

**VILLAGE OF THREE OAKS, MICHIGAN
CODE OF ORDINANCES**

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TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

CHAPTER 10: GENERAL PROVISIONS

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§ 10.01 HOW CODE DESIGNATED AND CITED.

This code shall constitute and be designated as the "The Village of Three Oaks Code."

§ 10.02 DEFINITIONS.

(A) Terms used in this code, unless otherwise specifically defined, have the meanings prescribed by the statutes of the state for the same terms.

(B) For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CIVIL INFRACTION. An act or omission that is prohibited by this code or any ordinance of the village, but which is not a crime under this code or any other ordinance of the village, and for which civil sanctions, including without limitation, fines, damages, expenses and costs may be ordered, as authorized by Public Act 236 of 1961, being M.C.L.A. §§ 600.8701 through 600.8735, as amended. A municipal **CIVIL INFRACTION** is not a lesser included offense of any criminal offense in this code.

CODE. The Village of Three Oaks Code as designated in § 10.01.

COMPUTATION OF TIME. The time within which an act is to be done, as provided in this code or in any order issued pursuant to this code, when expressed in days, shall be computed by excluding the first day and including the last, except that if the last day is Sunday or a legal holiday it shall be excluded; and when the time is expressed in hours, the whole of Sunday or a legal holiday, from midnight to midnight, shall be excluded.

COUNTY. County of Berrien, Michigan.

JUVENILE. Any person under 17 years of age.

MINOR. A person under 21 years of age.

OFFICER, DEPARTMENT, BOARD AND THE LIKE. Whenever any officer, department, board or other public agency is referred to by title only, the reference shall be construed as if followed by the words "of the Village of Three Oaks, Michigan." Whenever, by the provisions of this code, any officer of the village is assigned any duty or empowered to perform any act or duty, reference to the officer shall mean and include the officer or his or her deputy or authorized subordinate.

ORDINANCES. The ordinances of the village and all amendments thereto.

PERSON. Any natural individual, firm, trust, partnership, association or corporation. Whenever the word **PERSON** is used in any section of this code prescribing a penalty or fine, as applied to partnerships or associations, the word includes the partners or members thereof and, as applied to corporations, the word includes officers, agents or employees thereof who are responsible for any violations of the section. The singular includes the plural. The masculine gender includes the feminine and neuter genders.

STATE. The term **THE STATE** or **THIS STATE** shall be construed to mean the State of Michigan.

§ 10.03 SECTION CATCHLINES AND OTHER HEADINGS.

The catchlines of the several sections of this code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be the titles of the sections, nor as any part of the sections, nor, unless expressly so provided, shall they be so deemed when any of the sections, including the catchlines, are amended or reenacted. No provision of this code shall be held invalid by reason of deficiency in any catchline or in any heading or title to any chapter, subchapter or division.

§ 10.04 CERTAIN ORDINANCES NOT AFFECTED BY CODE.

Nothing in this code or the ordinance adopting this code shall affect any ordinance not in conflict with or inconsistent with this code:

(A) Promising or guaranteeing the payment of money for the village, authorizing the issuance of any bonds of the village, any evidence of the village's indebtedness, any contract or obligations assumed by the village;

(B) Containing any administrative provisions of the Village Council;

(C) Granting any right or franchise;

(D) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating and the like, any street or public way in the village;

- (E) Making any appropriation;
- (F) Levying or imposing taxes;
- (G) Establishing or prescribing grades in the village;
- (H) Providing for local improvements and assessing taxes therefor;
- (I) Dedicating or accepting any plat or subdivision in the village;
- (J) Extending or contracting the boundaries of the village;
- (K) Prescribing the number, classification or compensation of any village officers or employees;
- (L) Prescribing specific parking restrictions, no parking zones, specific speed zones, parking meter zones and specific stop or yield intersections or other traffic ordinances pertaining to specific streets;
- (M) Pertaining to re-zoning; and
- (N) Any other ordinance, or part thereof, which is not of a general and permanent nature; and all ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this code. The ordinances are on file in the Village Comptroller's office.

§ 10.05 CONTINUATION OF ORDINANCES.

The provisions of this code, so far as they are the same in substance as those of heretofore existing ordinances, shall be construed as a continuation of these ordinances and not as new enactments.

§ 10.06 PRIOR RIGHTS, OFFENSES AND THE LIKE.

Any act done, offense committed or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time of adoption of this code, shall not be affected by the adoption, but may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if the adoption had not been effected.

§ 10.07 ORDINANCES REPEALED NOT REENACTED.

(A) No ordinance or part of any ordinance heretofore repealed shall be considered re-ordained or reenacted by virtue of this code, unless specifically reenacted.

(B) The repeal of any curative or validating ordinances shall not impair or affect any cure or validation already effected thereby.

§ 10.08 AMENDMENTS TO CODE.

(A) Amendments to any of the provisions of this code shall be made by amending the provisions by specific reference to the section number of this code in the following language: "That section _____ of the Village of Three Oaks Code, is hereby amended to read as follows:..." The new provisions shall then be set out in full as desired.

(B) If a new section not heretofore existing in the code is to be added, the following language shall be used: "That the Village of Three Oaks Code is hereby amended by adding a section, to be numbered _____, which section reads as follows:..." The new section shall then be set out in full as desired.

§ 10.09 SUPPLEMENTATION OF CODE.

(A) By contract or by village personnel, supplements to this code shall be prepared and printed whenever authorized or directed by the Village Council. A supplement to the code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the code. The pages of a supplement shall be so numbered that

they will fit properly into the code and will, where necessary, replace pages which have become

obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the code will be current through the date of the adoption of the latest ordinance included in the supplement.

(B) In preparing a supplement to this code, all portions of the code which have been repealed shall be excluded from the code by the omission thereof from reprinted pages.

(C) When preparing a supplement to this code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, non-substantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(1) Organize the ordinance material into appropriate divisions;

(2) Provide appropriate catchlines, headings and titles for sections and other divisions of the code printed in the supplement, and make changes in catchlines, headings and titles;

(3) Assign appropriate numbers to sections and other divisions to be inserted in the code and, where necessary, to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter", "this subchapter", "this division" and the like, as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the code which embody the substantive sections of the ordinance incorporated into the code); and

(5) Make other non-substantive changes necessary to preserve the original meaning of ordinance sections inserted into the code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the code.

§ 10.10 APPEARANCE TICKETS.

The following public servants are hereby authorized to issue and serve appearance tickets with respect to ordinances of the village, as provided by Public Act 147 of 1968, being M.C.L.A. §§ 764.9a through 764.9e, as amended, when the public servant has reasonable cause to believe that a person has committed an offense in violation of a village ordinance:

(A) Building Inspector;

(B) Fire Marshal; and

(C) Fire Chief.

§ 10.11 SEPARABILITY OF PROVISIONS.

Each section, paragraph, sentence, clause and provision of this code is separable and, if any provision shall be held unconstitutional or invalid for any reason, the decision shall not affect the remainder of this code, or any part thereof, other than that part affected by the decision.

§ 10.99 GENERAL PENALTY.

Unless another penalty is expressly provided by this code for any particular provision or section, every person convicted of a violation of any provision of this code or any rule or regulation adopted or issued in pursuance thereof, shall be punished by a fine of not more than \$500 and costs of prosecution or by imprisonment for not more than 90 days, or by both such fine and imprisonment; unless there is a fine or penalty specifically set forth in the ordinance which provides for a greater penalty, and in that event, such greater penalty shall control. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any section of this code whether or not such penalty is re-enacted in the amendatory ordinance.

- 30. VILLAGE COUNCIL AND VILLAGE PRESIDENT
- 31. VILLAGE OFFICIALS
- 32. VILLAGE ORGANIZATIONS
- 33. BUDGET SYSTEM
- 34. FINANCE AND TAXATION

CHAPTER 30: VILLAGE COUNCIL AND VILLAGE PRESIDENT

Section

- 30.01 Compensation of President and members of Village Council

§ 30.01 COMPENSATION OF PRESIDENT AND MEMBERS OF VILLAGE COUNCIL.

The President of the village shall be paid the sum of \$175 per month, and each member of the Village Council shall be paid the sum of \$100 per month for serving in such capacity during their term of office, such payments to be made out of the General Fund. Said officers shall receive no other compensation for services performed for, or on behalf of, said village during their term of office.

(Ord. 120, passed 3-13-1996)

CHAPTER 31: VILLAGE OFFICIALS

Section

- 31.01 Village Manager
- 31.02 Village Clerk
- 31.03 Village Treasurer

§ 31.01 VILLAGE MANAGER.

(A) *Establishment of office.* In accordance with the authority for the appointment of a Village Manager granted to the village in Public Act 3 of 1895, M.C.L.A. §§ 62.2 and 65.8 as amended, the office of Village Manager is established.

(B) *Appointment of Village Manager.* The President shall, with the concurrence of a majority of the Village Council, appoint a Village Manager. The Village Council may enter into an employment contract with a Village Manager for a period extending beyond the terms of the members of Village Council but not exceeding six years. An employment contract with a Village Manager shall be in writing and shall specify the compensation to be paid to the Village Manager, any procedure for changing compensation, any fringe benefits and any other conditions of employment. The contract shall state that the Village Manager serves at the pleasure of the Village Council. The contract may provide for severance pay or other benefits in the event the employment of the Village Manager is terminated by the Village Council. The Village Manager shall serve at the pleasure of the Village Council and may be removed by a majority of the Village Council. The Village Manager shall be selected solely on the basis of administrative and executive abilities, with special reference to training and experience.

(C) *Acting Village Manager.* The President, with the concurrence of a majority of the Trustees, shall appoint or designate an Acting Village Manager during a vacancy in the office of Village Manager and shall make a permanent appointment within 180 days from the effective date of the vacancy.

(D) *Compensation.* The Village Manager shall receive such compensation as the Village Council shall determine by resolution or

ordinance.

(E) *Duties.* The Village Manager shall be the chief administrative officer of the village and shall be responsible to the Village Council for the efficient administration of all affairs of the village and shall exercise management supervision over all departments and over all public property belonging to the village. The Village Manager shall have the following functions and duties:

(1) Attend and participate in all meetings of the Village Council and committees but shall not have a vote on such Village Council or committees;

(2) Be responsible for personnel management and shall issue, subject to Village Council approval, personnel rules applicable to all village employees. The Village Manager shall have the following responsibilities:

(a) To appoint, suspend or remove all appointed administrative officers and department heads, subject to Village Council approval. The Village Manager shall recommend to the Village Council the salary or wage for each such official; and

(b) To appoint, suspend or remove all other employees of the village. The Village Manager shall determine the salary for each such employee subject to Village Council approval.

(3) Exercise supervisory control over all departments including the Police Department and the Department of Public Works;

(4) Exercise supervisory responsibility over the accounting, budgeting, personnel, purchasing and related management functions of the Village Clerk and Village Treasurer;

(5) Shall be authorized to attend all meetings of village boards and commissions including the Village Planning Commission with the right to take part but shall not have a vote;

(6) Prepare and administer the budget as provided for in the Uniform Budgeting and Accounting Act, Public Act 2 of 1968, M.C.L.A. §§ 141.421 to 141.440a as amended, and any village ordinance that may be adopted;

(7) Be the purchasing agent of the village;

(8) Prepare and maintain written policies and procedures defining the duties and functions of the several officers and departments of the village, subject to the approval by the Village Council;

(9) Investigate all complaints concerning the administration of the village, and shall have authority at all times to inspect the books, records and papers of any agent, employee or officer of the village;

(10) Make recommendations to the Village Council for the adoption of such measures as may be deemed necessary or expedient for the improvement or betterment of the village; and

(11) Perform other duties required from time to time by the Village Council.

(F) *Purchasing responsibilities.* The Village Manager shall act as purchasing agent for all village offices and departments. The Village Manager may delegate some or all of the duties as purchasing agent to another officer or employee provided that such delegation shall not relieve the Village Manager of the responsibility for the proper conduct of those duties.

(1) The Village Manager shall have the authority to purchase any product or service the cost of which does not exceed \$2,500, provided that funds have been appropriated. The cost of the product or service shall not exceed the unencumbered balance of the appropriation for that account. Any product or service the cost of which exceeds the above dollar amount shall be purchased only if prior approval of the Village Council has been obtained. The Village Manager may promulgate rules governing the purchase of products or services.

(2) The Village Manager shall have the authority to purchase any product or service regardless of its cost when such purchase is necessitated by an emergency condition. **EMERGENCY CONDITION** is defined to mean any event, which presents an imminent threat to the public health or safety or any event which would result in the disruption of a village service which is essential to the public health or safety.

(G) *Dealing with employees.* Neither the Village Council nor the Village President shall attempt to influence the employment of any person by the Village Manager or in any way interfere in the management of departments under the jurisdiction of the Village Manager. Except for the purpose of inquiry, the Village President and Village Council and its members shall deal with departments under the jurisdiction of the Village Manager through the Village Manager.

(Ord. 178, passed 11-20-2008)

§ 31.02 VILLAGE CLERK.

(A) *Establishment of office.* In accordance with the authority for the appointment of such village officers as the Village Council shall deem necessary for the execution of the powers granted to the village contained in Public Act 3 of 1895, M.C.L.A. § 62.1, as amended, there is hereby established the office of the Village Clerk. The Village Clerk is an administrative officer of the village.

(B) *Appointment of Village Clerk.* The Village President shall appoint the Village Clerk, subject to the approval by a majority vote of the Village Council. The Village Clerk shall serve at the pleasure of the Village President and may upon recommendation of the Village President, be removed by the affirmative vote of a majority vote of the Village Council, but only after a hearing before the Village Council. The Village Clerk will report and be responsible to the Village President for the official functions and activities of the Village Clerk's position and for the day-to-day operations of the office, except as otherwise provided by state law. The Village Clerk shall be selected on the basis of administrative and technical abilities.

(C) *Term of office.* The term of office of the Village Clerk shall be two years from the second Monday of March of each even-numbered year and until a successor is appointed.

(D) *Duties.* The Village Clerk shall possess all the powers vested in, and shall be charged with the duties imposed upon, clerks by state law.

(1) In addition, the Village Clerk shall perform all other such duties in the manner prescribed by the General Law Village Act of the state, Public Act 3 of 1895, M.C.L.A. §§ 61.1 et seq., the ordinances of the village or by state law.

(2) The Village Clerk shall perform such other duties as may be assigned or prescribed by state law, ordinances of the village or resolutions of the Village Council.

(3) The Village Clerk shall:

(a) Be the Clerk of the Council and keep a permanent journal of its proceedings;

(b) Keep a record of all ordinances, resolutions and actions of the Council;

(c) Have power to administer all oaths required by state law and ordinances of the village;

(d) Be custodian of the village seal, and affix it to all documents and instruments requiring the seal and shall attest the same;

(e) Be custodian of all papers, documents and records pertaining to the village, the custody of which is not otherwise provided for;

(f) Give the proper officials of the village reasonable notice of the expiration or termination of any official bonds, franchises, contracts or agreements;

(g) Issue and sign all licenses granted after the license fee has been paid to the Treasurer and register the same;

(h) Certify by signature all ordinances and resolutions enacted or passed by the Council;

(i) Conduct elections in accordance with the General Law Village Act of the state, Public Act 3 of 1895, M.C.L.A. §§ 61.1 et seq. and state election law;

(j) Be the general accountant of the village and maintain a system of accounts which conform to such uniform system as may be required by state law; and

(k) Publish and post notices of the village as required by state law and ordinances of the village.

(Ord. 153, passed 5-19-2004)

§ 31.03 VILLAGE TREASURER.

(A) *Establishment of office.* In accordance with the authority for the appointment of such village officers as the Council shall deem necessary for the execution of the powers granted to the village contained in Public Act 3 of 1895, M.C.L.A. § 62.1, as amended, there is hereby established the office of the Village Treasurer. The Village Treasurer is an administrative officer of the village.

(B) *Appointment of Village Treasurer.* The Village President shall appoint the Village Treasurer, subject to the approval by a

majority vote of the Village Council. The Village Treasurer shall serve at the pleasure of the Village President and may, upon recommendation of the Village President, be removed by the affirmative vote of a majority vote of the Village Council, but only after a hearing before the Village Council. The Village Treasurer will report and be responsible to the Village President for the official functions and activities of the Village Treasurer's position and for the day-to-day operations of the office, except as otherwise provided by state law. The Village Treasurer shall be selected on the basis of administrative and technical abilities.

(C) *Term of office.* The term of office of the Village Treasurer shall be two years from the second Monday of March of each even-numbered year and until a successor is appointed.

(D) *Duties.* The Village Treasurer shall possess all the powers vested in, and shall be charged with all the duties imposed upon, treasurers by state law.

(1) In addition, the Village Treasurer shall perform all other such duties in the manner prescribed by the General Law Village Act of the state, Public Act 3 of 1895, M.C.L.A. §§ 61.1 et seq., the ordinances of the village or by state law.

(2) The Village Treasurer shall perform such other duties as may be assigned or prescribed by state law, ordinances of the village or resolutions of the Village Council.

(3) The Village Treasurer shall:

(a) Have custody of all monies of the village and all evidence of value belonging to the village, or held in trust by the village;

(b) Receive all monies belonging to and receivable by the village, that may be collected by any officials or employees of the village, including license fees, taxes, assessments, utility charges and all other charges belonging to and payable to the village,

and in all cases give a receipt therefor;

(c) Keep and deposit all monies or funds in such manner and only in such places as may be determined and report the same in detail to the Village President and in accordance with the General Law Village Act of the state, Public Act 3 of 1895, M.C.L.A. §§ 61.1 et seq., state law, ordinances and policies;

(d) Have such powers, duties and prerogatives as are conferred by law to enforce the collection of state, county, village and school taxes upon real and personal property;

(e) Have custody of all investments and invested funds of the village or in its possession in a fiduciary capacity; and

(f) Safely keep all bonds and notes of the village.

(Ord. 138, passed 11-8-2000)

CHAPTER 32: VILLAGE ORGANIZATIONS

Section

32.01 Planning Commission

32.02 Village/Township Fire Department

Cross-reference:

Governing Board of Downtown Development Authority, see §§ 151.15 through 151.19

Park and Recreation Board, see §§ 93.01 through 93.05

Parking Violations Bureau, see §§ 72.01 through 72.06

§ 32.01 PLANNING COMMISSION.

(A) *Scope, purpose and intent.* This section is adopted pursuant to the authority granted the Village Council under the State Planning Enabling Act, Public Act 33 of 2008, being M.C.L.A. §§ 125.3801 et seq., and the State Zoning Enabling Act, Public Act 110 of 2006, being M.C.L.A. §§ 125.3101 et seq., to establish a Planning Commission with the powers, duties and limitations provided by

those Acts and subject to the terms and conditions of this section and any future amendments to this section. The purpose of this section is to provide that the Village Council shall hereby confirm the establishment under the State Planning Enabling Act, Public Act 33 of 2008, being M.C.L.A. §§ 125.3801 et seq., of the Planning Commission formerly established under Public Act 285 of 1931, being M.C.L.A. §§ 125.31 through 125.45, to establish the appointments, terms and membership of the Planning Commission; to identify the officers and the minimum number of meetings per year of the Planning Commission; and to prescribe the authority, powers and duties of the Planning Commission.

(B) *Establishment.* The Village Council hereby confirms the establishment under the State Planning Enabling Act, Public Act 33 of 2008, being M.C.L.A. §§ 125.3801 et seq., of the Planning Commission formerly established under Public Act 285 of 1931, being M.C.L.A. §§ 125.31 through 125.45. The Planning Commission shall have seven members. Members of the Planning Commission as of the effective date of this section shall, except for an ex officio member whose remaining term on the Planning Commission shall be limited to his or her term on the Village Council, continue to serve for the remainder of their existing terms so long as they continue to meet all of the eligibility requirements for Planning Commission membership set forth within the State Planning Enabling Act, Public Act 33 of 2008, being M.C.L.A. §§ 125.3801. et seq.

(C) *Appointments and terms.* The Village President, with the approval of the Village Council by a majority vote of the members elected and serving, shall appoint all Planning Commission members, including the ex officio member.

(1) The Planning Commission members, other than an ex officio member, shall serve for terms of three years each.

(2) A Planning Commission member shall hold office until his or her successor is appointed. Vacancies shall be filled for the unexpired term in the same manner as the original appointment.

(3) Planning Commission members shall be qualified electors of the village, except that one Planning Commission member may be an individual who is not a qualified elector of the village but who is a qualified elector of another local unit of government. The membership of the Planning Commission shall be representative of important segments of the community, such as the economic, governmental, educational and social development of the village, in accordance with the major interests as they exist in the village, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry and commerce. The membership shall also be representative of the entire territory of the village to the extent practicable.

(4) One member of the Village Council shall be appointed to the Planning Commission as an ex officio member.

(5) An ex officio member has full voting rights. An ex officio member's term on the Planning Commission shall expire with his or her term on the Village Council.

(6) No other elected officer or employee of the village is eligible to be a member of the Planning Commission.

(D) *Removal.* The Village Council may remove a member of the Planning Commission for misfeasance, malfeasance or nonfeasance in office upon written charges and after a public hearing.

(E) *Compensation.* The Planning Commission members may be compensated for their services as provided by Village Council resolution. The Planning Commission may adopt bylaws relative to compensation and expenses of its members for travel when engaged in the performance of activities authorized by the Village Council, including, but not limited to, attendance at conferences, workshops, educational and training programs and meetings.

(F) *Officers and committees.* The Planning Commission shall elect a Chairperson and a Secretary from its members, and may create and fill other offices as it considers advisable.

(1) An ex officio member of the Planning Commission is not eligible to serve as Chairperson. The term of each office shall be one year, with opportunity for reelection as specified in the Planning Commission bylaws.

(2) The Planning Commission may also appoint advisory committees whose members are not members of the Planning Commission.

(G) *Bylaws, meetings and records.* The Planning Commission shall adopt bylaws and rules of procedure for the transaction of business.

(1) The Planning Commission shall hold at least four regular meetings each year, and shall by resolution determine the time and place of the meetings.

(2) Unless otherwise provided in the Planning Commission's bylaws, a special meeting of the Planning Commission may be called by the Chairperson or by three other members, upon written request to the Secretary. Unless the bylaws otherwise provide, the Secretary shall send written notice of a special meeting to Planning Commission members at least 48 hours before the meeting.

(3) The business that the Planning Commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act, Public Act 267 of 1976, being M.C.L.A. §§ 15.261 et seq.

(4) The Planning Commission shall keep a public record of its resolutions, transactions, findings and determinations. A writing prepared, owned, used, in the possession of or retained by a Planning Commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, Public Act 442 of 1976, being M.C.L.A. §§ 15.231 et seq.

(H) *Annual report.* The Planning Commission shall make an annual written report to the Village Council concerning its operations and the status of the planning activities, including recommendations regarding actions by the Village Council related to planning and development.

(I) *Authority to make master plan.* Under the authority of the State Planning Enabling Act, Public Act 33 of 2008, being M.C.L.A. §§ 125.3801 et seq. and other applicable planning statutes, the Planning Commission shall make a master plan as a guide for development within the village's planning jurisdiction.

(1) Final authority to approve a master plan or any amendments thereto shall rest with the Planning Commission unless the Village Council passes a resolution asserting the right to approve or reject the master plan.

(2) Unless rescinded by the village, any plan adopted or amended under Public Act 285 of 1931, being M.C.L.A. §§ 125.31 et seq., need not be readopted under the State Planning Enabling Act, Public Act 33 of 2008, being M.C.L.A. §§ 125.3801 et seq.

(J) *Zoning powers.* The Village Council hereby confirms the transfer of all powers, duties and responsibilities provided for zoning boards or zoning commissions by the former City and Village Planning Act, Public Act 207 of 1921, being M.C.L.A. §§ 125.581 et seq.; the State Zoning Enabling Act, Public Act 110 of 2006, being M.C.L.A. §§ 125.3101 et seq. or other applicable zoning statutes to the Planning Commission formerly established under Public Act 285 of 1931, being M.C.L.A. §§ 125.31 et seq.

(K) *Capital improvements program.* To further the desirable future development of the village under the master plan, the Village Council, after the master plan is adopted, shall prepare or cause to be prepared by the Village President or by a designated nonelected administrative official, a capital improvements program of public structures and improvements, showing those structures and improvements in general order of their priority, for the following six-year period. The prepared capital improvements program, if prepared by someone other than the Village Council, shall be subject to final approval by the Village Council. The Planning Commission is hereby exempted from preparing a capital improvements plan.

(L) *Subdivision and land division recommendations.* The Planning Commission may recommend to the Village Council provisions of an ordinance or rules governing the subdivision of land.

(1) Before recommending such an ordinance or rule, the Planning Commission shall hold a public hearing on the proposed ordinance or rule. The Planning Commission shall give notice of the time and place of the public hearing not less than 15 days before the hearing by publication in a newspaper of general circulation within the village.

(2) The Planning Commission shall review and make recommendation on a proposed plat before action thereon by the Village Council under the Land Division Act, Public Act 288 of 1967, being M.C.L.A. §§ 560.101 et seq. Before making its recommendation, the Planning Commission shall hold a public hearing on the proposed plat. A plat submitted to the Planning Commission shall contain the name and address of the proprietor or other person to whom notice of a hearing shall be sent. Not less than 15 days before the date of the hearing, notice of the date, time and place of the hearing shall be sent to that person at that address by mail and shall be published in a newspaper of general circulation in the village. Similar notice shall be mailed to the owners of land immediately adjoining the proposed platted land.

(Ord. 194, passed 6-8-2011)

§ 32.02 VILLAGE/TOWNSHIP FIRE DEPARTMENT.

(A) *Purpose.* Three Oaks Township and Three Oaks Village, both of Berrien County, Michigan, have heretofore by written agreement established pursuant to Public Act 33 of 1951, M.C.L.A. §§ 48.801 to 48.813, as amended, a Fire Administrative Board.

(1) This section is adopted for the purpose of providing financial assistance to the township, the village and the Fire Administrative Board in the operation of a Fire Department from those receiving direct benefits from the fire protection services.

(2) It is the further purpose of this section to provide for full funding of the Fire Department operation which remains, in part, an at-large governmental expense based upon the general benefits derived by all property owners within the township and the village from

the existence of a Village/Township Fire Department and its availability to extinguish fires within the township and village and perform other emergency services.

(B) *Charges.* The following charges will be based on a time per-hour: firefighter, equipment (\$250/hr/truck) and the fair value of material used.

(1) The charges shall hereafter be due payable to the Fire Administrative Board from a recipient of any of the following enumerated services from the Village/Township Fire Department:

- (a) Grass fire;
- (b) Rubbish fire;
- (c) Automobile fire;
- (d) House/garage/barn fire;
- (e) Fire in a commercial establishment;
- (f) Fire in a industrial or manufacturing establishment;
- (g) Fire in a multiple-family building;
- (h) Hotel or motel fire;
- (i) Aircraft fire;
- (j) Train fire;
- (k) Truck fire;
- (l) Forest fire;
- (m) Emergency rescue service;
- (n) Resuscitator service;
- (o) Swimming pool service;
- (p) Hazards material service;
- (q) False alarms; and
- (r) Other services not specifically enumerated herein.

(2) Charges set out in this section and the exemptions therefrom set out in division (D) below may be determined or adjusted from time to time by resolution of the Township Board and the Village Council, and such adjustments shall not require a formal amendment to this section.

(C) *Time for payment.* All of the foregoing charges shall be due and payable to the Fire Administrative Board within 30 days after the date the service is rendered and in default of payment shall be collectible as provided herein.

(D) *Exemptions.* The following properties and services shall be exempt from the foregoing charges:

- (1) Fires caused by railroad trains which are the specific statutory of railroad companies;
- (2) Fires involving village and township buildings, grounds and/or property; and
- (3) Fire service performed outside the jurisdiction of the township or village under a mutual aid contract with an adjoining municipality.

(E) *Collection of charges.* The Fire Administrative Board is hereby delegated the authority and responsibility for billing and collecting charges and may proceed in district court to collect any monies remaining unpaid and shall pursue any and all other remedies provided by law for the collection of said charges.

(F) *Non-exclusive charge.* The foregoing rates and charges shall not be exclusive of the charges that may be made by the Fire Administrative Board for the cost and expense of maintaining a Fire Department, but shall only be supplemental thereto. Charges may

additionally be collected by the village and the township through general taxation by procedures provided by law or by a special assessment established as provided by law. General Fund appropriations may also be made to cover such additional costs and expenses.

(G) *Multiple property protection.* When a particular service rendered by the Village/Township Fire Department directly benefits more than one person or property, the owner of each property so benefitted and each person so benefitted where property protection is not involved shall be liable for the payment of the full charge for such service herein before outlined. The interpretation and application of this section is hereby delegated to the Village/Township Fire Chief subject only to appeal, within the time limits provided herein for payment, to the Fire Administrative Board and shall be administered so that charges shall only be collected from persons and property who benefit from the service.

(Ord. 134, passed 8-11-1999)

CHAPTER 33: BUDGET SYSTEM

Section

- 33.01 Title
- 33.02 Fiscal year
- 33.03 Chief Administrative Officer and Fiscal Officer
- 33.04 Budget policy statement
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- 33.14 Periodic finance reports
- 33.15 Transfers
- 33.16 Supplemental appropriations
- 33.17 Appropriation adjustment required
- 33.18 Violation may be cause for removal from office

§ 33.01 TITLE.

This chapter shall be known as the Budget Chapter.

(Ord. 147, passed 5-19-2004)

§ 33.02 FISCAL YEAR.

The fiscal year of the village shall begin on October 1 in each year and close on September 30.

(Ord. 147, passed 5-19-2004; Ord. 169, passed 5-9-2007)

§ 33.03 CHIEF ADMINISTRATIVE OFFICER AND FISCAL OFFICER.

The Village President shall be the Chief Administrative Officer referred to in this chapter and shall be responsible for the performance of the duties of that officer enumerated in this chapter. The President may appoint a Fiscal Officer and delegate to that officer any or all of the budgeting duties specified in §§ 33.05 through 33.08. The Fiscal Officer shall be responsible to the Chief Administrative Officer for the performance of budgetary duties. The Fiscal Officer so appointed shall be a member of the Village Council or the Village Manager.

(Ord. 147, passed 5-19-2004; Ord. 191, passed 5-11-2011)

§ 33.04 BUDGET POLICY STATEMENT.

No later than May 1 of each year, the Chief Administrative Officer shall send to each officer, department, committee, commission and board of the Village a budget policy statement for the use of those agencies in preparing their estimates of budgetary requirements for the ensuing fiscal year.

(Ord. 147, passed 5-19-2004; Ord. 169, passed 5-9-2007)

§ 33.05 BUDGET ESTIMATES REQUIRED.

Any officers, elected or appointed, departments, committees, commissions and boards of the village financed in whole or in part by the village shall, on or before June 1 of each year, transmit to the Chief Administrative Officer their estimates of the accounts of money required for each activity in their agencies for the ensuing fiscal year. They shall also submit any other information deemed relevant by the Chief Administrative Officer.

(Ord. 147, passed 5-19-2004; Ord. 169, passed 5-9-2007)

§ 33.06 BUDGET FORMS.

The Chief Administrative Officer shall prescribe forms to be used in submitting budget estimates and shall prescribe the procedures deemed necessary for the guidance of officials in preparing such budget estimates. The Chief Administrative Officer may also require a statement of the purposes of any proposed expenditure and a justification of the services financed by any expenditure.

(Ord. 147, passed 5-19-2004)

§ 33.07 DEPARTMENT BUDGET REVIEW.

The Chief Administrative Officer shall review the department estimates with a representative or representatives from each department. The purpose of the review shall be to clarify the estimates, ensure their accuracy and determine their adherence to the policies enumerated by the Chief Administrative Officer pursuant to § 33.04.

(Ord. 147, passed 5-19-2004)

§ 33.08 THE BUDGET DOCUMENT.

(A) The Chief Administrative Officer shall prepare a budget, which shall present a complete financial plan for the ensuing year, utilizing those estimates received from the various agencies.

(B) The budget will be prepared in such a manner that shall assure that the total of estimated expenditures including an accrued

deficit in any fund does not exceed the total of expected revenues including an unappropriated surplus.

(C) The budget shall consist of the following parts:

(1) Detailed estimates of all proposed expenditures for the ensuing fiscal year for each department and office of the village showing the expenditures for the corresponding items for the current and last preceding fiscal year;

(2) Statements of the bonded and other indebtedness of the village, showing the debt redemption and interest requirements, the debt authorized and unissued, and the condition of sinking funds, if any;

(3) An estimate of the amount of surplus expected in the current fiscal year; and

(4) An estimate of all anticipated revenues of the village which will be necessary to meet the proposed expenditures and commitments during the ensuing fiscal year. This should included:

(a) Sources other than taxes;

(b) Income from borrowing;

(c) Current and delinquent taxes; and

(d) Bond issues.

(D) Included in this estimate shall be:

(1) Corresponding figures for the current and preceding fiscal year;

(2) Such other supporting schedules as the Council may deem necessary; and

(3) An informative summary of projected revenues and expenditures of any special assessment funds, public improvement or building and site funds, intragovernmental service funds or enterprise funds, including the estimated total cost and proposed method of financing each capital construction project and the projected additional annual operating cost and the method of financing the operating costs of each capital construction project for three years beyond the fiscal year covered by the budget.

(Ord. 147, passed 5-19-2004)

§ 33.09 TRANSMITTAL OF BUDGET TO VILLAGE COUNCIL.

(A) No later than July 1 of each year, the Chief Administrative Officer shall transmit the budget to the Village Council.

(B) The budget shall be accompanied by:

(1) A draft resolution for adoption by the Council, consistent with the budget, which shall set forth the anticipated revenue and requested expenditure authority for the ensuing fiscal year in such form and in such detail deemed appropriate by the Chief Administrative Officer, provided that it is consistent with the uniform chart of accounts prescribed the state. No budget resolution shall be submitted to the Council in which estimated total expenditures, including an accrued deficit, exceed estimated total revenues, including an available surplus; and

(2) A budget message which shall explain the reason for increases or decreases in budgeted items compared with the current fiscal year, the policy of the Chief Administrative Officer as it relates to important budgetary items, and any other information that the Chief Administrative Officer determines to be useful to the Council in its consideration of the proposed budget.

(Ord. 147, passed 5-19-2004; Ord. 169, passed 5-9-2007)

§ 33.10 CONSIDERATION OF BUDGET BY VILLAGE COUNCIL.

(A) The Village Council shall fix the time and place of a public hearing to be held on the budget and proposed budget resolution. The Village Clerk shall then have published in a newspaper of general circulation within the village, notice of the hearing and an indication of the place at which the budget and proposed budget resolution may be inspected by the public. This notice must be published at least seven days before the date of hearing.

(B) The Village Council may direct the Chief Administrative Officer to submit any additional information it deems relevant in its

consideration of the budget and proposed budget resolution. The Village Council may conduct budgetary reviews with the Chief Administrative Officer for the purpose of clarification or justification of proposed budgetary items.

(C) The Village Council may revise, alter or substitute for the proposed general budget resolution in any way, except that it may not change it in a way that would cause total appropriations, including an accrued deficit, to exceed total estimated revenues, including an unappropriated surplus. An accrued deficit shall be the first item of expenditure in the general appropriations measure.

(Ord. 147, passed 5-19-2004)

§ 33.11 PASSAGE OF BUDGET RESOLUTION.

(A) No later than the second Wednesday of September, the Village Council shall pass a resolution providing the authority to make expenditures and incur obligations on behalf of the village.

(B) The Village Council may authorize transfers between appropriation items by the Chief Administrative Officer within limits stated in the resolution. In no case, however, may such limits stated in the resolution or motion exceed those provided for in § 33.16.

(C) The village budget may include information concerning the amount of tax levy expected to be required to raise those sums of money included in the budget resolution. In conformance with state law, and at such times as the Village Council shall determine to be appropriate, the Village Council shall order to be raised by taxation those sums of money necessary to defray the expenditures and meet the liabilities of the village for the fiscal year. The Village Council may take such action after the value of the property in the village as finally equalized has been determined.

(Ord. 147, passed 5-19-2004; Ord. 169, passed 5-9-2007)

§ 33.12 PROCEDURE FOR DISBURSEMENTS.

(A) No money shall be drawn from the village treasury unless the Village Council has approved the annual budget.

(B) Each warrant, draft or contract of the village shall specify the fund and appropriation, designated by a number assigned in the accounting system classification established pursuant to law, from which it is payable and shall be paid from no other fund or appropriation.

(C) Expenditures shall not be charged directly to any contingent or general account. Instead, the necessary amount of the appropriation from such account shall be transferred pursuant to the provisions of this chapter to the appropriate general appropriation account and the expenditure then charged to the account.

(Ord. 147, passed 5-19-2004)

§ 33.13 LIMIT ON OBLIGATIONS AND PAYMENTS.

No obligation shall be incurred against, and no payment shall be made from, any appropriation account adopted by the budget resolution unless there is a sufficient unencumbered balance in the account and sufficient funds are or will be available to meet the obligation.

(Ord. 147, passed 5-19-2004)

§ 33.14 PERIODIC FINANCE REPORTS.

(A) The Chief Administrative Officer shall require the appropriate agencies to prepare and transmit to him or her a monthly report of village financial obligations, including, but not limited to:

(1) A summary statement of the actual financial condition of the General Fund at the end of the previous month;

(2) Summary statement showing the receipts and expenditures and encumbrances for the previous month and for the then current fiscal year to the end of the previous month;

(3) A detailed listing of the expected revenues by major sources as estimated in the budget, actual receipts to date for the current fiscal year, the balance of estimated revenues to be collected in the current fiscal year and any revisions in revenue estimates occasioned by collection experience to date; and

(4) A detailed listing for each organizational unit and activity of the amount appropriated, the amount charged to each appropriation in the previous month and for the current fiscal year to date, and the unencumbered balance of appropriations and any revisions in the estimate of expenditures.

(B) The Chief Administrative Officer shall transmit the above information to the Village Council on a monthly basis, but not later than 48 hours prior to the regularly scheduled monthly Village Council meeting.

(Ord. 147, passed 5-19-2004)

§ 33.15 TRANSFERS.

Transfers of any unencumbered balance, or any portion, in any appropriation account to any other appropriation account may not be made without amendment of the budget resolution as provided in this chapter, except that transfers within a fund and department may be made by the Chief Administrative Officer within limits set by the budget resolution.

(Ord. 147, passed 5-19-2004)

§ 33.16 SUPPLEMENTAL APPROPRIATIONS.

(A) The Village Council may make supplemental appropriations by amending the original budget resolution as provided in this chapter, provided that revenues in excess of those anticipated in the original resolution become available due to:

- (1) An unobligated surplus from prior years becoming available; and/or
- (2) Current fiscal year revenue exceeding original estimates in amounts great enough to finance the increased appropriations.

