micro Brewer License

to be located at 500 West Main St, Brighton, Livingston County

and the following permit, if applied for:

☐ Banquet Facility Permit Address of Banquet Facility: _____

It is the consensus of this body that it _____ this application be considered for
(recommends/does not recommend)

approval by the Michigan Liquor Control Commission.

If disapproved, the reasons for disapproval are _____

Vote

Yeas: _____

Nays: _____

Absent: _____

I hereby certify that the foregoing is true and is a complete copy of the resolution offered and adopted by the _____ (township, city, village)

council/board at a _____ meeting held on _____
(regular or special) (date)

Name and title of authorized clerk (please print): _____

Signature of authorized clerk and date: _____

Phone number and e-mail of authorized officer: _____

Under Article IV, Section 40, of the Constitution of Michigan (1963), the Commission shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof, subject to statutory limitations. Further, the Commission shall have the sole right, power, and duty to control the alcoholic beverage traffic and traffic in other alcoholic liquor within this state, including the licensure of businesses and individuals.

LARA is an equal opportunity employer/program.Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities.

POLICY REPORT: RESIDENTIAL RENTAL INSPECTION ORDINANCE

JUNE 6, 2013

Prepared by:	Reviewed by:
Amy Cyphert Planning & Zoning Director	Dana Foster City Manager

ISSUE:

To consider the First Reading and setting of a public hearing for the proposed residential rental inspection ordinance addition to Chapter 18 of the existing City Charter.

BACKGROUND:

- Per the 2010 U.S. Census, the City of Brighton had 38% rental occupied housing units.
- The 2012 retreat goals developed by City Council included "continue staff work on a new residential rental inspection program plan to bring to City Council."
- The attached draft ordinance was developed in July 2012 and was given to the City Attorney for review and possible revisions.
- The attached draft rental inspection ordinance was based on three existing rental inspection ordinances and discussions with staff at the City of Alpena, City of Zeeland and the Village of Springlake.

DRAFT ORDINANCE INFORMATION:

- The intent of the draft ordinance states that "the city recognizes the importance of the rental housing segment of the overall city housing stock inasmuch as it provides housing options and opportunities to those citizens of the community who are unable to attain or do not desire home ownership. It is in the interest of the city to ensure that all rental residential units, structures and grounds leased for occupancy to the general public are in compliance with the minimum property maintenance standards adopted and enforced by the city. Benefits to the city include:
  (1) Protection of the health, safety and welfare of residents of rental properties and adjacent properties. Existing structures and premises not in compliance will be repaired to provide a minimum level of health and safety as required herein.
  (2) Maintenance of property values and "quality of life" within the immediate neighborhoods in which residential rental units are located.
  (3) Enforcement of common minimum standards for all residential rental units, structures and premises."
- The draft ordinance requires a rental unit to be registered with the City of Brighton before it is leased, rented or occupied. The registration forms would include contact information for the property owner and the contact information for the local agent, if the property owner does not live within 20 miles of the City.
- Certificates of compliance would be issued to rental units once registration, payment of fees and compliance inspection results have been received.

- Temporary certificates would be distributed to the rental units that are registered but their inspection would not occur until year 2 or 3 of the three year inspection cycle.
- Due to the number of rental units, 1/3 of the rental housing stock is proposed for inspections per year. The ordinance suggests dividing the City into three sections and each section would be inspected every third year.
- The International Property Maintenance Code is proposed to be the source for determining inspection requirements, similar to what was done in two of the three referenced communities.
- Penalty, revocation and appeal requirements are included in the draft ordinance.
- Interviews with staff members from the three referenced communities found that their existing rental inspection program improved the quality and maintenance of the rental units. The City of Zeeland saw "an improvement in the neighborhoods and an improvement in the aesthetics."

BUDGET IMPACT:

In the event that the rental inspection ordinance is adopted, the fee schedule would have to be updated to include fees for the registration, inspections, etc. that will be required to fund the hiring of a person to administer and enforce the ordinance.

The City Manager has advised that at this time he is estimating a budget-neutral impact on the General Fund budget since the proposed fees will cover the cost of employing a person(s) to administer the ordinance.

COUNCIL ACTION:

Introduce the proposed residential rental inspection ordinance addition to Chapter 18, and set a public hearing for June 20, 2013.

ATTACHMENTS:
Draft Ordinance

CHAPTER 18 – BUILDINGS AND BUILDING REGULATIONS
ARTICLE VI. MANDATORY REGISTRATION AND INSPECTION OF RESIDENTIAL RENTAL PROPERTIES

_____

Sec. 18-83. Intent.

The city recognizes the importance of the rental housing segment of the overall city housing stock inasmuch as it provides housing options and opportunities to those citizens of the community who are unable to attain or do not desire home ownership. It is in the interest of the city to ensure that all rental residential units, structures and grounds leased for occupancy to the general public are in compliance with the minimum property maintenance standards adopted and enforced by the city. Benefits to the city include:

(1) Protection of the health, safety and welfare of residents of rental properties and adjacent properties. Existing structures and premises not in compliance will be repaired to provide a minimum level of health and safety as required herein.
(2) Maintenance of property values and "quality of life" within the immediate neighborhoods in which residential rental units are located.
(3) Enforcement of common minimum standards for all residential rental units, structures and premises.

Sec. 18-84. Definitions.

As used in this article, the following words shall have the meanings ascribed to them in this section, unless context clearly indicates otherwise:

Certificate of compliance: Official document stating that a residential rental dwelling unit and/or structure meets the minimum standards established by the city for occupancy.

Building Department: The department of the city responsible for the daily administration of the rental inspection program including scheduling of appointments, inspections, reinspections and record keeping.

Dwelling unit means a building, mobile home, or portion thereof, designed for occupancy for residential purposes and having cooking facilities and sanitary facilities, except:

(1) Places of public accommodation such as a hotel, motel, or bed and breakfast establishments;
(2) Units required to be occupied by an employee or agent of an owner as a condition of employment (i.e., parsonages);
(3) Any dwellings, dwelling units or mobile homes, which the state has exclusive authority under state law to inspect and regulate;
(4) The principal residence of the owner, which is temporarily occupied by a person(s)other than the owner for not more than two (2) years;
(5) The dwelling of a surviving spouse who is living in a home which is owned by the deceased spouse's heirs, estate or trust;
(6) A dwelling in which a parent, child, brother, or sister of an owner is living;
(7) Dwellings in a dormitory operated by an institution of higher education; and
(8) Dwelling units in which an owner of such unit resides unless the nonowner occupant (s) of such dwelling unit pays rent or makes other compensation to the owner for occupancy of the dwelling unit.

Local agent: An individual or company representing the owner having a place of residence or business within the county or within 20 miles of the city if residing outside the

county. The local agent is responsible for the operation of the owner's residential rental dwelling unit(s) located within the city regarding compliance with the provisions of this article, and the terms and conditions of all other codes and ordinances of the city. A local agent is required if:

(1) The owner resides outside of the County more than 20 miles from the city.

(2) The owner resides outside of the county more than 20 miles from the city for more than 90 days each calendar year.

Owner/property owner: The individual(s), company, corporation, or governmental or private agency listed on the recorded deed as the owner or purchaser under a recorded land contract of a property containing residential rental dwelling unit(s).

Residential rental dwelling structure: Any building containing one or more residential rental dwelling units including any common areas accessible to residents of all residential rental units within the building, restricted or non-accessible portions of the structure and the building exterior.

Residential rental dwelling unit: Distinct individual living quarters within a building intended for occupancy by a person or persons other than the owner and the family of the owner, and for which a remuneration of any kind is paid. Single family residences, duplexes, apartments and rooming houses may all contain and be classified as rental units.

Residential rental premises: The site upon which a residential rental dwelling unit or structure is located including, but not limited to, yards, walkways, driveways, patios, decks, accessory structures, fences and landscaping.

Sec. 18-85. - Initial registration.

Within 90 days of the effective date of this article all buildings containing residential rental dwelling units within the corporate limits of the city shall be registered with the building department on a form provided by the city. Units must be registered by the owner or the owner's local agent as defined in this article.

Sec. 18-86. - Follow-up registration.

Following the initial 90-day registration period residential rental dwelling units shall be registered as follows:

(1) Newly constructed residential rental dwelling buildings or units shall be registered prior to the issuance of a final certificate of occupancy.

(2) A residential rental dwelling/building/unit sold, transferred or conveyed shall be re-registered by the new owner within 30 days of the date of the deed, land contract, or other instrument of conveyance. At that time the units will be removed from the previous owner's registration.

(3) Any non-rental residential dwelling unit converted to a residential rental dwelling unit shall be registered prior to the date it is occupied for rental purposes.

Sec. 18-87. - Registration.

No person shall lease, rent, occupy, or otherwise allow a rental unit within the city to be occupied without first registering the rental unit with the building department and designating a responsible local agent.

(a) *Registration forms.* Registration shall be made upon forms furnished by the building department and shall require all of the following information.

(1) The street address of the rental unit(s);

(2) The number and types of rental units within the rental property;
(3) Name, business and residence address, telephone number and, where applicable, an e-mail address, mobile telephone number, and facsimile number of all property owners of the rental unit(s);
(4) Name, residence address, telephone number and, where applicable, an email address, mobile telephone number, and facsimile number of the responsible local agent designated by the owner;
(5) The maximum number of occupants proposed for each rental unit;
(6) The name, address, telephone number and, where applicable, an e-mail address, mobile telephone number, and facsimile number of the person authorized to order repairs or services for the property if different than the owner or responsible local agent, if in violation of city or state codes, if the person is other than the owner or the responsible local agent; and
(7) Information relating to the size of all habitable rooms.

(b) *Accurate and complete information.* All information provided on the registration form shall be accurate and complete. No person shall provide inaccurate information for the registration of a rental unit, or fail to provide the information required for such registration. The registration form shall be signed by the properly owner(s) or the designated responsible local agent. Where the owner is not a natural person, the owner information shall be that of the president, general manager or other chief executive of the organization.

(c) *Change in registration information or transfer of property.* Except for a change in the registered local agent, the property owner of a rental unit registered with the city shall re-register within thirty (30) calendar days after any change occurs in the registration information. If the property is transferred to a new owner, the new property owner of a registered rental unit shall re-register the rental unit within thirty (30) calendar days following the transfer of the property. Property owners shall notify the building official and zoning department of any change in the designation of the registered local agent, including a change in name, address, e-mail address, telephone number, mobile telephone number or facsimile number of the designated registered local agent within thirty (30) business days of the change. If a transfer of ownership occurs and there is a current certificate of compliance on file, then the new owner will only have to pay the registration fee upon the expiration of the current registration. It will still be required that the new owner fill out a new registration form.