(B) The Village Council may make a supplemental appropriation by increasing the dollar amount of an appropriation item in the original budget resolution or by adding additional items. At the same time, the estimated amount from the source of revenue to which the increase in revenue may be attributed shall be increased or a new source and amount added in a sum sufficient to equal the supplemented expenditure amount. In no case may such appropriations cause total estimated expenditures, including an accrued deficit, to exceed total estimated revenues, including an unappropriated surplus.

(Ord. 147, passed 5-19-2004)

§ 33.17 APPROPRIATION ADJUSTMENT REQUIRED.

(A) Whenever it appears to the Chief Administrative Officer or the Village Council that actual and probable revenues in any fund will be less than the estimated revenues upon which appropriations from such fund were based, the Chief Administrative Officer shall present to the Village Council recommendations, which, if adopted, will prevent expenditures from exceeding available revenues for the current fiscal year. Such recommendations shall include proposals for reducing appropriations, increasing revenues or both.

(B) Within 20 days of receiving this information the Village Council shall amend the budget resolution by reducing appropriations or approving such measures as are necessary to provide revenues sufficient to equal appropriations, or both. The amendment shall recognize the requirements of state law. If the Village Council does not make effective such measures within this time, the Chief Administrative Officer shall, within the next five days and as a temporary measure until the Council takes action to amend the budget resolution, make adjustments in appropriations in order to equalize appropriations and estimated revenues and report such action to the Village Council.

(Ord. 147, passed 5-19-2004)

§ 33.18 VIOLATION MAY BE CAUSE FOR REMOVAL FROM OFFICE.

Any violation of §§ 33.12 through 33.17 may be cause for removal of any elected or appointed officer in the manner prescribed by the Village Council for the removal of such officer or employee.

(Ord. 147, passed 5-19-2004)

CHAPTER 34: FINANCE AND TAXATION

Section

Special Assessment Procedure

- 34.01 Special assessments for public improvements
- 34.02 Definitions
- 34.03 Initiation of special assessment projects
- 34.04 Survey and report
- 34.05 Determination on the project; notice
- 34.06 Hearing
- 34.07 Special assessment roll; review and corrections
- 34.08 Limitations of actions
- 34.09 Special assessments, when due
- 34.10 Partial payments, when due
- 34.11 Delinquent special assessments
- 34.12 Creation of lien
- 34.13 Additional assessments, refunds
- 34.14 Additional procedures
- 34.15 Collection of special assessments
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- 34.17 Reassessment for benefits
- 34.18 Assessing single lots
- 34.19 Notice of hearing
- 34.20 Anticipatory borrowing and bond issues

SPECIAL ASSESSMENT PROCEDURE

§ 34.01 SPECIAL ASSESSMENTS FOR PUBLIC IMPROVEMENTS.

The Village Council, by adopting a resolution, may determine the whole or a part of the expense of a local public improvement or repair shall be defrayed by special assessments upon the property specially benefitted.

(Ord. 156, passed 5-19-2004)

§ 34.02 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COST. When referring to the cost of any local public improvement, shall mean the same as "expense" and shall include the cost of services, plans, condemnation, spreading of rolls, notices, advertising, financing, construction and legal fees, and all other public costs incidental to the making of such improvements, the special assessments therefor and the financing thereof.

LOCAL PUBLIC IMPROVEMENT. Any public improvement which is of such a nature as to benefit especially any real property or properties within a district in the vicinity of such improvement. It shall include, but not be limited to, the following improvements, including the land therefor: public buildings and offices, garbage collection, firehouses, destroying weeds, tree trimming, street lighting, streets, alleys, lanes, bridges, sewers, drains, water courses, water systems, or any other local public improvement or repair.

(Ord. 156, passed 5-19-2004)

§ 34.03 INITIATION OF SPECIAL ASSESSMENT PROJECTS.

(A) Proceedings for the making of local public improvements within the village, and the determination that the whole or any part of the expense thereof shall be defrayed by special assessment upon the property especially benefitted, provided that all special assessments levied shall be in proportion to the benefits derived from the improvements, may be commenced by resolution of the Village Council, with or without a petition.

(B) Local public improvements may be initiated by petition signed by property owners owning 65% or more of the total property in the proposed special assessment district. Such petition shall contain a brief description of the property owned by the respective signers thereof and, if it shall appear that the petition is signed by at least 65% of said owners, the Village Clerk shall certify the same to the Village Council. The petition shall be addressed to the Village Council but the Village Council shall not be obligated to make the improvement.

(Ord. 156, passed 5-19-2004)

§ 34.04 SURVEY AND REPORT.

Before the Village Council shall consider the making of any local public improvement, the same shall be referred by resolution to the Village President directing him or her, or his or her designee, to cause to be prepared a report which shall include necessary plans, profiles, specifications and detailed estimates of costs, an estimate of the life of the improvement, a description of the assessment district or districts, and such other pertinent information as will permit the Council to decide the cost, extent and desirability of the improvement proposed and what part or proportion thereof should be paid by special assessments upon the property especially benefitted and what part, if any, should be paid by the village at large. The Council shall not finally determine to proceed with the making of any local public improvement until such report of the Village President has been filed, nor until after a public hearing has been held by the Council for the purpose of hearing objections to the making of such improvement.

(Ord. 156, passed 5-19-2004)

§ 34.05 DETERMINATION ON THE PROJECT; NOTICE.

(A) After the Village President has presented the report required in § 34.04 for making any local public improvement as requested in the resolution of the Village Council, and the Village Council has reviewed said report, a resolution may be passed approving the local public improvement, setting forth the nature thereof, prescribing what part or proportion of the cost of such improvement shall be paid by special assessment upon the property especially benefitted, determination of benefits received by affected properties, and what part, if any, shall be paid by the village at large; designating the limits of the special assessment district to be affected, designating whether to be assessed according to frontage or other benefits, placing the complete information on file in the office of the Village Clerk, where the same may be found for examination, and directing the Village Clerk to give notice of public hearing on the proposed improvement, at which time and place opportunity will be given interested persons to be heard.

(B) Such notice shall be given by one publication in a newspaper published or circulated within the village and by first class mail

addressed to each owner of or person in interest in property to be assessed as shown by the last general tax assessment roll of the village, said publication and mailing to be made at least ten full days prior to the date of said hearing. The hearing required by this section may be held at any regular, adjourned, or special meeting of the Village Council.

(Ord. 156, passed 5-19-2004)

§ 34.06 HEARING.

(A) At the public hearing on the proposed improvement, all persons interested shall be given an opportunity to be heard, after which the Village Council may modify the scope of the local public improvement in such a manner as it shall deem to be in the best interest of the village as a whole; provided that if the amount of work is increased or additions are made to the district, then another hearing shall be held pursuant to notice prescribed in § 34.05.

(B) If the determination of the Village Council shall be to proceed with the improvement, a resolution shall be passed approving the necessary profiles, plans, specifications, assessment district and detailed estimates of cost and directing the Assessor to prepare a special assessment roll in accordance with the Village Council's determination and report the same to the Village Council for confirmation. Notwithstanding any provision of this section, the Council may, in its discretion, delay the preparation of the special assessment roll until after the completion of the improvement, in which case the actual cost thereof shall be reported to the Village Council, and the special assessment roll shall be then made for such actual cost rather than for the estimated cost as in other cases.

(Ord. 156, passed 5-19-2004)

§ 34.07 SPECIAL ASSESSMENT ROLL; REVIEW AND CORRECTIONS.

(A) *Special assessment roll.* The Assessor shall thereupon prepare a special assessment roll including all lots and parcels of land within the special assessment district designated by Village Council, and shall assess to each such lot or parcel of land such relative portion of the whole sum to be levied against all the lands in the special assessment district as the benefit to such lot or parcel of land bears to the total benefits to all lands in such district. There shall also be entered upon such roll the amount which has been assessed to the village at large. When the Assessor shall have completed such assessment roll, he or she shall attach thereto, or endorse thereon, his or her certificate to the effect that said roll has been made by him or her pursuant to a resolution of the Village Council (giving date of adoption of same) and that in making the assessments therein he or she has, as near as may be according to his or her best judgment, conformed in all respects to the directions contained in such resolution and to this subchapter, and to the state law and to the provisions of this section. Thereupon he or she shall file said special assessment roll with the Village Clerk who shall present the same to the Village Council.

(B) *Meeting to review special assessment roll; objections in writing.* Upon receipt of such special assessment roll, the Village Council, by resolution, shall accept such assessment roll and order it to be filed in the office of the Village Clerk for public examination, shall fix the time and place the Village Council will meet to review such special assessment roll and direct the Village Clerk to give notice of a public hearing for the purpose of affording an opportunity for interested persons to be heard. Such notice shall be given by one publication in a newspaper published or circulated within the village and by first class mail addressed to each owner of, or person in interest in, property to be assessed as shown by the last general tax assessment roll of the village, said publication and mailing to be made at least ten days prior to the date of said hearing. The hearing required by this section may be held at any regular, adjourned or special meeting of the Village Council. At this meeting, all interested persons or parties shall present in writing or orally their objections, if any, to the assessments against them. The Assessor shall be present at every meeting of the Village Council at which a special assessment is to be reviewed.

(C) *Changes and corrections in assessment roll.* The Village Council shall meet at the time and place designated for the review of such special assessment roll, and at such meeting, or a proper adjournment thereof, shall consider all objections orally or in writing. The Village Council may correct said roll as to any special assessment or description of any lot or parcel of land or other errors appearing therein; or it may, by resolution, annul such assessment roll and direct that new proceedings be instituted. The same proceedings shall be followed in making a new roll as in the making of the original roll. If, after hearing all objections and making a record of such changes as the Village Council deems justified, the Village Council determines that it is satisfied with said special assessment roll and that assessments are in proportion to benefits received, it shall thereupon pass a resolution reciting such determinations, confirming such roll, placing it on file in the office of the Village Clerk and directing the Village Clerk to attach his or her warrant to a certified copy thereof within ten days, therein commanding the Assessor to spread and the Village Treasurer to collect the various sums and amounts appearing thereon as directed by the Village Council. Such roll shall have the date of confirmation endorsed thereon and shall from that date be final and conclusive for the purpose of the improvement to which it applies,

subject only to adjustment to conform to the actual cost of the improvement, as provided in § 34.13.

(Ord. 156, passed 5-19-2004)

§ 34.08 LIMITATIONS OF ACTIONS.

(A) An action may not be instituted for the purpose of contesting or enjoining the collection of a special assessment unless:

(1) Within 45 days after the confirmation of the special assessment roll, written notice is given to the Village Council indicating an intention to file such an action and stating grounds on which it is claimed that the assessment is illegal; and

(2) The action is commenced within 90 days after the confirmation of the roll.

(B) If a portion of an assessment roll is determined to be illegal in whole or in part, the Village Council may revoke its confirmation, correct the illegality, if possible, or reconfirm it. Property which is not involved in the illegality may not be assessed more than was imposed upon the original confirmation without further notice and hearing thereon.

(Ord. 156, passed 5-19-2004)

§ 34.09 SPECIAL ASSESSMENTS, WHEN DUE.

All special assessments, except such installments thereof as the Council shall make payable at a future time as provided in this subchapter, shall be due and payable upon confirmation of the special assessment roll.

(Ord. 156, passed 5-19-2004)

§ 34.10 PARTIAL PAYMENTS, WHEN DUE.

(A) The Village Council may provide for the payment of special assessments in annual installments. Such annual installments shall not exceed 20 in number, the first installment being due upon confirmation of the roll or on such date as the Village Council may determine and deferred installments being due annually thereafter, or in the discretion of the Village Council, may be spread upon and made a part of each annual village tax roll thereafter until all are paid.

(B) Interest shall be charged on all deferred installments at a rate of 7% or the highest amount permitted by state law for such assessments, whichever is greater, commencing on the due date of the first installment and payable on the due date of such subsequent installment; the full amount of all or any deferred installments, with interest accrued thereon to the date of payment, may be paid in advance of the due dates thereof.

(C) If the full assessment or the first installment thereof shall be due upon confirmation, each property owner shall have 60 days from the date of confirmation to pay the full amount of said assessment, or the full amount of any installments thereof, without interest or penalty. Following said 60-day period, the assessment or first installment thereof shall, if unpaid, be considered as delinquent and the same penalties shall be collected on such unpaid assessments or first installments thereof as are provided in this subchapter and state law to be collected on delinquent general village taxes. Deferred installments shall be collected without penalty until 60 days after the due date thereof, after which time such installments shall be considered as delinquent and such penalties on said installments shall be collected as are provided in the village ordinance to be collected on delinquent general village taxes.

(D) After the Council has confirmed the roll, the Village Treasurer shall notify by mail each property owner on said roll that said roll has been filed, stating the amount assessed and the terms of payment. Failure on the part of the Village Treasurer to give said notice or of such owner to receive said notice shall not invalidate any special assessment roll of the village or any assessment thereon, nor excuse the payment of interest or penalties. At the option of the Village, the notice or bill for the amount owing may be sent out after the project has been completed. In such event no interest shall be owing nor shall the 60-day period begin to run until after the notice has been mailed by the Village Treasurer.

(Ord. 156, passed 5-19-2004)

§ 34.11 DELINQUENT SPECIAL ASSESSMENTS.

Any assessment, or part thereof, remaining unpaid on the first Monday of March following the date when the same became delinquent shall be reported as unpaid by the Village Treasurer to the Village Council. Any such delinquent assessment, together with all accrued interest shall be transferred and reassessed on the next annual village tax roll in a column headed "special assessments" with a penalty of 4% upon such total amount added thereto, and when so transferred and reassessed upon said tax roll shall be collected in all respects as provided for the collection of village taxes.

(Ord. 156, passed 5-19-2004)

§ 34.12 CREATION OF LIEN.

Special assessments and all interest, penalties and charges thereon from the date of confirmation of the roll shall become a debt to the village from the persons to whom they are assessed, and, until paid, shall be and remain a lien upon the property assessed, of the same character and effect as the lien created by general laws for state, county and village taxes, and the lands upon which the same are a lien shall be subject to sale therefor the same as are lands upon which delinquent village taxes constitute a lien.

(Ord. 156, passed 5-19-2004)

§ 34.13 ADDITIONAL ASSESSMENTS, REFUNDS.

The Village Clerk shall, within 60 days after the completion of each local or special public improvement; compile the actual cost thereof and certify the same to the Assessor who shall adjust the special assessment roll to correspond therewith. Should the assessment prove larger than necessary, by 5% or less, the same shall be reported to the Village Council which may place the excess in the village treasury or make a refund thereof prorata according to the assessment. If the assessment exceeds the amount necessary by more than 5%, the entire excess shall be credited to owners of property as shown by the village assessment roll upon which such assessment has been levied, prorata according to the assessment; provided, however, that no refunds of special assessments may be made which impair, or contravene the provision of any outstanding obligation or bond secured in whole or part by such special assessments. When any special assessment roll shall prove insufficient to meet the cost of the improvement for which it was made, the Council may make an additional prorata assessment, but the total amount assessed against any one parcel of land shall not exceed the benefits received by said lot or parcel of land.

(Ord. 156, passed 5-19-2004)

§ 34.14 ADDITIONAL PROCEDURES.

In any case where the provisions of this subchapter may prove to be insufficient to carry out fully the making of any special assessment, the Village Council shall provide by ordinance any additional steps or procedures required.

(Ord. 156, passed 5-19-2004)

§ 34.15 COLLECTION OF SPECIAL ASSESSMENTS.

In the event bonds are issued in anticipation of the collection of special assessments as hereinbefore provided, all collections on each special assessment roll or combination of rolls shall be set in a separate fund for the payment of the principal and interest on the bonds so issued in anticipation of the payment of such special assessments, and shall be used for no other purpose.

(Ord. 156, passed 5-19-2004)

§ 34.16 SPECIAL ASSESSMENT ACCOUNTS.

Moneys raised by special assessment to pay the cost of any local improvements shall be held in a special fund to pay such cost or to repay any money borrowed therefor. Each special assessment account must be used only for the improvement project for which the assessment was levied, expenses incidental thereto, including the repayment of the principal and interest on money borrowed therefor, and to refund excessive assessments, if refunds are authorized.

(Ord. 156, passed 5-19-2004)

§ 34.17 REASSESSMENT FOR BENEFITS.

Whenever the Village Council shall deem any special assessment invalid or defective for any reason whatever, or if any court of competent jurisdiction shall have adjudged such assessment to be illegal for any reason whatever, in whole or in part, the Village Council shall have power to cause a new assessment to be made for the same purpose for which the former assessment was made, whether the improvement or any part thereof has been completed and whether any part of the assessment has been collected or not. All proceedings on such reassessment and for the collection thereof shall be made in the manner as provided for the original assessment. If any portion of the original assessment shall have been collected and not refunded, it shall be applied upon the reassessment and the reassessment shall to that extent be deemed satisfied. If more than the amount reassessed shall have been collected, the balance shall be refunded to the person making such payment.

(Ord. 156, passed 5-19-2004)

§ 34.18 ASSESSING SINGLE LOTS.

When any expense shall have been incurred by the village upon or in respect to any single premises, which expense is chargeable against such premises and the owner thereof under the provisions of this subchapter, or any ordinance of the village, or law of the state, and is not of that class required to be prorated among several lots and parcels of land in a special assessment district, an account of the labor, material or service for which such expense was incurred, with a description of the premises upon or in respect to which the expense was incurred, and the name of the owner, if known, shall be reported to the Village Clerk who shall immediately charge and bill the owner, if known. The Village President shall annually on or before January 15, or at such other times as he or she may deem advisable, direct the Assessor to prepare a special assessment roll covering all such charges which shall not have been paid. Said roll shall be filed with the Village Clerk who shall present the same to the Village Council. However, the Village Council may follow the entire procedure used for other special assessments. Upon confirmation of any special assessment roll authorized by this section, the Village Council shall determine the number of installments in which assessments may be paid, not to exceed 20 and the rate of interest to be charged on installments, but not to exceed the highest legally permitted amount or 7%, whichever is greater.

(Ord. 156, passed 5-19-2004)

§ 34.19 NOTICE OF HEARING.

In all cases where special assessments are made against property, notice of all hearings in the special assessment proceedings shall be given as provided in this subchapter, in addition to any notice of such hearings to be given by publication or posting as required by statute, charter or ordinance. The ***LAST GENERAL TAX ASSESSMENT ROLL OF THE VILLAGE*** means the last assessment roll for ad valorem tax purposes which has been reviewed by the local board of review, as supplemented by any subsequent changes in the names or the addresses of such owners or parties listed thereon.

(Ord. 156, passed 5-19-2004)

§ 34.20 ANTICIPATORY BORROWING AND BOND ISSUES.

The Village Council may borrow money and issue bonds of the village therefor in anticipation of the payment of special assessments in one or more special assessment districts, which bonds may be an obligation of the special assessment districts or may be both an obligation of the special assessments district and a general obligation of the village. The Village Council may issue general obligation bonds to defray that portion of the cost and expense of a local public improvement chargeable to the village at large.

(Ord. 156, passed 5-19-2004)

50. GARBAGE

51. SEWERS

52. WATER

53. CROSS CONNECTIONS

CHAPTER 50: GARBAGE

Section

Village Collection Service

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- 50.03 License required
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- 50.05 Residential collection license
- 50.06 Equipment
- 50.07 Vehicles to be covered
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- 50.16 Separation of garbage, trash and recyclables

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- 50.32 Containers; mixing of yard waste and trash prohibited
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Cross-reference:

VILLAGE COLLECTION SERVICE

§ 50.01 ESTABLISHMENT.

There shall be a Village Garbage, Trash and Recyclables Collection Service for the residents of the village. The village is hereby authorized to appropriate such monies and employ or contract with such persons as may be reasonably necessary to carry out the terms and provisions of this subchapter.

(Ord. 103, passed 12-12-1990)

§ 50.02 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

GARBAGE. Discarded animal and vegetable matter of any form or nature, any or all other organic matter associated with or produced by food, cooking or eating, other than sewage and yard waste.

HAZARDOUS WASTE. Hazardous waste shall be defined pursuant to state and federal law.

LICENSEE. Those collectors and haulers duly licensed by the village to pick up, collect and transport garbage, trash and recyclables.

RECYCLABLES or RECYCLABLE MATERIALS. Materials which have been used once, in manufacturing or indirect consumption, that can be used to manufacture new products. **RECYCLABLES** include but are not limited to: aluminum; corrugated paper; cardboard; glass; HDPE plastic; magazine paper; metals; newsprint; polystyrene; PET plastic; and rubber.

TRASH or RUBBISH. Anything not recyclable; materials or substances discharged or rejected as being spent, useless, worthless or in excess to the owner at the time of such discard or rejection, except sewage, highly diluted water-carried materials, hazardous waste, batteries, oil, tires and yard waste.

YARD WASTE. Organic materials such as leaves, branches and grass.

(Ord. 103, passed 12-12-1990)

§ 50.03 LICENSE REQUIRED.

No person shall solicit for funds for, collect funds, aid in collection, conspire to collect or collect any garbage, trash, ashes, rubbish and recyclables within the village for disposal unless and until he or she has been duly licensed by the village. There shall be a maximum of one license issued for residential garbage, trash and recyclables pickup and a maximum of five licenses issued for commercial pickup.

(Ord. 103, passed 12-12-1990) Penalty, see § 50.99

§ 50.04 LICENSE APPLICATION.

(A) All applications for licenses to pick up, collect and transport garbage, trash and recyclables shall be made to the Village Clerk. Applicants shall state their name, address, type of license desired, description of equipment to be used and location of disposal area for garbage and trash; and types of recyclables to be picked up by applicant. All applications for licenses shall be referred by the Village Clerk to the Village Council, who in conjunction with the Chief of Police, shall cause an investigation to be made and make recommendations to the Village Council as to the granting or rejecting of the license for each applicant. The Village Council shall consider the recommendations of the Chief of Police and shall approve or reject the granting of all licenses under this subchapter.

(B) Applications for licenses may be rejected by the Village Council, or licenses already granted may be revoked by the Village Council for the following reasons:

- (1) Improper, unsanitary or lack of equipment, conveyances or vehicles used to transport the garbage, trash and recyclables;
- (2) Unsatisfactory or unsanitary disposal areas; or

(3) Inability or failure to comply with this subchapter or the terms and provisions of rules and regulations relating to garbage, trash and recyclables pickup and disposal as as may be adopted from time to time by the village.

(Ord. 103, passed 12-12-1990)

§ 50.05 RESIDENTIAL COLLECTION LICENSE.

As provided in § 50.03 above, there shall be only one license issued for residential garbage, trash and recyclables collection. The Village Council shall accept bids to provide residential collection service meeting the terms of this subchapter. The residential license shall be awarded to the successful bidder with whom the village shall enter into a contract providing for such collection. The contract for collection shall not exceed 30 years. The village shall require the successful bidder to provide adequate proof of insurance and may require the posting of an adequate performance bond.

(Ord. 103, passed 12-12-1990)

§ 50.06 EQUIPMENT.

No license shall be granted by the Village Council to any applicant unless the conveyance or vehicle to be used by the applicant to pick up and transport any garbage, trash and recyclables shall have a leak proof box to properly contain and hold the garbage, trash and recyclables. All conveyances or vehicles used to transport garbage, trash and recyclables shall be equipped with tailgates.

(Ord. 103, passed 12-12-1990) Penalty, see § 50.99

§ 50.07 VEHICLES TO BE COVERED.

Applicants and licenses shall be required to have their vehicles or conveyances equipped with coverings, permanent or temporary, so as to prevent garbage, trash and recyclables from blowing or falling off the conveyance while being transported.

(Ord. 103, passed 12-12-1990)

§ 50.08 FEES.

(A) *Application fees.* Applicants shall pay to the Village Clerk with such applications such fees as shall be determined by the Village Council.

(B) *Service fees.* Residential and commercial users shall pay such fees as shall be determined by the Village Council on an annual basis.

(Ord. 103, passed 12-12-1990)

§ 50.09 ADDITIONAL REQUIREMENTS FOR GARBAGE LICENSES.

In addition to the qualifications and requirements stated elsewhere in this subchapter, all licensees shall be required to meet the following additional requirements.

(A) All licensees shall be required to transport garbage, trash and recyclables in a motor vehicle.

(B) All licensees shall be required to have said motor vehicle or vehicles equipped with a leak-proof box or container to hold and contain all materials collected.

(C) All licensees shall be required to operate and maintain equipment and facilities in a manner such as not to constitute a nuisance.

(D) All licensees shall be required to keep said motor vehicle or vehicles in a clean and sanitary condition by washing same after each day of collection by means of a pressure hose. All vehicles used in the collection of garbage and trash shall be repainted at least once each year.

(E) Each vehicle licensed to haul garbage, trash and recyclables in the village shall display in plain view the village license number with decals not less than four inches in height.

(F) All licensees shall be required to prepare and file with the Village Clerk before picking up and transporting any garbage, trash and recyclables, a collection and route schedule listing dates and times garbage, trash and recyclables will be collected and routes to be covered on said dates. Such schedules as filed shall be adhered to by each licensee.

(Ord. 103, passed 12-12-1990) Penalty, see § 50.99

§ 50.10 RATE PAYMENT.

Every household within the village shall annually pay the Village Clerk in advance for collection service. The collection service fee shall be added to the household tax bill and collected with such bill.

(Ord. 103, passed 12-12-1990; Ord. 104, passed 1-9-1991; Ord. 114, passed 4-14-1993)

§ 50.11 APPLICATION FOR NEW SERVICE.

Every household within the village shall make proper application with the Village Clerk for new service.

(Ord. 103, passed 12-12-1990; Ord. 104, passed 1-9-1991; Ord. 114, passed 4-14-1993)

§ 50.12 DISCONTINUING SERVICE.

Every household which must discontinue service because of relocation or absence shall notify the Village Clerk 15 days in advance of discontinuation of service, but shall not be entitled to a refund of the unearned service fees paid.

(Ord. 103, passed 12-12-1990; Ord. 114, passed 4-14-1993)

§ 50.13 CONSTRUCTION, PLACEMENT OF CONTAINERS.

(A) The customer shall place the containers of garbage and trash at the curb front of the premises or at the edge of the street on a day designated for said pickup by the collector and at a said time designated for the arrival of the collector. After the containers have been emptied by the collector the customer shall promptly remove said containers from the street. Any person who, because of physical disability, age or infirmity, is unable to place containers at the curb or street may make special arrangements directly with the collector for the movement of such containers.

(B) All containers furnished by the customer as containers for bags of garbage and trash, and as containers for separated recyclables shall be of substantial construction, strong enough to hold and contain when handled, the contents of such containers. All containers from residential customers shall not exceed 40 gallons capacity.

(Ord. 103, passed 12-12-1990; Ord. 114, passed 4-14-1993)

§ 50.14 RECYCLABLES.

Every and all recyclables shall be separated from other solid waste, garbage and trash. Recyclables shall be cleaned. All recyclables shall be placed in an appropriate and suitable container and separated according to type.

(Ord. 103, passed 12-12-1990) Penalty, see § 50.99

§ 50.15 OWNERSHIP.

Ownership of recyclables set out for collection shall thereupon vest in the village. It shall be unlawful for a person to collect, remove or dispose of recyclables which are property of the village without first having obtained a license required by this subchapter.

(Ord. 103, passed 12-12-1990) Penalty, see § 50.99

§ 50.16 SEPARATION OF GARBAGE, TRASH AND RECYCLABLES.

All garbage from residential customers shall be drained and wrapped and placed in a separate container from recyclables. All garbage and trash from residential customers shall be placed in designated bags which shall be marked in an appropriate fashion as shall be determined by the Village Council. All violations of this section shall be reported to the Village Clerk by the collector and at the option of the village such services may be discontinued for such violation.

(Ord. 103, passed 12-12-1990) Penalty, see § 50.99

YARD WASTE

§ 50.30 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCEPTABLE YARD WASTE. Grass clippings and garden weeds, leaves and trimmings.

APPROVED YARD WASTE CONTAINERS. Include paper yard waste bags, 32-gallon cans clearly marked "yard waste" or biodegradable plastic bags.

BRUSH (2-INCH IN DIAMETER OR LESS). Is considered yard waste if containerized in an approved waste container.

CONTAINERIZED. The placement of yard waste in an approved yard waste container so as to prevent yard waste from spilling or blowing out of the container and coming into contact with the sidewalk, street, curb or storm drain.

PERSON. Any individual, corporation, company, association or other entity not otherwise specified.

STREET. Any street, avenue, boulevard, road, parkway, viaduct, drive, alley or other way which is an existing state, county or municipal roadway and includes the area between the street lines, whether improved or unimproved, and may comprise pavement shoulders, gutters, curbs, sidewalks, parking areas and other areas within the street.

TRIMMINGS/BRANCHES BETWEEN 2 INCHES TO 6 INCHES IN DIAMETER. Will be collected with the yard waste provided they are bundled with twine and tied. Bundles should be four feet maximum in length and a maximum of 60 pounds each.

(Ord. 184, passed 8-12-2009)

§ 50.31 DURATION AND HOURS OF YARD WASTE COLLECTION PROGRAM.

(A) The yard waste collection program will run annually from the first Monday in April until the second Monday in November.

(B) During the yard waste season, the Department of Public Works will collect all properly containerized and properly placed yard waste on a schedule as determined by the Village Council. Yard waste containers (approved bags or other approved waste receptacles) should be placed curbside by 8:00 a.m. the morning of pick up.

(Ord. 184, passed 8-12-2009) Penalty, see § 50.99

§ 50.32 CONTAINERS; MIXING OF YARD WASTE AND TRASH PROHIBITED.

(A) All containers (bags or designated yard waste receptacles containing yard waste) and bundled trim and branches must not exceed a 60-pound weight limit.

(B) Yard waste collected in non-biodegradable plastic bags or single layer paper bags is prohibited and will not be collected.

(C) Mixing of yard waste with regular trash is prohibited.

(Ord. 184, passed 8-12-2009) Penalty, see § 50.99

§ 50.33 DEPOSITING YARD WASTE IN STREET PROHIBITED.

The owner or occupant of any property, or any individual, employee or contractor of such owner or occupant engaged to provide lawn care or landscaping services, shall not sweep, rake, blow or otherwise place yard waste, unless the yard waste is containerized, in the street. If yard waste that is not containerized is placed in the street, the party responsible for placement of the yard waste must remove the yard waste from the street or said party shall be deemed in violation of this subchapter.

(Ord. 184, passed 8-12-2009) Penalty, see § 50.99

§ 50.34 ENFORCEMENT; VIOLATIONS.

(A) The provisions of this subchapter shall be enforced by the Police Department.

(B) If the provisions of the foregoing sections are not complied with, a village police officer shall serve personally or by regular first class mail, written notice upon the owner, lessee, occupant or any person having the control of the premises to comply with the provisions of the above sections. Posting a notice of the violation upon the property shall be deemed to be adequate notice. If the person upon whom the notice is served fails to containerize or bundle the yard waste within 48 hours after receipt of such notice or if no owner can be found of such lot, the Police Chief shall cause to be containerized or bundled and to be removed with the actual cost of such containerizing or bundling and removal, plus 25% for inspection and other additional costs in connection therewith, shall be certified by the Village Police Chief to the Village Treasurer and shall become a lien upon the property on which such containerized or bundled yard waste were located, and shall be assessed and collected in the same manner provided for collection of taxes.

(Ord. 184, passed 8-12-2009)

§ 50.35 CONFLICTING PROVISIONS.

All prior ordinances, resolutions or parts thereof in conflict with the subject matter of this subchapter are hereby repealed in their entirety.

(Ord. 184, passed 8-12-2009)

§ 50.99 PENALTY.

(A) Any person or persons, partnership or corporation who shall violate any of the provisions of this chapter is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50 nor more than \$500, plus costs and other sanctions for each infraction.

(B) Repeat offenses shall be subject to an increased civil fine as follows:

(1) The fine for any offense which is a first repeat offense shall be not less than \$250, plus costs and other sanctions; and

(2) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be not less than \$500, plus costs and other sanctions.

(C) A **REPEAT OFFENSE** means a second (or any subsequent) violation of this chapter:

(1) Committed by a person within any six-month period; and

(2) For which the person admits responsibility or is determined to be responsible.

(D) Each day on which any violation of this chapter continues, constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(Ord. 103, passed 12-12-1990; Ord. 119, passed 4-12-1995; Ord. 184, passed 8-12-2009)

CHAPTER 51: SEWERS

Section

Public and Private Sewers and Drains

- 51.01 Definitions
- 51.02 Use of public sewers required
- 51.03 Private sewage disposal
- 51.04 Building sewers and connections
- 51.05 Public sewer use
- 51.06 Protection from damage
- 51.07 Powers and authority of inspectors
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Operation of County Sewage Disposal System No. 13; Rates

- 51.20 County sewage disposal system No. 13 to be operated by the village
- 51.21 Definitions
- 51.22 Operation and maintenance of system to be supervised by County Department of Public Works
- 51.23 Rates
- 51.24 No free service to be provided
- 51.25 Mandatory connection with system
- 51.26 Rates to provide for expenses; annual rate review
- 51.27 Operating year of system
- 51.28 Revenues to be deposited into Receiving Fund
- 51.29 Transfer of monies
- 51.30 Investments
- 51.31 Tampering with equipment

- 51.99 Penalty

PUBLIC AND PRIVATE SEWERS AND DRAINS

§ 51.01 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

B.O.D. (DENOTING BIOCHEMICAL OXYGEN DEMAND). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter.

BUILDING DRAIN. The part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

BUILDING SEWER. The extension from the building drain to the public sewer or other place of disposal.

COMBINED SEWER. A sewer receiving both surface runoff and sewage.

GARBAGE. Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

INDUSTRIAL WASTES. The liquid wastes from industrial, manufacturing processes, trade or business as distinct from sanitary sewage.

MAY. Is permissive.

NATURAL OUTLET. Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

PERSON. Any individual, firm, company, association, society, corporation or group.

PH. The logarithm of the reciprocal of the concentration of hydrogen ions in grams per liter of solution.

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

PUBLIC SEWER. A sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

SANITARY SEWER. A sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

SEWAGE. A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and storm waters as may be present.

SEWAGE TREATMENT PLANT. Any arrangement of devices and structures used for treating sewage.

SEWAGE WORKS. All facilities for collecting, pumping, treating and disposing of sewage.

SEWER. A pipe or conduit for carrying sewage.

SHALL. Is mandatory.

SLUG. Any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.

STORM DRAIN(sometimes termed STORM SEWER). A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

SUPERINTENDENT. The operator of the sewage works or his or her authorized deputy, agent or representative.

SUSPENDED SOLIDS. Solids that either float on the surface of, or are in suspension in water, sewage or other liquids; and which are removable by laboratory filtering.

WATERCOURSE. A channel in which a flow of water occurs, either continuously or intermittently.

VILLAGE. The Village Council.

(Ord. 75, passed 11-14-1979)

§ 51.02 USE OF PUBLIC SEWERS REQUIRED.

(A) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner upon public or private property within the village, or in any area under the jurisdiction of said village, any human or animal excrement, garbage or other objectionable waste.

(B) It shall be unlawful to discharge to any natural outlet within the village, or in any area under the jurisdiction of said village, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this subchapter.

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

(D) The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the village and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the village, is hereby required at owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this subchapter, within 90 days after date of official notice to do so, provided that said public sewer is within 66 feet of the property line.

(E) (1) An industry or structure discharging process flow to the sanitary sewer shall file the material listed below with the village.

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

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

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

(c) Sample test, and file reports with the village and the appropriate state agencies on appropriate characteristics of wastes on a schedule, at locations, and according to methods approved by the village;

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

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

(f) Maintain records and file reports on the final disposal of specific liquid, solid, sludges, oils, radioactive materials, solvents or other wastes; and

(g) If any industrial process is to be altered as to include or negate a process waste or potential waste, written notification shall be given to the village, subject to approval.

(F) Prior to the issuance of any permit for connection with any public sewer as provided in § 51.04 of this subchapter, the Superintendent shall ascertain that the sewage works is adequate to service said new users.

(Ord. 75, passed 11-14-1979) Penalty, see § 51.99

§ 51.03 PRIVATE SEWAGE DISPOSAL.

(A) Where a public sanitary or combined sewer is not available under the provisions of § 51.02(D), the building sewer shall be connected to a private sewage disposal system complying with the provision of this section.

(B) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the village. The application for such a permit shall be made on a form furnished by the village, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the Village Council. A permit and inspection fee of \$50 shall be paid to the Village Treasurer at the time the application is filed.

(C) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the County Health Department and the village. The Inspector shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the village when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the Superintendent.

(D) The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the County Health Department and the village. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 12,000 square feet. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.

(E) At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in § 51.02(D), a direct connection shall be made to the public sewer in compliance with this subchapter and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material as designated by the village.

(F) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the village.

(G) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the village.

(H) When public sewer becomes available, the building sewer shall be connected to said sewer within 90 days and private sewage disposal system shall be cleaned of all sludge and filled with clean bank-run gravel or dirt.

(Ord. 75, passed 11-14-1979) Penalty, see § 51.99

§ 51.04 BUILDING SEWERS AND CONNECTIONS.

(A) No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

(B) (1) There shall be two classes of building sewer permits:

- (a) For residential and commercial service; and
- (b) For service to establishments producing industrial wastes.

(2) In either case, the owner or his or her agent shall make application on a special form furnished by the village. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee of \$15 for a residential or commercial building sewer permit and \$30 for an industrial building sewer permit shall be paid to the Village Treasurer at the time the application is filed.

(C) All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the village from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(D) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(E) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this subchapter.

(F) The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the Building and Plumbing Code or other applicable rules and regulations of the village. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

(G) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(H) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(I) (1) The connection of the building sewer into the public sewer shall conform to the requirements of the Building and Plumbing Code or other applicable rules and regulations of the village, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight.

(2) All deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

(J) The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his or her representative.

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

(L) All residential or commercial building sewers shall, as a minimum, have an I. D. of four inches. Industrial building sewer sizes shall be as required by the Superintendent.

(M) All building sewers shall have a cleanout provided at the property line constructed using a wye connection on the building sewer at the property line with a four-inch diameter extension to the ground surface. The cleanout shall be plugged at the ground surface with suitable means to prevent surface water entry and shall be as approved by the Superintendent. The cleanout shall be installed in such a manner as to allow cleaning of the public sewer.

(N) The Superintendent shall not permit any new connections to the sewer system unless there is available capacity in all downstream treatment facilities.

(Ord. 75, passed 11-14-1979) Penalty, see § 51.99

§ 51.05 PUBLIC SEWER USE.

(A) No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer.