(d) *Responsible local agent.* The designated responsible local agent and owner shall be responsible for all of the following:
(1) Operating the registered rental unit in compliance with all applicable city ordinances;
(2) Providing access to the rental unit for the purpose of making any and all inspections necessary to ensure compliance with the applicable city ordinances, except where the tenant has refused entry;
(3) Maintaining a list of the names and number of occupants of each rental unit for which he or she is responsible; and
(4) Accepting all legal notices or services of process with respect to the rental unit.

Sec. 18-88. - Fees; late fees.

There shall be no fee for the registration, re-registration or updating of registration information within the allotted time periods. If a residential rental dwelling unit is not registered within the time period specified herein, then a late fee shall be applied as established by the city's annual fee schedule per rental dwelling unit and shall be paid by the owner of same as defined herein.

Sec. 18-89. - Maintenance of records.

The building department shall be responsible for maintaining all residential rental dwelling unit registration data and provide the number of residential rental dwelling units in the city, type (single family, duplex, multi-unit, apartment complexes, rooming houses, etc.) and the number and type of units added to or deleted from the registration roster.

Sec. 18-90. - Penalty for failure to comply.

Failure to register a residential rental dwelling unit(s) within the applicable time period prescribed in this article shall constitute a civil infraction, which upon a finding of responsibility therefore, shall subject the violator to a fine of up to $500.00 per unregistered residential rental dwelling unit, together with the costs of such prosecution.

The submission of false information on a residential rental dwelling unit registration form shall constitute a civil infraction, which upon conviction thereof, shall subject the violator to a fine of up to $500.00 per residential rental dwelling unit owned by the violator and costs of prosecution.

Sec. 18-91. Certificate of compliance required.

No person shall own, operate, lease, rent, occupy, or otherwise allow a rental unit within the city to be occupied unless there is a valid certificate of compliance or temporary certificate issued by the building department for the rental unit. A certificate of compliance shall be issued for each building containing a rental unit.

(a) *Requirements.* A certificate of compliance shall be issued only after all of the following requirements have been satisfactorily completed.
  (1) Registration of the rental unit with the building official and zoning department;
  (2) Designation of the responsible local agent;
  (3) Payment in full of any and all required registration and inspection fees; and
  (4) Inspection by the building official and zoning department.

(b) Temporary certificates.
  (1) Temporary certificates of compliance for up to three (3) years may be issued without prior inspection by the building official and zoning department for those occupied rental units existing as of the article adoption date. Such temporary certificates of compliance may be issued as of the effective date of the initial registration following (determined date), to allow property owners to operate such rental units until such time as an inspection may be made by the building department. At such time as an inspection is made and the building department has determined that provisions of this ordinance have been complied with, the temporary certificate shall expire.
  (2) When a rental certificate of compliance is required, the building department may issue a temporary rental certificate of compliance if all of the following circumstances exist:

a. The building official and zoning department are unable to complete an inspection of a rental unit to verify compliance with this article.
b. The enforcing officer is not aware of any current major violations.
c. The property owner has paid the annual registration fee and the inspection fees assessed against the property owner.

(3) The building department may issue a temporary rental certificate of compliance for a newly registered rental unit.
(4) The building department may issue a temporary rental certificate of compliance for a rental unit subject to a housing order notice containing major or minor violations if the property owner is in the process of correcting such violations and can show proof of same.
(5) Except as otherwise provided, a temporary rental certificate of compliance shall be valid until the enforcing officer completes an inspection and issues an order granting or denying a rental certificate of compliance. A temporary rental certificate of compliance may also be revoked by the rental inspector if the property owner refuses to schedule and/or permit an inspection after having been given a fourteen-day notice that an inspection must be scheduled, unless the tenant has refused access to the building official.

Sec. 18-92. Affected and exempt units/structures.

(a) All single, duplex and multi-family rental units and structures, including boarding and/or rooming houses as defined in the city zoning ordinance, located within the city, shall comply with the requirements of this article except as specifically exempted below:
(b) Exemptions.
(1) *One-time exception.* Any rental unit listed above, which within the previous six months prior to a scheduled inspection has been issued a certificate of occupancy by the city building department. Such units will be issued a three-year certificate of compliance without an additional inspection.
(2) *Exemptions.* The following are exempted from the requirements of this article:
a. All residential rental units and/or complexes inspected by the Federal Housing and Urban Development Department (HUD) or the Federal Housing Administration (FHA). Proof of inspection and compliance must be provided.
b. Hotels, motels, and bed and breakfast establishments as classified in the Michigan Building Code, as amended.

Sec. 18-93. Basis for inspection.

The city through its rental inspector shall have the authority to inspect any residential rental dwelling unit or structure under the following situations:

(1) In the course of an initial scheduled inspection and triennial renewal inspection to receive and maintain a certificate of compliance.
(2) Upon request by the property owner or local agent to inspect a unit(s) and/or structure
(3) Upon a request by a tenant to inspect a unit or structure.
(4) Upon receipt of information that a unit or units are not registered with the city.
(5) Upon knowledge of an imminent life or safety danger.

Sec. 18-94. Inspection criteria.

(a) The city shall utilize the "International Property Maintenance Code," published by the International Code Council and adopted by the city council, as amended, as the established standards for the inspection of residential rental unit.

(b) The city rental inspector shall prepare a standardized checklist of items to be inspected consistent with the standards of the "International Property Maintenance Code." The checklist shall be available to all residential rental property owners and tenants prior to an inspection. This checklist shall not, in any way, limit the scope of the applicable sections of the Property Maintenance Code or enforcement rights of the City of Brighton, and is provided solely as a courtesy.

Sec. 18-95. Inspection procedures.

(a) For the initial round of inspections the building department shall prepare an inspection schedule for existing residential rental dwelling units and structures presently registered with the city. The schedule shall be based on a three-year inspection cycle and shall be developed so as:

    (1) Not to concentrate on a single geographic area in a given year; and

    (2) To limit the number of inspections for a single property owner with nine or more residential rental units in separate structures to no more than one-third of the units in a calendar year.

(b) Newly constructed and/or registered residential rental units shall be scheduled for an inspection at the time they are registered and shall be inspected and obtain a certificate of compliance prior to occupancy unless exempted under section 18-92(b)(1), one-time exemptions. In such case a certificate of compliance shall be issued without an additional inspection.

(c) At least 30 days prior to an inspection or inspections the city building department shall send in writing a notification to the property owner or local agent including the date, time and the unit or units to be inspected. It shall be the responsibility of the property owner or local agent to notify the affected tenant(s). The property owner or local agent may request a change in the inspection appointment no less than ten days prior to the scheduled inspection. In the event a property owner, local agent or tenant learns that he/she cannot be present at the scheduled appointment, the city rental inspector must be notified at least 24 hours in advance. A new inspection appointment shall be scheduled no more than 30 days from the original appointment. A missed appointment by a property owner or local agent shall be rescheduled by the city, and a "missed appointment fee" as listed in the city's adopted comprehensive fee schedule shall be imposed.

(d) A property owner, local agent or tenant shall provide access to his/her residential rental dwelling unit(s) and/or structure(s). An individual refusing entry shall be notified of the city's authority to inspect the property and that it may take appropriate and necessary action, including but not limited to: issuance of a citation, obtaining a search warrant, posting the unit as uninhabitable and/or instituting other legal action as prescribed in section 18-99, failure to comply.

(e) A unit in compliance with the requirements included in the inspection checklist shall be issued a Certificate of Compliance valid for a period of three years from the date of issuance unless revoked by the city (see section 18-96, revocation of certificate of compliance).

(f) For units with code violations the rental inspector shall provide a written notice of the noted code violations to the property owner or local agent, who shall have 30 days from receipt of the notice to correct said code violations. More time may be granted by the rental inspector in those situations in which the property owner or local agent can demonstrate a justifiable need and the additional time will not result in conditions deteriorating further. Less time may also be specified for life or health threatening situations. If any violation remains uncorrected following the allotted repair time an additional ten days may be granted; however, a re-inspection fee shall be imposed for each subsequent re-inspection. The re-inspection fee shall be paid prior to the inspection.

(g) Decisions of the rental inspector may be appealed to the construction board of appeals serving as the housing appeals board (see section 18-97, appeal process).

(h) The owner and local agent shall be responsible for scheduling renewal inspections at least 45 days prior to the expiration of a certificate of compliance.

Sec. 18-96. Revocation of certificate of compliance.

A certificate of compliance may be revoked by the rental inspector under the following circumstances:

(1) A residential dwelling unit or structure is not operated as a rental unit or structure for 90 consecutive days and/or is removed by the property owner or local agent from the city's rental registration list. A new certificate of compliance must be obtained including the required inspection prior to occupancy.

(2) A property owner or local agent has failed to correct code violations within the required timeframe and has been officially cited by the city as a misdemeanor violation or by other legal action.

Sec. 18-97. Appeal process.

(a) The city construction board of appeals shall serve as the housing appeals board and shall meet on an as-needed basis.

(b) A property owner or local agent disagreeing with a decision of the rental inspector relative to the existence of a violation or the timeframe in which to make corrections, may appeal that decision to the housing appeals board, hereby designated to hear such appeals. A tenant of a rental dwelling unit shall have standing to appeal a notice or order to vacate a residential rental dwelling unit.

(c) A property owner, local agent or tenant requesting an appeal shall submit a written request on a form provided by the city rental inspector with the appropriate fee within ten days after receipt of a notice of violation, or within the time allotted for taking any action indicated on a notice or order, whichever is shorter. The decision or order of the building official shall be held in abeyance until such time as it is acted upon by the housing appeals board.

(d) The housing appeals board shall convene within 30 working days of the filing of a completed form requesting appeal and fee, with notice served by mail to the appealing party of the date, time and location of the hearing, at least seven days prior to the date of hearing. The board shall hear testimony and argument from the appealing party and the building official and shall by majority vote render a decision on the question at hand. The decision of the housing appeals board shall be binding on all parties.

Sec. 18-98. Fees.