(B) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the appropriate state agency. Industrial cooling water or unpolluted process waters may be discharged upon approval of the Superintendent and the State Department of Natural Resources, to a storm sewer or natural outlet.

(C) Except as hereinafter provided by specific limits, no person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(1) BOD₅ in excess of 300 mg/l;

(2) COD in excess of 450 mg/l;

(3) Chlorine demand in excess of 15 mg/l;

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

(5) Explosive liquid, solid or gas, gasoline, benzene, naphtha, fuel oil or other flammable shall not be admitted;

(6) Garbage not properly shredded (no particle size greater than one-half inch) shall not be allowed;

(7) Grease, oils, wax, fat, whether emulsified or not, in excess of 50 mg/l; or other substance which may solidify or become viscous at temperatures between 32°F and 150°F shall not be admitted to the sanitary sewer;

(8) (a) Industrial wastes in concentrations above those listed below shall not be allowed to enter sanitary sewers:

Cd CN Cr⁺⁶ Cr Total Cu FE Ni

Pb Phenols Zn

(Limitations set forth by appropriate state agencies to comply with federal guidelines for protection of treatment plan and receiving water course)

(b) Or any other metallic compounds in sufficient quantity to impair the operation of the sewage treatment processes.

(9) Inert suspended solids (such as but not limited to Fullers earth, lime slurries and lime residues) or of dissolved solids (such as but not limited to sodium chloride and sodium sulfate) in unusual concentrations shall not be allowed;

(10) Insoluble, solid or viscous substances such as but not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, tar, feathers, plastics, wood, hair, fleshings and the like, shall not be admitted to sanitary sewers;

(11) Noxious or malodorous gas, such as but not limited to hydrogen sulfide, sulphur dioxide or oxides of nitrogen and other substances capable of producing a public nuisance shall not be allowed;

(12) pH less than 5.5 and greater than 9.5 shall not be allowed;

(13) Radioactive wastes or isotopes of such half-life or concentration which may exceed limits established by applicable state and federal regulations shall not be allowed;

(14) Suspended solids in excess of 350 mg/l;

(15) Temperature of wastes less than 32°F and greater than 150°F shall not be allowed; and

(16) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of the NPDES permit having jurisdiction over the discharge to the receiving waters.

(D) (1) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in division (C) above, and which in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, or which otherwise create a hazard to life or constitute a public nuisance, the village may:

(a) Reject the wastes;

(b) Require pre-treatment to an acceptable condition for discharge to the public sewers;

(c) Require control over the quantities and rates of discharge; and/or

(d) Require payment to cover the added cost of handling and treating the wastes not covered by existing sewer charges, under the provisions of division (J) below.

(2) If the village permits the pre-treatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the village, and subject to the requirements of all applicable codes, ordinances and laws. All pre-treatment shall be done in accordance with federal pre-treatment standard (40 C.F.R. part 403).

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

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

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

(H) (1) All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this subchapter shall be determined in accordance with the most recent edition of *Standard Methods for the Examination of Water and Sewage*, and shall be determined at the control manhole provided for, or upon suitable samples taken at said control manhole. In the

event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

(2) Samplings shall be carried out by customarily accepted methods pursuant to *Guidelines for Established Test Procedures for Analyses of Pollutants* to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premise is appropriate or whether grab sample or samples should be taken.

(I) No statement contained in this section shall be construed as preventing any special agreement or arrangement between the village and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the village for treatment, subject to payment therefrom, by the industrial concern in accordance with the rate ordinance of the village.

(J) When an industrial user, as defined in the Federal Register (40 C.F.R. § 35.905), begins discharging to treatment works constructed by an E.P.A. federal grant, the village shall develop and implement an industrial cost recovering system in accordance with federal regulations (40 C.F.R. § 35.928).

(Ord. 75, passed 11-14-1979) Penalty, see § 51.99

§ 51.06 PROTECTION FROM DAMAGE.

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the municipal sewage works.

(Ord. 75, passed 11-14-1979) Penalty, see § 51.99

§ 51.07 POWERS AND AUTHORITY OF INSPECTORS.

(A) The Superintendent and other duly authorized employees of the village bearing proper credentials and identification shall be permitted to enter upon all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this subchapter. The Superintendent or his or her representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(B) While performing the necessary work on private properties referred to in division (A) above, the Superintendent or duly authorized employees of the village shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the village employees and the village shall indemnify the company against loss or damage to its property by said employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gaging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in § 51.05(H).

(Ord. 75, passed 11-14-1979) Penalty, see § 51.99

§ 51.08 WRITTEN NOTICE OF VIOLATIONS; LIABILITY TO VILLAGE.

(A) Any person found to be violating any provision of this subchapter except § 51.06 shall be served by the village with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, cease all violations.

(B) Any person violating any of the provisions of this subchapter shall become liable to the village for any expense, loss, or damage occasioned the village by reason of such violation.

(Ord. 75, passed 11-14-1979) Penalty, see § 51.99

§ 51.20 COUNTY SEWAGE DISPOSAL SYSTEM NO. 13 TO BE OPERATED BY THE VILLAGE.

It is hereby determined to be desirable and necessary, for the public health, safety and welfare of the village that the County Sewage Disposal System No. 13 (village) be operated by said village as lessee of the county and the County Department of Public Works under Act 185 of 1957, M.C.L.A. §§ 123.731 et seq., as amended, on a public utility rate basis in accordance with the provisions of Public Act 94 of 1933, being M.C.L.A. §§ 141.101 through 141.140, as amended.

(Ord. 74, passed 11-14-1979)

§ 51.21 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

REVENUES and **NET REVENUES**. Shall be understood to have the meanings as defined in Public Act 94 of 1933, M.C.L.A. §§ 141.101 et seq., as amended.

THE SYSTEM. The complete village sewage disposal system including all sewers, pumps, lift stations, treatment facilities and all other facilities used or useful in the collection, treatment and disposal of domestic, commercial or industrial wastes, including all appurtenances thereto and including all extensions and improvements thereto, which may hereafter be acquired.

(Ord. 74, passed 11-14-1979)

§ 51.22 OPERATION AND MAINTENANCE OF SYSTEM TO BE SUPERVISED BY COUNTY DEPARTMENT OF PUBLIC WORKS.

The operation and maintenance of the system shall be under the supervision and control of the County Department of Public Works subject to the terms of the contract, dated June 14, 1978 between the county and the village. Pursuant to the terms of such contract, the village has retained the exclusive right to establish, maintain and collect rates and charges for sewer collection and disposal service and in such capacity the Village Council may employ such person or persons in such capacity or capacities as it deems advisable and may make such rules, orders and regulations as it deems advisable and necessary to assure the efficient establishment, maintenance and collection of such rates and charges. The actual operation and maintenance of the system shall be performed by the village which shall annually establish a budget for the system subject to the supervision and control of the County Department of Public Works.

(Ord. 74, passed 11-14-1979)

§ 51.23 RATES.

(A) Monthly rates and any associated charges for the use and services furnished by the village sewer system shall be as provided herein.

(B) Sewer charges for all customers shall be based on a minimum charge (hereafter "ready to serve charge") plus the quantity of water used as measured by the respective village municipal water supply meters, for each billing period, except as otherwise provided.

(1) For the purposes of this section, a **SINGLE RESIDENCE** is defined as a house, apartment, mobile home, trailer, condominium or other permanent construction, having kitchen and/or toilet facilities, in which a person or family live in an individual or private state apart from other persons primarily as a place of residence per unit.

(2) Other customers are comprised of units or dwellings designed for multiple person occupancy either by single apartments or other multi-family dwellings, individual shops, stores, businesses, restaurants, coin washers, gasoline service stations, tourist homes and other nonresidential buildings.

(3) For those multi-unit premises whose water is measured jointly by one water meter, the ready to serve charge shall be applicable to each separate unit on the multi-unit premises. Usage charges shall also apply.

(4) For the purposes of establishing billing charges for sewer usage on a per month basis, each customer's water meter shall receive either an actual meter reading, at least one per quarter weather permitting, or an estimated reading based on the average

water usage over a period of time. Following an estimated reading, a customer's billing may be adjusted either up or down when the following actual reading is taken.

(5) For temporary customers such as contractors or for construction purposes and the like, sewer service that is provided shall be charged on the basis of the below stated ready to serve charge (pro rated) and usage rates. When a water meter is installed for such purposes, the ready to serve charge and sewer usage rates shall apply and the temporary user shall pay for the installation and removal of the meter, and shall be responsible for said meter and appurtenances.

(C) (1) Monthly sewer rates of the village customers.

<i>Monthly Sewer Rates</i>	
Ready to serve charge	\$17.71
Additional usage rate per 1,000 gallons: total per 1,000 gallons	\$5.82

(2) The above stated rates are established to be sufficient to provide for the payment of expenses of administration and for the operation, maintenance and replacement of the sewer disposal system as are necessary to preserve the same in good repair and in good working order, to provide for the payment of contractual obligations of the village to the state and/or federal government pursuant to statute and contractual obligations as they become due and to provide for such other expenditures and funds for the sewer system as this section may require.

(D) (1) All applications for sewer service attachments to the sewer collection piping for the purposes of collecting sanitary sewage from the premises, as well as application for the sewer must be made at the village offices by the owner of the premises from which the sanitary sewage is proposed to be collected. The application for sewer service shall be upon forms prescribed by the village and signed by the prospective customer or an authorized agent.

(2) The prospective customer shall pay in advance for the sewer service hook-up, as the minimum charge; charges for service piping, backhoe services, operator service and all labor shall be accounted for, then the complete cost of the attachment shall be charged to the customer on a cost plus basis upon completion. Charges for equipment and labor are in addition to the tap charges.

(3) Sewer tap charge: \$1,800.

(E) Special rates for miscellaneous services shall be established and fixed by the Village Council from time to time.

(F) (1) The following non-recurring charges shall be made for those transactions and/or services provided by the Water Department:

(a) Service charge: Two times the actual hourly rate labor rate; and

(b) Equipment charge: Per equipment rental schedule utilized by the village to comply with Public Act 51 of 1951, State Transportation Law.

(2) Requests for adjustments of sewer billings shall be made in writing to the village within 30 days of the date of the billing. Adjustments will be made only for clerical errors, misreads or unexplained failure of village-owned equipment; there will be no adjustments made for leaks, pool fills or other causes within the control or responsibility of the property owner. Adjustments may be made for one pool fill per property per year upon prior written request of the property owner to the village.

(G) The village shall review the rate structure annually and shall adjust the fixed charges, usage charges, fees and other customer charges to generate adequate revenues and maintain proportionate system of customer charges. This shall be accomplished by a resolution of the Village Council after a public hearing thereon.

(H) (1) Bills will be rendered monthly and shall be immediately due and payable and may be paid without penalty up to and including the last day of the month when rendered. If the bill is not paid in full on or before the last day of the month in which the bill is rendered, a penalty of 10% on the unpaid balance shall be added.

(2) In addition to the foregoing, the village shall have the right to shut off water service to any premise for which water and sewer services have not been paid by the last day of the following month and such service shall not be reestablished until all delinquent charges, penalties and turn-off and turn-on charges have been paid. Charges and penalties may be recovered through court action.

(I) Collection of all sewer system charges, fees, penalties and any assessment issued in accordance with any provision of this section as adopted by the Village Council shall be performed by the Water Clerk or other appropriately designated village employee, as provided by applicable law and deposited in an approved financial institution.

(J) Charges for services furnished to a premises may be a lien on the premises, and those charges delinquent for six months or more may be certified annually to the proper tax assessing officer or agency who shall enter the lien on the next tax roll against the premises to which the services shall have been rendered, and the charges shall be collected and the lien shall be enforced in the same manner as provided for the collection of taxes assessed upon the roll and the enforcement of the lien for the taxes. The time and manner of certification and other details in respect to the collection of the charges and the enforcement of the lien shall be prescribed by an ordinance adopted by the village. However, in a case when a tenant is responsible for the payment of the charges and the village is so notified in writing, the notice to include a copy of the lease of the affected premises, if there is one, then the charges shall not become a lien against the premises after the date of the notice. In the event of filing of the notice, the public corporation shall render no further service to the premises until a cash deposit of not less than one full year's service shall have been made as security for the payment of the charges. In addition to any other lawful enforcement methods, the payment of charges for sewer service to any premises may be enforced by discontinuing the water service to the premises and the payment of charges for sewage disposal service or storm water disposal service to a premises may be enforced by discontinuing the water service, the sewage disposal service or the storm water disposal service to the premises, or any combination of the services.

(Ord. 74, passed 11-14-1979; Ord. 129, passed 7-8-1998; Ord. 131, passed 3-10-1999; Ord. 145, passed 7-18-2001; Ord. 151, passed 2-19-2003; Ord. 154, passed 5-19-2004; Ord. 180, passed 2-25-2009; Ord. 197, passed 12-14-2011; Ord. 201, passed 6-12-2013)

Statutory reference:

The Revenue Bond Act, see Public Act 94 of 1933, § 21, being M.C.L.A. § 141.121

§ 51.24 NO FREE SERVICE TO BE PROVIDED.

No free service shall be furnished by the system to any person, firm or corporation, public or private, or to any public agency or instrumentality.

(Ord. 74, passed 11-14-1979)

§ 51.25 MANDATORY CONNECTION WITH SYSTEM.

It is hereby determined and declared that public sanitary sewers are essential to the health, safety and welfare of the people of the village; that all premises on which structures in which sanitary sewage originates are situated shall connect to the system at the earliest, reasonable date as a matter for the protection of the public health, safety and welfare of the people of the village, and therefore all premises on which structures in which sanitary sewage originates are situated or become situated and to which sewer services of the system shall be available shall connect to said system within 90 days after the mailing or posting of notice on such premises by the appropriate village official that such services are available. Said notification and enforcement of this section shall be in conformity with Public Act 368 of 1978, being M.C.L.A. §§ 333.127101 et seq.

(Ord. 74, passed 11-14-1979) Penalty, see § 51.99

§ 51.26 RATES TO PROVIDE FOR EXPENSES; ANNUAL RATE REVIEW.

(A) The rates hereby fixed are estimated to be sufficient to provide for the payment of the expenses of administration and operation, such expenses for maintenance of the said system as are necessary to preserve the same in good repair and working order, to provide for the payment of the contractual obligations of the village to the county pursuant to the aforesaid contract between said county and the village as the same become due, and to provide for such other expenditures and funds for said system as this subchapter may require.

(B) Such rates shall be fixed and revised from time to time, by resolution of the Village Council after a public hearing thereon, as may be necessary to produce these amounts. The village shall review the rate structure annually and adjust the capital charges and user charges to generate adequate revenues and maintain a proportionate system of user charges (user charges must reflect the costs incurred by the village to provide each user with treatment services).

(Ord. 74, passed 11-14-1979)

§ 51.27 OPERATING YEAR OF SYSTEM.

The system shall be operated on the basis of an operating year commencing on October 1 and ending on September 30 next following.

(Ord. 74, passed 11-14-1979; Ord. 171, passed 5-9-2007)

§ 51.28 REVENUES TO BE DEPOSITED INTO RECEIVING FUND.

The revenues of the system shall be set aside, as collected, and deposited in a separate depository account in The Bank of Three Oaks, a bank duly qualified to do business in the state, in an account to be designated Sewage Disposal System Receiving Fund (hereinafter, for brevity, referred to as the "Receiving Fund"), and said revenues so deposited shall be transferred from the Receiving Fund periodically in the manner and at the times hereafter specified.

(A) *Operation and Maintenance Fund.* Out of the revenues in the Receiving Fund, there shall be first set aside quarterly into a depository account, designated Operation and Maintenance Fund, a sum sufficient to provide for the payment of the next quarter's current expenses of administration and operation of the system and such current expenses for the maintenance thereof as may be necessary to preserve the same in good repair and work order. **EQUIPMENT REPLACEMENT** means expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. Replacement is an operation and maintenance expense.

(B) *Contract Payment Fund.* There shall next be established and maintained a depository account, to be designated Contract Payment Fund, which shall be used solely for the payment of the village's obligations to the county pursuant to the aforesaid contract. There shall be deposited in said fund quarterly, after requirements of the Operation and Maintenance Fund have been met, such sums as shall be necessary to pay said contractual obligations when due. Should the revenues of the system prove insufficient for this purpose, such revenues may be supplemented by any other fund of the village legally available for such purpose.

(C) *Replacement Fund.* There shall next be established and maintained a depository account designated Replacement Fund, which shall be used solely for the purpose of making major repairs and replacements to the system, if needed. There shall be set aside into said fund, after provision has been made for the Operation and Maintenance Fund and the Contract Payment Fund, such revenues as the Village Council shall deem necessary for this purpose.

(D) *Improvement Fund.* There shall next be established and maintained an Improvement Fund for the purpose of making improvements, extensions and enlargements to the system. There shall be deposited into said fund, after providing for the foregoing fund, such revenues as the Village Council shall determine.

(E) *Surplus monies.* Monies remaining in the Receiving Fund at the end of any operating year, after full satisfaction of the requirements of the foregoing funds, may, at the option of the Village Council be transferred to the Improvement Fund or used in connection with any other project of the village reasonably related to purposes of the system.

(F) *Bank accounts.* All money belonging to any of the foregoing funds or accounts may be kept in one bank account, in which event the monies shall be allocated on the books and records of the village within this single bank account, in the manner above set forth.

(Ord. 74, passed 11-14-1979)

§ 51.29 TRANSFER OF MONIES.

In the event the monies in the Receiving Fund are insufficient to provide for the current requirements of the Operation and Maintenance Fund, any monies and/or securities in other funds of the system, except sums in the Contract Payment Fund derived from special assessments or tax levies, shall be transferred to the Operation and Maintenance Fund, to the extent of any deficit therein. User charges for operation, maintenance and equipment replacement shall be immediately adjusted to reflect increased costs and defray amounts borrowed from other funds.

(Ord. 74, passed 11-14-1979)

§ 51.30 INVESTMENTS.

Monies in any fund or account established by the provisions of this subchapter may be invested in obligations of the United States of America in the manner and subject to the limitations provided in Public Act 94 of 1933, being M.C.L.A. §§ 141.101 through 141.140, as amended. In the event such investments are made, the securities representing the same shall be kept on deposit with the bank or trust company having on deposit the fund or funds from which such purchase was made. Income received from such investments shall be credited to the fund from which said investments were made.

(Ord. 74, passed 11-14-1979)

§ 51.31 TAMPERING WITH EQUIPMENT.

No person other than the Water Department Superintendent, his or her designee or person authorized by the Village Council or Village Manager may adjust, alter or otherwise exert dominion over the village sewer system property. Any person tampering, altering, adjusting, damaging, destroying or otherwise interfering with the Sewer Department property or who violates any of the provisions of this section is responsible for a municipal civil infraction, subject to the penalty provided in § 51.99.

(Ord. 74, passed 11-14-1979; Ord. 180, passed 2-25-2009) Penalty, see § 51.99

§ 51.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is otherwise provided, shall be subject to the provisions of § 10.99.

(B) Any person or persons, partnership or corporation who shall violate any of the provisions of §§ 51.01 through 51.05, 51.07, 51.08 or 51.23 is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50 nor more than \$500, plus costs and other sanctions for each infraction.

(1) Repeat offenses shall be subject to an increased civil fine as follows:

(a) The fine for any offense which is a first repeat offense shall be not less than \$250, plus costs and other sanctions; and

(b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be not less than \$500, plus costs and other sanctions.

(2) A **REPEAT OFFENSE** means a second (or any subsequent) violation of this chapter:

(a) Committed by a person within any six-month period; and

(b) For which the person admits responsibility or is determined to be responsible.

(3) Each day on which any violation of this chapter continues, constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(C) Any person violating § 51.06 shall be deemed guilty of a misdemeanor.

(Ord. 75, passed 11-14-1979; Ord. 119, passed 4-12-1995; Ord. 184, passed 8-12-2009)

CHAPTER 52: WATER

Section

Water System Operation and Rates

52.01 Rates and charges established in this subchapter

- 52.02 Basis of charges
- 52.03 Monthly water rates
- 52.04 Applications for water service
- 52.05 Special rates may be adopted by Village Council
- 52.06 Non-recurring charges; requests for adjustments
- 52.07 Annual rate review
- 52.08 Billing; penalty for late payment
- 52.09 Collections by Village Water Clerk
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- 52.11 Tampering or interfering with waterworks property
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Private Wells

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- 52.40 Prohibiting the addition of fluoride to drinking water
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WATER SYSTEM OPERATION AND RATES

§ 52.01 RATES AND CHARGES ESTABLISHED IN THIS SUBCHAPTER.

Monthly rates and any associated charges for the use and services furnished by the village water system shall be as provided herein.

(Ord. 179, passed 2-25-2009)

§ 52.02 BASIS OF CHARGES.

Water charges for all customers shall be based on a minimum charge (hereafter "ready to serve charge") plus the quantity of water used as measured by the respective village municipal water supply meters, for each billing period, except as otherwise provided.

(A) For the purposes of this subchapter, a ***SINGLE RESIDENCE*** is defined as a house, apartment, mobile home, trailer, condominium or other permanent construction, having kitchen and/or toilet facilities, in which a person or family live in an individual or private state apart from other persons primarily as a place of residence per unit.

(B) Other customers are comprised of units or dwellings designed for multiple-person occupancy either by single apartments or

other multi-family dwellings, individual shops, stores, businesses, restaurants, coin washers, gasoline service stations, tourist homes and other nonresidential buildings.

(C) For those multi-unit premises whose water is measured jointly by one water meter, the ready to serve charge shall be applicable to each separate unit on the multi-unit premises. Usage charges shall also apply.

(D) For the purposes of establishing billing charges for water usage on a per month basis, each customer's meter shall receive either an actual meter reading, at least one per quarter weather permitting, or an estimated reading based on the average water usage over a period of time. Following an estimated reading, a customer's billing may be adjusted either up or down when the following actual reading is taken.

(E) For temporary customers such as contractors or for construction purposes, and the like; water service that is provided shall be charged on the basis of the below stated ready to serve charge (pro rated) and usage rates. When a water meter is installed for such purposes, the ready to serve charge and water usage rates shall apply and the temporary user shall pay for the installation and removal of the meter, and shall be responsible for said meter and appurtenances.

(Ord. 179, passed 2-25-2009; Ord. 196, passed 12-14-2011)

§ 52.03 MONTHLY WATER RATES.

(A) Monthly water rates of village customers.

Ready to serve charge	\$30
Additional usage rate per 1,000 gallons Total per 1,000 gallons	\$5.18
Fire protection, public hydrants	\$8.33 per hydrant

(B) The above stated rates are established to be sufficient to provide for the payment of expenses of administration and for the operation, maintenance and replacement of the waterworks system as are necessary to preserve the same in good repair and in good working order, to provide for the payment of contractual obligations of the village to the state and/or federal government pursuant to statute and contractual obligations as they become due and to provide for such other expenditures and funds for the water system as this subchapter may require.

(Ord. 179, passed 2-25-2009; Ord. 190, passed 12-8-2010)

§ 52.04 APPLICATIONS FOR WATER SERVICE.

(A) All applications for water service attachments to the water distribution piping for the purposes of introducing water from the waterworks system into any premises, as well as application for the water must be made at the village offices by the owner of the premises into which the water is proposed to be introduced. The application for water service shall be upon forms prescribed by the village and signed by the prospective customer or an authorized agent.

(B) The prospective customer shall pay in advance for the following water service tap charges, as the minimum charges, which will include only a corporation stop, curb stop, service box and appurtenances for the attachment; charges for service piping, backhoe services, operator service and all labor shall be accounted for, then the complete cost of the attachment shall be charged to the customer on a cost-plus basis upon completion. Charges for equipment and labor are in addition to the tap charges.

<i>Water Service Tap Charges</i>	
5/8 to 1 inch	\$2,200

over 1 inch to 2 inches	\$7,800
over 2 inches	Contact village office for quote

(Ord. 179, passed 2-25-2009)

§ 52.05 SPECIAL RATES MAY BE ADOPTED BY VILLAGE COUNCIL.

Special rates for miscellaneous services shall be established and fixed by the Village Council from time to time.

(Ord. 179, passed 2-25-2009)

§ 52.06 NON-RECURRING CHARGES; REQUESTS FOR ADJUSTMENTS.

(A) The following non-recurring charges shall be made for those transactions and/or services provided by the Water Department:

Equipment charge:	Per equipment rental schedule utilized by the village to comply with Public Act 51 of 1951 (State Transportation Law)
Meter turn-on/turn-off orders:	\$25 flat fee
Service charge:	Two times the actual hourly rate labor rate

(B) Requests for adjustments of water billings shall be made in writing to the village within 30 days of the date of the billing. Adjustments will be made only for clerical errors, misreads or unexplained failure of village-owned equipment; there will be no adjustments made for leaks, pool fills or other causes within the control or responsibility of the property owner.

(Ord. 179, passed 2-25-2009)

§ 52.07 ANNUAL RATE REVIEW.

The village shall review the rate structure annually and shall adjust the fixed charges, usage charges, fees and other customer charges to generate adequate revenues and maintain proportionate system of customer charges. This shall be accomplished by a resolution of the Village Council after a public hearing thereon.

(Ord. 179, passed 2-25-2009)

§ 52.08 BILLING; PENALTY FOR LATE PAYMENT.

(A) Bills will be rendered monthly and shall be immediately due and payable and may be paid without penalty up to and including the last day of the month when rendered. If the bill is not paid in full on or before the last day of the month in which the bill is rendered, a penalty of 10% on the unpaid balance shall be added.

(B) In addition to the foregoing, the village shall have the right to shut off water service to any premise for which water and sewer services have not been paid by the last day of the following month and such service shall not be reestablished until all delinquent charges, penalties and turn-off and turn-on charges have been paid. Charges and penalties may be recovered through court action.

(Ord. 179, passed 2-25-2009)

§ 52.09 COLLECTIONS BY VILLAGE WATER CLERK.

Collection of all water system charges, fees, penalties and any assessment issued in accordance with any provision of this subchapter as adopted by the Village Council shall be performed by the Water Clerk or other appropriately designated village employee, as provided by applicable law and deposited in an approved financial institution.

(Ord. 179, passed 2-25-2009)

§ 52.10 CHARGES A LIEN ON PREMISES.

Charges for services furnished to a premises may be a lien on the premises, and those charges delinquent for six months or more may be certified annually to the proper tax assessing officer or agency who shall enter the lien on the next tax roll against the premises to which the services shall have been rendered, and the charges shall be collected and the lien shall be enforced in the same manner as provided for the collection of taxes assessed upon the roll and the enforcement of the lien for the taxes. The time and manner of certification and other details in respect to the collection of the charges and the enforcement of the lien shall be prescribed by an ordinance adopted by the village. However, in a case when a tenant is responsible for the payment of the charges and the village is so notified in writing, the notice to include a copy of the lease of the affected premises, if there is one, then the charges shall not become a lien against the premises after the date of the notice. In the event of filing of the notice, the public corporation shall render no further service to the premises until a cash deposit in a sum fixed in the ordinance authorizing the issuance of bonds under this act is made as security for the payment of the charges. In addition to any other lawful enforcement methods, the payment of charges for water service to any premises may be enforced by discontinuing the water service to the premises and the payment of charges for sewage disposal service or storm water disposal service to a premises may be enforced by discontinuing the water service, the sewage disposal service, or the storm water disposal service to the premises, or any combination of the services.

(Ord. 179, passed 2-25-2009)

Statutory reference:

The Revenue Bond Act, see Public Act 94 of 1933, § 21, being M.C.L.A. § 141.121

§ 52.11 TAMPERING OR INTERFERING WITH WATERWORKS PROPERTY.

(A) No person other than the Water Department Superintendent, his or her designee or person authorized by the Village Council or Village Manager may adjust, alter or otherwise exert dominion over the village waterworks property.

(B) In addition to any fines and penalties, any person found to have committed the above named acts with respect to village property shall be responsible for replacing the damaged property and any labor associated with replacement or repair.

(Ord. 179, passed 2-25-2009)

§ 52.12 CONFLICTING PROVISIONS.

All prior ordinances, resolutions or parts thereof in conflict with the subject matter of this subchapter are hereby repealed in their entirety.

(Ord. 179, passed 2-25-2009)

PRIVATE WELLS

§ 52.25 PRIVATE WELL DEFINED.

A **PRIVATE WELL** is defined as an opening in the surface of earth for the purpose of removing water through mechanical or non-mechanical means for any purpose except construction site dewatering or conducting response activity, including sampling or treatment of the groundwater, under a plan approved by the State Department of Environmental Quality. These exceptions apply only when all

necessary permits have been obtained for the well in question.

(Ord. 155, passed 5-19-2004)

§ 52.26 PROHIBITIONS; PERMITS.

No person shall install a private well, without first obtaining a permit from the Department of Public Works. No permit for a private well shall be issued where village water is available within 200 feet of the property. If municipal water service is unavailable within 200 feet of any developable parcel, a private well may be permitted if the well water is tested annually and approved for human consumption by the State Department of Environmental Quality, Drinking Water and Radiological Protection Division or the County Health Department, and if written proof of such annual approval is delivered to the Department of Public Works.

(Ord. 155, passed 5-19-2004) Penalty, see § 52.99

§ 52.27 TEMPORARY USE.

A well meeting the above criteria may be used temporarily for water until the village water service is available within 200 feet of the property, at which time the well shall be properly capped and abandoned and proper hook-up to the village water system shall be required. The cost of proper abandonment of a well that was temporarily allowed under this section and proper hookup to the village water system shall be the owner's responsibility.

(Ord. 155, passed 5-19-2004)

§ 52.28 PROPERTY SPLIT OR CONVEYANCE.

No split or conveyance of any property shall be effective to render village water service unavailable.

(Ord. 155, passed 5-19-2004)

§ 52.29 MODIFICATION NOTICE.

At least 30 days prior to adopting a modification of this subchapter or 30 days prior to the lapsing or revocation of this subchapter, the village shall notify the Director of the State Department of Environmental Quality by registered mail.

(Ord. 155, passed 5-19-2004) Penalty, see § 52.99

ADDITIONAL REGULATIONS

§ 52.40 PROHIBITING THE ADDITION OF FLUORIDE TO DRINKING WATER.

The addition of fluoride to the drinking water of the municipal water system of the village is hereby expressly prohibited. The specific purpose of this section is to exempt the water system of the village from the provisions of Public Act 346 of 1968, being M.C.L.A. §§ 325.191 and 325.192, which Act makes the addition of fluoride to the drinking water of a public water system mandatory unless the municipality exempts itself from the provisions of said Act by ordinance duly enacted by the Village Council.

(Ord. 55, passed 6-7-1973)

§ 52.41 SOURCE OF CONTAMINATION OR POLLUTION PROHIBITED.

(A) It shall be unlawful for any person, firm or corporation to construct or maintain, or permit to be constructed or maintained, within a radius of 100 feet from any of the wells supplying the municipal water system of the village, any source of possible contamination or pollution to said wells.

(B) It shall be unlawful for any person, firm or corporation to do any act, or to allow to be done any act, that may contaminate or pollute or contribute to the contamination or pollution of the water supply wells or water system of the village.

(Ord. 27, passed 8-9-1959) Penalty, see § 52.99

§ 52.99 PENALTY.

(A) Any person violating any of the provisions of this chapter for which no specific penalty is otherwise provided, shall be subject to the provisions of § 10.99.

(B) Any person tampering, altering, adjusting, damaging, destroying or otherwise interfering with the Water Department property or who violates any of the provisions of §§ 52.01 through 52.12 or §§ 52.25 through 52.29 is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50 nor more than \$500, plus costs and other sanctions, for each infraction.

(1) Repeat offenses shall be subject to an increased civil fine as follows:

(a) The fine for any offense which is a first repeat offense shall be not less than \$250 plus costs and other sanctions; and

(b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall not be less than \$500, plus costs and other sanctions.

(2) A **REPEAT OFFENSE** means a second (or any subsequent) violation of the sections listed in division (B) above:

(a) Committed by a person within any six-month period; and

(b) For which the person admits responsibility or is determined to be responsible.

(C) Each day on which any violation of §§ 52.25 through 52.29 continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense. In addition, the village specifically reserves the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order or other appropriate remedy to compel compliance with the provisions of §§ 52.25 through 52.29.

(D) Any person, firm or corporation violating any of the provisions of § 52.41 shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding \$100, and costs of prosecution, or by imprisonment in the county jail for a term of not exceeding 90 days, or both such fine and imprisonment, in the discretion of the court.

(Ord. 27, passed 8-9-1959; Ord. 155, passed 5-19-2004; Ord. 179, passed 2-25-2009)

CHAPTER 53: CROSS CONNECTIONS

Section

53.01 State water supply cross connection rules adopted by reference

53.02 Inspections by Water Department

53.03 Right of entry

53.04 Water service discontinued for violation

53.05 Non-potable water

53.06 Regulations supplement State Plumbing Code

53.99 Penalty

§ 53.01 STATE WATER SUPPLY CROSS CONNECTION RULES ADOPTED BY REFERENCE.

The village adopts by reference the water supply cross connection rules of the State Department of Public Health being R325.431 to R325.440 of the State Administrative Code.

(Ord. 58, passed 1-3-1974)

§ 53.02 INSPECTIONS BY WATER DEPARTMENT.

It shall be the duty of the Water Department to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply is deemed possible. The frequency of inspection and reinspections based on potential health hazards shall be as established by the Water Department.

(Ord. 58, passed 1-3-1974)

§ 53.03 RIGHT OF ENTRY.

The representative of the Water Department shall have the right to enter at any reasonable time any property served by a connection to the public water supply system of the village for the purpose of inspecting the piping system or systems on such property. Refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.

(Ord. 58, passed 1-3-1974)

§ 53.04 WATER SERVICE DISCONTINUED FOR VIOLATION.

The village water system is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this chapter exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross connections have been eliminated in compliance with the provisions of this chapter.

(Ord. 58, passed 1-3-1974)

§ 53.05 NON-POTABLE WATER.

The potable water supply made available on the property served by the public water supply shall be protected from possible contamination as specified by this chapter and by the State Plumbing Code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuously manner as:

WATER UNSAFE FOR DRINKING

(Ord. 58, passed 1-3-1974) Penalty, see § 53.99

§ 53.06 REGULATIONS SUPPLEMENT STATE PLUMBING CODE.

This chapter does not supercede the State Plumbing Code or any other village ordinance but is supplementary to them.

(Ord. 58, passed 1-3-1974)

§ 53.99 PENALTY.

Any person, firm or corporation found guilty of violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be liable to a fine of not more than \$100, or by imprisonment in the county jail not to exceed 90 days or by both fine and imprisonment in the discretion of the court.

(Ord. 58, passed 1-3-1974)

Chapter

- 70. GENERAL PROVISIONS
- 71. TRAFFIC REGULATIONS
- 72. PARKING
- 73. PARKING SCHEDULES

CHAPTER 70: GENERAL PROVISIONS

Section

State Provisions Adopted

- 70.01 Michigan Vehicle Code adopted by reference
- 70.02 Uniform Traffic Code for Cities, Townships and Villages adopted by reference

Tourist Signs, Bicycles and Railroads

- 70.15 Tourist-oriented directional signs
- 70.16 Use of bicycles and other wheeled vehicles on sidewalks
- 70.17 Manually controlled crossing gates at railroad crossing

- 70.99 Penalty

STATE PROVISIONS ADOPTED

§ 70.01 MICHIGAN VEHICLE CODE ADOPTED BY REFERENCE.

- (A) The Michigan Vehicle Code, Public Act 300 of 1949, being M.C.L.A. §§ 257.1 through 257.923, is hereby adopted by reference.
- (B) References in the Michigan Vehicle Code to "local authorities" shall mean the village.
- (C) The Village Clerk shall publish this section in the manner required by law and shall publish, at the same time, a notice stating the purpose of the Michigan Vehicle Code and the fact that a complete copy of the code is available to the public at the office of the Village Clerk for inspection.
- (D) The penalties provided by the Michigan Vehicle Code are adopted by reference, provided, however, that the village may not enforce any provision of the Michigan Vehicle Code for which the maximum period of imprisonment is greater than 93 days.

(Ord. 165, passed 11-10-2005)

§ 70.02 UNIFORM TRAFFIC CODE FOR CITIES, TOWNSHIPS AND VILLAGES ADOPTED BY REFERENCE.

- (A) The Uniform Traffic Code for Cities, Townships and Villages as promulgated by the Director of the Michigan Department of State Police pursuant to the administrative procedures act of 1969, 1969 Public Act 306 of 1969, being M.C.L.A. §§ 24.201 through 24.328 and made effective October 30, 2002, and all future amendments and revisions to the Uniform Traffic Code when they are promulgated and effective in this state are incorporated by reference.

(B) References in the Uniform Traffic Code for Cities, Townships and Villages to a "governmental unit" shall mean the village.

(C) The Village Clerk shall publish this section in the manner required by law and shall publish, at the same time, a notice stating the purpose of the Uniform Traffic Code for Cities, Townships and Villages and the fact that a complete copy of the Code is available to the public at the office of the Village Clerk for inspection.

(D) The penalties provided by the Uniform Traffic Code for Cities, Townships and Villages are adopted by reference.

(Ord. 166, passed 4-12-2006)

TOURIST SIGNS, BICYCLES AND RAILROADS

§ 70.15 TOURIST-ORIENTED DIRECTIONAL SIGNS.

(A) The village may permit tourist-oriented directional signs as defined by M.C.L.A. § 247.401 within its jurisdictional boundaries as provided by and pursuant to M.C.L.A. § 247.403(7).

(B) An operator of a tourist-oriented activity who wishes to participate in a directional sign program under Public Act 299 of 1996, as amended, and is applying for a sign that would reside within the boundaries of the village in accordance with the provisions of Public Act 299 of 1996 § 2, being M.C.L.A. § 247.402, shall submit the application for review by the Village Council or its designee.

(C) The Village Council or its designee may approve or reject the placement of any tourist-oriented directional sign within its jurisdictional boundaries under the provisions of this section.

(D) The Village Council may appoint a designee by resolution to approve or reject placement of any tourist oriented directional sign within its jurisdictional boundaries.

(Ord. 200, passed 4-10-2013)

§ 70.16 USE OF BICYCLES AND OTHER WHEELED VEHICLES ON SIDEWALKS.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BICYCLE. Any wheeled vehicle propelled by means of chain driven gears using footpower, electrical power or gasoline motor power, except that vehicles defined as "motorcycles" or "mopeds" under the Motor Vehicle Code for the State shall not be considered as **BICYCLES** under this section. This definition shall include, but not be limited to, single-wheeled vehicles, also known as unicycles; two-wheeled vehicles, also known as bicycles; three-wheeled vehicles, also known as tricycles; and any of the above-listed vehicle which may have training wheels or other wheels to assist in the balance of the vehicle.

ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE. A self-balancing non-tandem two-wheeled device, designed to transport only one person at a time, having an electrical propulsion system with average power of 750 watts or one horsepower and a maximum speed on a paved level surface of not more than 15 mph.

ROLLER SKATES. Any shoe-like device with wheels attached, including, but not limited to, **ROLLER SKATES**, in-line roller skates and roller blades.

SKATEBOARD. Any surfboard-like object with wheels attached. **SKATEBOARD** shall also include, under its definition, vehicles commonly referred to as "scooters," being surfboardlike objects with wheels attached and a handle coming up from the forward end of the surfboard area.

(B) *Prohibited activity.* No person shall ride or operate a bicycle, skateboard, roller skates, scooter, electric personal assistive mobility device or any other wheeled device, except a wheelchair or a wheeled device to aid the person to walk, on any public sidewalk of the following streets within the village:

(1) Elm Street between Ash Street and Sycamore Street.

(2) Linden Street between Oak Street and Elm Street.

(3) Maple Street between Elm Street and Cherry Street.

(Ord. 161, passed 7-13-2005) Penalty, see § 70.99

§ 70.17 MANUALLY CONTROLLED CROSSING GATES AT RAILROAD CROSSING.

Manually controlled crossing gates, which when lowered form a barricade across Elm Street and the abutting sidewalk on each side of the railroad where it crosses Elm Street in the village, shall be operated and maintained at all times by any person, partnership, corporation or combination of same, operating said railroad through said village.

(Ord. 13, passed 4-3-1947)

§ 70.99 PENALTY.

(A) Any person who violates any provision of this chapter for which no specific penalty is otherwise provided, shall be subject to the provisions of § 10.99.

(B) Any person violating any of the provisions of § 70.15 or who installs or causes to be installed a tourist-oriented directional sign without the approval of both the State Department of Transportation and the Village Council, shall be responsible for a municipal civil infraction, punishable by a civil fine of not more than \$100, plus costs, and if applicable, damages and expenses as provided by law. A municipal civil infraction action brought for any violation of § 70.15 shall follow the procedures set forth in Public Act 12 of 1994, M.C.L.A. § 600.113, as amended, and a defendant charged with a municipal civil infraction violation shall have all of the rights, duties, responsibilities and obligations set forth therein.

(C) Any person who violates any of the provisions of § 70.16 is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50 nor more than \$500, plus costs and other sanctions, for each infraction.

(1) Repeat offenses shall be subject to an increased civil fine as follows:

(a) The fine for any offense which is a first repeat offense shall be not less than \$250, plus costs and other sanctions; and

(b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall not be less than \$500, plus costs and other sanctions.

(2) A **REPEAT OFFENSE** means a second (or any subsequent) violation of § 70.16:

(a) Committed by a person within any six-month period; and

(b) For which the person admits responsibility or is determined to be responsible.

(D) Any person or persons, partnership or corporation who shall violate the provisions of § 70.17, shall upon conviction be punished by a fine of not less than \$5 nor more than \$100, and the costs of prosecution, or imprisonment in the county jail for a period not to exceed 90 days, or by both such fine and imprisonment in the discretion of the court.

(Ord. 13, passed 4-3-1947; Ord. 161, passed 7-13-2005; Ord. 200, passed 4-10-2013)

CHAPTER 71: TRAFFIC REGULATIONS

Section

71.01 Definitions

71.02 Rules and regulations

71.03 Enforcement of and obedience to traffic regulations

71.04 Restrictions as to speed

71.05 Turning at intersection

- 71.06 Driving on right side
- 71.07 Overtaking and passing vehicles
- 71.08 Limitation on overtaking and passing
- 71.09 Following too closely
- 71.10 Right-of-way
- 71.11 Reckless driving
- 71.12 Driving while intoxicated
- 71.13 Vehicle left unattended
- 71.14 View or control of driver
- 71.15 Projecting articles
- 71.16 Signals on starting, stopping or turning
- 71.17 Equipment and license
- 71.18 Parades, processions and funerals
- 71.19 Removal of disabled vehicles
- 71.20 Restrictions on backing
- 71.21 Noise and smoke
- 71.22 Accidents
- 71.23 Vehicles passing school buses
- 71.24 Mandatory child restraints and safety belts
- 71.25 Weight restriction on Hickory Street viaduct
- 71.26 General weight limit on village streets

- 71.99 Penalty

§ 71.01 DEFINITIONS.

Words used in this Title VII shall have their usual and customary meaning; provided, however, that all words defined in the Michigan Vehicle Code (Public Act 300 of 1949, being M.C.L.A. §§ 257.1 through 257.923, as amended) and used in this title shall have the meaning given in the Michigan Vehicle Code.

(Ord. 21, passed - -1952)

§ 71.02 RULES AND REGULATIONS.

(A) The Village President is hereby empowered, within the limits prescribed by statute and this title, to direct and control traffic and to make rules and regulations.

(B) The Village President is empowered, subject to approval of the Village Council by resolution, to designate through or stop streets, to designate the location of traffic-control signals, to prescribe the manner and duration of parking vehicles, to establish loading zones for buses, trucks, taxicabs and dray stands, to designate the maximum length of any vehicle permitted to park upon any streets.

(C) The Village President is empowered to create quiet and safety zones; to designate streets or portions thereof to be closed to

traffic by reason of construction or repair; and to designate streets for recreational use and their hours of use.

(Ord. 21, passed - -1952)

§ 71.03 ENFORCEMENT OF AND OBEDIENCE TO TRAFFIC REGULATIONS.

(A) Members of the Police Department are hereby authorized to direct all traffic in conformance with the provisions of this title, provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, they may direct traffic as conditions may require, notwithstanding the provisions of this title.

(B) Members of the Fire Department, when at the scene of a fire, or in an emergency, may direct or assist the police in directing traffic, and when so doing shall have the authority of police officers.

(C) No person shall do any act forbidden, or shall fail to perform any act required, in this title, or in the rules and regulations established hereunder.

(D) No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer.

(E) The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with this title, unless otherwise directed by police officers.

(F) Whenever traffic is controlled by traffic-control signals exhibiting the words "go," "caution" or "stop" or exhibiting different colored lights successively one at a time, or with arrows, said terms and lights shall indicate and apply to drivers of vehicles and pedestrians as specified in the Michigan Vehicle Code (Public Act 300 of 1949, being M.C.L.A. §§ 257.1 through 257.923, as amended).

(G) The provisions of this title relating to the operation of vehicles shall apply to Police and Fire Department vehicles of the village, except that such vehicles may:

- (1) Park notwithstanding the provisions of this title;
- (2) Proceed past a red light or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
- (3) Exceed the prima facie speed limit so long as life or property is not in danger;
- (4) Disregard regulations governing direction of movement or turning so long as life or property is not in danger; and
- (5) Drive on the left hand side of any highway, provided life or property is not in danger.

(H) The foregoing exemptions shall not protect the operator of such vehicle from the consequences of his or her disregard of the property or safety of others.

(Ord. 21, passed - -1952) Penalty, see § 71.99

§ 71.04 RESTRICTIONS AS TO SPEED.

(A) Any person driving a vehicle on a street shall drive the same at a careful and prudent speed not greater than nor less than is reasonable and proper, having due regard to the traffic, surface and width of the street and to any other conditions then existing, and no persons shall drive any vehicle upon a street at a speed greater than will permit him or her to bring it to a stop within the assured clear distance ahead.

(B) Subject to the provisions of division (A) above and except in those instances where a lower speed is specified in this title, it shall be prima facie lawful for the driver of a vehicle to drive the same at a speed not to exceed the following, but in any case when such speed would be unsafe it shall not be lawful; 25 mph on all streets in a business or residential district and 25 mph in public parks unless a difference speed is fixed and duly posted; and 12 mph in any alley.

(C) It shall be unlawful to exceed the foregoing speed limitations except upon through streets or state trunkline highways where a difference speed limit is authorized and has been marked by adequate signs giving notice of permissible speed.

(Ord. 21, passed - -1952) Penalty, see § 71.99

§ 71.05 TURNING AT INTERSECTION.

(A) The driver of a vehicle intending to turn at an intersection shall do so as follows: both the approach for a right turn and a right turn shall be made as close as practical to the right hand curb or edge of the roadway; approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered.

(B) Whenever authorized signs are erected indicating that no right or left or "U" turn is permitted, no driver of a vehicle shall disobey the direction of any such sign.

(Ord. 21, passed - -1952) Penalty, see § 71.99

§ 71.06 DRIVING ON RIGHT SIDE.

Upon all roadways of sufficient width all vehicles shall be driven upon the right half of the roadway except when overtaking and passing another vehicle proceeding in the same direction, when the right half of a roadway is closed to traffic, and upon one-way streets.

(Ord. 21, passed - -1952) Penalty, see § 71.99

§ 71.07 OVERTAKING AND PASSING VEHICLES.

(A) The driver of any vehicle overtaking another vehicle proceeding in the same direction except as otherwise provided in this title, shall pass at a safe distance to the left thereof, and when safely clear of such overtaken vehicle shall take up a position as near the right-hand edge of the main traveled portion of the street as is practical.

(B) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of an overtaken vehicle on audible signal and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle.

(C) The driver of a vehicle may overtake and pass on the right of another vehicle only under the following conditions, and then only under conditions permitting such movement in safety; when the vehicle overtaken is making or about to make a left turn, upon a street with unobstructed pavement of sufficient width for two or more lines of moving vehicles in either direction and when such vehicles are moving in substantially continuous lanes of traffic.

(Ord. 21, passed - -1952) Penalty, see § 71.99

§ 71.08 LIMITATION ON OVERTAKING AND PASSING.

No vehicle shall be driven to the left side of the center of a two-lane street or in the center lane of a three-lane street in overtaking and passing another vehicle proceeding in the same direction unless such left side or center lane is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken.

(Ord. 21, passed - -1952) Penalty, see § 71.99

§ 71.09 FOLLOWING TOO CLOSELY.

The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon the condition of the highway.

(Ord. 21, passed - -1952) Penalty, see § 71.99

§ 71.10 RIGHT-OF-WAY.

(A) When two vehicles enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

(B) The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard, but said driver having so yielded and having given a proper signal, may make such left turn and the drivers of all other vehicles approaching the intersection from said opposite direction shall yield the right-of-way to the vehicle making the left turn; provided, that at an intersection at which a traffic signal is located, a driver intending to make a left turn shall permit vehicles bound straight through the intersection before making the turn.

(C) All vehicles approaching the intersection of a state trunkline highway or a street designated by a stop sign as a through street shall come to a full stop before entering or crossing such highways or through streets.

(D) The driver of a vehicle about to enter or cross a highway or street from an alley, private road or driveway, shall come to a full stop, before driving onto a sidewalk or sidewalk area extending across such alley, private road or driveway, and upon entering the roadway portion of said highway or street shall yield the right-of-way to all vehicles approaching on said roadway.

(Ord. 21, passed - -1952) Penalty, see § 71.99

§ 71.11 RECKLESS DRIVING.

(A) Any person who drives any vehicle upon a highway or street carelessly and heedlessly in willful or wanton disregard of the rights or safety of others or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property, shall be guilty of reckless driving.

(B) Any person once convicted of reckless driving, upon a second or subsequent offense shall be charged under the applicable state law and not under the provisions of this title.

(Ord. 21, passed - -1952) Penalty, see § 71.99

§ 71.12 DRIVING WHILE INTOXICATED.

(A) It shall be unlawful for any person who is any habitual user of narcotic drugs, barbitol or any derivative of barbitol or any person who is under the influence of intoxicating liquor or narcotic drugs, barbitol or any derivative of barbitol, to drive any vehicle upon any street or other public place.

(B) It shall be unlawful for the owner of any motor vehicle or any person having such in charge or in control thereof to authorize or knowingly permit the same to be driven or operated upon any street or other public place by any person who is an habitual user of narcotic drugs, barbitol or any derivative of barbitol or any person who is under the influence of intoxicating liquor or narcotic drugs, barbitol or any derivative of barbitol.

(C) Any person once convicted of driving while under the influence of intoxicating liquor or narcotic drugs, upon a second or subsequent offense shall be charged under the applicable state law and not under the provisions of this title.

(Ord. 21, passed - -1952) Penalty, see § 71.99

§ 71.13 VEHICLE LEFT UNATTENDED.

No person having control or charge of a motor vehicle shall allow such vehicle to stand on any street unattended without first effectively setting the brakes thereon and stopping the motor of said vehicle, and when standing upon any grade without turning the wheels towards the curb.

(Ord. 21, passed - -1952) Penalty, see § 71.99

§ 71.14 VIEW OR CONTROL OF DRIVER.

(A) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such a number of persons as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

(B) No more than three persons shall occupy the front or driver's seat of a motor vehicle and no person, adult or minor, nor any animal, shall be seated or carried in the lap of the driver, or shall the driver be seated in the lap of a person occupying the front seat when the motor vehicle is in motion.

(C) No passenger in a vehicle shall ride in any position as to interfere with the driver's view ahead or the sides, or to interfere with his or her control over the driving mechanism of the vehicle.

(D) The windshield, at all times, in front of the driver shall be kept clear of dirt, snow and ice, or open so that the driver's view is unobstructed to the front of the vehicle at all times.

(Ord. 21, passed - -1952) Penalty, see § 71.99

§ 71.15 PROJECTING ARTICLES.

Whenever the load upon any vehicle extends to the rear four feet or more beyond the bed or body of such vehicle, there shall be placed at the extreme rear end of the load, at any time from one-half hour after sunset to one-half hour before sunrise and at such times as driving conditions shall require, a red light or lantern plainly visible from a distance of at least 500 feet to the sides and rear. At any other time, there shall be displayed at the extreme rear end of such load a red flag or cloth not less than 12 inches square.

(Ord. 21, passed - -1952) Penalty, see § 71.99

§ 71.16 SIGNALS ON STARTING, STOPPING OR TURNING.

(A) The driver of any vehicle upon a street before starting, stopping or turning from a direct line shall first see that such movement can be made in safety and shall give a signal as required by this section.

(B) The signal herein required shall be given either by means of the hand and arm in the manner herein specified, or by a mechanical or electrical signal device which conveys an intelligible signal or warning to another driver approaching from the rear.

(C) Whenever the signal is given by means of the hand and arm, the driver shall indicate his or her intention to start, stop or turn by extending the hand and arm horizontally from and beyond the left side of the vehicle.

(Ord. 21, passed - -1952) Penalty, see § 71.99

§ 71.17 EQUIPMENT AND LICENSE.

(A) No person shall operate any vehicle or permit the same to be operated on any street unless the same complies with the Michigan Vehicle Code (Public Act 300 of 1949, being M.C.L.A. §§ 257.1 through 257.923, as amended) in reference to size, height, weight, construction and equipment and the use, condition and operation of such equipment.

(B) No person shall drive any vehicle unless he or she is licensed as an operator or chauffeur as required by the state, and unless he or she has the license so granted in his or her possession at all times while operating a vehicle. No person shall violate any condition of such license. No person shall permit an unlicensed driver to operate any vehicle owned by him or her or under his or her control.

(Ord. 21, passed - -1952) Penalty, see § 71.99

§ 71.18 PARADES, PROCESSIONS AND FUNERALS.

(A) No funeral, procession or parade, excepting the armed forces of the United States or of this state, shall occupy, march or proceed along any street except in accordance with a permit issued by the Village Clerk.

(B) The Village Clerk shall not issue such permit if its issuance would, in his or her opinion, create an unnecessary and unwarranted traffic hazard or interference except upon the order of the Village Council.

(C) A funeral composed of a procession of vehicles shall be identified as such by the display upon the outside of each vehicle of a flag as required by the Michigan Vehicle Code.

(D) Each driver in a funeral or other procession shall drive as near to the right hand edge of the roadway as practical and follow the vehicle ahead as closely as is safe.

(Ord. 21, passed - -1952) Penalty, see § 71.99

§ 71.19 REMOVAL OF DISABLED VEHICLES.

Whenever a vehicle becomes stalled upon a street or because of damage or other reason cannot be moved by its own power, and consequently blockades the street or interferes with the use of the same by other vehicles, it shall be the duty of its owner and its operator to remove it by towing or otherwise within a reasonable time, and upon the owner's failure to remove the vehicle within a reasonable time the vehicle may be removed as provided in § 72.23.

(Ord. 21, passed - -1952) Penalty, see § 71.99

§ 71.20 RESTRICTIONS ON BACKING.

(A) No driver of a vehicle shall back the same, unless such movement can be made with reasonable safety and without interfering with other traffic.

(B) The driver of a vehicle shall not back the same into an intersection or over a crosswalk and shall not in any event on any street or alley back his or her vehicle more than 60 feet.

(Ord. 21, passed - -1952) Penalty, see § 71.99

§ 71.21 NOISE AND SMOKE.

(A) No person in charge or control of any vehicle shall make with such vehicle or any device connected with same, any noise so excessive as to annoy the public, or unnecessarily race his or her motor while running idle, or open, remove or detach, the muffler of any vehicle, or permit the muffler to remain open, removed or detached while the motor of such vehicle is running, or permit such vehicle or any device thereon to emit an unnecessary quantity of smoke, obnoxious gases, flames or vapors.

(B) No person shall drive or propel upon the paved streets in the village any steam engine, thrashing machine or other machines or equipment or vehicles of any kind which may injure or damage the pavement of such street without the written permission of the Village Clerk.

(Ord. 21, passed - -1952) Penalty, see § 71.99

§ 71.22 ACCIDENTS.

(A) The driver of any vehicle involved in any accident resulting in injury to or death of any person shall immediately comply with the requirements of the Michigan Vehicle Code (Public Act 300 of 1949, being M.C.L.A. §§ 257.1 through 257.923, as amended) with regard to stopping, giving information and rendering assistance. Any person failing to comply with said requirements shall be charged under the applicable state law and not under this chapter.

(B) The driver of any vehicle involved in an accident resulting only to damage to a vehicle which is driven or attended by any person shall immediately stop at the scene of such accident and shall give his or her name, address and the registration number of the vehicle he or she is driving, also the name and address of the owner and exhibit his or her operator's or chauffeur's license to the driver or occupants of any vehicle collided with.

(C) The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle, or, if such owner cannot be located, shall forthwith report it to the nearest or most convenient police officer.

(D) The driver of any vehicle involved in an accident resulting only in damage to fixtures legally upon or adjacent to a street shall take reasonable steps to locate and notify the owner or person in charge of such property of such accident and of his or her name and address and of the registration number of the vehicle he or she is driving and shall upon request exhibit his or her operator's license, and if such owner cannot be found, shall forthwith report such accident to the nearest or most convenient police officer.

(Ord. 21, passed - -1952) Penalty, see § 71.99

§ 71.23 VEHICLES PASSING SCHOOL BUSES.

(A) The driver of a vehicle shall not overtake, or meet and pass any school bus which has stopped for the purpose of receiving or discharging passengers.

(B) The driver of a vehicle overtaking or meeting any school bus which has stopped for the purpose of receiving or discharging any passengers, shall bring such vehicle to a full stop at least ten feet from the school bus, and shall not proceed until the school bus resumes motion or the school bus driver signals to proceed or the visual signals are no longer actuated. The driver of the school bus before resuming motion shall signal stopped traffic to proceed and shall, when resuming motion, proceed in such manner as to allow congested traffic to disperse by keeping the bus as near to the right side of the road as can be done with safety. Passengers crossing the road upon being discharged from a school bus shall cross in front of a stopped school bus. At an intersection where traffic is controlled by an officer or a traffic stop-and-go signal, a vehicle need not be brought to a full stop before passing any such bus but may proceed past such school bus at a speed no greater than is reasonable and proper and in no event greater than ten mph and with due caution for the safety of passengers being received or discharged from such school bus.

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

(Ord. 29, passed 3-2-1961) Penalty, see § 71.99

§ 71.24 MANDATORY CHILD RESTRAINTS AND SAFETY BELTS.

(A) *Mandatory child restraints.*

(1) Except as provided in this section, or as otherwise provided by law, a rule promulgated pursuant to Public Act 306 of 1969, being M.C.L.A. §§ 24.201 through 24.328 as amended, or federal regulation, each driver transporting a child in a motor vehicle shall properly secure each child in a child restraint system as follows:

(a) Any child less than one year of age in a child restraint system which meets the standards prescribed in 49 C.F.R. § 571.213;

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

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

(2) This section does not apply to a nonresident driver transporting a child in this state or to any child being nursed.

(3) This section does not apply if the motor vehicle being driven is a bus, school bus, taxicab, moped, motorcycle or other motor vehicle not required to be equipped with safety belts under M.C.L.A. § 257.710B or federal law or regulations.

(B) *Mandatory safety belt usage.*

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

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

(b) A bus;

(c) A motorcycle;

(d) A moped;

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

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

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

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

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

(3) Each driver and front seat passenger of a motor vehicle operated on a street or highway in this state shall wear a properly adjusted and fastened safety belt, except that a child less than four years of age shall be protected as required in this section. Each driver of a motor vehicle transporting a child four years of age or more but less than 16 years of age in the front seat of the motor vehicle shall secure the child in a properly adjusted and fastened safety belt.

(4) Enforcement of this section shall be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of another traffic ordinance, statute, chapter, section or rule.

(Ord. 101, passed 11-14-1990) Penalty, see § 71.99

§ 71.25 WEIGHT RESTRICTION ON HICKORY STREET VIADUCT.

From and after the effective date of this section, the viaduct, or bridge, on Hickory Street over the Penn Central Railroad right-of-way in said village shall be limited solely to the use of passenger vehicles or pickup trucks having a gross weight of not to exceed five tons. All other trucks, semi-trucks, farm tractors, self-propelled farm machinery, farm machinery and any other type vehicle, conveyance or equipment exceeding five tons in gross weight are strictly prohibited from crossing said viaduct.

(Ord. 51, passed 4-5-1973) Penalty, see § 71.99

§ 71.26 GENERAL WEIGHT LIMIT ON VILLAGE STREETS.

(A) On and after the effective date of this section it shall be unlawful for any person, firm or corporation to propel or drive any vehicle whose gross weight exceeds 18,000 pounds on the streets enumerated in division (B) below.

(B) All streets within the corporate limits of the village except Ash Street, except as may be required for loading and unloading purposes and to access the truck-tractor and trailer parking area, by the most direct route thereto available.

(C) The Village Street Commissioner is hereby authorized and empowered to post all streets enumerated in division (B) above in accordance with the provisions of this section.

(Ord. 31, passed - -1962; Ord. 127, passed 4-8-1998) Penalty, see § 71.99

§ 71.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is otherwise provided, shall be subject to the provisions of § 10.99.

(B) Any person, firm, his, her, or their employee or agent violating the provisions of §§ 71.01 through 71.21 shall be punished by a fine of not less than \$1 and not more than \$100 and costs of prosecution, or imprisoned in the county jail not to exceed 90 days or both such fine and imprisonment in the discretion of the court.

(C) Any person, firm or corporation violating any of the provisions of § 71.23 or § 71.25 shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding \$100 and costs of prosecution, or by imprisonment in the county jail for a period not exceeding 90 days, or both such fine and imprisonment at the discretion of the court.

(D) A person who violates § 71.24 is responsible for a civil infraction.

(E) (1) Any person or persons, partnership or corporation who shall violate any of the provisions of § 71.26 is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50 nor more than \$500, plus costs and other sanctions for each infraction.

(2) Repeat offenses shall be subject to an increased civil fine as follows:

(a) The fine for any offense which is a first repeat offense shall be not less than \$250, plus costs and other sanctions; and

(b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be not less than \$500, plus costs and other sanctions.

(3) A **REPEAT OFFENSE** means a second (or any subsequent) violation of § 71.26:

(a) Committed by a person within any six-month period; and

(b) For which the person admits responsibility or is determined to be responsible.

(4) Each day on which any violation of § 71.26 continues, constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(Ord. 21, passed - -1952; Ord. 29, passed 3-2-1961; Ord. 51, passed 4-5-1973; Ord. 101, passed 11-14-1990; Ord. 119, passed 4-12-1995)

CHAPTER 72: PARKING

Section

Parking Violations Bureau

72.01 Establishment

72.02 Duties of Village Clerk

72.03 Violations to be disposed of by Bureau

72.04 Violation to be settled only at request of violator

72.05 Traffic ticket or notice of violation

72.06 Schedule of offenses and fines

Parking Regulations

72.20 Obedience to parking signs

72.21 Stopping, standing or parking prohibited

72.22 Parking not to obstruct traffic

72.23 Removal of vehicles parked in violation

72.24 Overnight parking

72.99 Penalty

§ 72.01 ESTABLISHMENT.

Pursuant to § 8395 of the Revised Judicature Act, M.C.L.A. § 600.8395, as added by Public Act 154 of 1968, being M.C.L.A. §§ 600.8101 et seq., a Parking Violations Bureau, for the purpose of handling alleged parking violations within the village is hereby established. The Parking Violations Bureau shall be under the supervision and control of the Village Clerk.

(Ord. 45, passed 6-5-1969)

§ 72.02 DUTIES OF VILLAGE CLERK.

The Village Clerk shall, subject to the approval of the Village Council, establish a convenient location for the Parking Violations Bureau, appoint a suitable person or persons to administer the Bureau and adopt rules and regulations for the operation of the Bureau.

(Ord. 45, passed 6-5-1969)

§ 72.03 VIOLATIONS TO BE DISPOSED OF BY BUREAU.

No violation that is not scheduled in § 72.06 shall be disposed of by the Parking Violations Bureau. The fact that a particular violation is scheduled shall not entitle the alleged violator to disposition of the violation at the Bureau, and in any case, the person in charge of such Bureau may refuse to dispose of such violation. In such a case, any person having knowledge of the facts may make a sworn complaint before any court having jurisdiction of the offense provided by law.

(Ord. 45, passed 6-5-1969)

§ 72.04 VIOLATION TO BE SETTLED ONLY AT REQUEST OF VIOLATOR.

No violation may be settled at the Parking Violations Bureau except at the specific request of the alleged violator. No penalty for any violation shall be accepted from any person who denies having committed the offense and in no case shall the person who is in charge of the Bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to such alleged violation. No person shall be required to dispose of the parking violation at the Parking Violations Bureau and all persons shall be entitled to have any such violations processed for a court having jurisdiction thereof, if so desired. The unwillingness of any person to dispose of any violation at the Parking Violations Bureau shall not prejudice him or her or in any way diminish the rights, privileges and protection according to him or her by the law.

(Ord. 45, passed 6-5-1969)

§ 72.05 TRAFFIC TICKET OR NOTICE OF VIOLATION.

The issuance of a traffic ticket or notice of violation by a police officer of the city shall be deemed an allegation of the parking violation. Such traffic ticket or notice of violation shall indicate the length of time in which the person to whom the same was issued must respond before the Parking Violations Bureau. It shall also indicate the address of the Bureau, the hours in which the Bureau is open, the amount of the penalty scheduled for the offense for which the ticket was issued, advise that a warrant for the arrest of the person to whom the ticket was issued will be issued if such a person fails to respond within the time limited. The Bureau may provide self-addressed envelopes for distribution to violators who may utilize such envelopes for mailing fines into the Bureau if they so desire rather than appear in person. Mailing in such a voluntary fine shall constitute complete acquittance by the violator under this subchapter.

(Ord. 45, passed 6-5-1969)

§ 72.06 SCHEDULE OF OFFENSES AND FINES.

<i>Offense</i>	<i>UTC Section</i>	<i>Penalty</i>
Abandoned vehicle plus towing and storage charge		\$5
All night parking in prohibited area		\$2
Angle parking violation	(8.3)	\$2
Bicycle parking violations	(6.17)	\$1
Disabled vehicle, failure to move		\$10
Failure to set brakes	(5.58)	\$3
In an alley	(.13)	\$3
In prohibited zone (signs required)	(8.10)	\$3
Loading zone violations	(8.17, 8.16)	\$2
Obstructing traffic	(8.5)	\$5
Parking between the sidewalk and the curb		\$3
Parking for prohibited purpose	(8.14)	
(1) Displaying advertising		\$3
(2) Displaying vehicle for sale		\$3
(3) Parking over 48 hours		\$5
(4) Selling merchandise		\$3
(5) Working or repairing vehicle		\$3
Parking on private property, without the owner's consent		\$5
Parking too far from curb	(8.1, 8.2)	\$2
Prohibited parking (signs unnecessary)	(8.10)	
(1) Blocking emergency exit		\$5
(2) Blocking fire escape		\$5
(3) Double parking		\$5
(4) In front of drive		\$5
(5) In front of theater		\$3
(6) On a bridge or viaduct		\$10
(7) On crosswalk		\$5
(8) On the sidewalk		\$5
(9) Side street when traffic obstructed		\$5
(10) Within intersection		\$10
(11) Within 15 feet of a hydrant		\$5
(12) Within 20 feet of crosswalk or 15 feet		

of corner lines		\$5
(13) Within 20 feet of fire station entrance		\$5
(14) Within 30 feet of street side traffic sign or signal		\$5
(15) Within 50 feet of a railroad crossing		\$5
(16) Within 75 feet of fire station entrance on opposite side of street (signs required)		\$5
(17) Within 200 feet of accident where police are in attendance		\$3

(Ord. 45, passed 6-5-1969)

PARKING REGULATIONS

§ 72.20 OBEDIENCE TO PARKING SIGNS.

No person shall park or stand a vehicle upon the portion of any street upon which authorized signs or markings have been erected designating the manner or length of time or parking, in a manner or for a length of time contrary to such posted signs or markings.

(Ord. 21, passed - -1952) Penalty, see § 72.99

§ 72.21 STOPPING, STANDING OR PARKING PROHIBITED.

No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the law or the directions of a police officer or a traffic-control device, in any of the following places:

- (A) On a sidewalk;
- (B) Within an intersection;
- (C) In front of a public or private driveway;
- (D) On a crosswalk;
- (E) Within 15 feet of a fire hydrant;
- (F) Within 20 feet of a crosswalk at an intersection;
- (G) Within 30 feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway;
- (H) Within 50 feet of the nearest rail of a railroad crossing;
- (I) On the roadway side of any vehicle stopped or parked at the edge or curb of the street; or
- (J) At any place where official signs prohibit stopping or parking.

(Ord. 21, passed - -1952) Penalty, see § 72.99

§ 72.22 PARKING NOT TO OBSTRUCT TRAFFIC.

No person shall park any vehicle upon a street or alley, in such a manner or under such conditions as to leave available less than ten

feet from the center of the roadway for free movement of vehicular traffic, and no persons shall stop, stand or park a vehicle within an alley in such position as to block the driveway entrance to any abutting property.

(Ord. 21, passed - -1952) Penalty, see § 72.99

§ 72.23 REMOVAL OF VEHICLES PARKED IN VIOLATION.

The Chief of Police and any member of the Police Department shall have the authority to remove all vehicles parked in violation of this subchapter, and any vehicle so removed shall be taken into custody of the Police Department and not released until the reasonable costs of such removal are paid to the Police Department.

(Ord. 21, passed - -1952) Penalty, see § 72.99

§ 72.24 OVERNIGHT PARKING.

(A) No motor vehicle or motorcycle shall be parked on any street or village parking lot in the village between the hours of 2:00 a.m. and 6:00 a.m. at any time.

(B) Signs showing the prohibition against overnight parking shall be posted on all principal streets used for entrance into the village.

(Ord. 63, passed 8-5-1976) Penalty, see § 72.99

§ 72.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is otherwise provided, shall be subject to the provisions of § 10.99.

(B) Any person, firm their employee or agent, violating the provisions of §§ 72.20 through 72.23 shall be punished by a fine of not less than \$1 and not more than \$100 and costs of prosecution, or imprisoned in the county jail not to exceed 90 days or both such fine and imprisonment in the discretion of the court.

(C) (1) Any person or persons, partnership or corporation who shall violate any of the provisions of § 72.24, or Chapter 73, is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50 nor more than \$500, plus costs and other sanctions for each infraction.

(2) Repeat offenses shall be subject to an increased civil fine as follows:

(a) The fine for any offense which is a first repeat offense shall be not less than \$250, plus costs and other sanctions; and

(b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be not less than \$500, plus costs and other sanctions.

(3) A **REPEAT OFFENSE** means a second (or any subsequent) violation of § 72.24 or Chapter 73:

(a) Committed by a person within any six-month period; and

(b) For which the person admits responsibility or is determined to be responsible.

(4) Each day on which any violation of § 72.24 or Chapter 73 continues, constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(Ord. 21, passed - -1952; Ord. 63, passed 8-5-1976; Ord. 119, passed 4-12-1995)

CHAPTER 73: PARKING SCHEDULES

I. Parking time limited

II. Parking prohibited during certain hours

III. Parallel parking

IV. Angle parking

V. Double parking

VI. Truck parking prohibited

VII. Loading and unloading prohibited

SCHEDULE I: PARKING TIME LIMITED.

No motor vehicle or motorcycle shall be parked for a period of time exceeding two hours between the hours of 8:00 a.m. and 6:00 p.m., except Sunday, on the following streets in the village:

<i>Street</i>	<i>Location</i>
Elm Street	Between Ash Street (US 12) and Sycamore Street
Elm Street	Between Linden and Maple Street
Elm Street	Between Maple Street and Sycamore Street
Linden Street	Between St. John United Church of Christ and Oak Street
Maple Street	Between Elm Street and Cherry Street
Sycamore Street	Between Elm Street and Cherry Street

(Ord. 18, passed 6-3-1948; Ord. 19, passed 5-5-1949; Ord. 63, passed 8-5-1976) Penalty, see § 72.99

SCHEDULE II: PARKING PROHIBITED DURING CERTAIN HOURS.

(A) No person, firm, partnership or corporation shall park a motor vehicle in the following locations, between the hours of 8:00 a.m. and 6:00 p.m. with the exception of Sundays and legal holidays.

(B) For the purpose of this Schedule II, the word **PERSON** is hereby defined to mean either the operator or the owner of a motor vehicle or truck as the case may be.

<i>Street</i>	<i>Location</i>
Linden Street	South side of street, between Elm Street and the east line of Lot 9 of the Subdivision of the east half of southeast quarter of Section 3, Township 8 South, Range 20 West

(C) Any person, firm, partnership or corporation who shall violate the provisions of this schedule II, shall upon conviction be fined not less than \$1 nor more than \$100 or sentenced to imprisonment in the county jail not to exceed 90 days, or both in the discretion of

the court.

(Ord. 20, passed 6-5-1952)

SCHEDULE III: PARALLEL PARKING.

Parking on the following streets shall be restricted to parallel parking as specified:

<i>Street</i>	<i>Location and Specifications</i>
North Elm Street	All portions where the pavement width is 33 feet, or less, measured from back to back of existing curbs, parallel parking on one side only as designated by signs posted thereon; angle parking prohibited
South Elm Street	All portions where the pavement width is 33 feet, or less, measured from back to back of existing curbs, parallel parking on one side only as designated by signs posted thereon; angle parking prohibited
West Locust Street	Parallel parking on one side only as designated by signs posted thereon

(Ord. 54, passed 5-3-1973) Penalty, see § 72.99

SCHEDULE IV: ANGLE PARKING.

Angle parking shall be permitted on those portions of the following streets as designated by signs posted to permit such parking:

- (A) East Linden Street; and
- (B) Maple Street.

(Ord. 54, passed 5-3-1973) Penalty, see § 72.99

SCHEDULE V: DOUBLE PARKING.

No person shall stop, stand or park any vehicle in the following locations in such a manner or under such conditions as to leave available less than 16 feet of the width of the street for free movement of vehicular traffic, except that a driver may stop temporarily during the actual loading or unloading of passengers or when necessary in obedience to traffic regulations or traffic signs or signals of a police officer.

<i>Street</i>	<i>Location</i>
Elm Street	Between Ash Street and Sycamore Street

(Ord. 16, passed 4-1-1948) Penalty, see § 72.99

SCHEDULE VI: TRUCK PARKING PROHIBITED.

No person, firm, partnership or corporation shall park a truck of any kind on the following streets:

<i>Street</i>	<i>Location where Prohibited</i>
Elm Street	Between Ash Street and Sycamore Street

(Ord. 18, passed 6-3-1948) Penalty, see § 72.99

SCHEDULE VII: LOADING AND UNLOADING PROHIBITED.

(A) No person, partnership, firm or corporation using a vehicle to supply goods, wares and merchandise to any business establishment on the following streets shall place such vehicle on said portion of the street for the purposes of loading and unloading such goods, wares and merchandise.

(B) For the purpose of this Schedule VII, the word **PERSON** as used herein is defined to mean either the operator or the owner of said vehicle, or both as the case may be.

<i>Street</i>	<i>Location</i>
Elm Street	Between Linden Street and Maple Street

(Ord. 17, passed 4-1-1948; Ord. passed 6-3-1948) Penalty, see § 72.99

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. ANIMALS**
- 91. NUISANCES**
- 92. STREETS AND SIDEWALKS**
- 93. PARKS AND RECREATION**
- 94. TREES**
- 95. FIRE PREVENTION**

CHAPTER 90: ANIMALS

Section

Dogs and Cats

- 90.01 Dogs running at large
- 90.02 Removal of animal defecation from public and private properties

- 90.03 Restrictions on number of dogs and cats
- 90.04 Exception to restrictions on number of dogs or cats
- 90.05 Location of doghouses, pens and kennels
- 90.06 Dogs creating a nuisance
- 90.07 Guard dogs and attack dogs

Other Animals

- 90.20 Restriction on the number of animals other than dogs and cats
- 90.21 Animals at large
- 90.22 Animals creating a nuisance
- 90.23 Maintenance of livestock or poultry

- 90.99 Penalty

DOGS AND CATS

§ 90.01 DOGS RUNNING AT LARGE.

No person shall permit any dog to run at large anywhere outdoors in the village. This regulation shall apply to all public places and to all private property. No person shall permit any dog to be out of doors in any place unless the dog is on a leash held by a person able to control the dog. The dog may be left unattended out of doors in a yard with a fence adequate to prevent the dog from leaving the yard or fastened to a chain of adequate strength to prevent the dog from leaving the yard. Within one hour after a dog escapes from either the owner or person having the custody of the animal, the owner or custodian of the animal shall report the escape of said animal to the Police Department.

(Ord. 86, passed 5-2-1985) Penalty, see § 90.99

§ 90.02 REMOVAL OF ANIMAL DEFECATION FROM PUBLIC AND PRIVATE PROPERTIES.

An owner or person having custody of any dog or any other animal shall not permit said dog or other animal to defecate on any school ground, public street, alley, sidewalk, tree bark, park or any other public grounds or any private property within the village, other than the premises of the owner or person having custody of said dog or other animal, unless said defecation is removed immediately.

(Ord. 86, passed 5-2-1985) Penalty, see § 90.99

§ 90.03 RESTRICTIONS ON NUMBER OF DOGS AND CATS.