Fees for inspections, missed appointments, re-inspections, late fees and appeals shall be as prescribed in the city comprehensive fee schedule as adopted from time to time by the city council. All fees shall be paid at the office of the rental inspector prior to inspections being performed. A late fee shall be charged for all inspection fees not paid prior to the inspection ten days after the inspection is performed. Fees remaining unpaid more than ten days following an inspection shall be charged an additional late fee and all accumulative charges may be added to the tax rolls relative to the property(s), and such charges shall become a lien in the same manner as the regular taxes applied to such premises, until such charges are paid.

Sec. 18-99. Failure to comply.

Failure or refusal to have residential rental units inspected in accordance with this article, or failure to comply with any provision of this article or notice given pursuant hereto, shall constitute a misdemeanor, which upon conviction may result in a fine of up to $500.00 per violation, costs of prosecution and/or imprisonment for up to 90 days.

Sec. 18-100. Enforcement authorization.

The building official, city rental inspector, city manager, fire marshal, city police officers and planning & zoning director are authorized to enforce the provisions of this article and issue misdemeanor citations pursuant hereto.

Sec. 18-101. Program implementation.

The building department, planning & zoning director and the rental inspector under the direction of the city manager shall be responsible for the implementation and ongoing operation of the city rental housing inspection program.

POLICY REPORT: CHAPTER 98, ARTICLE I, IN GENERAL, SECTION 98-3, DEFINITIONS; CHAPTER 98, ARTICLE XXIV, BOARDS OF APPEAL, SECTION 98-687, JURISDICTION; AND CHAPTER 98, ARTICLE XXV, TEMPORARY LAND USES, SECTION 98-700, TEMPORARY LAND USES AND SET A PUBLIC HEARING FOR JULY 18, 2013

JUNE 6, 2013

Prepared by:

Amy Cyphert
Planning & Zoning Director

Reviewed by:

Dana Foster
City Manager

ISSUE:
To consider the First Reading and setting of a public hearing for the proposed amendments Chapter 98, Article I, In General, Section 98-3, Definitions; Chapter 98, Article XXIV, Boards of Appeal, Section 98-687, Jurisdiction; and Chapter 98, Article XXV, Temporary Land Uses, Section 98-700, Temporary land uses.

BACKGROUND:
On January 1, 2012, Public Act 256 of 2011 went into effect. This public act repealed laws that regulated the purchase, sale, possession and use of fireworks and put into effect new regulations.

Public Act 56 of 2011 permits the purchase, sale, possession and use of fireworks with regulations established in the public act. In addition, the public act states the following:

> Sec. 7. (1) Except as provided in this act, a local unit of government shall not enact or enforce an ordinance, code, or regulation pertaining to or in any manner regulating the sale, display, storage, transportation, or distribution of fireworks regulated under this act.

With the above in mind on March 18th, the Planning Commission reviewed proposed amendments to the existing ordinances for the powers of the Zoning Board of Appeals and temporary land uses. The attached draft amendments would transfer the power of granting temporary land uses from City Council to the Zoning Board of Appeals. This means that any future temporary land uses would be reviewed by the Zoning Board of Appeals, including temporary fireworks sales.

Attached you will find the proposed amendments.

BUDGET IMPACT: N/A

RELATIONSHIP TO 2012/2013 GOALS: N/A

COUNCIL ACTION:

1. Introduce the proposed amendments to Chapter 98, Article I, In General, Section 98-3, Definitions; Chapter 98, Article XXIV, Boards of Appeal, Section 98-687, Jurisdiction; and Chapter 98, Article XXV, Temporary Land Uses, Section 98-700, Temporary land uses, and set a public hearing for July 18, 2013.

Attachments:

1. Planning Commission March 18, 2013 Draft Meeting Minutes
2. Proposed amendments to Chapter 98, Article I, In General, Section 98-3, Definitions; Chapter 98, Article XXIV, Boards of Appeal, Section 98-687, Jurisdiction; and Chapter 98, Article XXV, Temporary Land Uses, Section 98-700, Temporary land uses.

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City of Brighton
Planning Commission
Minutes
May 20, 2013

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1. Call to Order/Roll Call

Vice Chairperson Smith called the meeting to order at 7:30 pm. The following were present:

John Wells	Dave Petrak
Al Wirth	Robert Pawlowski
Bill Bryan	Matt Smith
Larry Schillinger	

Motion by Mr. Bryan, supported by Mr. Pawlowski, to excuse Planning Commission members Monet and McLane. **The motion carried 7-0-2**.

Also present were Amy Cyphert and Lauri French from Staff.

2. Approval of the January 28, 2013 Regular Meeting Minutes

Motion by Mr. Wirth, supported by Mr. Petrak, to approve the January 28, 2013 regular meeting minutes as presented. **The motion carried 6-0-3, with two absences and Bill Bryan abstaining.**

3. Approval of the March 18, 2013 Regular Meeting Minutes

There were not enough members present to approve the March 18, 2013 meeting minutes. **Motion** by Mr. Wirth, supported by Mr. Pawlowski, to table approval of the March 18, 2013 regular meeting minutes until the next Planning Commission meeting. **The motion carried 7-0-2.**

4. Approval of the May 20, 2013 Agenda

Motion by Mr. Wells, supported by Mr. Schillinger, to approve the agenda as presented. **The motion carried 7-0-2.**

5. Call to the Public

The call to the public was made at 7:32 p.m. Hearing no response, call to the public was closed.

Public Hearings

6. Public Hearing and Possible Action on Amendments to:

- Chapter 98, Article I. In General, Section 98-3, Definitions
- Chapter 98, Article XXIV. Boards of Appeal, Section 98-687, Jurisdiction
- Chapter 98, Article XXV. Temporary Land Uses, Section 98-700, Temporary land uses

Ms. Cyphert reviewed the three draft documents included in tonight's packet. She reminded the board that the changes were made as a result of comments from the March 18, 2013 Planning Commission meeting and that the changes had been reviewed by the City Attorney. Temporary use in the Definitions section was changed to add "for the purpose of commerce". Board Member Wirth suggested that the word "residential" be added before "garage" in the first paragraph for clarification.

The Jurisdiction section changes allow the Zoning Board of Appeals to approve temporary uses. There was a brief discussion and Board Member Petrak suggested that "Survey" Sec. 98-700, Temporary Uses, sub-paragraph (2) j. be changed to "Site plan" since survey connotates a stamped survey done by an engineering company which was not the intent of the wording. The word "of" after "Layout of existing…"

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in (2) j. 3) should also be eliminated.

Ms. Cyphert also noted that Temporary Uses was amended to transfer power from City Council to the Zoning Board of Appeals.

Vice Chairperson Smith closed the regular session and opened the public hearing at 7:38 p.m. Hearing no responses from the public, the public hearing was closed at 7:38 p.m. and Vice Chairperson Smith re-opened the regular session.

Board Member Schillinger requested that the changes made by Planning Commission to the draft amendments be reviewed by the City Attorney prior to going to City Council for approval.

Motion by Mr. Petrak, supported by Mr. Bryan, to approve amendments to Sec. 98-687, Jurisdiction, Sec. 98-3, Definitions and Sec. 98-700, Temporary Uses, as amended and forward the amendments to City Council for review and adoption contingent on approval of the amendments by the City Attorney. **Motion carried 7-0-2.**

Unfinished Business

New Business

Other Business

7. **Staff Updates** – None.

8. **Commissioner Concerns** – Mr. Pawlowski asked about the status of the Excelda property. Ms. Cyphert advised that nothing is happening with a new building at this time. She also gave the board members a brief update on the Becker Brewery and Brighton Mall.

9. **Call to the Public**

The call to the public was made at 7:50 p.m. Hearing no response, call to the public was closed.

10. **Adjournment**

Motion by Mr. Wirth, supported by Mr. Wells, to adjourn the meeting at 7:50 p.m. **The motion carried 7-0-2.**

John Wells, Secretary

Lauri French, Recording Secretary

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City of Brighton
Planning Commission
Minutes
March 18, 2013

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1. Call to Order/Roll Call

Planning & Zoning Director Cyphert called the meeting to order at 7:30 pm. **Motion** by Mr. Wirth, supported by Mr. Pawlowski, to appoint Mr. Wells as acting chairperson for tonight's meeting due to the absences of Chairperson Monet and Vice Chairperson Smith. **Motion carried 5-0-4**. The following were present:

John Wells	Dave Petrak
Al Wirth	Robert Pawlowski
David McLane	

Motion by Mr. McLane, supported by Mr. Petrak, to excuse Planning Commission members Monet and Smith. **The motion carried 5-0-4**.

Also present were Amy Cyphert and Lauri French from Staff.

2. Approval of the January 28, 2013 Regular Meeting Minutes

There were not enough board members present to approve the January 28, 2013 minutes. **Motion** by Mr. Wirth, supported by Mr. McLane, to table approval of the January 28, 2013 regular meeting minutes until the next Planning Commission meeting. **The motion carried 5-0-4.**

3. Approval of the March 18, 2013 Agenda

Motion by Mr. Petrak, supported by Mr. Pawlowski, to approve the agenda as presented. **The motion carried 5-0-4.**

4. Call to the Public

The call to the public was made at 7:34 p.m. Hearing no response, call to the public was closed.

Public Hearings

Unfinished Business

New Business

5. Discussion on zoning ordinance amendments pertaining to temporary land uses and temporary structures

Ms. Cyphert stated that this change was required due to the recently passed fireworks sales legislation. The City has no fireworks sales regulations and the City Council only has authority currently to approve special uses for produce sales, firewood and Christmas trees. She explained that there are two options available to address this issue. One is to amend the temporary use section to allow City Council approval of all temporary uses. The second option is to move the authority to the Zoning Board of Appeals and amend their jurisdiction to allow them to grant special use permits as well as amend Section 98-3, Definitions for temporary uses and the temporary land use section. This was reviewed by the Zoning Board of Appeals at the March 14, 2013 meeting and they had no issues with taking over jurisdiction. Ms. Cyphert also noted that she reviewed the two options with City Manager Foster this morning and he also recommends moving the authority to the Zoning Board of Appeals. She asked the Planning Commission members to discuss the amendments and to set a public hearing in April.