Not more than two dogs or two cats shall be allowed in the residence or apartment of the owner or the person who has custody of a dog or cat. Any residence may contain both two dogs and two cats.

(Ord. 86, passed 5-2-1985) Penalty, see § 90.99

§ 90.04 EXCEPTION TO RESTRICTIONS ON NUMBER OF DOGS OR CATS.

(A) The owner or person who has custody of a dog or cat may retain the puppies or kittens, born of said dog or cat exceeding the permissible numbers set forth in § 90.03 for 12 weeks after the birth of the animals. If, after that time, there are more than two dogs and two cats in any one residence or apartment, the owner or person in custody of the dogs or cats will be in violation of this chapter.

(B) Any person who lawfully owned more than two dogs or two cats prior to the enactment of this chapter may retain their animals, provided they obtain a special permit from the Chief of Police. The special permit shall be for a term of one year and no renewal shall be issued without a subsequent inspection.

(1) If for any reason an animal is lost, sold, given away or dies and there still remains in the residence or apartment two or more dogs or two or more cats there can be no replacement of the lost, sold, given away or deceased animal.

(2) A special permit shall be issued if, after an inspection, it is determined by the Chief of Police that:

(a) The animals in the owner's possession are not creating a nuisance;

(b) There is adequate waste disposal; and

(c) There is no hazard to public safety, health and welfare.

(Ord. 86, passed 5-2-1985) Penalty, see § 90.99

§ 90.05 LOCATION OF DOGHOUSES, PENS AND KENNELS.

No doghouse, pen or kennel shall be maintained closer than 40 feet to any apartment house, residential condominium, hotel, restaurant, boarding house, retail food store, building used for school, religious or hospital purposes or residence other than that occupied by the owner or occupant of the premises upon which said dogs are kept.

(Ord. 86, passed 5-2-1985) Penalty, see § 90.99

§ 90.06 DOGS CREATING A NUISANCE.

No person shall own, keep, have in possession or harbor any dog which, by frequent or habitual howling, yelping or barking, shall cause a nuisance by creating a serious annoyance or disturbance to any individual or to the neighborhood. No person shall keep any cat that, by crying loudly or calling loudly shall cause a nuisance by creating a serious annoyance or disturbance to any individual or to the neighborhood. This section shall not apply to any licensed kennel or licensed veterinary hospital.

(Ord. 86, passed 5-2-1985) Penalty, see § 90.99

§ 90.07 GUARD DOGS AND ATTACK DOGS.

(A) As used in this section, the term **GUARD DOG** or **ATTACK DOG** means any dog intended to attack intruders, whether the dog has been trained to do so or the dog does so without training.

(B) No person shall leave any guard dog or attack dog unattended in any place in or out of any building unless a warning sign has been placed in a clearly visible location at the premises, located so that it can be seen by any person before entering the place to which the dog has access, warning that a guard dog or attack dog is present.

(C) No guard dog or attack dog shall be left unattended in any place except inside a building or out of doors in a fenced yard, with a fence adequate to prevent the dog from leaving the yard.

(Ord. 86, passed 5-2-1985) Penalty, see § 90.99

OTHER ANIMALS

§ 90.20 RESTRICTION ON THE NUMBER OF ANIMALS OTHER THAN DOGS AND CATS.

No more than two each of any other domestic or wild animals more than four months old shall be kept or housed on any premises within the village limits, except a special permit shall be issued for the keeping of any of such creatures only when such animals were being lawfully kept on such lot prior to the enactment of this chapter, or where, due to the conditions, size of the lot or acreage involved and distances from other premises, no nuisance will be created thereby. Each special permit shall be granted for the term of one year

and no renewal shall be granted without an inspection of the premises by the Chief of Police and a finding of fact to the effect that no nuisance will be created thereby.

(Ord. 86, passed 5-2-1985) Penalty, see § 90.99

§ 90.21 ANIMALS AT LARGE.

No person shall suffer or permit any domestic or wild animal of which he or she is the owner, caretaker or custodian to be at large within the village. Any such creature shall be deemed to be at large when it shall be off the premises owned or rented by its owner and unaccompanied by the owner or an agent or employee of the owner. Any such creature may be impounded by the village.

(Ord. 86, passed 5-2-1985) Penalty, see § 90.99

§ 90.22 ANIMALS CREATING A NUISANCE.

No person shall own, keep, harbor or have in his or her possession any animal which causes a serious annoyance or disturbance to any individual or to the neighborhood. An individual may be prosecuted pursuant to this section only if that particular animal is habitually disturbing any individual or being a nuisance to the neighborhood.

(Ord. 86, passed 5-2-1985) Penalty, see § 90.99

§ 90.23 MAINTENANCE OF LIVESTOCK OR POULTRY.

(A) No person or persons, partnership or corporation or combination thereof, shall maintain cattle, swine, sheep, goats, horses or other livestock within the corporate limits of said village, except that the place of maintaining same shall be more than 200 feet from any building then being used for dwelling purposes within said village.

(B) No person or persons, partnership or corporation or combination thereof, shall maintain poultry within the corporate limits of said village, unless same are confined to a coop or yard by fence, building or other type of enclosure.

(Ord. 9, passed 4-3-1947) Penalty, see § 90.99

§ 90.99 PENALTY.

(A) Any person, partnership or corporation who shall violate any of the provisions of this chapter is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50 nor more than \$500, plus costs and other sanctions, for each infraction.

(B) Repeat offenses shall be subject to an increased civil fine as follows:

(1) The fine for any offense which is a first repeat offense shall be not less than \$250, plus costs and other sanctions; and

(2) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall not be less than \$500 plus costs and other sanctions.

(C) A **REPEAT OFFENSE** means a second (or any subsequent) violation of this chapter:

(1) Committed by a person within any six-month period; and

(2) For which the person admits responsibility or is determined to be responsible.

(D) Each day on which any violation of this chapter continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(Ord. 9, passed 4-3-1947; Ord. 86, passed 5-2-1985; Ord. 119, passed 4-12-1995)

Weeds and Grasses

- 91.01 Weed growth prohibited
- 91.02 Duty of owner
- 91.03 Cutting by village
- 91.04 Notice of requirements
- 91.05 Exemptions

Junk, Trash, Rubbish, Abandoned Vehicles and the Like

- 91.20 Definitions
- 91.21 Determination
- 91.22 Accumulation of trash, junk, abandoned vehicles and the like
- 91.23 Keeping or maintaining blighted structures
- 91.24 Unfinished structures
- 91.25 Notice of violation
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Bulk Storage of Petroleum Products

- 91.40 Definition
- 91.41 Nuisance condition
- 91.42 Application for approval from Village Council
- 91.43 Approval of application by Village Council

- 91.99 Penalty

Cross-reference:

Second Hand Dealers, Junk Shops and Junk Dealers, see Chapter 114

WEEDS AND GRASSES

§ 91.01 WEED GROWTH PROHIBITED.

(A) No person owning any premises shall permit or maintain on any such premises any growth of noxious weeds; nor any growth of grass or other rank vegetation to a greater height than six inches on the average; nor any accumulation of dead weeds, grass or brush on any lot less than one acre in size. On lots in excess of one acre in size, no person owning any premises shall permit or maintain within 50 feet from the edge of the street or property line, any growth of noxious weeds; nor any growth of grass or other rank vegetation to a greater height than six inches on the average; nor any accumulation of dead weeds, grass or brush.

(B) **NOXIOUS WEEDS** shall include Canada thistle (*Cirsium arvense*), dodders (any species of *Cuscuta*), mustards (charlock, black mustard and Indian mustard, species of *Brassica* or *Sinapis*), wild carrot (*Daucus carota*), bindweed (*Convolvulus arvensis*),

perennial sow thistle (*Sonchus arvensis*), hoary alyssum (*Berteroa incana*), ragweed (*ambrosia elatior* L.), poison ivy (*Rhus toxicodendron*) and poison sumac (*Toxicodendron vernix*).

(Ord. 124, passed 5-14-1997) Penalty, see § 91.99

§ 91.02 DUTY OF OWNER.

It shall be the duty of the owner of any premises within the village to cut and remove or destroy by lawful means all such noxious weeds and grass as often as may be necessary to comply with the provisions of § 91.01.

(Ord. 124, passed 5-14-1997) Penalty, see § 91.99

§ 91.03 CUTTING BY VILLAGE.

If the provisions of the foregoing sections are not complied with, the Police Chief shall serve, either personally or by regular first class mail, written notice upon the owner, lessee or occupant or any person having the care or control of any such lot or land to comply with the provisions of this section. Posting a notice of the violation upon the property shall be deemed to be adequate notice. If the person upon whom the notice is served fails to cut or remove such weeds, grass or other vegetation within 48 hours after receipt of such notice or if no owner can be found of such lot, the Police Chief shall cause such weeds, grass and other vegetation to be removed and the actual cost of such cutting and removal, plus 25% for inspection and other additional costs in connection therewith, shall be certified by the Police Chief to the Village Treasurer and shall become a lien upon the property on which such weeds, grass and other vegetation were located, and shall be assessed and collected in the same manner provided for collection of taxes. This notice shall suffice for the entire growing season. If the provisions of § 91.02 are again not complied with, the Police Chief shall have the right to cause such weeds, grass and other vegetation to be removed as provided for herein without additional notice.

(Ord. 124, passed 5-14-1997; Ord. 204, passed 8-13-2014) Penalty, see § 91.99

§ 91.04 NOTICE OF REQUIREMENTS.

The Village Clerk shall on or before May 1 of each year give notice of the requirements and provisions of this subchapter by publishing a notice thereof once a week for two successive weeks in a newspaper of general circulation in the village.

(Ord. 124, passed 5-14-1997)

§ 91.05 EXEMPTIONS.

Exempted from the provisions of this subchapter are flower gardens, plots of shrubbery, vegetable gardens, and small grain plots. An exemption under the terms of this section cannot be claimed unless the land has been cultivated and cared for in a manner appropriate to such exempt categories.

(Ord. 124, passed 5-14-1997)

JUNK, TRASH, RUBBISH, ABANDONED VEHICLES AND THE LIKE

§ 91.20 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED VEHICLE. Includes, but not by way of limitation, any vehicle which has remained on private property for a period of 48 continuous hours, or more, without the consent of the owner or occupant of the property, or for a period of 48 continuous hours or more after the consent of the owner or occupant of the property has been revoked.

BLIGHTED STRUCTURE. Includes, but not by way of limitation, any dwelling, garage or outbuilding, or any factory, shop, store, office building, warehouse or any other structure or part of a structure which, because of fire, wind or other natural disaster, or physical deterioration, is no longer habitable as a dwelling, nor useful for the purpose for which it may have been intended.

BUILDING MATERIALS. Includes, but not by way of limitation, lumber, brick, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete, cement or any other materials used in constructing any structure.

JUNK. Includes, but not by way of limitation, parts of machinery or motor vehicles, broken and unusable furniture, stoves, refrigerators or other appliances, remnants of wood, metal or any other cast-off material of any kind, whether or not the same could be put to any reasonable use.

JUNK MOTOR VEHICLES. Includes, but not by way of limitation, any vehicle which is not licensed for use upon the highways of the state for a period in excess of 60 days, and shall also include, whether licensed or not, any motor vehicle which is inoperative for any reason for a period in excess of 60 days; provided, that there is excepted from this definition unlicensed, but operative, vehicles which are kept as the stock in trade of a regularly licensed and established dealer in new or used automobile or other motorized vehicles, provided, further that the time limit such vehicles may remain upon the premises of a motor vehicle repair garage shall be a period of 120 days rather than 60 days, with extension of additional 30-day period upon presentation to the enforcing officer of written proof the offending vehicle is involved in insurance claim litigation or a similar matter and additional time is required for settlement before a vehicle can be moved.

PERSON. Includes all natural persons, firms, copartnerships, corporations and all associations of natural persons, incorporated or unincorporated, whether acting by themselves, or by a servant, agent or employee. All persons who violate any of the provisions of this subchapter, whether as owner, occupant, lessee, agent, servant or employee shall, except as herein otherwise provided, be equally liable as principals.

TRASH and RUBBISH. Include any and all forms of debris not herein otherwise classified.

(Ord. 39, passed 4-14-1966)

§ 91.21 DETERMINATION.

It is hereby determined that the storage or accumulation of trash, rubbish, junk, junk vehicles, abandoned vehicles, building materials and the maintenance of blighted structures upon any private property within the village tends to result in blighted and deteriorated neighborhoods, the spread of vermin and disease, the increase in criminal activity and therefore is contrary to the public peace, health, safety and general welfare of the community.

(Ord. 39, passed 4-14-1966)

§ 91.22 ACCUMULATION OF TRASH, JUNK, ABANDONED VEHICLES AND THE LIKE.

It shall be unlawful for any person to store, or to permit the storage or accumulation of trash, rubbish, junk, junk vehicles or abandoned vehicles on any private property in the village except within a completely enclosed building or upon the premises of a properly zoned and licensed or approved junk dealer, junk buyer, dealer in used auto parts, dealer in second hand goods or junk gatherer.

(Ord. 39, passed 4-14-1966) Penalty, see § 91.99

§ 91.23 KEEPING OR MAINTAINING BLIGHTED STRUCTURES.

It shall be unlawful for any person to keep or maintain any blighted structure, dwelling, garage, outbuilding, factory, shop, store or warehouse. Vacant but still usable buildings and structures must be kept securely locked, the windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by unauthorized persons.

(Ord. 39, passed 4-14-1966) Penalty, see § 91.99

§ 91.24 UNFINISHED STRUCTURES.

It shall be unlawful to permit any unfinished structure, dwelling, garage, outbuilding, factory, shop, store, warehouse or other building to stand unfinished in the village wherever such use shall constitute a menace to public health and safety or contribute to the blight of a neighborhood. This section shall be applicable wherever construction was begun in an authorized manner and no work in good faith has been done for a continuous period of six months toward completing the structure or building, or wherever a building or structure has been moved upon the premises and is permitted to stand unfinished for a continuous period of six months or longer. Whenever the strict enforcement of this section would work an unnecessary hardship, the Village Council may grant such extension of time for the completion of the building or structure as may be deemed just under all the facts and circumstances so long as good faith is demonstrated by the appellant and the spirit of this subchapter is preserved.

(Ord. 39, passed 4-14-1966) Penalty, see § 91.99

§ 91.25 NOTICE OF VIOLATION.

After written notice is given by the Village Clerk to the owner of record of any property within the village that a violation exists under § 91.23 or § 91.24 of this subchapter such owner shall within 30 days begin completion of construction or repairs or raze the blighted structure and clear and clean up the site, and promptly proceed to the final abatement of such use within a reasonable time.

(Ord. 39, passed 4-14-1966)

§ 91.26 STORAGE OF BUILDING MATERIALS.

It shall be unlawful for any person to store or permit the storage or accumulation of building materials on any private property, except in a completely enclosed building or except where such building materials are part of the stock in trade or a business located on said property, or except when such materials are being used in the current construction of a structure on the property, and unless such construction is completed within a reasonable time.

(Ord. 39, passed 4-14-1966) Penalty, see § 91.99

§ 91.27 REMOVAL OF ABANDONED VEHICLE.

The Chief of Police on his or her own authority may remove or cause to be removed any junk vehicle or abandoned vehicle, or parts of either, from any public street without notice of any kind to the owner. In those cases where junk vehicles or abandoned vehicles, or parts of either, are stored on any unenclosed private property, the Village Council may authorize the Chief of Police to serve notice, in writing, on the owner or occupant of such property or the owner of the vehicle, if known, of the village's intention to remove such vehicle. Such notice shall be served personally upon the owner or occupant or it may be posted in a conspicuous place upon vacant or unoccupied property and shall be served or posted at least seven days prior to such removal. Failure to remove any junk vehicle or abandoned vehicle, or parts of either, within the time specified in such notice shall constitute a violation of this subchapter. Such junk vehicles or abandoned vehicles, or parts of either, shall be removed and disposed of in accordance with the law. Such removal by the designated enforcement official shall not excuse or relieve any person of the obligation imposed by this subchapter to keep his or her property free from storage or accumulation of junk vehicles or abandoned vehicles, or parts of either, nor from the penalties for violation thereof.

(Ord. 39, passed 4-14-1966) Penalty, see § 91.99

BULK STORAGE OF PETROLEUM PRODUCTS

§ 91.40 DEFINITION.

For the purpose of this subchapter, the phrase ***BULK STORAGE OF PETROLEUM PRODUCTS*** is defined as the storing of petroleum products in any single tank or container, the capacity of which exceeds 275 gallons.

(Ord. 1, passed 3-6-1947)

§ 91.41 NUISANCE CONDITION.

The location, construction, installation and maintenance of facilities for the bulk storage of petroleum products within the village without the approval of the Village Council as herein provided is hereby expressly prohibited and is hereby declared to be a nuisance per se.

(Ord. 1, passed 3-6-1947) Penalty, see § 91.99

§ 91.42 APPLICATION FOR APPROVAL FROM VILLAGE COUNCIL.

Before locating, constructing and/or installing facilities for the bulk storage of petroleum products and/or extensions and additions thereto within the village, any person, firm or corporation desiring to do so shall first make written application for approval of the contemplated location, manner of construction, manner of installation and maintenance thereof to the Village Council. Such application shall be filed with the Village Clerk and such application shall contain a description of the contemplated location, manner of construction, installation and maintenance thereof and in addition thereto shall contain information concerning the distance between the contemplated location and adjacent buildings. Said application shall be executed by the person, firm or corporation intending to locate, construct, install and/or maintain facilities for the bulk storage of petroleum products and/or extensions and additions thereto, within the village, or by his or her or its duly authorized agent and said application shall then be filed with the Village Clerk.

(Ord. 1, passed 3-6-1947) Penalty, see § 91.99

§ 91.43 APPROVAL OF APPLICATION BY VILLAGE COUNCIL.

Upon receipt of such written application as described in § 91.42, it shall be the duty of the Village Clerk to present same to the Village Council at the next succeeding general or special meeting of said Village Council for approval by said Village Council. If the Village Council shall find that the proposal contained in said application does not unreasonably affect the health, safety and general welfare of the inhabitants of said village, the Village Council shall then adopt a resolution approving said application, and the Village Clerk shall immediately notify the applicant of the action of the Village Council concerning said application by mailing to the applicant a certified copy of the resolution of the Council setting forth its action. A certified copy of a resolution of approval shall constitute a permit for the applicant to proceed with the location, construction, installation and maintenance of facilities for the bulk storage of petroleum products and/or extensions and additions thereto, with the village.

(Ord. 1, passed 3-6-1947)

§ 91.99 PENALTY.

(A) Any person who violates any provision of this chapter for which no specific penalty is otherwise provided, shall be subject to the provisions of § 10.99.

(B) Any person, partnership or corporation who shall violate any of the provisions of §§ 91.01 through 91.05 or 91.20 through 91.27 is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50 nor more than \$500, plus costs and other sanctions, for each infraction.

(1) Repeat offenses shall be subject to an increased civil fine as follows:

(a) The fine for any offense which is a first repeat offense shall be not less than \$250, plus costs and other sanctions; and

(b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall not be less than \$500 plus costs and other sanctions.

(2) A **REPEAT OFFENSE** means a second (or any subsequent) violation of the sections listed in division (B) above:

(a) Committed by a person within any six-month period; and

(b) For which the person admits responsibility or is determined to be responsible.

(3) Each day on which any violation of this chapter continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(C) Any person, firm or corporation who shall violate any of the provisions of §§ 91.40 through 91.43 shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed \$100 or by imprisonment for a period not to exceed 90 days or by both such fine and imprisonment, and each day that a violation shall be permitted to exist shall constitute a separate and distinct offense.

(Ord. 1, passed 3-6-1947; Ord. 39, passed 4-14-1966; Ord. 119, passed 4-12-1995; Ord. 124, passed 5-14-1997)

CHAPTER 92: STREETS AND SIDEWALKS

Section

Construction of Sidewalks

- 92.01 Definitions
- 92.02 New construction, reconstruction or replacement; resolution; notice; public hearing
- 92.03 Cost of construction; replacement; certain repairs
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- 92.05 Permit required; exception
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- 92.25 Prohibiting operation of tractors or machinery with lugs over streets
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- 92.99 Penalty

Cross-reference:

Use of bicycles and other wheeled vehicles on sidewalks, see § 70.16

CONSTRUCTION OF SIDEWALKS

§ 92.01 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

OWNER. A person who is a fee **OWNER**, whether as a tenant in common or in a joint or entireties capacity. In the case of a recorded land contract, the **OWNER** shall be the vendee thereon. A person whose ownership is only as security for a debt shall not be considered the **OWNER** with the **OWNER** being the person entitled to equitable possession.

SIDEWALK. A concrete foot path designed for pedestrian use by the public which is situated within the public right-of-way of a public street, highway or road. The term shall not include any portion of a driveway between a street and a proposed or existing sidewalk or a private walkway or foot path, nor any area open to vehicular traffic.

(Ord. 157, passed 1-12-2005)

§ 92.02 NEW CONSTRUCTION, RECONSTRUCTION OR REPLACEMENT; RESOLUTION; NOTICE; PUBLIC HEARING.

(A) Subject to the provisions of this section, the Village Council may by resolution require the owners of lots or premises to construct sidewalks in the public street right-of-way adjacent to or abutting upon such lots and premises at locations where sidewalks are absent or have not previously existed; or to reconstruct sidewalks at locations where the Village Council determines that existing sidewalks are determined to require substantial repair such that replacement with new sidewalks is proper. The resolution shall contain a description of the sidewalk to be constructed, reconstructed or replaced, and specify the period of time for performance. A certified copy of said resolution shall be mailed by first class mail to each property owner of lots of premises adjacent to or abutting said sidewalks or proposed sidewalks at the address shown on the last general tax assessment roll of the village, and to each party in interest whose name and address appears on said tax assessment roll.

(B) The resolution by the Village Council shall be preceded by a notice and by a public hearing at which matters pertaining to new construction or to the reconstruction or replacement of sidewalks, the period of time in which the acts shall be performed and all other related matters shall be addressed and considered. Property owners and parties in interest of adjacent or abutting lots or premises shall be provided with notice providing a description of the proposed work and the period of time for performance, and the date, time and place of the public hearing. The notice shall be in writing and shall be served in the manner prescribed in division (A) above not less than ten days prior to the date of hearing. Notice shall also be made by one publication in a newspaper published or circulated within the village. Publication shall be made not less than seven days prior to the date of hearing. Property owners and other interested parties may address the Village Council in person or by representative, or in writing.

(Ord. 157, passed 1-12-2005)

§ 92.03 COST OF CONSTRUCTION; REPLACEMENT; CERTAIN REPAIRS.

The cost of new sidewalk construction, or reconstruction or replacement of existing sidewalk, and of sidewalk repairs, shall be paid by the owner of the property adjacent to or abutting thereon. At the discretion of the Village Council, the expense of new sidewalk construction or of the reconstruction or replacement of existing sidewalk, and the expense of sidewalk repairs exceeding \$500, may be paid by the establishment of a special assessment against the adjacent/abutting property or by such other method as established by the Village Council.

(Ord. 157, passed 1-12-2005)

§ 92.04 LIABILITY OF PROPERTY OWNER.

(A) It shall be the responsibility of the owner of lots or premises adjacent to or abutting upon sidewalks that the same shall be kept at all times in good repair and safe for pedestrian use, free of hazard and maintained as herein provided; and the owner shall assume and pay the expense of repair, maintenance and freedom from hazards. Sidewalk repairs shall consist of the filling with concrete of cracks, hollows or crevices, and the correction of any other condition of disrepair which presents a hazard to pedestrians. Sidewalk maintenance shall consist of the removal of weeds, grass or other vegetation from cracks or crevices in the surface of a sidewalk, and the removal or trimming of tree limbs, shrubbery or other vegetation which restrict the full use of a sidewalk for pedestrian travel or which constitute a hazard to pedestrians. Freedom from hazards shall consist of removal of ice, snow and any other object or condition hazardous to pedestrian travel.

(B) The failure, neglect or refusal of a property owner to keep in good repair a sidewalk adjacent to or abutting upon lands owned by him or her, and safe for use as a public pedestrian way, or to maintain a sidewalk as aforesaid, shall constitute a civil infraction, and the property owner shall, upon being found responsible, be subject to the penalties provided for municipal civil infractions.

(Ord. 157, passed 1-12-2005; Ord. 164, passed 11-9-2005) Penalty, see § 92.99

§ 92.05 PERMIT REQUIRED; EXCEPTION.

(A) Except as provided in division (B) above, no person shall construct, reconstruct, replace or repair any sidewalk without first obtaining a written permit from the village prior to the commencement of such work. A permit shall be prominently displayed at the work site.

(B) Minor sidewalk repairs which do not exceed one square foot in any single place or ten square feet in total combined area adjacent to a lot or premises may be performed by the property owner or his or her contractor without the necessity of obtaining a permit. No permit is required for usual and customary maintenance of sidewalks.

(Ord. 157, passed 1-12-2005) Penalty, see § 92.99

§ 92.06 SPECIFICATIONS, STANDARDS AND INSPECTION.

(A) No person shall construct, reconstruct, replace or repair any sidewalk except in accordance with the line, grade, slope and specifications approved by the village, or without first complying with the provisions of § 92.05 above.

(B) Whenever practical, the village shall direct that the construction of a sidewalk be on a line parallel with the edge of the public right-of-way; provided that exceptions may be made for aesthetic design or preservation of substantial trees.

(C) Line and grade stakes as may be necessary for proper control of the work shall be approved by the village; provided, however, that the approval shall not relieve the owner of the responsibility for making careful and accurate measurements in sidewalk construction, reconstruction, replacement or repair.

(D) Sidewalks shall be constructed of four-inch thick, 3,000 pound per square inch portland cement concrete poured on a compacted base. Sidewalks shall be five feet in width, provided, however, that the village may approve a greater or lesser width for the purposes of conformity of new or replacement sidewalks with existing connecting sidewalks. Sidewalks shall be installed with a slope toward the center of the right-of-way and constructed to the grades specified by the village. Contraction joints shall be spaced every five feet and expansion joints shall be spaced at least every 40 feet of length. One-half inch thick, six-inch wide expansion joints shall be constructed where a sidewalk touches a street curb. The Village Council, upon the recommendation of the Department of Public Works and a finding of unique or special circumstances with respect to a particular sidewalk or portion thereof, may alter or add to said specifications as deemed necessary for proper construction, reconstruction, replacement or repair.

(E) A property owner undertaking to construct, reconstruct, replace or repair a sidewalk (with the exception of minor sidewalk repair as provided in division (B) above) shall notify the village no less than 48 hours prior to commencement thereof. The work shall not proceed until the village shall have inspected the rails and subgrade and approved the work as in conformance with slope, grade and other specifications. The sidewalk shall also be subject to the approval of the village by a final inspection performed after all work has been completed.

(F) The location and specifications of sidewalks shall be shown on site development and grading plans for a new structure under consideration by the Building Official for issuance of a building permit, and the same shall be approved by the village prior to issuance of a building permit.

(Ord. 157, passed 1-12-2005) Penalty, see § 92.99

§ 92.07 CONSTRUCTION, RECONSTRUCTION OR REPLACEMENT BY VILLAGE; LIEN.

If an owner of lots or premises shall fail, neglect or refuse to construct, reconstruct or replace any sidewalk adjacent to or abutting upon property owned by him or her in accordance with the provisions of this subchapter within the period of time specified in a resolution so to do as provided in § 92.02(A), the village may, after the expiration of the time prescribed for the work to be performed by the owner, cause the sidewalk to be constructed, reconstructed or replaced by the village together with an administration fee of 10% of costs thereof, all of which shall be charged to the owner thereof and shall be payable in full within 30 days after completion of the work; and if not so paid, a lien shall be established upon the property pursuant to § 92.10.

(Ord. 157, passed 1-12-2005)

§ 92.08 REPAIR OR MAINTENANCE; NOTICE; PERFORMED BY VILLAGE; LIEN.

In instances in which sidewalk repairs or maintenance are determined by the Department of Public Works to be necessary, the Department shall report same to the Village President or designee thereof. If the Village President or designee thereof concurs, he or she shall cause notice to the property owner to be made in the manner prescribed in § 92.02(A), stating the determination of the necessity for repairs or maintenance, specifying the site or sites requiring repair or maintenance, methods or procedures for accomplishing same and the time for performance. In the event a property owner fails, neglects or refuses to cause said sidewalk repairs to be made or maintenance to be performed, the village shall undertake the same. The expense so incurred, plus 10% as an administrative fee, shall be payable in full within 30 days after completion of the work, and if not so paid, a lien shall be established upon the property pursuant to § 92.10.

(Ord. 157, passed 1-12-2005)

§ 92.09 CONSTRUCTION, RECONSTRUCTION, REPLACEMENT OR REPAIR IN CONJUNCTION WITH STREET PROJECT.

When the Village Council shall consider the necessity for construction, reconstruction, widening, resurfacing, installing curb and gutter or otherwise improving a public street, the necessity of construction, reconstruction, replacement or repair of abutting or adjacent sidewalks shall simultaneously be considered. Whenever feasible, sidewalk work shall be performed in conjunction with the street project as finally approved by the Village Council. A separate special assessment district established for a street project may, at the discretion of the Village Council, include all sidewalk work performed in conjunction therewith.

(Ord. 157, passed 1-12-2005)

§ 92.10 LIEN; RECOVERY OF VILLAGE EXPENSES.

The failure, neglect or refusal of a property owner to pay in full when due the total expenses, together with applicable administrative fee, incurred by the village by reason of work performed for new sidewalk construction or for the reconstruction or replacement of existing sidewalk, or for the repair or maintenance of sidewalk, whether said expenses are incurred in the form of work performed by village employees or by independent third parties with whom the village has contracted, shall cause a lien in favor of the village to be established on the property. If the amount due and owing is not paid by April 1 next following, and is certified as unpaid by the Village Treasurer, the Village Assessor shall enter the total amount of the unpaid expenses and fees, together with interest at 12% per annum, upon the next general tax roll of the village as delinquent charges against the property. Said lien shall remain in effect until the amount due and owing, and interest thereon, is fully paid; and said amount, plus interest, may be collected in the manner provided by law for delinquent and/or unpaid taxes, or at the direction of the Village Council, by such proceedings as are permitted by law and as may be recommended by the Village Attorney.

(Ord. 157, passed 1-12-2005)

§ 92.11 ENFORCEMENT; APPEARANCE TICKETS.

(A) The provisions of this subchapter shall be enforced by the Village President or designee thereof.

(B) Any person(s) designated to enforce the provisions of this subchapter pursuant to this section shall have the authority to issue and serve appearance tickets for appearance before a court of competent jurisdiction.

(Ord. 157, passed 1-12-2005) Penalty, see § 92.99

USE OF STREETS

§ 92.25 PROHIBITING OPERATION OF TRACTORS OR MACHINERY WITH LUGS OVER STREETS.

No person or persons, partnership, corporation or combination of same shall operate any tractors or other implements or motor vehicles or machinery over and across the streets of the village which have been paved or covered with hard surfacing material or macadam or asphalt, if such machines, tractors, motor vehicles or other implements are equipped with lugs or other fixtures which in any way would imprint or break through or cut into the pavement, macadam, asphalt or other surface of said street in said village.

(Ord. 11, passed 4-3-1947) Penalty, see § 92.99

§ 92.26 PROHIBITING DUMPING ON STREETS, ALLEYS AND PUBLIC PLACES.

(A) No person or persons shall dump refuse, ashes, rubbish or any other matter in any of the streets within the corporate limits of the village.

(B) No person or persons shall drive, operate or propel, or draw any vehicle, implement or other machinery or equipment of any kind which drops dirt or other material on any street within the corporate limits of the village.

(Ord. 12, passed 4-3-1947) Penalty, see § 92.99

§ 92.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is otherwise provided, shall be subject to the provisions of § 10.99.

(B) Any person who violates any of the provisions of §§ 92.01 through 92.11 or 92.26 in addition to the other provisions of this chapter, is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50 nor more than \$500, plus costs and other sanctions, for each infraction.

(1) Repeat offenses shall be subject to an increased civil fine as follows:

(a) The fine for any offense which is a first repeat offense shall be not less than \$250, plus costs and other sanctions; and

(b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall not be less than \$500, plus costs and other sanctions.

(2) A **REPEAT OFFENSE** means a second (or any subsequent) violation of any of the sections listed in division (B) above:

(a) Committed by a person within any six-month period; and

(b) For which the person admits responsibility or is determined to be responsible.

(3) Each day on which any violation of said sections continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(4) In addition, the village specifically reserves the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order or other appropriate remedy to compel compliance with this chapter.

(C) Any person or persons, partnership or corporation who shall violate the provisions of § 92.25 shall upon conviction be punished by a fine of not less than \$5 nor more than \$100, and the costs of prosecution, or imprisonment in the county jail for a period not to exceed 90 days, or by both such fine and imprisonment in the discretion of the court.

(Ord. 11, passed 4-3-1947; Ord. 12, passed 4-3-1947; Ord. 119, passed 4-12-1995; Ord. 157, passed 1-12-2005)

CHAPTER 93: PARKS AND RECREATION

Section

Park and Recreation Board

93.01 Creation of Board

93.02 Organization

93.03 Funding

93.04 Receipts, donations, disposition

Use of Public Parks

93.20 Public sale of alcohol in village parks at certain times authorized; permit required; standards

93.21 Park closing hours

93.99 Penalty

PARK AND RECREATION BOARD

§ 93.01 CREATION OF BOARD.

There is hereby created a Park and Recreation Board consisting of seven members appointed by the Village President with the consent of the Village Council for a one-year term. One of the Board members must be a member of the Village Council. All members shall serve at the pleasure of the President and Village Council and may be removed by the President with the consent of the Village Council. The President may appoint associate members of the Board who are not village residents and who shall not have voting power on the Board.

(Ord. 189, passed 10-13-2010)

§ 93.02 ORGANIZATION.

The Park and Recreation Board shall elect one of its members Chairperson and one as Secretary. An associate member may not be elected as either Chairperson or Secretary. The Board shall keep a correct and accurate record of its proceedings and shall meet at such times as it may determine.

(Ord. 189, passed 10-13-2010)

§ 93.03 FUNDING.

The Park and Recreation Board shall prepare annual operating budgets and shall review its budgets with the Village Council. The budget shall be submitted to the Village Council by the Village Council's Park and Recreation Board representative. All budgets shall be subject to review and revision by the Village Council upon consultation with the Park and Recreation Board.

(Ord. 189, passed 10-13-2010)

§ 93.04 RECEIPTS, DONATIONS, DISPOSITION.

All receipts on account of the village parks, whether arising from rentals, donations, sale of any part thereof or of any lands so willed and devised by any person to said village, shall be exclusively expended and applied under the direction and control of the Village Council.

(Ord. 189, passed 10-13-2010)

§ 93.05 PARKS AND RECREATION MASTER PLAN.

The Village Five Year Parks and Recreation Master Plan shall be maintained and kept up to date in compliance with State Department of Natural Resources and Environment guidelines. The Parks and Recreation Board shall be responsible for preparing any updates to the Plan under the direction and approval of the Village Council.

USE OF PUBLIC PARKS

§ 93.20 PUBLIC SALE OF ALCOHOL IN VILLAGE PARKS AT CERTAIN TIMES AUTHORIZED; PERMIT REQUIRED; STANDARDS.

(A) *Sale authorized.* The Village Council has deemed it advisable to allow and permit limited public sale at retail and consumption of alcoholic beverages in certain public parks within the village, namely Watkins Park, Dewey Cannon Park and Carver Park, during community-wide events.

(B) *Permit for sale.* Permits for sale of alcoholic beverage in Watkins Park, Dewey Cannon Park and Carver Park shall be obtained by application to the Village Council in accordance with the following procedure:

(1) A person seeking issuance of a permit hereunder shall file an application with the Village Clerk stating:

(a) The name, address and telephone number of the applicant;

(b) The name, address and telephone number of the person, persons, corporation, association or entity sponsoring the activity or event for which the permit is desired;

(c) The day or days and hours for which the permit is desired;

(d) The park or portion thereof for which the permit is desired; and

(e) Any other information reasonably necessary to a determination as to whether a permit should be issued hereunder.

(2) A person seeking issuance of a permit hereunder shall submit with the application:

(a) Proof satisfactory to the Village Council of public liability insurance in a minimum amount of \$250,000, per occurrence which shall name the village as an additional insured under the policy;

(b) Proof satisfactory to the Village Council of compliance with the State Liquor Control Act, being Public Act 8 of 1933 (Extra Session), being M.C.L.A. §§ 436.1 et seq. as amended, and all rules and/or regulations promulgated by the State Liquor Control Commission and obtaining a permit from the State Liquor Control Commission for the requested activity; and

(c) Evidence of the applicant's arrangements for security for the event and clean up of the park or portion thereof use after the event.

(C) *Standards for issuance of permit.* Standards for issuance of a permit for sale of alcoholic beverages in Watkins Park, Dewey Cannon Park and Carver Park shall include the following findings by the Village Council:

[material missing]

(Ord. 132, passed 5-12-1999; Ord. 133, passed 6-9-1999; Ord. 186, passed 4-14-2010)

§ 93.21 PARK CLOSING HOURS.

(A) It shall be unlawful for any person or persons to enter or remain on the premises in the public parks of the village after 10:00 p.m. on any day.

(B) The closing hours provided in division (A) above shall apply to Dewey Cannon Park and also the village park located at the corner of Ash Street and South Elm Street in the village.

(Ord. 60, passed 9-5-1974) Penalty, see § 93.99

§ 93.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is otherwise provided shall be subject to the provisions of § 10.99.

(B) Any person who violates any of the provisions of § 93.21 is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50 nor more than \$500, plus costs and other sanctions, for each infraction.

(1) Repeat offenses shall be subject to an increased civil fine as follows:

(a) The fine for any offense which is a first repeat offense shall be not less than \$250, plus costs and other sanctions; and

(b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall not be less than \$500, plus costs and other sanctions.

(2) A **REPEAT OFFENSE** means a second (or any subsequent) violation of § 93.21:

(a) Committed by a person within any six-month period; and

(b) For which the person admits responsibility or is determined to be responsible.

(3) Each day on which any violation of § 93.21 continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(Ord. 60, passed 9-5-1974; Ord. 119, passed 4-12-1995)

CHAPTER 94: TREES

Section

- 94.01 Title
- 94.02 Purpose; intent
- 94.03 Applicability; jurisdiction
- 94.04 Definitions
- 94.05 Responsibility of Village Manager
- 94.06 Tree Advocacy Group
- 94.07 Enforcement authority
- 94.08 Authority to accept monies
- 94.09 Permits
- 94.10 Standards and specifications manual
- 94.11 Tree protection; preservation
- 94.12 Obstruction
- 94.13 Nuisance and condemnation of trees on public and private property
- 94.14 Appeals
- 94.15 Interference
- 94.16 Emergencies

- 94.99 Penalty

§ 94.01 TITLE.