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Ms. Cyphert reviewed the proposed changes to Section 98-687, Jurisdiction, and noted the addition of paragraph (12) which would allow a temporary use for a period not to exceed 90 days. Mr. Petrak noted that the word "zoning" should be added to the document in front of "board of appeals" for clarity. Ms. Cyphert also reviewed the proposed changes to Section 98-3, Definitions, and noted that the application requirements in Section 98-700, Temporary land uses, have been increased. It was suggested by Ms. Cyphert that paragraph (7) be taken out since State law governs ZBA publications for public hearings. There was discussion about clarifying the definition of "temporary use" by adding "for the purpose of commerce" so that it would be clear this relates to sales of goods and not, for example, setting up a tent in your backyard for a graduation party.

Motion by Mr. Wirth, supported by Mr. Pawlowski, to approve draft Section 98-3, Definitions, as amended to add "for the purpose of commerce" and remove paragraph (7), approve draft Section 98-687, Jurisdiction, as amended to add "zoning" in all applicable paragraphs where "board of appeals" is used, and to set the public hearing date for the April 22, 2013 Planning Commission meeting, assuming approval of the meeting date change requested in Item 6 of tonight's agenda. **The motion carried 5-0-4.**

Other Business

6. 2013 Meeting Date Schedule Change

a. April 22, 2013 – Ms. Cyphert noted that both she and Community Development Director Modrack will be unavailable for the currently scheduled April 15, 2013 meeting and requested that the meeting date be changed to the following Monday, April 22, 2013. **Motion** by Mr. Pawlowski, supported by Mr. McLane, to change the date of the next Planning Commission meeting to April 22, 2013. **The motion carried 5-0-4**.

7. Staff Updates – Ms. Cyphert noted that the North/West/Main streetscape project, which Planning Commission and City Council both approved, received awards from the Michigan Concrete Association. The DDA, project architect and Ms. Cyphert received awards for their participation in the project.

8. Commissioner Concerns

9. Call to the Public

The call to the public was made at 8:10 p.m. Hearing no response, call to the public was closed.

10. Adjournment

Motion by Mr. Wirth, supported by Mr. McLane, to adjourn the meeting at 8:10 p.m. **The motion carried 5-0-4.**

John Wells, Secretary

Lauri French, Recording Secretary

Sec. 98-687. Jurisdiction.

(a) The zoning board of appeals may, in specific cases and subject to appropriate conditions and safeguards, and after public hearing as provided in section 98-662, determine and vary the application of the regulations herein established in harmony with their general purpose and incident:

(1) To permit the structures or uses requiring the approval of or within the power of the zoning board of appeals under the provisions of this chapter.

(2) Interpret the provisions of this chapter in such a way as to carry out the intent and purpose of the plan, as shown upon the map fixing the several zoning districts accompanying and made a part of this chapter, in those cases where the street layout actually on the ground varies from the street layout as shown on the aforesaid map.

(3) In those cases where a district boundary line divides a lot of record, the zoning board of appeals shall have power to permit the extension of a use permitted on the less restricted portion of such a lot to that portion of such lot which lies in the more restricted district, provided that such extension shall be made for a distance of not to exceed 50 feet beyond the district boundary line in any case.

(4) Permit variation in the use and location of buildings on any lot abutting a different zoning district, provided that the use or location shall not have an undesirable effect upon the more restricted district and provided further that the yard requirements cannot be less than 50 percent of the requirements for the more restricted district, and provided further that the variation shall not extend more than 50 feet into the more restricted district.

(5) Permit in any district the keeping of fowl or rabbits for the use and consumption of the occupants of the premises. The zoning board of appeals may require in granting such a permit, that all fowl or rabbits shall be so housed, fenced, or otherwise kept that their use will not constitute a nuisance.

(6) Permit the erection of a trailer court in an R-1 or R-4 district. Permit the erection of a motel or motor court in a C district, provided that each unit provides a lot area of 600 square feet for the first room of 80 or more square feet and an additional area equal to twice the room area for each additional room of 80 square feet or more and provided that each unit or group of units shall have two side yards of not less than ten feet each, a front yard of not less than 25 feet, a rear yard of not less than ten feet and separate buildings shall be not less than ten feet apart; and further provided that each unit shall have one room with not less than 150 square feet of floor area, a bathroom of not less than 25 square feet of floor area, and not less than 50 square feet of floor area for a kitchenette if provided; and further provided that no guest shall occupy such accommodations or location for a period of more than one month within any calendar year.

(7) To permit variations in the requirements for outer courts in dwellings, and to permit such variation or modification of yard, lot area, and percentage of lot coverage, and requirements of this chapter as may be necessary to secure an appropriate improvement of a parcel of land which has such size, shape or dimension, or which has such peculiar or exceptional geographical, or topographical conditions, that it cannot be appropriately improved without such

variation or modification, provided that the purpose and spirit of this chapter shall be observed, public safety secured, and substantial justice done.

(8) Permit the erection and use of a building, or an addition to an existing building, of a public service corporation or for public utility purposes, in any permitted district to a greater height or of larger area than the district requirements herein established, and permit the location in any use district of a public utility building, structure, or use, if the zoning board of appeals shall find such use, height, area, building or structure reasonably necessary for the public convenience and service and provided further, that such building, structure, or use is designed, erected and landscaped to conform harmoniously with the general architecture and plan of such district.

(9) Permit the erection of a building to its full height or use, as originally planned, when foundations and structural members are designed to carry such buildings higher.