This chapter shall be known as the Municipal Tree and Shrub Chapter for the village.

(Ord. 202, passed 7-10-2013)

§ 94.02 PURPOSE; INTENT.

The purpose of this chapter is to provide for the protection, management, removal and replacement of trees on public property and public rights-of-way. Proper planning and care will help ensure that these assets will continue to thrive and benefit the citizens of the village in the future.

(Ord. 202, passed 7-10-2013)

§ 94.03 APPLICABILITY; JURISDICTION.

The Village Manager, or designee, shall have exclusive jurisdiction, authority, control, supervision and direction over all trees, plants, shrubs and grassy areas planted or growing in or upon the public rights-of-way and public places of the village and the planting, removal, care, maintenance and protection thereof, and he or she may promulgate and adopt rules and regulations to effectuate the provisions of this chapter.

(Ord. 202, passed 7-10-2013)

§ 94.04 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CANOPY. The part of the crown composed of leaves and small twigs.

CROWN. The upper part of a tree, which includes the branches and leaves.

DISEASED TREE. Any tree with a combination of structural defect and/or a health condition which makes it subject to a high probability of failure.

LAWN EXTENSION. That part of a street or highway, not covered by sidewalk or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic.

LINE CLEARANCE. The regulated trimming and the removal of trees near, under and along utility lines to maintain reliable distribution of electricity.

MUNICIPAL FORESTER OR DESIGNEE. Someone who possesses general knowledge of specific trees and a broader knowledge base on the overall roles trees play in the community setting.

PARK. All public parks having individual names, and all areas owned by the village, or to which the public has free access.

PARK TREE. Trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the village, or to which the public has free access as a park.

PUBLIC PLACE. Any public street, public highway, public park or any property owned or held by the Village within its boundaries.

PUBLIC RIGHT-OF-WAY (ROW). Land owned and maintained by the village. Land dedicated for streets, sidewalks, utilities, and similar public uses such as parks, lawn extensions and the like.

PUBLIC TREE. Any tree located on property owned or controlled by the village.

SHRUB. A low, small plant, the branches of which grow directly from the earth without any supporting trunk, or stem. Any tree with a potential growth of less than 15 feet shall be considered a **SHRUB**.

STREET TREE. Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the village.

TREE. A woody perennial plant, usually having one dominant vertical trunk and capable of achieving a height greater than 15 feet.

TREE ADVOCACY GROUP. A group of people designated by ordinance to advise a governing body on matters related to an urban and community forestry program.

UTILITY RIGHT-OF-WAY. Public right-of-way land where utilities such as gas, electric, water, and the like are maintained.

(Ord. 202, passed 7-10-2013)

§ 94.05 RESPONSIBILITY OF VILLAGE MANAGER.

The Village Manager, or designee, as Municipal Forester, shall have authority over any and all trees on public rights-of-way or any public property in the village.

(Ord. 202, passed 7-10-2013)

§ 94.06 TREE ADVOCACY GROUP.

(A) *Creation and establishment.* The Village Council has the authority to create a Tree Advocacy Group for the village on an as needed basis. The Tree Advocacy Group shall consist of five members, citizens and residents of the village, who shall be appointed by the Village President with the approval of the Village Council. The members shall come from different interest groups including homeowners, tree professionals, Street Department and municipal government.

(B) *Terms of office.* The term of the five persons to be appointed by the Village President shall be set by Village Council. 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.

(C) *Compensation.* Members of the Tree Advocacy Group shall serve without compensation.

(D) *Duties and responsibilities.*

(1) It shall be the responsibility of the Tree Advocacy Group to advise and assist in the study, investigation, counsel, development and administration of a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other municipal areas. Such plan could be presented annually to the Village Council for possible acceptance and approval to constitute the official comprehensive community tree plan if so desired by the Village Manager, or designee.

(2) The Tree Advocacy Group shall promote and supervise the establishment of a tree inventory for street and park trees. The inventory shall be updated with the results of ground inspections every three years.

(3) The Tree Advocacy Group, when requested by the Village Council, shall consider, investigate, make finding, report and recommend upon any special matter or question coming within the scope of its work.

(4) If called on to do so, additional duties of the Tree Advocacy Group may include coordinating annual Arbor Day celebrations; coordinating tree plantings, volunteer efforts to install or maintain plantings or other beautification projects on public land with citizens groups; provide a means to involve the public in community forestry management plan; and promote new and existing tree programs by motivating both local government and the public to support community forestry management.

(E) *Operation.* The Tree Advocacy Group shall choose its own officers, and keep a record of its proceedings.

(F) *Meetings.* The Tree Advocacy Group shall meet as needed and, in addition, meetings can be called by the Chairperson or by the Village President.

(G) *Quorum.* A majority of the members shall constitute a quorum for the transaction of business and any actions of the Tree Advocacy Group may be taken by a majority of the members present at the meeting at which the action is taken.

(H) *Administrative support staff.* Staff support to the Tree Advocacy Group shall be appointed by the Village Manager, or designee.

(Ord. 202, passed 7-10-2013)

§ 94.07 ENFORCEMENT AUTHORITY.

The Department of Public Works, under the direction of the Village Manager, or designee, shall be responsible for enforcing the provisions of this chapter. The Director of Public Works, or designee, shall have the authority to perform site inspections and order the correction of unsafe trees on public and private property that are a potential danger to the health and safety of public or municipal property.

(Ord. 202, passed 7-10-2013)

§ 94.08 AUTHORITY TO ACCEPT MONIES.

The Village Clerk and Village Treasurer, or either of them, are hereby authorized to accept, on behalf of the village, all gifts of money for the purpose of planting and maintaining trees.

(Ord. 202, passed 7-10-2013)

§ 94.09 PERMITS.

(A) No person shall plant, spray, prune, remove, cut above or below ground or otherwise disturb any tree on any street or municipal-owned property without first filing an application and procuring a permit from the Village Manager, or designee, or otherwise specified municipal authority. The person receiving the permit shall abide by the arboricultural specifications and standards of practice adopted by the Village Manager or designee. No permit, however, shall be required for any municipal employee doing such work in the pursuit of their public service endeavors. No permit shall be required to cultivate or water public trees, shrubs or plants.

(B) The Village Manager or designee shall have the authority to require posting of a bond adequate to fully repay the village for any and all costs attendant to the completion of the work under the permit. In addition, the contractor is required to show adequate insurance from potential damages during the execution of the work, name the village as an additional insurance rider, and sign a hold harmless clause.

(Ord. 202, passed 7-10-2013) Penalty, see § 94.99

§ 94.10 STANDARDS AND SPECIFICATIONS MANUAL.

The Tree Standards and Specifications Manual that accompanies Ordinance No. 202 is available for review at the village office, contains regulations and standards for planting, maintenance and removal of trees, shrubs and other plants on municipally-owned property.

(Ord. 202, passed 7-10-2013)

§ 94.11 TREE PROTECTION; PRESERVATION.

(A) *Prohibiting the mutilation of public trees.* It shall be a violation of the provisions of this chapter for any person to abuse, destroy or mutilate any tree, plant or shrub in a public parking strip or any other public place, or to attach or place any rope, wire (other than one used to support a young or broken tree), sign, poster, handbill or other things to or on any tree growing in a public place, or to cause or permit any wire charged with electricity to be placed or attached to any such tree, or allow any gaseous, liquid, or solid substance which is harmful to such tree to come in contact with their roots, trunks or leaves.

(B) *Requiring protection of trees during construction, new developments, sidewalk repair, utility work below ground.* Trees of desirable species and good health shall be protected as much as possible from damage during construction, sidewalk repair, utilities work below ground, and other similar activities. The zone of protection shall include the ground beneath the canopy and the drip-line of the tree. In new subdivisions or when the new development of commercial property occurs, the Village Manager, or designee, shall review landscaping plans and may require street trees to be planted in any of the streets, parking lots, parks and other

public places abutting lands henceforth developed and/or subdivided.

(C) *Requiring protection of trees during utility work above ground.* Utility companies are responsible for conducting a courtesy call to the Village Manager, or designee, to review all upcoming utility line clearance work to be performed within the following four to six weeks. All utility line clearance work will be performed based upon growth rates specific to individual tree species and in accordance to the *International Society of Arboriculture's Proper Pruning Techniques* publication, found in Appendix C of the Standards and Specifications Manual accompanying Ord. 202.

(D) *Establishing standards to replace trees removed and protect endangered trees.* Whenever any vegetation is removed by any person, including the village, for the construction of any public improvement, the Director of Public Works, whenever practicable, shall require the replanting of at least 50% of the removed diameter base with a similar tree or shrub to take the place of those removed.

(Ord. 202, passed 7-10-2013) Penalty, see § 94.99

§ 94.12 OBSTRUCTION.

If private property, a lawn extension or municipal right-of-way is not maintained as required by this chapter, the Village Manager, or designee, may have the work done to bring the property lawn extension or municipal right-of-way into compliance. In the case of an immediate hazard to public safety, no prior notice shall be necessary. The actual costs of the work needed to bring the property, lawn extension or municipal right-of-way into compliance, plus an administration fee of \$50, may be assessed to the owner in addition to any other penalties provided by law.

(Ord. 202, passed 7-10-2013) Penalty, see § 94.99

§ 94.13 NUISANCE AND CONDEMNATION OF TREES ON PUBLIC AND PRIVATE PROPERTY.

(A) *Generally.* All street trees planted in violation of, or not maintained in strict compliance with the provisions of this chapter and the *Standards and Specifications Manual*, or that are dead or dangerous are declared to constitute a public nuisance. The Village Manager, or designee, shall cause written notice to be served on the property owner requiring such nuisances to be corrected within 30 days or the cost of correction will be assessed against the property owner.

(B) *Dead or diseased tree removal on private property.* Upon the discovery of any destructive or communicable disease or other pestilence which endangers the growth or health of trees, or threatens to spread disease or insect infestations, the Village Manager, or designee, shall at once cause written notice to be served upon the owner of the property upon which such diseased or infested tree is situated, and the notice shall require such property owner to eradicate, remove or otherwise control such condition within reasonable time to be specified in such notice.

(Ord. 202, passed 7-10-2013) Penalty, see § 94.99

§ 94.14 APPEALS.

Any person deciding to appeal a decision made by the Village Manager, or designee, shall be granted a meeting with the person or department responsible for trees to discuss the issue. The person or department responsible for trees must be notified of the desire to meet within 14 days from when the decision was publicized. If a discussion satisfying both parties cannot be met, a written appeal may be submitted to the Village Council within 14 days thereafter. The decision of the Village Council shall be final.

(Ord. 202, passed 7-10-2013)

§ 94.15 INTERFERENCE.

No person shall prevent, delay or interfere with the Village Manager, or designee, in the execution or enforcement of this chapter.

(Ord. 202, passed 7-10-2013) Penalty, see § 94.99

§ 94.16 EMERGENCIES.

In case of emergencies involving, but not limited to, tornadoes, windstorms, floods, freezes or other natural disasters, the requirements of this chapter may be waived by the Village President or Emergency Manager. This section shall not be used to circumvent the provisions of this chapter.

(Ord. 202, passed 7-10-2013)

§ 94.99 PENALTY.

(A) Any person who violates any of the provisions of this chapter is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50 nor more than \$500, plus costs and other sanctions, for each infraction.

(B) Repeat offenses shall be subject to an increased civil fine as follows:

(1) The fine for any offense which is a first repeat offense shall be not less than \$250, plus costs and other sanctions; and

(2) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall not be less than \$500, plus costs and other sanctions.

(C) A repeat offense means a second (or any subsequent) violation of this chapter:

(1) Committed by a person within any six-month period; and

(2) For which the person admits responsibility or is determined to be responsible.

(D) Each day on which any violation of this chapter continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(E) In addition, the village specifically reserves the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order or other appropriate remedy to compel compliance with this chapter.

(Ord. 202, passed 7-10-2013)

CHAPTER 95: FIRE PREVENTION

Section

95.01 Open burning prohibited

95.02 Smoke detectors required in dwelling units

95.99 Penalty

§ 95.01 OPEN BURNING PROHIBITED.

(A) *Outdoor burning prohibited.* No person, firm or corporation shall burn any wood, brush, leaves, trash, papers, rubbish or garbage out of doors anywhere in the village. This section shall not prohibit the use of an outdoor fire for cooking, providing same is contained within a barbeque grill, fireplace or other device designed and intended for cooking food.

(B) *Other burning prohibited.* No person shall burn any trash, papers or rubbish anywhere indoors in the village except in an incinerator complying with all applicable laws and ordinances.

(C) *Heating and cooking stoves.* Nothing in this section shall be deemed to prohibit the use of wood in stoves used for cooking, the use of wood in fireplaces for decorative fires or the use of wood in fireplaces or stoves designed for heating.

(Ord. 112, passed 11-11-1992) Penalty, see § 95.99

§ 95.02 SMOKE DETECTORS REQUIRED IN DWELLING UNITS.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPROVED RATING ORGANIZATION. Any of the following: Underwriters Testing Laboratories Factory Mutual Research Corp., National Bureau of Standards, or JFPA Standard No. 74, 1975.

BUILDING INSPECTOR. The Building Inspector of the village, or the Inspector's designee.

DWELLING UNIT. A building or portion of a building arranged for the use of one or more individuals living alone or together as a single housekeeping unit with living, sanitary and sleeping facilities.

FIRE CHIEF. The Fire Chief of the village, or the Chief's designee.

VILLAGE. The Village of Three Oaks.

SMOKE DETECTOR. An instrument approved by an approved rating organization for the detection of ionized gases or products of combustion produced by burning or smoldering materials.

(B) *System required; minimum requirements for detectors.*

(1) Each dwelling unit shall have an electric or battery operated smoke detector device for each sleeping area. Any such detector shall comply with all applicable state or federal requirements.

(2) Smoke detectors shall be capable of being maintained by the person or persons entitled to occupy the dwelling unit. Smoke detectors shall consist of an assembly incorporating the detector, control equipment and the alarm sounding device in one unit. They shall have a power supply consisting of a monitored battery or a cord connection to an electrical receptacle which is fitted with a plug restrainer device. The plug in receptacle shall not be controlled by any switch other than that of the main power supply. Two or more single station smoke detector assemblies may be interconnected so that actuation of one causes all audible alarms to operate.

(3) Upon activation, the smoke detector shall provide an audible alarm which is to be so distributed and have such character so that it can be heard in all rooms of the dwelling unit with its doors closed. The audible signals shall be distinctive from other audible signaling devices which may be used for other purposes in the dwelling unit. The smoke detector shall be designed for and capable of either self-restoration or manual restoration to normal conditions for operation. No provisions shall be made for deactivation of the audible alarm other than by reactivation of the system.

(C) *Time of compliance.*

(1) The owner of each dwelling unit shall cause the same to be brought into compliance with the terms and provisions of this section, however, after the effective date of this section no dwelling unit shall be sold or occupancy changed unless and until the dwelling unit has been brought into compliance with the terms and provisions of this section.

(2) No structural change or repair of a value in excess of \$500 shall be made to a dwelling unit unless and until the dwelling unit is brought into compliance with the terms and provisions of this section.

(3) No certificate of occupancy shall be issued for a dwelling unit unless and until the applicant shall have first complied with all the terms and conditions of this section.

(D) *Certification by owner.* Prior to the sale of any dwelling unit located in the village, the owner and seller shall certify in writing to the Building Inspector full and complete compliance of the property with the terms and provisions of this section. The making and submission of a wilfully false certification by the owner and seller of a dwelling unit shall be a violation of the terms and provisions of this section.

(E) *Mailings.* Notices describing the requirements of this section shall from time to time be included in village water bills.

(Ord. 98, passed 3-8-1989) Penalty, see § 95.99

§ 95.99 PENALTY.

(A) Any person who violates any of the provisions of this chapter is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50 nor more than \$500, plus costs and other sanctions, for each infraction.

(B) Repeat offenses shall be subject to an increased civil fine as follows:

(1) The fine for any offense which is a first repeat offense shall be not less than \$250, plus costs and other sanctions; and

(2) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall not be less than \$500, plus costs and other sanctions.

(C) A repeat offense means a second (or any subsequent) violation of this chapter:

(1) Committed by a person within any six-month period; and

(2) For which the person admits responsibility or is determined to be responsible.

(D) Each day on which any violation of this chapter continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(E) In addition, the village specifically reserves the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order or other appropriate remedy to compel compliance with this chapter.

(Ord. 98, passed 3-8-1989; Ord. 112, passed 11-11-1992; Ord. 119, passed 4-12-1995)

TITLE XI: BUSINESS REGULATIONS

Chapter

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111. PUBLIC AMUSEMENTS

112. HAWKERS, VENDORS, SOLICITORS AND PEDDLERS

113. CABLE TELEVISION

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CHAPTER 110: SEXUALLY ORIENTED BUSINESSES

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GENERAL PROVISIONS

§ 110.01 PURPOSE AND FINDINGS.

(A) *Purpose.* It is the purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety and general welfare of the citizens of the village and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the village. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

(B) *Findings and rationale.* Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the village, and on findings, interpretations and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41(1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); and *Sensations, Inc., v. City of Grand Rapids*, 526 F.3d 291 (6th Cir. 2008); *Deja Vu of Nashville, Inc., v. Metropolitan Gov't of Nashville and Davidson County*, 466 F.3d 391 (6th Cir. 2006); *Deja Vu of Cincinnati, L.L.C. v. Union Township Bd. Of Trustees*, 411 F.3d 777 (6th Cir. 2005) (en banc); *Fantasy Ranch, Inc., v. City of Arlington*, 459 F.3d 546(5th Cir. 2006); *City of Chicago v. Pooh Bah Enterprises, Inc.*, 865 N.E.2d 133 (111. 2006); *Andy's Restaurant & Lounge, Inc., v. City of Gary*, 466 F.3d 550 (7th Cir. 2006); *181 South, Inc., v. Fischer*, 454 F.3d 228(3rd Cir. 2006); *Bronco's Entertainment, Ltd. v. Charter Twp. of Van Buren*, 421 F.3d 440 (6th Cir. 2005); *Charter Twp. of Van Buren v. Garter Belt, Inc.*, 258 Mich. App. 594 (2003); *Jott, Inc., v. Clinton Twp.*, 224 Mich. App. 513 (1997); *Michigan ex rel. Wayne County Prosecutor v. Dizzy Duck*, 449 Mich. 353(1995); *Z.J. Gifts D-2, L.L.C. v. City of Aurora*, 136 F.3d 683 (10th Cir. 1998); *ILQ Investments, Inc., v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *Little Mack Entm't II, Inc., v. Twp. of Marengo*, 2008 WL 2783252 (W.D. Mich. July 17, 2008); *Kentucky Restaurant Concepts, Inc., v. City of Louisville*, 209 F. Supp. 2d 672 (W.D. Ky. 2002); *Restaurant Ventures V. Lexington-Fayette Urban County Gov't*, 60 S.W.3d 572 (Ky. Ct. App. 2001); *Deja Vu of Nashville, Inc., et al. v. Metropolitan Government of Nashville and Davidson County*, 274 F.3d 377 (6th Cir. 2001); *Ctr.for Fair Public Policy v. Maricopa County*, 336 F.3d 1153 (9th Cir. 2003); *Bigg Wolf Discount Video Sales, Inc., v. Montgomery County*, 256 F. Supp. 2d 385 (D. Md. 2003); *DLS, Inc., v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Brandywine, Inc., v. City of Richmond*, 359 F.3d 830 (6th Cir. 2004); *Currence v. City of Cincinnati*, 28 Fed. Appx. 438 (6th Cir. Jan. 24, 2002); *Broadway Books v. Roberts*, 642 F. Supp. 486 (E.D. Term. 1986); *Bright Lights, Inc., v. City of Newport*, 830 F. Supp. 378 (E.D. Ky. 1993);

Bamon Corp. v. City of Dayton, 923 F.2d 470 (6th Cir. 1991); *Triplett Grille, Inc., v. City of Akron*, 40 F.3d 129 (6th Cir. 1994); *O'Connor v. City and County of Denver*, 894 F.2d 1210 (10th Cir. 1990); *Threesome Entertainment v. Strittmather*, 4 F. Supp. 2d 710 (N.D. Ohio 1998); *Lady J. Lingerie, Inc., v. City of Jacksonville*, 176 F.3d 1358 (11th Cir. 1999); *In re Tennessee Public Indecency Statute*, 172 F.3d 873 (6th Cir. Jan. 13 1999)(table); *World Wide Video of Washington, Inc., v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Ben's Bar, Inc., v. Village of Somerset*, 316 F.3d 702(7th Cir. 2003); *Daytona Grand, Inc., v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007); *H&A Land Corp. v. City of Kennedale*, 480 F.3d 336 (5th Cir. 2007); *Illinois One News, Inc., v. City of Marshall*, 477 F.3d 461 (7th Cir. 2007); *G.M. Enterprises, Inc., v. Town of St. Joseph*, 350 F.3d 631 (7th Cir. 2003); *Richland Bookmart, Inc., v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Spokane Arcade, Inc., v. City of Spokane*, 75 F.3d 663 (9th Cir. 1996); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *People ex rel. Deters v. The Lion's Den, Inc.*, Case No. 04-CH-26, Modified Permanent Injunction Order (III. Fourth Judicial Circuit, Effingham County, July 13, 2005); *Reliable Consultants, Inc., v. City of Kennedale*, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005); and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garden Grove, California - 1991; Houston, Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995-98; Chattanooga, Tennessee - 1999-2003; Los Angeles, California - 1977; Whittier, California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Ft. Worth, Texas - 2004; Kennedale, Texas -2005; Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; McCleary Report - 2006; New York, New York Times Square - 1994; Jackson County, Missouri - 2008; Warren, Michigan - 2005; and the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the village finds as follows:

(1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter and sexual assault and exploitation;

(2) Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area; and

(3) Each of the foregoing negative secondary effects constitutes a harm which the village has a substantial governmental interest in preventing and/or abating. This substantial governmental interest in preventing secondary effects, which is the village's rationale for this chapter, exists independent of any comparative analysis between sexually oriented businesses and non-sexually oriented businesses. Additionally, the village's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the village. The village finds that the cases and documentation set forth above and relied on by the village are reasonably believed to be relevant to said secondary effects.

(C) The village hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of sexually oriented businesses, including the judicial opinions and reports related to such secondary effects.

(Ord. 185, passed 11-11-2009)

§ 110.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADULT ARCADE. Any place to which the public is permitted or invited wherein coin-operated, slug-operated or for any form of consideration, or electronically, electrically or mechanically controlled still or motion picture machines, projectors, video or laser disc players or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

ADULT BOOKSTORE, ADULT NOVELTY STORE or ADULT VIDEO STORE. A commercial establishment having 30% or more of all usable interior, retail, wholesale or warehouse space devoted to the distribution, display or storage of books, magazines and other periodicals and/or photographs, drawings, slides, films, videotapes, recording tapes and/or novelty items which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein).

ADULT CABARET. An establishment which regularly features persons who appear semi-nude.

ADULT MOTEL. A hotel, motel or similar commercial establishment which:

- (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;
- (2) Offers a sleeping room for rent for a period of time that is less than ten hours; or
- (3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten hours.

ADULT MOTION PICTURE THEATER or **ADULT LIVE STAGE PERFORMING THEATER.** An enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein) for observation by patrons therein. Such establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.

EMPLOYEE. A person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. **EMPLOYEE** does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

ESCORT. A person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY. A person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

ESTABLISHMENT. Any of the following:

- (1) The opening or commencement of any sexually oriented business as a new business;
- (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- (3) The additions of any sexually oriented business to any other existing sexually oriented business; or
- (4) The relocation of any sexually oriented business.

LICENSEE. A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.

MASSAGE PARLOR. Any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment manipulation of the human body which occurs as a part of or in connection with "specified sexual activities," or where any person providing such treatment, manipulation, or service related thereto, exposes his or her "specified anatomical areas." The definition of sexually oriented businesses shall not include the practice of massage in any licensed hospital, nor by a licensed hospital, nor by a licensed physician, surgeon, chiropractor or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program.

NUDE MODEL STUDIO. Any place where a person who appears semi-nude, in a state of nudity, or who displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. **NUDE MODEL STUDIO** shall not include a proprietary school licensed by the state or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or in a structure:

- (1) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing;
- (2) Where in order to participate in a class a student must enroll at least three days in advance of the class; and
- (3) Where no more than one nude or semi-nude model is on the premises at any one time.

NUDITY or a **STATE OF NUDITY**. The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state. **NUDITY** or a **STATE OF NUDITY** does not include the following:

- (1) A woman's breast-feeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding;
- (2) Material as defined in Public Act 343 of 1984, § 2, being M.C.L.A. § 752.362; or
- (3) Sexually explicit visual material as defined in Public Act 33 of 1978, being M.C.L.A. § 722.673.

PERSON. An individual, proprietorship, partnership, corporation, association or other legal entity.

SEMI-NUDE or in a **SEMI-NUDE CONDITION**. The showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a bikini, dress, blouse, skirt, leotard, bathing suit or other wearing apparel provided the areola is not exposed in whole or in part. **SEMI-NUDITY** or a **STATE OF SEMI-NUDE CONDITION** does not include the following:

- (1) A woman's breast-feeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding;
- (2) Material as defined in Public Act 343 of 1984, § 2, being M.C.L.A. § 752.362; and/or
- (3) Sexually explicit visual material as defined in Public Act 33 of 1978, § 3, being M.C.L.A. § 722.673.

SEXUAL ENCOUNTER CENTER. A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- (2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

SEXUALLY ORIENTED BUSINESS. An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater or adult live stage performing theater, escort agency, nude model studio or sexual encounter center.

SPECIFIED ANATOMICAL AREAS. Portions of the human body defined as follows:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttocks or female breast below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

SPECIFIED CRIMINAL ACTIVITY. Any of the following offenses:

(1) Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault, molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of this state, other states or countries;

(2) Offenses for which:

(a) Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

(b) Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

(c) Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is the later date, if the convictions are of two or more misdemeanors or combination of misdemeanor offenses occurring within any 24-month period.

(3) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

SPECIFIED SEXUAL ACTIVITIES. The explicit display of one or more of the following:

- (1) Human genitals in a state of sexual stimulation or arousal; or
- (2) Acts of human masturbation, sexual intercourse, oral copulation or sodomy.

SUBSTANTIAL ENLARGEMENT OF A SEXUALLY ORIENTED BUSINESS. The increase in floor areas occupied by the business by more than 25%, as the floor areas exist on the date this chapter takes effect.

TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY ORIENTED BUSINESS. Any of the following:

- (1) The sale, lease or sublease of the business;
 - (2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means;
- or
- (3) The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(Ord. 185, passed 11-11-2009)

§ 110.03 CLASSIFICATION OF BUSINESSES.

Sexually oriented businesses are classified as follows:

- (A) Adult arcades;
- (B) Adult bookstores, adult novelty stores or adult video stores;
- (C) Adult cabarets;
- (D) Adult motels;
- (E) Adult motion picture theaters or adult live stage performing theaters;
- (F) Escort agencies;
- (G) Massage parlor;
- (H) Nude model studios; and
- (I) Sexual encounter centers.

(Ord. 185, passed 11-11-2009)

LICENSING PROVISIONS

§ 110.15 LICENSE REQUIRED.

(A) It is unlawful:

- (1) For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the village pursuant to this chapter;
- (2) For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the village pursuant to this chapter; and
- (3) For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this chapter.

(B) An application for a license must be made on a form provided by the village.

(C) All applicants must be qualified according to the provisions of this chapter. An application shall be considered complete when it

contains, for each person required to sign the application, the information and/or items required in division (E) below, accompanied by the appropriate licensing fee.

(D) If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 30% or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under the following section and each applicant shall be considered a licensee if a license is granted.

(E) The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:

(1) If the applicant is:

(a) An individual, the individual shall state his or her legal name and any aliases and submit proof that he or she is 18 years of age;

(b) A partnership, the partnership shall state its complete name and the names of all general partners and whether the partnership is general or limited; and

(c) A corporation, the corporation shall state its complete name, the date of its incorporation, the names and capacity of all officers, directors and stockholders with at least 30% ownership interest in the corporation, and the name of the registered corporate agent and the address of the registered office for service of process;

(2) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, he or she must state the sexually oriented business's fictitious name;

(3) Whether the applicant has been convicted of a specific criminal activity as defined in this chapter, and, if so, the specified criminal activity involved, the date, place and jurisdiction of each;

(4) Whether the applicant has had a previous license under this chapter or other similar sexually oriented business ordinances from another municipality or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this chapter whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation;

(5) Whether the applicant holds any other licenses under this chapter or other similar sexually oriented business ordinance from another municipality or county and, if so, the names and locations of such other licensed businesses;

(6) The category of sexually oriented business that the applicant intends to engage in at the licensed premises;

(7) The location of the proposed sexually oriented business, including a legal description of the property, street address and telephone number(s), if any;

(8) The applicant's business address or other mailing address;

(9) A recent photograph of the applicant(s);

(10) The applicant's driver's license number and/or his or her state or federally issued tax identification number;

(11) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches;

(12) A current certificate and straight-line drawing prepared within 30 days prior to application by a registered land surveyor depicting the property lines and the structures of any land use identified in § 110.35 of this chapter that is within 200 feet of the property to be certified. For purposes of this section, a use shall be considered existing or established if it is legally in existence at the time an application is submitted; and

(13) If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than 150 square feet of floor space, films, videos cassettes, other video reproductions or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall also comply with the application requirements set forth in § 110.37.

(F) Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form to be provided by the village the following information:

- (1) The applicant's name or any other name (including "stage" names) or aliases used by the individual;
- (2) Written proof of age, in the form of a driver's license or a copy of a birth certificate accompanied by a picture identification document issued by a governmental agency;
- (3) Height, weight, hair and eye color;
- (4) Present business telephone number, if any;
- (5) Present business address or other mailing address;
- (6) Date, issuing state and number of driver's permit or other identification card information;
- (7) A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the Police Department. The Police Department shall provide fingerprinting service upon request for a nominal fee during business hours;
- (8) A statement detailing the license history of the applicant for the five years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other municipality, county or state has ever had a license, permit or authorization to do business denied, revoked or suspended, or had any professional or vocational license or permit denied, revoked or suspended. In the event of any such denial, revocation or suspension, state the name, the name of the issuing or denying jurisdiction and describe in full the reason for the denial, revocation or suspension. A copy of any order of denial, revocation or suspension shall be attached to the application; and
- (9) A statement whether the applicant has been convicted of a specified criminal activity as defined in this chapter and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

(Ord. 185, passed 11-11-2009) Penalty, see § 110.99

§ 110.16 ISSUANCE OF LICENSE.

(A) Upon the filing of a completed application for a sexually oriented business employee license, the village shall immediately issue a temporary license to the applicant if the applicant seeks to work in a licensed sexually oriented business and the completed application, on its face, indicates that the applicant is entitled to an annual sexually oriented business employee license. The application shall then be immediately referred to the appropriate village departments for an investigation to be made on such information as is contained in the application. The application process shall be completed within 30 days from the date the completed application is filed, and the village shall issue a license, unless:

- (1) The applicant has failed to provide information required under the terms of this chapter for issuance of the license or has falsely answered a question or request for information on the application form;
- (2) The applicant is under the age of 18 years;
- (3) The applicant has been convicted of a "specified criminal activity" as defined in this chapter;
- (4) The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation or prohibited by a particular provision of this chapter; or
- (5) The applicant has had a sexually oriented business employee license revoked by the village within two years of the date of the current application. If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension or revocation of a license issued pursuant to this section shall be subject to appeal as set forth in § 110.22.

(B) A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the village that the applicant has not been convicted of any specified criminal activity as defined in this chapter or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in § 110.17.

(C) Within 30 days after receipt of a completed sexually oriented business license application, the village shall approve or deny the

issuance of a license to an applicant. The village shall approve the issuance of a license to an applicant unless:

- (1) An applicant is under 18 years of age;
- (2) An applicant is overdue in payment to the village of taxes, fees, fines or penalties assessed against or imposed upon him or her in relation to any sexually oriented business;
- (3) An applicant has failed to provide information required under the terms of this chapter for issuance of the license or has falsely answered a question or request for information on the application form;
- (4) An applicant has been denied a license by the village to operate a sexually oriented business within the preceding 12 months or whose license to operate a sexually oriented business has been revoked within the preceding 12 months;
- (5) An applicant has been convicted of a specified criminal activity defined in this chapter;
- (6) The premises to be used for the sexually oriented business have been disapproved by the Health Department, Fire Department or the Building Official as being out of compliance with applicable health, fire or building laws and ordinances;
- (7) The license fee required by this chapter has not been paid; or
- (8) The sexually oriented business, as defined herein, is not in compliance with the interior configuration requirements of this chapter or is not in compliance with locational requirements of this chapter or the locational requirements of any other part of the village's ordinances.

(D) The license, if granted, shall state on its face the kind of license, the name of the person or persons to whom it is granted and the expiration date. Sexually oriented business licenses shall further state the address of the sexually oriented business and the classification for which the license is issued pursuant to § 110.03. Sexually oriented business licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time. Sexually oriented business employee licenses shall be kept on the licensee's person or on the premises of the sexually oriented business where the licensee is working.

(E) The Health Department, Fire Department and the Building Official shall complete their certification that the premises is in compliance or not in compliance within 25 days of receipt of the application by the village.

(Ord. 185, passed 11-11-2009)

§ 110.17 FEES.

The initial license and annual renewal fees for sexually oriented business licenses and sexually oriented business employee licenses shall be as follows: \$250 for the initial fee for a sexually oriented business license and fifty dollars (\$125) for annual renewal; \$150 for the initial sexually oriented business employee license and \$75 for annual renewal.

(Ord. 185, passed 11-11-2009)

§ 110.18 INSPECTIONS.

(A) An applicant or licensee shall permit representatives of the Police Department, Health Department, Fire Department, Zoning Department or other village departments or agents to inspect, from time to time on an occasional basis, the portions of the sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this chapter, during those times when the sexually oriented business is occupied by patrons or is open to the public. This section shall be narrowly construed by the village to authorize reasonable inspections of the licensed premises pursuant to this chapter, but not to authorize a harassing or excessive pattern of inspections.

(B) A person who operates a sexually oriented business or his or her agent or employee commits a misdemeanor if he or she refuses to permit such lawful inspection of the premises at any time it is open for business.

(Ord. 185, passed 11-11-2009) Penalty, see § 110.99

§ 110.19 EXPIRATION OF LICENSE.

(A) Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in § 110.15. Application for renewal shall be made at least 60 days before the expiration date, and when made less than 60 days before the expiration date, the expiration of the license will not be affected.

(B) When the village denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the village finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

(Ord. 185, passed 11-11-2009)

§ 110.20 SUSPENSION OF LICENSE.

The village shall suspend a license for a period not to exceed 30 days if it determines that the licensee has:

(A) Knowingly violated any section of this chapter; or

(B) Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter.

(Ord. 185, passed 11-11-2009)

§ 110.21 REVOCATION OF LICENSE.

(A) The village shall revoke a license if a cause of suspension in § 110.20 occurs and the license has been previously suspended within the preceding 12 months.

(B) The village shall revoke a license if it determines that:

(1) A licensee gave false information in the material submitted during the application process;

(2) A licensee has knowingly allowed possession, use or sale of controlled substances on the premises;

(3) A licensee has knowingly allowed prostitution on the premises;

(4) A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;

(5) Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sex act to occur in or on the licensed premises; or

(6) A licensee is delinquent in payment to the village, township, county or state for any taxes or fees in relation to a sexually oriented business.

(C) When the village revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a sexually oriented business license for one year from the date the revocation became effective. If, subsequent to revocation, the village finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.

(D) After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court.

(Ord. 185, passed 11-11-2009)

§ 110.22 HEARINGS REGARDING LICENSE DENIAL, SUSPENSION, REVOCATION, APPEAL OR TRANSFER OF LICENSE.

(A) When the village issues a written notice of intent to deny, suspend or revoke a license, the village shall immediately send such notice, which shall include the specific grounds under this chapter for such action, to the applicant or licensee (respondent) by personal delivery or certified mail. The notice shall be directed to the most current business address or other mailing address on file with the

village for the respondent. The notice shall also set forth the following: The respondent shall have ten days after the delivery of the written notice to submit, at the office of the village, a written request for a hearing. If the respondent does not request a hearing within the ten days, the village's written notice shall become a final denial, suspension or revocation, as the case may be, on the thirtieth day after it is issued, and shall be subject to the provisions of division (B) below.

(1) If the respondent does make a written request for a hearing within said ten days, then the village shall, within ten days after the submission of the request, send a notice to the respondent indicating the date, time and place of the hearing. The hearing shall be conducted not less than ten days nor more than 20 days after the date that the hearing notice is issued. The village shall provide for the hearing to be transcribed.

(2) At the hearing, the respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the village's witnesses. The village shall also be represented by counsel, and shall bear the burden of proving the grounds for denying, suspending or revoking the license. The hearing shall take no longer than two days, unless extended at the request of the respondent to meet the requirements of due process and proper administration of justice. The Hearing Officer shall issue a final written decision, including specific reasons for the decision pursuant to this chapter, to the respondent within five days after the hearing.

(3) If the decision is to deny, suspend or revoke the license, the decision shall advise the respondent of the right to appeal such decision to a court of competent jurisdiction, and the decision shall not become effective until the thirtieth day after it is rendered. If the Hearing Officer's decision finds that no grounds exist for denial, suspension or revocation of the license, the Hearing Officer shall, contemporaneously with the issuance of the decision, order the village to immediately withdraw the intent to deny, suspend or revoke the license and to notify the respondent in writing by certified mail of such action. If the respondent is not yet licensed, the village shall contemporaneously therewith issue the license to the applicant.

(B) If any court action challenging a licensing decision is initiated, the village shall consent to expedited briefing and/or disposition of the action, shall comply with any expedited schedule set by the court, and shall facilitate prompt judicial review of the decision. The following shall apply to any sexually oriented business that is, in all respects, lawfully operating as a sexually oriented business, or any sexually oriented business employee that is, in all respects, lawfully employed as a sexually oriented business employee, on the date on which the completed business or employee application, as applicable, is filed with the Village Clerk: Upon the filing of any court action to appeal, challenge, restrain or otherwise enjoin the village's enforcement of the denial, suspension or revocation, the village shall immediately issue the applicant or licensee (respondent) a provisional license. The provisional license shall allow the respondent to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire upon the court's entry of a judgment on the respondent's appeal or other action to restrain or otherwise enjoin the village's enforcement.

(C) A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

(Ord. 185, passed 11-11-2009)

BUSINESS OPERATION REGULATIONS

§ 110.35 LOCATION OF SEXUALLY ORIENTED BUSINESSES.

(A) A sexually oriented business may only be located on a property located within the C-1 Commercial District pursuant to the village zoning ordinance, Ordinance Number 152, as amended, adopted March 12, 2003. It shall be unlawful for any person to operate or cause to be operated a sexually oriented business within 200 feet of:

(1) A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;

(2) A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges and universities; **SCHOOL** includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;

(3) A public library or other public building;

(4) A boundary of a residential district as defined in the village zoning ordinance and zoning map;

(5) A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas or other similar public land within the village which is under the control, operation, or management of the village park and recreation authorities;

(6) The property line of a lot devoted to a residential use as defined in the village zoning ordinance;

(7) An entertainment business which is oriented primarily towards children or family entertainment;

(8) A licensed premises, licensed pursuant to the alcoholic beverage control regulations of the state; or

(9) A licensed premises, licensed pursuant to this chapter as a sexually oriented business.

(B) For the purpose of division (A) above, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used to conduct a sexually oriented business, to the nearest property line of the premises of a use listed in division (A) above. The presence of a use listed in division (A) above that is located outside the geographic boundaries of the village shall be irrelevant for purposes of calculating and applying the distance requirements of this section.

(Ord. 185, passed 11-11-2009)

§ 110.36 ADDITIONAL REGULATIONS FOR ADULT MOTELS.

(A) Evidence that a sleeping room in a hotel, motel or a similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten hours creates a rebuttal presumption that the establishment is an adult motel as that term is defined in this chapter.

(B) A person commits a misdemeanor if, as the person in control of a sleeping room in a hotel, motel or similar commercial establishment that does not have a sexually oriented license, he or she rents or sub-rents a sleeping room to a person and, within ten hours from the time the room is rented, he or she rents or sub-rents the same sleeping room again.

(C) For purposes of division (B) above, the terms **RENT** or **SUB-RENT** mean the act of permitting a room to be occupied for any form of consideration.

(Ord. 185, passed 11-11-2009) Penalty, see § 110.99

§ 110.37 ADDITIONAL REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS, VIDEOS OR LIVE ENTERTAINMENT IN VIEWING ROOMS.

(A) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, video cassette, live entertainment or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(1) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The village may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared;

(2) The application shall be sworn to be true and correct by the applicant;

(3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the village;

(4) It is the duty of the licensee of the premises to ensure that at least one licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises;

(5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this division (A)(5) must be by direct line of sight from the manager's station;

(6) It shall be the duty of the licensee to ensure that the view area specified in division (A)(5) above remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to division (A)(1) above;

(7) No viewing room of less than 150 square feet of floor space may be occupied by more than one person at any time;

(8) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five foot-candles as measured at the floor level;

(9) It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises;

(10) No licensee shall allow openings of any kind to exist between viewing rooms or booths;

(11) No person shall make or attempt to make an opening of any kind between viewing booths or rooms;

(12) The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist;

(13) The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting; and

(14) The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within 48 inches of the floor.

(B) A person having a duty under divisions (A)(1) through (A)(14) above commits a misdemeanor if he or she knowingly fails to fulfill that duty.

(Ord. 185, passed 11-11-2009) Penalty, see § 110.99

§ 110.38 ADDITIONAL REGULATIONS FOR ESCORT AGENCIES.

(A) An escort agency shall not employ any person under the age of 18 years.

(B) A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.

(Ord. 185, passed 11-11-2009) Penalty, see § 110.99

§ 110.39 ADDITIONAL REGULATIONS FOR NUDE MODEL STUDIOS.

(A) A nude model studio shall not employ any person under the age of 18 years.

(B) It shall be unlawful for any person under the age of 18 years to appear semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this division (B) if the person under 18 years was in a restroom not open to public view or visible to any other person.

(C) It shall be unlawful for any person to appear in a state of nudity, or to knowingly allow another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.

(D) A nude model studio shall not place or permit a bed, sofa or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

(Ord. 185, passed 11-11-2009) Penalty, see § 110.99

§ 110.40 PROHIBITED CONDUCT.

(A) It shall be a misdemeanor for a person to knowingly or intentionally, in a sexually oriented business, appear in a state of nudity or depict specified sexual activities.

(B) It shall be a misdemeanor for a person to knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least six feet from any patron or customer and on a stage at least two feet from the floor.

(C) It shall be a misdemeanor for an employee, while semi-nude in a sexually oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while said employee is semi-nude in a sexually oriented business.

(D) It shall be a misdemeanor for an employee, while semi-nude, to touch a customer or the clothing of a customer in a sexually oriented business.

(E) It shall be a misdemeanor for any person to sell, use or consume alcoholic beverages on the premises of a sexually oriented business.

(Ord. 185, passed 11-11-2009) Penalty, see § 110.99

§ 110.41 PROHIBITION AGAINST CHILDREN IN A SEXUALLY ORIENTED BUSINESS.

It shall be unlawful for any person to knowingly or recklessly allow a person under the age of 18 years on the premises of a sexually oriented business.

(Ord. 185, passed 11-11-2009) Penalty, see § 110.99

§ 110.42 ADVERTISING AND LIGHTING REGULATIONS.

(A) A person shall not operate or cause to be operated a sexually oriented business, regardless of whether or not a permit has been issued for said business under this chapter, and advertise the presentation of any activity prohibited by an applicable state statute or local ordinance.

(B) A person shall not display or otherwise exhibit the materials and/or performances available at a sexually oriented business in any advertising which is affixed to or otherwise visible outside the premises. This prohibition shall not extend to advertising of the existence or location of such sexually oriented business.

(C) A person shall not allow any portion of the interior premises of a sexually oriented business to be visible from outside the premises.

(D) All off-street parking areas and premise entries of the sexually oriented business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one foot candle of light on the parking surface and/or walkways. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually oriented business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premise.

(E) Nothing contained in this section shall relieve the operator(s) of a sexually oriented business from complying with the requirements of the village, commonly known as the sexually oriented business ordinance, as it may be amended from time to time, or any subsequently enacted village ordinances or regulations.

(Ord. 185, passed 11-11-2009) Penalty, see § 110.99

§ 110.43 HOURS OF OPERATION.

No sexually oriented business, except for an adult motel, may remain open at any time between 12:00 midnight and 6:00 a.m., on any day.

(Ord. 185, passed 11-11-2009) Penalty, see § 110.99

§ 110.99 PENALTY.

Any person, corporation, partnership or any other legal entity who violates the provisions of this chapter shall be guilty of a misdemeanor and may be fined not more than \$500 and/or imprisoned for not more than 90 days, or both. Each day that a violation is permitted to exist or occur, and each separate occurrence, shall constitute a separate offense.

(Ord. 185, passed 11-11-2009)

CHAPTER 111: PUBLIC AMUSEMENTS

Section

- 111.01 License required
- 111.02 License prohibited for certain persons
- 111.03 Application for license; fee
- 111.04 Inspection of premises by Police Chief; approval or disapproval by Village Council
- 111.05 License to be displayed
- 111.06 Expiration and renewal of license; revocation
- 111.07 Transfer of license
- 111.08 Alcoholic beverages, controlled substances and gambling prohibited
- 111.09 Hours of operation; prohibited conduct
- 111.10 Exemptions

- 111.99 Penalty

§ 111.01 LICENSE REQUIRED.

No public billiard or pool room, dance hall, pinball arcade, video game arcade or bowling alley shall be established, maintained or conducted in any place within the village without first obtaining a permit from the Village Council.

(Ord. 126, passed 5-14-1997) Penalty, see § 111.99

§ 111.02 LICENSE PROHIBITED FOR CERTAIN PERSONS.

No person shall be granted a permit under the provisions of this chapter who is under the age of 18 years and who has not resided within the state for a period of at least one year prior to the application for such permit; nor shall any permit be granted to any person who has been convicted of any crime involving moral turpitude.

(Ord. 126, passed 5-14-1997) Penalty, see § 111.99

§ 111.03 APPLICATION FOR LICENSE; FEE.

Any person, firm or corporation desiring or intending to operate such an establishment for profit in the village shall file a written application for a license with the Village Clerk. The applicant shall state the location of the proposed establishment, the name of the owners of such establishment or any other persons having a proprietary interest therein, and name, age and place of residence of any and all persons who are or will be actively engaged in the management thereof. Such application shall be signed by the prospective licensee and there shall also be paid and remitted with such application the sum of \$50 which sum shall be the annual license fee for all licenses required hereunder.

(Ord. 126, passed 5-14-1997) Penalty, see § 111.99

§ 111.04 INSPECTION OF PREMISES BY POLICE CHIEF; APPROVAL OR DISAPPROVAL BY VILLAGE COUNCIL.

Upon receipt of such application and remittance, the Village Clerk shall forthwith refer the application to the Police Chief who shall make a personal inspection of the premises and determine whether or not the facts alleged in the application are true and note his or her findings on said application. The Police Chief shall also investigate the general reputation and character of the applicant and note his or her findings on the application. Upon the return of the application by the Police Chief, the Village Clerk shall present the same to the Village Council at its next regular meeting, or at a special meeting held for that purpose, and the Village Council shall, by a majority vote of the members present and voting, either approve or disapprove the application for granting of the license.

(Ord. 126, passed 5-14-1997)

§ 111.05 LICENSE TO BE DISPLAYED.

Upon issuance of the license as hereinabove provided, the licensee shall then be permitted to operate the establishment licensed under said application and such license shall at all times be openly displayed in the licensed establishment.

(Ord. 126, passed 5-14-1997) Penalty, see § 111.99

§ 111.06 EXPIRATION AND RENEWAL OF LICENSE; REVOCATION.

(A) All licenses issued hereunder shall expire on January 1 of each year but shall be renewed automatically by the Village Clerk upon the payment to him or her of the annual license fee of \$50 by a licensee on or before the aforesaid expiration date. Upon receipt of payment, the Village Clerk shall issue a new license for the ensuing year; provided, however, not later than December 1 of the year preceding the expiration of any license, the Police Chief shall make an inspection of all establishments for which applications for renewal licenses are pending and make a written report to the Village Council as to the lawful operation of such establishments.

(B) The Village Council, by a majority vote of its members present and voting, may revoke any existing license or deny the granting of any application for a renewal of any license for good cause shown after notice to the licensee and a public hearing held pursuant to these statutes in such cases made and provided.

(C) In the event of revocation as herein provided, the Village Clerk shall forthwith revoke such license and advise the licensee in writing of such revocation and following which such licensee shall immediately cease and desist from operating and/or maintaining such establishment.

(Ord. 126, passed 5-14-1997) Penalty, see § 111.99

§ 111.07 TRANSFER OF LICENSE.

A licensee may transfer his or her license to a new owner or purchaser of the establishment upon the payment to the Village Clerk of a transfer fee of \$50 after the proposed transferee has filed an application and been approved by the Village Council in the same manner as hereinabove required for a new licensee. The Village Clerk shall then endorse the existing license as having been properly transferred to the transferee.

(Ord. 126, passed 5-14-1997)

§ 111.08 ALCOHOLIC BEVERAGES, CONTROLLED SUBSTANCES AND GAMBLING PROHIBITED.

No alcoholic beverages or controlled substances shall be used or sold in any such establishment or anywhere on the premises on which such establishment is situated at any time and no gambling or gambling devices shall be conducted or permitted in such establishment at any time. Provided, however, the sale of alcoholic beverages shall not be prohibited in those establishments licensed and controlled by the State Liquor Control Commission.

(Ord. 126, passed 5-14-1997) Penalty, see § 111.99

§ 111.09 HOURS OF OPERATION; PROHIBITED CONDUCT.

All establishments licensed hereunder shall be closed after 2:00 a.m., and shall not open until noon on Sundays. Such establishments shall be open for inspection by any and all law enforcement officers at all reasonable times. Such establishments shall be kept clean, orderly, well-lighted and sanitary at all times and no filth or dirt shall be allowed to accumulate therein. The use of profanity shall be prohibited and any person who becomes disorderly or profane shall immediately be ejected from the establishment.

(Ord. 126, passed 5-14-1997) Penalty, see § 111.99

§ 111.10 EXEMPTIONS.

The provisions of this chapter shall not apply to any fraternal, religious or other organization which maintains billiard or pool tables, pinball games, video games, dance halls or bowling alleys for the use of their members and merely incidental to the principal activities of such an organization. Provided further, any business establishment that has not more than one pool table, pinball game or video game, the use of which is incidental to its principal business, shall be exempt from the provisions of this chapter.

(Ord. 126, passed 5-14-1997)

§ 111.99 PENALTY.

(A) Any person, firm or corporation who violates any of the provisions of this chapter, in addition to the other provisions of this chapter, is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50 nor more than \$500, plus costs and other sanctions, for each infraction.

(B) Repeat offenses shall be subject to an increased civil fine as follows:

(1) The fine for any offense which is a first repeat offense shall be not less than \$250, plus costs and other sanctions; and

(2) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall not be less than \$500, plus costs and other sanctions.

(C) A **REPEAT OFFENSE** means a second (or any subsequent) violation of this chapter committed by a person within any six-month period and for which the person admits responsibility or is determined to be responsible.

(D) Each day on which any violation of this chapter continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(Ord. 126, passed 5-14-1997)

CHAPTER 112: HAWKERS, VENDORS, SOLICITORS AND PEDDLERS

- 112.01 Short title
- 112.02 Definition
- 112.03 License required
- 112.04 Application for license
- 112.05 Issuance of license; expiration; suspension or revocation
- 112.06 License to be carried and exhibited; nontransferability
- 112.07 Special provisions regarding food products
- 112.08 Cash bond required for taking of orders for future delivery
- 112.09 State license no exemption from this chapter
- 112.10 Invitation required to enter private home
- 112.11 License required for carnivals, fairs or tent shows
- 112.12 License required to take photographs or sell magazines

- 112.99 Penalty

§ 112.01 SHORT TITLE.

This chapter shall be known and may be cited as the Hawkers, Vendors, Solicitors and Peddlers Chapter.

(Ord. 110, passed 5-13-1992)

§ 112.02 DEFINITION.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

PERSON. An individual, partnership, firm, corporation, company, association or organization.

(Ord. 110, passed 5-13-1992)

§ 112.03 LICENSE REQUIRED.

No person shall peddle or hawk any goods, wares, merchandise, service or other articles or things of value within the village, or sell or offer to sell the same, on any public street, sidewalk, alley or other public place, or from house to house, or place to place, without first obtaining a license from the village, nor shall any person go from house to house soliciting or taking orders for goods, wares, merchandise, services or other articles or things of value to be delivered at some subsequent date or dates, without first obtaining a license from the village.

(Ord. 110, passed 5-13-1992)

§ 112.04 APPLICATION FOR LICENSE.

(A) Each application for license shall be made to the Village Clerk at least 48 hours in advance of the time for which the applicant seeks its issuance. The application shall contain the following information:

- (1) The applicant's name;

(2) The applicant's local address and telephone number and permanent address and telephone number (if different from the local address and number);

(3) State sales tax license or permit number or exemption certificate;

(4) Physical description;

(5) Age;

(6) The name of any person that the applicant is working for or on behalf of and that person's local address; and

(7) A brief description of activity the applicant desires to conduct in the village.

(B) The application shall be signed and sworn to by the applicant.

(Ord. 110, passed 5-13-1992; Ord. 115, passed 4-14-1993)

§ 112.05 ISSUANCE OF LICENSE; EXPIRATION; SUSPENSION OR REVOCATION.

(A) Upon receipt of a properly completed application, the Village Clerk shall issue a license pursuant to this chapter which shall contain all the information required to be submitted on the application. No license shall be issued for more than one year or less than one day. All annual licenses shall expire on May 31 of each year. All licenses for a period of less than one year shall expire on the date mentioned thereon.

(B) The Village Clerk shall have authority to revoke or suspend any license issued as a result of any misrepresentation or false statement made by the applicant in order to obtain such license, or for the licensee's violation of or failure to comply with any village ordinance or state law. The Village Clerk shall report all suspensions to the Village Council which may for cause shown revoke or reinstate the license after giving the licensee a reasonable notice and an opportunity to be heard. No person whose license has been revoked shall receive another license for a period of one year thereafter.

(Ord. 110, passed 5-13-1992)

§ 112.06 LICENSE TO BE CARRIED AND EXHIBITED; NONTRANSFERABILITY.

The holder of any license issued hereunder shall carry the same with him or her at all times and shall exhibit it to any citizen upon demand. No licensee shall alter, remove or delete any entry made on such license. No license issued pursuant to this chapter shall be transferable.

(Ord. 110, passed 5-13-1992) Penalty, see § 112.99

§ 112.07 SPECIAL PROVISIONS REGARDING FOOD PRODUCTS.

No license shall be granted to any person for the peddling or hawking of food, food products or edibles of any character unless the applicant shall first secure a certificate from the County Health Department or a licensed medical doctor setting forth that the applicant is not suffering from any contagious or infectious disease. If the applicant is not an individual, a certificate must be provided for each employee of the applicant directly involved with the hawking or peddling of food, food products or edibles of any character, or involved with acquiring the product and/or preparing it for sale. A person selling his or her own home-grown agricultural products at his or her place of residence shall be exempt from the licensing provisions of this chapter, provided that no person shall sell his or her products from a motor vehicle parked on or along a public highway without first obtaining a license. This section shall not apply to any applicant who desires to sell pre-packaged food, food products or edibles of any character which are contained, in sealed packages or containers, and which the applicant is not involved in packaging for sale.

(Ord. 110, passed 5-13-1992) Penalty, see § 112.99

§ 112.08 CASH BOND REQUIRED FOR TAKING OF ORDERS FOR FUTURE DELIVERY.

(A) No person soliciting or taking orders for goods, wares, merchandise, services or other articles or things of value to be delivered

at some future date or dates shall ask for or receive any deposit or any payment or part payment of money or other valuable thing in advance of such delivery unless such person shall have first deposited with the Village Clerk a cash bond in the amount of \$500, or a surety bond in like amount with good and sufficient sureties to be approved by the Village Clerk, conditioned to indemnify and save harmless any person dealing with any such solicitor against any damage or loss which he or she may suffer by reason of the failure of any such good, wares, merchandise or services to be delivered, or by reason of any false or fraudulent representation which such solicitor may have made with respect to the same. No license shall be issued to any solicitor until the bond required hereby shall have been deposited with and approved by the Village Clerk.

(B) Deposits of money or bonds made with the Village Clerk as required by the provisions of this section shall be subject to the claims of creditors in all cases where a judgment has been obtained against such licensee and the date for the appeal of such judgment has expired. In such cases, garnishment proceedings may be commenced against the Village Clerk. It shall be the duty of the Village Clerk to remit to any court any balance of such cash deposit remaining in his or her hands not exceeding the amount of the judgment for the purpose of satisfying the same. Any balance of such cash deposit remaining in the hands of the Village Clerk for a period of six months after the expiration of the license shall be remitted to the licensee. Any license issued under the provisions of this section shall expire and be void as soon as the amount of the bond filed with the Village Clerk shall have been diminished or used in whole or in part because of suits as provided for above.

(Ord. 110, passed 5-13-1992)

§ 112.09 STATE LICENSE NO EXEMPTION FROM THIS CHAPTER.

The fact that any person has been granted a license by the state or other public authority shall not exempt such person from securing a license from the village if such license is required by the terms of this chapter.

(Ord. 110, passed 5-13-1992)

§ 112.10 INVITATION REQUIRED TO ENTER PRIVATE HOME.

No peddler, hawker or solicitor shall enter any private home or other place unless invited to do so by the owner or occupant thereof, nor shall any peddler, hawker or solicitor remain upon any private premises after being ordered or requested to leave by the owner or occupant thereof.

(Ord. 110, passed 5-13-1992) Penalty, see § 112.99

§ 112.11 LICENSE REQUIRED FOR CARNIVALS, FAIRS OR TENT SHOWS.

No person shall promote, conduct, operate or maintain any carnival, circus, fair, freak show or tent show in any public street, alley or other public place, nor shall any person promote, conduct, operate or maintain the same in any private place without license from the Village Clerk.

(Ord. 110, passed 5-13-1992) Penalty, see § 112.99

§ 112.12 LICENSE REQUIRED TO TAKE PHOTOGRAPHS OR SELL MAGAZINES.

No person shall go from house to house or place to place within the village for the purpose of taking photographic portraits or soliciting orders therefor, or for the purpose of selling or taking orders for magazines, without a license.

(Ord. 110, passed 5-13-1992) Penalty, see § 112.99

§ 112.99 PENALTY.

(A) Any person or persons, partnership or corporation who shall violate any of the provisions of this chapter is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50 nor more than \$500, plus costs and other sanctions, for each infraction.

(B) Repeat offenses shall be subject to an increased civil fine as follows:

(1) The fine for any offense which is a first repeat offense shall be not less than \$250, plus costs and other sanctions; and

(2) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be not less than \$500, plus costs and other sanctions.

(C) A **REPEAT OFFENSE** means a second (or any subsequent) violation of §§ 130.16 through 130.20 committed by a person within any six-month period and for which the person admits responsibility or is determined to be responsible.

(D) Each day on which any violation of those sections continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(Ord. 110, passed 5-13-1992; Ord. 119, passed 4-12-1995)

CHAPTER 113: CABLE TELEVISION

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FRANCHISE PROVISIONS

§ 113.01 TITLE.

This shall be known as the Cable Television Subchapter.

(Ord. 77, passed 8-6-1981)

§ 113.02 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BASIC SERVICE. The simultaneous delivery by the grantee to the television, radio or other appropriate communications receiver of a subscriber of all signals of over-the-air broadcasters required by the Federal Communications Commission or this subchapter to be carried by the cable television system of the grantee, together with such additional public, educational, governmental, leased or other access channels or signals as may be likewise required by law, but not including pay or subscription television as defined by the Federal Communications Commission.

COMMITTEE. A committee of the Village Council consisting of three Council members, appointed by the Village President, which shall be directly responsible for over-seeing and controlling the granting of a franchise pursuant to this subchapter and for over-seeing any franchise which may be granted.

COMMUNITY ANTENNA TELEVISION SYSTEM or CATV or CABLE TELEVISION SYSTEM. A system employing antenna, microwave, wires, wave guides, coaxial cables or other conductors, equipment or facilities designed, constructed or used for the purpose of:

- (1) Collecting and amplifying local or distant broadcast television or radio signals and distributing and transmitting same;
- (2) Transmitting original cablecast programming not received through television broadcast signals; or
- (3) Transmitting television pictures, film and video tape programs, not received through broadcast television signals, whether or not encoded or processed to permit reception by only selected receivers; provided, however, that any of the services permitted hereunder to be performed, as described above, shall be those performed by the grantee for subscribers, as herein defined in the operation of a cable television or CATV system franchised by the village and not otherwise, and provided further that such term shall not include any such facility or system that serves only the residents of one or more apartment dwelling or commercial establishments under common ownership, control or management.

FRANCHISE. Any authorization granted hereunder in terms of a franchise, privilege, permit, license or otherwise to construct, operate and maintain a cable television system within the village.

FRANCHISE AREA. The territory within the village throughout which the grantee shall be authorized hereunder to construct, maintain and operate its system.

GRANTEE. Any person, firm or corporation receiving the grant of any franchise hereunder and shall include any lawful successor to the interest of such person, firm or corporation.

SUBSCRIBER or USER. Any person or entity receiving for any purpose any service of the grantee's cable television system including, but not limited to, the conventional cable television system service of re-transmission of television broadcast, radio signals, the grantee's original cablecasting and the local government, education and public access channels; and other services, such as leasing of channels, data and facsimile transmission, pay television and police, fire and similar public service communication.

VILLAGE. The Village of Three Oaks.

VILLAGE COUNCIL. The Council of the village.

(Ord. 77, passed 8-6-1981)

§ 113.03 NONEXCLUSIVE FRANCHISE TO INSTALL AND OPERATE CABLE TELEVISION SYSTEM.

A nonexclusive franchise to install, construct, operate and maintain a cable television system on streets within the village may be granted by the Village Council to any person whether operating under an existing franchise, or not, who offers to furnish and provide such system under and pursuant to the terms and provisions of this subchapter. No provision of this subchapter may be deemed or construed to require the granting of a franchise when, in the opinion of the Council, it is in the public interest to restrict the number of the grantees to one or more, and competitive franchises covering the same territory shall be restricted to those instances where the applicant for the second franchise can offer a unique or legally protected service which is not available and cannot be made available to the grantee of the existing franchise.

(Ord. 77, passed 8-6-1981)

§ 113.04 AUTHORITY GRANTED BY FRANCHISE.

(A) Any franchise granted pursuant to the provisions of this subchapter shall authorize and permit the grantee to do the following:

(1) Erect, install, construct, repair, replace, re-construct, maintain and retain, in, on, over, under, across and along any public street, alley, way or place now laid out and dedicated and all extensions thereof, such poles, wires, cable, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments and other property as may be necessary and appurtenant to the CATV system; and in addition, so to use, operate and provide similar facilities or properties rented or leased from other persons, firms or corporations, including, but not limited to, any public utility or other grantee of any franchise of this village;

(2) Maintain and operate facilities and properties for the collection, transmission, conduction, amplification, conversion and distribution of programs and other services by use of electricity, radiation or other energy source; or

(3) Solicit, sell, distribute and make charge to subscribers within the village for connection to the CATV system of the grantee.

(B) A franchise granted solely to traverse any portion of the village in order to provide service outside the village, shall not authorize nor permit the grantee to solicit, sell, distribute or make any charge to subscribers within the village, nor to render any service or connect any subscribers within the village to the CATV system of the grantee.

(Ord. 77, passed 8-6-1981)

§ 113.05 APPLICATION FOR FRANCHISE.

All applications to construct, operate or maintain any CATV system in this village or to traverse any portion of the village for transmitting or conveying of such service elsewhere, shall be filed with the Village Clerk, and each application shall set forth, contain or be accompanied by the following:

(A) The name, address and telephone number of the applicant;

(B) A detailed statement of the corporate or other business entity organization of the applicant including, but not limited to, the following;

(1) The names, residence addresses and business addresses of all officers, directors and partners or business associates of the applicant;

(2) The names, residence addresses and business addresses of all persons and entities having an ownership interest in the applicant and the respective ownership share of each such person or entity;

(3) The names and addresses of any parent or subsidiary of the applicant and of any other business entity owning or controlling in whole or in part or owned or controlled in whole or in part by the applicant, and a statement describing the nature of any such parent or subsidiary business entity, including, but not limited to, all CATV or similar systems owned or controlled by the applicant, its parent or subsidiary and the areas served thereby;

(4) A detailed description of all previous experience of the applicant as to providing CATV service or related or similar services;

(5) A detailed and complete financial statement of the applicant, prepared by certified public accountant, for the fiscal year next preceding the date of the application hereunder, or a letter or other acceptable evidence in writing from a responsible lending institution or funding source, addressed to both the applicant and the Council, setting forth the basis for a study performed by such lending institution or funding source, and a clear statement of its intent as a lending institution or funding source to provide whatever capital shall be required by the applicant to construct and operate the proposed system in the village, or a statement from a certified public accountant, certifying that the applicant has available sufficient free, net and uncommitted cash resources to construct and operate the proposed system in this village; and

(6) A statement identifying, by place and date, any other cable television franchise(s) awarded to the applicant, its parent or subsidiaries; the status of said franchise(s) with respect to completion thereof; the total cost of completion of such system(s); and the amount of applicant's and its parent's or subsidiary's resources committed to the completion thereof.

(C) A detailed description of the proposed plan of operation of the applicant, which shall include, but not be limited to, the following:

(1) A detailed map indicating all areas proposed to be served, routes to be taken, a diagram of the equipment which will be exposed and a proposed time schedule for the installation of all equipment necessary to become operational throughout the entire area to be served;

(2) A statement or schedule setting forth all proposed classifications of rates and charges to be made against subscribers and all rates and charges as to each of any said classification, including installation charges, service charges and special, extraordinary or other charges. The purchase price, terms and nature of any optional or required equipment, device or other thing to be offered for sale to any subscriber shall be described and explained in detail; and

(3) A detailed statement describing the actual equipment and operational standards proposed by the applicant.

(D) A copy of the form of any agreement undertaking or other instrument proposed to be entered into between the applicant and any subscriber;

(E) Any other information pertinent to the subject matter of such application and requested by the Committee; and

(F) An application fee in the sum of \$250 which shall be in the form of cash, certified or cashier's check or money order to pay the costs of studying, investigating and otherwise processing such application and shall not be returnable or refundable in whole or in part except to the extent that such fee exceeds the actual cost incurred by the village in studying, investigating and otherwise processing the application.

(Ord. 77, passed 8-6-1981)

§ 113.06 FRANCHISE PROCEDURE.

(A) The Village Council may, by advertisement or any other means, solicit and call for application for CATV franchises, and may determine and fix the time for filing such applications.

(B) Upon receipt of any application for franchise, in manner, time and form as herein or otherwise provided, the Village Clerk shall forward and deliver same to the Committee.

(C) Upon receiving the same from the Village Clerk, as aforesaid, the Committee shall cause such application to be investigated, shall prepare a report of such investigation, shall make its recommendations respecting such application, and shall cause said report and recommendations to be placed upon the agenda of a regular or special session of the Village Council. A copy of such report and recommendations and notice of the date it will be presented to the Village Council shall be mailed or otherwise delivered to the applicant at the address listed in the application. The Village Clerk shall cause notice of such meeting to be published at least once in a newspaper of general circulation in the village, stating the hour, date and place of the meeting, stating that the proposed franchise will be considered, and stating that comments from the public will be heard.

(D) The Village Council shall receive the report and recommendations of the Committee, shall consider the same together with such application, and comments of the public and shall make its determination either that such application be accepted upon such terms and conditions as the Village Council shall determine, or that such application be rejected. The Village Council may make its determination at the regular or special session at which the Committee report is received or may defer the decision to a subsequent regular session of the Village Council. In making any determination as to any application, the Council shall consider the quality of the service proposed, the rates to subscribers, income to the village, experience, character and financial responsibility of the applicant and its management and owners, the technical and performance quality of the equipment to be used, the willingness and ability of the applicant to meet construction and physical requirements, policy considerations, franchise limitations and requirements imposed by this subchapter and any other considerations deemed pertinent by the Village Council.

(E) If the Village Council shall determine that such application shall be rejected, such determination shall be final and conclusive. If the Village Council shall determine that such application shall be accepted, the Council shall:

(1) Decide and specify the terms and conditions of any franchise to be granted hereunder and as herein provided; and

(2) Pass an ordinance or resolution granting such franchise, stating the name of the grantee, the character of the franchise and the terms and conditions upon which such franchise is granted.

(Ord. 77, passed 8-6-1981)

§ 113.07 ACCEPTANCE OF FRANCHISE.

(A) No franchise hereunder shall become effective for any purpose unless and until a written acceptance thereof shall have been filed with the Village Clerk, and such written acceptance shall operate as an acceptance of each and every term and condition and limitation contained in this subchapter, and in such franchise.

(B) Such written acceptance shall be filed by the grantee not later than 30 days after grant of the franchise as provided above, and in default of such written acceptance as herein required, the grantee shall be deemed to have rejected the same.

(Ord. 77, passed 8-6-1981)

§ 113.08 FRANCHISE REQUIREMENTS.

In addition to any other franchise requirements hereunder, or made or adopted as herein provided, the following requirements shall apply to any franchise granted or renewed by the Village Council under this subchapter.

(A) *Franchise payments, operations within franchise area.* In consideration of the granting and exercise of a franchise to use the streets of the franchise area for the purpose of operating a cable television system for the use and benefit of subscribers therein, the grantee shall pay yearly to the village during the entire time of any franchise granted pursuant to this subchapter, an annual franchise fee equal to 3% of the grantee's yearly gross revenues derived from all cable services provided by the grantee within the village, or \$250, whichever is greater.

(B) *Franchise payments, operations outside franchise area.* In consideration of the granting and exercise of a franchise to use the streets of the franchise area solely for the purpose of providing cable television service to subscribers outside the franchise area, the grantee shall pay to the village during the entire life of the franchise, a franchise fee as specified by the Council when such franchise is granted, which fee shall be separate and distinct from that specified in division (A) above.

(C) *Franchise payments not in lieu of taxes.* Any franchise payments to the village by the grantee shall not be in lieu of any occupation, income, license or property tax or similar levy, assessment or charge which would otherwise apply to and be payable by the grantee.

(D) *Corporate surety bond re: village.* The franchise granted shall specify that upon acceptance of such franchise, the grantee shall file with the Village Clerk and shall thereafter during the entire term of such franchise maintain in full force and effect a corporate surety bond or other adequate surety agreement in the amount and kind specified in the franchise granted and conditioned that in the event the grantee shall fail to comply with any one or more of the provisions of such franchise, then there shall be recoverable jointly and severally from the principal and surety any damages or costs suffered or incurred by the village or by any subscriber as a result thereof, including attorneys' fees and costs of any action, or proceeding, and including the full amount of any compensation, indemnification, cost of removal of any property or other costs which may be incurred up to the full principal amount of such bond; and said condition shall be a continuing obligation during the entire term of such franchise and thereafter until the grantee shall have satisfied in full any and all obligations to the village and any subscriber which arise out of or pertain to said franchise. Neither the provisions of this section, nor any bond accepted by the village pursuant hereto nor any damages recovered by the village thereunder shall be construed to excuse faithful performance by the grantee, or limit the liability of the grantee under any franchise issued pursuant to this subchapter.

(E) *Comprehensive liability insurance.* Upon acceptance of such franchise, the grantee shall file with the Village Clerk and shall thereafter during the entire term of such franchise maintain in full force and effect a comprehensive liability policy of insurance with limits of not less than \$500,000 for property damage to any one person, \$500,000 for property damage in any one accident, \$500,000 for personal injury to any one person and \$1,000,000 for personal injury in any one accident or such higher amounts as the Village Council may fix in the franchise, or any amendment thereto, and of such insuring institutions, form and substance as shall be approved by the Committee, and which shall assure the grantee, and shall provide primary coverage for the village, its officers, board, committees, agents and employees against liability for loss or damage for personal injury, death and property damage occasioned by any activity or operation of the grantee under such franchise.

(F) *Hold harmless agreement.* The grantee shall indemnify and hold harmless the village, its officers, board, committees, agents and employees against and from any and all claims, demands, causes of actions, actions, suits, proceedings, damages, (including, but not limited, to damages to village property and damages arising out of copyright infringements, and damages arising out of any failure by the grantee to secure consents from the owners, authorized distributors or licensees of programs to be delivered by the grantee's cable television system), costs or liabilities (including costs or liabilities of the village with respect to its employees), of every kind and nature whatsoever including, but not limited to, damages for injury or death or damage to person or property, and regardless of the merit of any of the same, against all liability to others, and against any loss, cost and expense resulting or arising out of any of the same including any attorney fees, accountant fees, expert witness or consultant fees, court costs, per diem expense, travelling and transportation expense or other costs or expense arising out of or pertaining to the exercise or the enjoyment of any franchise hereunder by the grantee or the granting thereof by the village.

(G) *Defense of litigation.* The grantee shall at the sole risk and expense of the grantee, upon demand of the village, made by and through the Village Attorney, appear in and defend any and all suits, actions or other legal proceedings whether judicial, quasi-judicial, administrative, legislative or otherwise, brought or instituted or had by third persons or duly constituted authorities, against or affecting the village, its officers, board, committees, agents or employees and arising out of or pertaining to the exercise or the enjoyment of such franchise, or the granting thereof by the village.

(Ord. 77, passed 8-6-1981)

§ 113.09 CONSTRUCTION AND USE OF FACILITIES.

(A) Within 30 days after acceptance of any franchise, the grantee shall proceed with due diligence to obtain all necessary permits and authorizations which are required in the conduct of its business, including, but not limited, to any utility joint use attachment agreements, microwave carrier licenses, and any other permits, licenses and authorizations to be granted by duly constituted regulatory agencies having jurisdiction over the operation of cable television systems, or associated microwave transmissions facilities. In connection therewith, copies of all petitions, applications and communications submitted by the grantee to the Federal Communications Commission or any other federal or state regulatory commission or any agency having jurisdiction in respect to any matters affecting the grantee's cable television operations, shall also be submitted simultaneously to the Committee.

(B) Within 30 days after obtaining all necessary permits, licenses and authorizations, including right of access to poles and conduits, the grantee shall commence construction and installation of the CATV system.

(C) Within two years after the commencement of construction and installation of the system, the grantee shall complete construction of the facilities needed to permit the reception of broadcast signals, the origination of programming within the village, and the distribution of signals to the franchise area. Provided, however, the Village Council may approve exceptions to this requirement upon a showing by the grantee of undue hardship or expense.

(D) Failure on the part of the grantee to commence and diligently pursue each of the foregoing requirements and to complete each of the matters set forth herein shall be grounds for termination of such franchise.

(E) The grantee shall utilize existing poles, conduits and other facilities whenever possible and shall not construct or install any new, different or additional poles, conduits or other facilities without first securing the written approval of the Committee. Any poles, conduits or other facilities of the grantee to be installed in, under, over, along, across or upon a public street, alley, way or place shall be so located so as to cause minimum interference with the rights of other users of the streets, alleys, ways or places or of property owners who adjoin any of the streets, alleys, ways or places. In the event of disturbance of any public street, alley, place or way by the grantee, it shall, at its own expense, promptly replace and restore such street to as good a condition as before the work causing such disturbance was performed, and to the satisfaction of the Committee.

(F) In all sections of the village where all existing cables or other like facilities of utility companies are presently or subsequently placed underground, the grantee shall place its cables or like facilities underground, at the grantee's expense.

(G) The village shall have the right, free of charge, to make additional use, for any public or municipal purpose, whether governmental or proprietary, of any poles, conduits or other facilities erected, controlled, or maintained exclusively by or for the grantee in any street or other public way or public place, provided such use by the village does not interfere with the use by the grantee.

(H) The grantee shall at the expense of the grantee, protect, support, temporarily disconnect or temporarily relocate any property of the grantee when, in the opinion of the Committee, the same is required by reason of street construction, change or establishment of street grade, installation of sewers, drains, waterpipes, power lines or signal lines.