(10) To permit in residence zones the erection of bulletins, memorial markers or other signs not used for purposes of commercial advertising, in excess of eight square feet in surface area, under such temporary permit or permanent conditions as will prevent them from becoming dilapidated or unsightly or a menace to the public health, safety or general welfare.

(11) Permit a variation or modification in the required location of off-street parking facilities, or in the amount of off-street parking facilities required or both, if after investigation by the zoning board of appeals, it is found that such variation is necessary to secure an appropriate development of a specific parcel of land which has such peculiar or exceptional geographical or topographical conditions or is of a size, shape or dimension that it cannot be reasonably developed in accordance with the provisions of article III and that any variation will not be inconsistent with the spirit and purpose of this chapter, with public safety and with substantial justice.

(12) Permit temporary uses for periods not to exceed 90 days, if the zoning board of appeals shall find such use or building or structure will not be inconsistent with the spirit and purpose of this chapter, with public safety and with substantial justice. The zoning board of appeals may make use of maps, data, and other information and expert advice provided by appropriate federal, state, regional, county, and municipal officials, departments, and agencies when making a decision on a request for temporary uses.

(b) Where there are practical difficulties or unnecessary hardships in complying strictly with the provisions of this chapter, the zoning board of appeals may in specific cases, adjust any such condition in harmony with the general purpose and intent of this chapter so that the public health, safety and general welfare may be secured and substantial justice done.

(Code 1981, § 51.211)

Sec. 98-3. Definitions.

Use (temporary) means a use permitted to exist during a specified period of time for the purpose of commerce, including but not limited to uses in temporary structures including, but not limited to, tents, portable containers, trailers, portable trailers, awnings, or vehicles. Temporary use excludes residential garage or residential yard sales.

Sec. 98-700. Temporary uses.

The zoning board of appeals shall only have the authority to grant permits authorizing temporary uses for the purpose of commerce subject to the following conditions:

(1) Temporary uses shall be restricted to nonresidential zoning districts. Temporary uses shall not be permitted in residential transitional districts.

(2) The applicant shall apply for a temporary use permit on a form to be provided by the City of Brighton. The application shall include the following:

a. Name of the applicant and business.
b. Address and telephone number of the applicant.
c. Name of the property owner, if other than applicant.
d. Address and telephone number of the property owner, if other than applicant.
e. Written authorization for the property owner shall be required where the applicant in not the owner of the affected property.
f. Documentation demonstrating compliance with state law, if applicable.
g. Proposed hours of operation.
h. Proposed signage.
i. Copy of certificate of insurance, in an amount deemed satisfactory by the zoning board of appeals.
j. Site plan of the property including the following:
    1) Detailing the shape, dimensions and location of the property.
    2) All existing buildings or structures.
    3) Layout of existing off-street parking and parking calculations for existing buildings and structures.
    4) Location of fire lanes and hydrants.
    5) The shape, dimensions and location of all temporary buildings to be erected or located upon the lot, including all tents, tables, stands, or display racks.
    6) The proposed flow of automobile and pedestrian traffic to and from the lot and any adjacent thoroughfares.

3) A temporary use permit for the sale of Christmas trees and related items shall be effective for 30 days or less. No more than one temporary use permit for the sale of Christmas trees or related items shall be issued for any given location within a single calendar year.

(4) A temporary use permit shall be effective for 90 days or less. No more than one temporary use permit for a type of products shall be issued for any given property within a single calendar year.

(5) A temporary use permit shall only be granted if the zoning board of appeals determines as follows:

a. That there is adequate automobile and pedestrian traffic flow.

b. That there is adequate off-street parking for any existing buildings and structures currently located on the property and for the proposed temporary use.

c. That there is adequate access for fire and police protection

d. That the use is compatible with the physical character of the surrounding neighborhood.

e. That the use complies with all zoning regulations for the district in which the use is located, including all requirements pertaining to lot size, height, setback, open space ratio, maximum percentage of covered lot area, and off-street parking, as well as all other applicable codes and regulations.

(6) The temporary use permit shall be in writing and shall stipulate all of the conditions of issuance such as the term of the permit, the nature of the permitted use and the manner in which any facilities located on the lot shall be removed upon termination of the temporary use permit.

(7) The person(s) to whom the permit has been issued must comply with the terms and conditions of the permit and all applicable ordinances and state and federal statutes. Failure to comply with the terms and conditions of the permit, ordinances of the City of Brighton, and statutes of the state of Michigan and United States shall result in revocation of the permit by the city manager or the designee of the city manager. Notice of revocation of the permit shall be given in writing and shall either be posted at the site of the temporary use or shall be personally served upon the person(s) to whom the permit was issued. The use shall terminate immediately upon posting of the notice of revocation of the permit or upon personal service of the notice of revocation of the permit. In the event the use is not immediately terminated upon notice of revocation, the city manager or designee shall be permitted to enter upon the site and close the temporary use.

(8) No temporary use permit shall be issued for the sale of appliances, furniture, artwork, crafts, clothing or other similar products.

(9) Any person found to violate this section shall be guilty of a municipal civil infraction and shall be punished by a fine(s) as set forth in section 1-16(b). The imposition of a municipal civil infraction fine, or failure to impose such a fine, under this section shall in no way be construed as to limit the right of the city manager to revoke or suspend a license under (8), above.

(Ord. No. 424, § I, 5-21-98; Ord. No. 560, § I, 7-9-12)