(I) In the event the use of any part of the system of the grantee is discontinued for any reason for a continuous period of 30 days, without prior written notice to and approval by the Committee, or in the event any part of such system has been installed in any street or other area without complying with the requirements hereof, or in the event any franchise shall be terminated, cancelled or shall expire, the grantee shall, at the option of the village, and at the expense of the grantee and at no expense to the village, promptly remove from any street or other area all property of the grantee and the grantee shall promptly restore the street or other area from which such property has been removed to such condition as the Committee shall approve; provided the Village Council may, upon written application therefore by the grantee; approve the abandonment of any such property in place by the grantee and under such terms and conditions as the Village Council may prescribe; and upon abandonment of any such property in place, the grantee shall cause to be executed, acknowledged and delivered to the village such instruments as shall be approved by the Committee, conveying the ownership of such property to the village.

(J) Upon the failure, refusal or neglect of the grantee to cause any work or other act required by law or by this subchapter to be completed in, on, over or under any street within any time prescribed therefor, or upon notice given, where notice is prescribed, the Committee may cause such work or other act to be completed in whole or in part, and upon so doing shall submit to the grantee an itemized statement of the costs thereof, and the grantee shall, within 30 days after receipt of such statement, pay unto the village the entire amount thereof.

(Ord. 77, passed 8-6-1981)

§ 113.10 STANDARDS.

(A) *General rules.* The CATV system of a grantee receiving a franchise shall:

(1) Be capable of relaying to subscriber terminals television and radio broadcast signals;

(2) Be constructed with the capability of two-way digital signal transmission;

(3) Distribute color television signals which it receives;

(4) Be constructed and operated so as not to interfere with the television reception of persons not served by the grantee and so as not to interfere with, obstruct or hinder in any manner the operation of any utility serving the village;

(5) Provide at least one channel, without charge, for exclusive use of the village and other governmental agencies;

(6) Provide at least one channel, without charge, for use by the public school system; provided, however, the Village Council may waive this requirement at the time a franchise is granted if the franchise so granted provides for the addition of said channel by the grantee at the request of the Village Council, after the Village Council has determined there is a demand for said channel; and

(7) Provide at least one channel as a public access channel for use by civic groups and interested citizens; provided, however, the

Village Council may waive this requirement at the time a franchise is granted if the franchise so granted provides for the addition of said channel by the grantee at the request of the Village Council, after the Village Council has determined there is a demand for said channel.

(B) *Additional services.* The cable television system may also engage in the business of:

(1) Transmitting original cablecast programming not received through television broadcast signals;

(2) Transmitting television pictures, film and videotape programs, not received through broadcast television signals, whether or not encoded or processed to permit reception by only selected receivers or subscribers; and/or

(3) Transmitting and receiving all other signals: digital, voice and audio-visual.

(C) *Refusal of service.* No person, firm or corporation within the service area of the grantee, and where trunk lines are in place, shall be refused service; provided, however, that the grantee shall not be required to provide service to any subscriber who does not pay the applicable connection fee or service charges.

(D) *Service standards.* The grantee shall:

(1) Correct malfunctions promptly but in no event later than 24 hours after occurrence; in the event it should be impossible or impractical to correct any malfunctions within 24 hours, then each subscriber whose reception is so disrupted shall receive a rebate from the grantee in the amount of one thirtieth of such subscriber's monthly charge for every additional 24-hour period that said subscriber's television reception is so disrupted, unless said disruption in service was entirely beyond the control of the grantee;

(2) Answer all complaints by subscribers;

(3) Planned interruptions of service, insofar as possible, shall be preceded by a notice given to subscribers 24 hours in advance and shall occur during periods of minimum use of the system;

(4) Maintain an office in the village, which office shall be open during the usual business hours, with a local telephone number listed in directories of the telephone company serving the village, which office shall be so operated that complaints and requests for repairs or adjustments may be received at any time, 24 hours a day, seven days a week, provided, however, that the Village Council may waive the requirement of maintaining an office in the village, if the grantee shall maintain an office in the area, subject to the same standards as if in the village, and provide an agent in the village to receive payments and accept complaints; and

(5) Provide notice of such office, or area office and local agent, and the grantee's complaint procedure to each subscriber at the time of initial subscription to the system.

(E) *Complaint procedures.* The Committee shall have primary responsibility for the administration of complaints regarding cable television franchises, and shall adopt procedures to be followed in resolving and processing such complaints.

(F) *Content.* The grantee shall not send, transmit, retransmit or otherwise pass through its system any material, audio or visual, which is obscene under state or local law or any motion picture which has been rated "X" by the Motion Picture Film Board.

(G) *Failure to provide service.* Any grantee of any franchise hereunder who shall, within one year after the payment of any installation charge by any subscriber, fail to operate its system or make its system available to such subscriber, on a regular and continuous basis, shall refund the installation charge to such subscriber, together with interest thereon at not less than 5% per year.

(Ord. 77, passed 8-6-1981)

§ 113.11 FRANCHISE LIMITATION.

In addition to any other franchise limitations hereunder or as herein provided, the following limitations shall apply to any franchise granted or renewed by the Village Council under this subchapter.

(A) *Nature of franchise.* Such franchise shall be nonexclusive, and neither the granting thereof nor any of the provisions contained herein or in such franchise shall limit, abridge, diminish, alter or affect the right, privilege, power or authority of the Village Council; and the Village Council hereby reserves and preserves the right to grant any identical or similar or different franchise to any person, firm or corporation other than the grantee, either within or without or partly within or partly without the franchise area of any grantee, subject only to the restrictions provided in § 113.04(A) of this subchapter. No privilege or exemption shall be granted or conferred by any franchise granted hereunder except those specifically prescribed in this subchapter.

(B) *Subordination of franchise privileges.* The grant of any privilege by any franchise hereunder shall be subordinate to any prior lawful occupancy of any street or public property or to the grant of any privilege under any other franchise of prior date, insofar as there shall be any conflict.

(C) *Transfer of franchise.* Any franchise granted hereunder shall be a privilege to be held in personal trust by the original grantee. It cannot, in any event, be sold, transferred, leased, assigned or disposed of in whole or in part, either by forced or involuntary sale, or by voluntary sale, merger, consolidation or otherwise without prior written consent of the Village Council, and then only under such conditions as may therein be prescribed.

(1) Notice and request for approval of any proposed sale or transfer of this franchise must be given to the Village Council not later than 90 days before the proposed sale or transfer. Any such transfer or assignment shall be made only by an instrument in writing, such as a bill of sale, or similar document, a duly executed copy of which shall be filed in the office of the Village Clerk within 30 days after any such transfer or assignment. The said consent of the Village Council may not be unreasonably refused; provided, however, the proposed assignee must show financial responsibility as determined by the Village Council and must agree to comply with all the provisions of the franchise and of this subchapter; and provided, further, that no such consent shall be required for a transfer in trust, mortgage or otherwise, in whole or in part, to secure an indebtedness, except that when such transfer shall exceed 50% of the market value of the property used by the franchisee in the conduct of the cable television system, prior consent of the Village Council shall be required for such a transfer. Such a consent shall not be withheld unreasonably.

(2) In the event that the grantee is a corporation, prior approval of the Village Council, expressed by resolution, shall be required where there is an actual change in control or where ownership of more than 30% of the voting stock of the grantee is acquired by a person or group of persons acting in concert, none of whom already own 30% or more of the voting stock, singly or collectively.

(D) *Term of franchise.* No franchise granted or renewed by the Village Council under this subchapter shall be for a term shorter than five years, unless terminated prior to its expiration as herein provided, nor shall any such franchise be granted or renewed for a term longer than 15 years. Any franchise renewal shall be subject to the prior approval of the Village Council utilizing the same procedures as prescribed herein for the granting of a new franchise.

(E) *Review of franchise.* Every five years after the effective date of the franchise the Council and the grantee shall jointly review the performance of the grantee's operation and specifically the Village Council will inquire whether the grantee is supplying a level and variety of services equivalent to those being generally offered at the time in the industry, in comparable market situations. In the event that the grantee desires to change or modify its obligations under its franchise, it may negotiate with the Village Council to do so at that time. Within 60 days of the conclusion of the review the Village Council and the grantee shall report in public proceeding the result of their review and their conclusions. The Village Council may then order unilateral changes in the franchise rights and obligations of the grantee where said changes cause no economic impact. Any changes that cause substantial adverse economic impact shall be the subject of negotiations with the grantee. Any disputes hereunder shall be resolved by arbitrators, one selected by each party and the third selected by the other two, whose decision shall be final. The arbitrators are to base their decision on what is fair and equitable to all concerned.

(F) *Recourse against village.* The grantee shall have no recourse or remedy whatsoever against the village for any loss, cost, expense or damage arising out of or with respect to any franchise hereunder, or this subchapter, or the enforcement thereof.

(G) *Village rules and regulations.* The grantee shall be subject to all ordinances, rules, regulations and specifications of the village heretofore or hereafter established including but not limited to, those pertaining to works and activities, in, on, over, under and about streets.

(H) *Prohibited activities of the grantee.* The grantee shall be prohibited from directly or indirectly doing any of the following:

- (1) Engaging in the business of selling at retail, leasing, renting, repairing or servicing of television sets or radios;
- (2) Soliciting, referring or causing or permitting the solicitation or referral of any subscriber to persons engaged in any business herein prohibited to be engaged in by the grantee;
- (3) Providing information concerning the viewing patterns of identifiable individual subscribers to any person, group or organization for any purpose, without the consent of the subscriber;
- (4) Entering or encroaching upon or interfering with or obstructing any private property without the express consent of the owner; and
- (5) Providing any repair service to its subscribers for a fee, which repair extends beyond the connection of its service or the determination by the grantee of the quality of its signals to the recipients thereof.

(Ord. 77, passed 8-6-1981)

§ 113.12 REGULATION OF RATES AND SERVICE.

At the time of the granting of any franchise hereunder, the Village Council shall approve and include therein all rates and charges allowable to the grantee, including, but not limited to, all such rates and charges for installation of equipment, service charges for all classifications of service including additional connections at one location and any other rates and charges of the grantee to subscribers. No such rates or charges shall be changed at any time after the granting of a franchise, except by authority of the Village Council, and upon written request by the grantee, provided, that prior to authorizing the change of any rates or charges of the grantee to subscribers, at any time after the granting of such franchise, the Village Council shall first pass its resolution of intention to do so, describing and stating any rates or charges to be changed, the reasons of the Village Council therefor, fixing a day, hour and place certain when and where any persons having an interest therein may appear before the Village Council and be heard and directing the Village Clerk to publish notice of such hearing at least once. The Village Clerk shall cause such notice to be published in a newspaper of general circulation within the village, and the same shall be published and a copy thereof shall be mailed to any grantee hereunder at least ten days prior to the date specified for hearing thereon. At the time set for such hearing, or at any adjournment thereof, the Village Council shall proceed to hear and pass on all presentations made before it, and the decision of the Village Council thereon shall be final and conclusive. If the Village Council shall find that a change of rates or charges is justified by a change in cost of operation, the Village Council shall approve the change in rates.

(Ord. 77, passed 8-6-1981)

§ 113.13 INSPECTION OF PROPERTY AND RECORDS.

(A) The grantee shall at all reasonable times, and to the extent necessary to carry out the provisions of this subchapter, permit any duly authorized agent or representative of the village to examine all franchise property of the grantee, together with any appurtenant property of the grantee situated within or without the village, and to examine and transcribe any and all maps and other records kept or maintained by the grantee or under the control or direction or at the request of the grantee which appertain to the franchise operations, affairs, transactions or property of the grantee.

(B) The grantee shall prepare and furnish to the Committee, at such times and in such form as prescribed by the Committee, references and materials with respect to the operations, affairs, transactions or property of the grantee as may be reasonably necessary or appropriate to the performance of any of the duties of the Committee.

(Ord. 77, passed 8-6-1981)

§ 113.14 DEFAULT.

Failure, refusal, or neglect by the grantee to comply with any requirement herein, or any term or condition of a franchise issued hereunder shall be sufficient cause for termination of any franchise by the village as follows.

(A) Upon the continuing of any such failure, refusal or neglect for a period of ten days, next following written demand by the Committee that the grantee do or comply with any such requirement, limitation, term or condition, the Committee may cause to be placed on the agenda of a regular session of the Village Council its request for termination of such franchise, and in such case, the Committee shall cause to be served upon such grantee, at least 15 days prior to the date of such session of the Village Council, a written notice of its intent to request such termination at the time and place of such session.

(B) At such session of the Village Council, or any adjournment thereof, the Village Council shall consider the request of the Committee and shall hear any persons desiring to be heard, and shall determine whether or not such failure, refusal or neglect by the grantee was with just cause.

(C) If the Village Council shall determine such failure, refusal or neglect by the grantee was without just cause, then the Village Council may pass its resolution declaring that the franchise of such grantee shall be terminated and forfeited unless there is compliance by the grantee within 15 days, and such resolution shall operate to declare such franchise terminated and forfeited on the fifteenth day next following the passage thereof, and without further notice to the grantee, unless the grantee shall so comply within such 15-day period, such termination and forfeiture to become effective for all purposes 180 days thereafter.

(D) Within 180 days after such declaration of termination and forfeiture, the grantee may sell, remove, or transfer the entire system

of the grantee, subject to the provisions of § 113.11(C) of this subchapter and upon any such sale or transfer in addition to any other rights hereunder or otherwise, the village shall have a lien (next in order of preference to any liens or encumbrances existing of record on the date of such termination and forfeiture) against any and all proceeds thereof in the full amount of any loss, cost, expense or other financial detriment incurred by the village in the exercise of any right hereunder, or by reason of such termination and forfeiture.

(E) If the grantee shall fail to or refuse to sell, remove or transfer the entire system of the grantee, as hereinabove provided, and regardless of the exercise of any other right of the village hereunder, then the village may institute appropriate court action to enforce requirements of this section.

(Ord. 77, passed 8-6-1981)

RATE REGULATION

§ 113.25 DEFINITIONS.

(A) For purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT. The Cable Communications Act of 1934, being 47 U.S.C. §§ 521 et seq., as amended (and specifically as amended by the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385), and as may be amended from time to time.

ASSOCIATED EQUIPMENT. All equipment and services subject to regulation pursuant to 47 C.F.R. § 76.923.

BASIC CABLE SERVICE. "Basic service" as defined in the FCC Rules, and any other cable television service which is subject to rate regulation by the village pursuant to the Act and the FCC Rules.

FCC. The Federal Communications Commission.

FCC RULES. All rules of the FCC promulgated from time to time pursuant to the Act.

INCREASE IN RATES. An *INCREASE IN RATES* or a decrease in programming or customer services.

(B) All other words and phrases used in this subchapter shall have the same meaning as defined in the Act and FCC Rules.

(Ord. 117, passed 10-13-1993)

§ 113.26 PURPOSE; INTERPRETATION.

The purpose of this subchapter is to:

(A) Adopt regulations consistent with the Act and the FCC Rules with respect to basic cable service rate regulation; and

(B) 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 village. This subchapter shall be implemented and interpreted consistent with the Act and FCC Rules.

(Ord. 117, passed 10-13-1993)

§ 113.27 RATE REGULATION PROMULGATED BY FCC.

In connection with the regulation of rates for basic cable service and associated equipment, the village shall follow all FCC Rules.

(Ord. 117, passed 10-13-1993)

§ 113.28 FILING; ADDITIONAL INFORMATION; BURDEN OF PROOF.

(A) 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 copies of the schedule or proposed increase with the Village Clerk. For purposes of this subchapter, the filing of the cable operator shall be deemed to have been made when at least ten copies have been received by the Village Clerk. The Village 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.

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

(C) 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 U.S.C. § 543 and 47 C.F.R. §§ 76.922 and 76.923.

(Ord. 117, passed 10-13-1993)

§ 113.29 PROPRIETARY INFORMATION.

(A) If this subchapter, any rules or regulations adopted by the village pursuant to § 113.28(A) or any request for information pursuant to § 113.28(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 village determines that the preponderance of the evidence shows that nondisclosure is consistent with the provisions of the Freedom of Information Act, 5 U.S.C. § 552. The village 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.

(B) Any interested party may file a request to inspect material withheld as proprietary with the village. The village shall weigh the policy considerations favoring nondisclosure 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.

(C) 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 C.F.R. § 0.459.

(Ord. 117, passed 10-13-1993)

§ 113.30 PUBLIC NOTICE; INITIAL REVIEW OF RATES.

(A) Upon the filing of ten copies of the schedule of rates or the proposed increase in rates pursuant to § 113.28(A), the Village Clerk shall publish a public notice in a newspaper of general circulation in the village which shall state that:

(1) The filing has been received by the Village 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 Village Clerk not later than seven days after the public notice is published.

(B) The Village Clerk shall give notice to the cable operator of the date, time and place of the meeting at which the Village Council

shall first consider the schedule of rates or the proposed increase. This notice shall be mailed by first-class mail at least three 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 Village Council, then the Village Clerk shall mail a copy of the report by first class mail to the cable operator at least three days before the meeting at which the Village Council shall first consider the schedule of rates or the proposed increase.

(Ord. 117, passed 10-13-1993)

§ 113.31 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 30 days from the date of filing under § 113.28(A) unless the Village Council (or other properly authorized body or official) tolls the 30 days' deadline pursuant to 47 C.F.R. § 76.933 by issuing a brief written order, by resolution or otherwise, within 30 days of the date of filing. The Village Council may toll the 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.

(Ord. 117, passed 10-13-1993)

§ 113.32 PUBLIC NOTICE; HEARING ON BASIC CABLE SERVICE RATES FOLLOWING 30-DAY DEADLINE.

(A) If a written order has been issued pursuant to § 113.31 and 47 C.F.R. § 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 village any additional information required or requested pursuant to § 113.28. In addition, the Village 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.

(B) The Village Clerk shall publish a public notice of the public hearing in a newspaper of general circulation within the village 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 Village Clerk.

(C) The public notice shall be published not less than 15 days before the hearing. In addition, the Village Clerk shall mail by first-class mail a copy of the public notice to the cable operator not less than 15 days before the hearing.

(Ord. 117, passed 10-13-1993)

§ 113.33 STAFF OR CONSULTANT REPORT; WRITTEN RESPONSE.

Following the public hearing, the Village President shall cause a report to be prepared for the Village 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 Village Council pursuant to § 113.34. The Village Clerk shall mail a copy of the report to the cable operator by first-class mail not less than 20 days before the Village Council acts under § 113.34. The cable operator may file a written response to the report with the Village Clerk. If at least ten copies of the response are filed by the cable operator, the Village Clerk shall forward it to the Village Council.

(Ord. 117, passed 10-13-1993)

§ 113.34 RATE DECISIONS AND ORDERS.

The Village 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 Village 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 C.F.R. § 76.933. The order specified in this section shall be issued within 90 days of the tolling order under § 113.31 in all cases not involving a cost-of-service showing. The order shall be issued within 150 days after the tolling order under § 113.31 in all cases involving a cost-of-service showing.

(Ord. 117, passed 10-13-1993)

§ 113.35 REFUNDS; NOTICE.

The Village Council may order a refund to subscribers as provided in 47 C.F.R. § 76.942. Before the Village Council orders any refund to subscribers, the Village Clerk shall give at least seven days' written notice to the cable operator by first-class mail of the date, time and place at which the Village 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 Village Council.

(Ord. 117, passed 10-13-1993)

§ 113.36 WRITTEN DECISION; PUBLIC NOTICE.

(A) Any order of the Village Council pursuant to § 113.34 or § 113.35 shall be in writing, shall be effective upon adoption by the Village Council and shall be deemed released to the public upon adoption.

(B) The Village Clerk shall publish a public notice of any such written order in a newspaper of general circulation within the village 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 Village Clerk.

(C) In addition, the Village Clerk shall mail a copy of the text of the written decision to the cable operator by first-class mail.

(Ord. 117, passed 10-13-1993)

§ 113.37 ADDITIONAL RULES ADOPTED BY COUNCIL.

In addition to rules promulgated pursuant to § 113.28, the Village 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.

(Ord. 117, passed 10-13-1993)

§ 113.38 FAILURE TO GIVE NOTICE.

The failure of the Village Clerk to give the notices or to mail copies of reports as required by this subchapter shall not invalidate the decisions or proceedings of the Village Council.

(Ord. 117, passed 10-13-1993)

§ 113.39 ADDITIONAL HEARINGS.

In addition to the requirements of this subchapter, the Village Council may hold additional public hearings upon such reasonable notice as the Village Council, in its sole discretion, shall prescribe.

(Ord. 117, passed 10-13-1993)

§ 113.40 ADDITIONAL POWERS.

The village 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 subchapter shall be in addition to powers conferred by law or otherwise. The village 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.

(Ord. 117, passed 10-13-1993)

§ 113.41 FAILURE TO COMPLY; REMEDIES.

The village 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 village) for failure to comply with the Act, the FCC Rules, any orders or determinations of the village pursuant to this subchapter, any requirements of this subchapter 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 village pursuant to this subchapter, any requirements of this subchapter or any rules and regulations promulgated hereunder, shall also be sufficient grounds for revocation or denial of renewal of a cable operator's franchise.

(Ord. 117, passed 10-13-1993)

§ 113.42 CONFLICTING PROVISIONS.

In the event of any conflict between this subchapter and the provisions of any prior ordinance or any franchise, permit, consent agreement or other agreement with a cable operator, then the provisions of this subchapter shall control.

(Ord. 117, passed 10-13-1993)

CHAPTER 114: SECOND HAND DEALERS, JUNK SHOPS AND JUNK DEALERS

Section

- 114.01 Definitions
- 114.02 License required; persons prohibited from receiving license
- 114.03 Fees; expiration of license
- 114.04 Metal tag to be kept by licensee
- 114.05 Business to be conducted inside building; fences or gates
- 114.06 Dealing in second hand articles
- 114.07 Sales of second hand bedding and clothing
- 114.08 Business hours
- 114.09 Sign; records
- 114.10 Articles to be held for certain time; description of articles to be provided to Village Clerk
- 114.11 Purchases from certain persons prohibited
- 114.12 Maintenance of premises

§ 114.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COLLECTOR. A person engaged in the business of collecting, receiving or purchasing second hand property or junk.

JUNK. Any personal property which is or may be salvaged for re-use, re-sale, reduction or similar disposition, or which is possessed, transported, owned, collected, accumulated, dismantled or assorted for any of the aforesaid purposes. Without limiting the aforesaid definition of **JUNK**, the term shall include used or salvaged iron, brass, lead, copper and other base metal or metals and their compounds or combinations; used or salvaged ropes, bags, paper, rags, glass, rubber and similar articles or property, and used motor vehicles which are used, owned or possessed for the purpose of wrecking or salvaging parts therefrom.

JUNK DEALER. Every person who engages in the business of buying, exchanging, collecting, receiving, storing or selling any article or articles hereinabove defined as "junk."

JUNK YARD or **JUNK SHOP.** Any place at which a junk dealer buys, exchanges, collects, receives, stores, accumulates, sells or otherwise handles junk.

MOTOR VEHICLE DISMANTLING ESTABLISHMENT OR YARD. Any place at which motor vehicles are dismantled for purposes of taking the parts thereof for re-use or re-sale or destroying or salvaging same, and/or any place where motor vehicles are stored or accumulated for the purposes of dismantling same.

PERSON. Firm, corporation or individual **PERSON**.

SECOND HAND DEALER. Any person who engages in the business of buying, exchanging, collecting, receiving, storing or selling any property defined in this section as "second hand property."

SECOND HAND PROPERTY. Any used household furniture, used wearing apparel, used lumber, used brick, used tile, used plumbing fixtures, used electrical fixtures, used articles made of precious metal or metals, used jewelry, used tools, used motor vehicles or parts thereof and any other used articles or personal property bought and sold by and from other than the original purchaser and user.

SECOND HAND STORE. Any place at which a second hand dealer buys, exchanges, collects, receives, stores or sells second hand property.

(Ord. 24, passed 7-2-1953)

§ 114.02 LICENSE REQUIRED; PERSONS PROHIBITED FROM RECEIVING LICENSE.

(A) No person shall maintain or operate a second hand store or junk shop or junk yard or motor vehicle dismantling establishment, without first obtaining a license therefor. Application for such license shall be made to the Village Clerk upon blanks to be provided. The applicant shall state his or her name, whether a person, firm or corporation, the place or places at which such business is to be or is conducted or maintained and the applicant's residence for a period of three years preceding such application. The applications so received by the Village Clerk shall be referred to the Village President and by him or her to the Village Marshal, for purposes of investigation and recommendation by such.

(B) After receipt of such recommendations, the application shall be submitted to the Village Council. The sole power to grant licenses hereunder is vested in said Village Council. Licenses granted by said Village Council shall be issued by the Village Clerk.

(C) Any applicant seeking to establish a second hand store or junk shop or junk yard or motor vehicles dismantling establishment, in a location not previously used for that purpose, or any licensee seeking to move or establish same in a location not previously used for that purpose, must first obtain the consent in writing of 65% of the owners of residential property within 300 yards of any part of the area in which the proposed business is to be conducted. Said area shall include any portion to be used for the storage of any property in connection with such proposed business.

(D) No second hand store, junk shop, junk yard or motor vehicle dismantling yard or any part thereof, shall be hereafter established

or located in any residential zone in the village nor shall same be hereafter established or located within 300 feet from any public street or highway in the village, nor shall same be hereafter established or located within 300 feet from any inhabited building or dwelling, nor shall same be hereafter established or located within 300 feet from any adjoining private property line.

(E) No person known to be a thief or an associate of thieves, an habitual drunkard, a receiver of stolen property or incapable of keeping the records and making the reports herein provided for shall be deemed to be a suitable person to receive a license as second hand dealer or junk dealer, and any person to whom a license as may have been granted, may have his or her license revoked by the Village Council on good cause shown and after reasonable notice and opportunity to be heard before such Village Council or committee thereof.

(Ord. 24, passed 7-2-1953)

§ 114.03 FEES; EXPIRATION OF LICENSE.

(A) The following fees shall be paid:

(1) For each person, corporation, co-partnership or firm engaged in or carrying on the business in the village of second hand dealer or junk dealer as defined in § 114.01, having a yard for the storage of second hand property and/or junk, the sum of \$25 per annum; provided, that a separate license must be taken out for each yard so used for the storage of second hand property and/or junk;

(2) For each person, corporation, co-partnership or firm engaged in or carrying on the business in the village of second hand dealer or junk dealer as hereinbefore defined, having a store room or building for the storage of second hand property and/or junk, the sum of \$25 per annum; provided, that a separate license must be taken out for each separate location so used for the storage of second hand property and/or junk; and

(3) For each collector in the village, as defined in § 114.01, the sum of \$5 per annum.

(B) All licenses issued hereunder shall expire on March 1 of each year.

(Ord. 24, passed 7-2-1953) Penalty, see § 114.99

§ 114.04 METAL TAG TO BE KEPT BY LICENSEE.

Each collector licensed hereunder shall receive from the Village Clerk a metal tag not exceeding six inches in diameter bearing the type of license and the license number. Said tag shall be kept by such collector on his or her person or vehicle when engaged in the business of collecting second hand property or junk as defined in § 114.01, and said tag must be produced at the request of any police officer or private person.

(Ord. 24, passed 7-2-1953)

§ 114.05 BUSINESS TO BE CONDUCTED INSIDE BUILDING; FENCES OR GATES.

(A) No person shall maintain a junk yard or junk shop within the village unless such business is carried on entirely inside a building or buildings, or unless the premises on which such business is conducted is entirely closed in, except for gates, by a solid or closed board fence not less than six feet in height. If painted, said fence shall be painted one solid color, and said fence shall be maintained in good solid and sightly condition at all times.

(B) Gates for access to said premises shall swing inward and such gate shall be closed when the premises are not open for business, and such gates shall be of solid board construction not less than six feet high and match the fence.

(C) Barbed wire may be installed on the tops of such fences on arms or supports projecting over the private property side of the fence at least eight feet above the adjacent grade.

(D) For a distance of at least 30 feet from the exterior of all buildings and/or fences enclosing or housing such junk yard or junk shop or motor vehicle dismantling yard, no grass, weeds, shrubbery or undergrowth shall be allowed to grow to a height exceeding one foot.

(Ord. 24, passed 7-2-1953) Penalty, see § 114.99

§ 114.06 DEALING IN SECOND HAND ARTICLES.

Any person, corporation, member or members of a co-partnership or firm whose business in whole or in part is that of purchasing, selling, exchanging or receiving second hand articles of any kind, is hereby declared to be a second hand dealer or junk dealer. This definition shall not apply to retail merchants who repossess their own merchandise sold on a title-retaining contract or chattle mortgage basis.

(Ord. 24, passed 7-2-1953)

§ 114.07 SALES OF SECOND HAND BEDDING AND CLOTHING.

(A) It shall be unlawful for any second hand dealer or junk dealer to sell or deliver or cause to be sold or delivered any bed mattress which is stained or discolored, or the contents of which are musty, or to sell or deliver any second hand clothing or bedding until the same has been thoroughly cleaned and disinfected, or to sell or deliver any second hand linen until the same has been laundered.

(B) The foregoing provisions shall apply only when such articles are sold or delivered for consumption or use or re-sold at retail, and that such provisions are inapplicable when such articles are to be sold or delivered for re-processing.

(Ord. 24, passed 7-2-1953) Penalty, see § 114.99

§ 114.08 BUSINESS HOURS.

No person shall purchase any junk, as defined in § 114.01, between the hours of 6:00 p.m. and 7:00 a.m. nor on any Sunday.

(Ord. 24, passed 7-2-1953) Penalty, see § 114.99

§ 114.09 SIGN; RECORDS.

Such second hand dealer or junk dealer as defined in § 114.01, shall post in a conspicuous place in or upon his or her shop, store, wagon, vehicle, barn or other place of business, a sign having his or her name and occupation legibly inscribed thereon, and shall keep a separate book, open to inspection by members of the state police force, County Sheriff's office and other public officers, in which shall be written in the English language at the time of the purchase or exchange of such article a description thereof, the name, description and residence of the person from whom the same was purchased and received and the day and hour when such purchase or exchange was made. Each entry shall be numbered consecutively, commencing with number one.

(Ord. 24, passed 7-2-1953) Penalty, see § 114.99

§ 114.10 ARTICLES TO BE HELD FOR CERTAIN TIME; DESCRIPTION OF ARTICLES TO BE PROVIDED TO VILLAGE CLERK.

(A) Such articles purchased or exchanged, as provided herein, shall be retained by the purchaser thereof for not less than eight days before disposing of them, in an accessible place in the building where such articles are purchased and received. A tag shall be attached to such article in some visible and conspicuous place with a number written thereon to correspond with entry number in such book. Such purchaser shall prepare and deliver on Monday of each week to the Village Clerk, before 12:00 noon, a legible and correct copy, written in the English language, from such book, containing a description of each article purchased or received during the preceding week, the hour and day when the purchase was made and the description of the person from whom it was purchased. Such statement shall be verified by the affidavit of the person subscribing his or her name thereto.

(B) This section shall not apply to iron, steel, old rags or waste paper. Provided further, nothing herein contained shall make it necessary for the purchaser to retain articles purchased from individuals, firms or corporations having a fixed place of business in the village or elsewhere after such articles shall have been reported to the Village Clerk as herein provided.

(Ord. 24, passed 7-2-1953) Penalty, see § 114.99

§ 114.11 PURCHASES FROM CERTAIN PERSONS PROHIBITED.

No purchase or receipt of any articles shall be made from any person who is at the time intoxicated or from any habitual drunkard or from any person known by said junk dealer to be a thief or an associate of thieves or a receiver of stolen property, or from any person whom he or she has reason to suspect or from any minor under the age of 21 years without the consent of the parents of such minor.

(Ord. 24, passed 7-2-1953) Penalty, see § 114.99

§ 114.12 MAINTENANCE OF PREMISES.

All premises used as a junk yard or junk shop shall be kept and maintained in a clean, sanitary and neat condition. The person operating a junk yard or junk shop shall maintain the premises so used so that rats, vermin and fire hazard are as far as practicable reduced to a minimum. No rubbish or portion or parts of wrecked machines and other accumulations which are to be discarded by such junk dealer shall be burned in such premises without the written consent of the Village Marshal.

(Ord. 24, passed 7-2-1953) Penalty, see § 114.99

§ 114.99 PENALTY.

Any person violating any of the provisions of this chapter shall be punished by a fine of not exceeding \$100, nor less than \$10, or by imprisonment in the county jail not exceeding 90 days, or by both such fine and imprisonment in the discretion of the court trying the offender.

(Ord. 24, passed 7-2-1953)

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

CHAPTER 130: GENERAL OFFENSES

Section

General Provisions

130.01 Definitions

Offenses Against Public Peace and Safety

130.15 Public nudity

130.16 Obstruction of public place

130.17 Littering

130.18 Creating nuisance by use of noise producing device

130.19 Occupying motor vehicle with open container of alcohol

130.20 Drinking alcoholic beverages in public places; public intoxication

130.21 Disturbing the peace

130.22 Assault and battery

130.23 Disturbance of religious or other lawful assemblage

130.24 Public use of profane language

Offenses Involving Minors

130.35 Curfew for minors

130.36 Furnishing minors with alcohol; minors possessing alcohol

130.37 Parental responsibilities as to minors

130.99 Penalty

Cross-reference:

Prohibition against children in a sexually oriented business, see § 110.41

GENERAL PROVISIONS

§ 130.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PUBLIC PLACE. Any park, alley, street, sidewalk or parking lot to which the public, or any number of persons of the public has access to, or to which the public is customarily invited or admitted.

VILLAGE. The Village of Three Oaks, Berrien County, Michigan.

(Ord. 64, passed 12-2-1976)

OFFENSES AGAINST PUBLIC PEACE AND SAFETY

§ 130.15 PUBLIC NUDITY.

(A) *Public nudity.* It shall be unlawful for any person to permit or engage in any public nudity.

(B) *Definition.* As used in this section, **PUBLIC NUDITY** means knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to, payment or promise of payment of an admission fee, any individual's genitals or anus with less than a full opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. **PUBLIC NUDITY** shall not include any of the following:

- (1) A woman's breast-feeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding;
- (2) **MATERIAL** as defined in Public Act 343 of 1984, § 2, being M.C.L.A. § 752.362; or
- (3) **SEXUALLY EXPLICIT VISUAL MATERIAL** as defined in Public Act 33 of 1978, § 3, being M.C.L.A. § 722.673.

(C) *Other remedies.* The remedies and penalties provided in § 130.99 are in addition to all other rights and powers of the village to proceed at law or equity with other and additional appropriate remedies.

(Ord. 140, passed 6-13-2001) Penalty, see § 130.99

§ 130.16 OBSTRUCTION OF PUBLIC PLACE.

No person, after having been first requested or ordered by a law enforcement officer or any other person in charge of a public place

to move or pass on, shall stand, sit, assemble, loiter or congregate in or on any park, public street, alley, parking lot, way, sidewalk or public place in such manner as to obstruct the free passage of persons who are lawfully passing along such public place or in such manner as may tend to cause or result in a public disturbance.

(Ord. 64, passed 12-2-1976) Penalty, see § 130.99

§ 130.17 LITTERING.

No person knowingly, without the consent of the public authority having supervision of public property or the owners of private property, shall dump, deposit, place, throw or leave, or cause or permit the dumping, depositing, placing, throwing or leaving of litter on any public place, as herein defined, or upon private property or waters other than property designated and set aside for such purposes. The term *LITTER* as used herein shall mean all rubbish, refuse, waste, material, garbage, paper, glass, cans, bottles, trash, debris or other foreign substances of every kind and description.

(Ord. 64, passed 12-2-1976) Penalty, see § 130.99

§ 130.18 CREATING NUISANCE BY USE OF NOISE PRODUCING DEVICE.

(A) The operating or maintaining of noise making, noise amplifying or noise producing instruments or devices by which the peace or good order of the village is unreasonably disturbed is hereby declared a public nuisance.

(B) No person, firm, association or corporation by himself or herself or another shall use, operate, play or permit the use, operation or playing of any machine, sound production or reproduction device, radio, musical instrument, drums, compact disc player, phonograph, television set, loud speakers, sound amplifiers or any other machine or device for the producing or reproducing of sound between the hours of 10:00 p.m. and 7:00 a.m., from Sunday evening through Friday morning, and between 12:00 a.m. and 7:00 a.m., from Friday evening through Sunday morning and on those evenings preceding legal holidays, as provided by law, in such manner as to be plainly audible, the same being louder than normal conversational tone, at a distance of 50 feet or more from its point of origin.

(C) This provision shall not apply to any participant in parades, band concerts, lawful fireworks displays, memorial salutes or any other event or activity which has been authorized by the village or is otherwise specifically authorized by law.

(Ord. 64, passed 12-2-1976; Ord. 149, passed 5-19-2004) Penalty, see § 130.99

§ 130.19 OCCUPYING MOTOR VEHICLE WITH OPEN CONTAINER OF ALCOHOL.

No person shall knowingly occupy a motor vehicle in or upon any public highway, street, alley, parking lot or park in the village in which there is found open or unsealed containers of alcoholic beverages in the passenger compartment thereof.

(Ord. 64, passed 12-2-1976) Penalty, see § 130.99

§ 130.20 DRINKING ALCOHOLIC BEVERAGES IN PUBLIC PLACES; PUBLIC INTOXICATION.

(A) No person shall drink any intoxicating liquor or alcoholic beverage in or upon any park, public highway, street, alley, sidewalk or parking lot in the village.

(B) It shall be unlawful for any person to become drunk or intoxicated in any of the streets or public places within the corporate limits of the village.

(Ord. 7, passed 4-3-1947; Ord. 64, passed 12-2-1976) Penalty, see § 130.99

§ 130.21 DISTURBING THE PEACE.

It shall be unlawful for any person to engage in, or incite others to engage in, any affray, riot, disturbance, disorderly assemblage or mob or in any way disturb the public peace within the corporate limits of said village.

(Ord. 2, passed 4-3-1947) Penalty, see § 130.99

§ 130.22 ASSAULT AND BATTERY.

It shall be unlawful for any person to assault, beat or wound any other person or persons within the corporate limits of said village.

(Ord. 3, passed 4-3-1947) Penalty, see § 130.99

§ 130.23 DISTURBANCE OF RELIGIOUS OR OTHER LAWFUL ASSEMBLAGE.

It shall be unlawful for any person to willfully disturb any religious or other lawful assemblage or meeting held within the corporate limits of said village.

(Ord. 4, passed 4-3-1947) Penalty, see § 130.99

§ 130.24 PUBLIC USE OF PROFANE LANGUAGE.

It shall be unlawful for any person to use any vulgar or indecent language in any of the streets or public places within the corporate limits of said village.

(Ord. 6, passed 4-3-1947) Penalty, see § 130.99

OFFENSES INVOLVING MINORS

§ 130.35 CURFEW FOR MINORS.

(A) It shall be unlawful for any minor, under the age of 18 years, to be or remain in or upon any of the streets, alleys, parks or other public places in said village between the hours of 10:00 p.m. and 6:00 a.m. of the following day, unless such minor is accompanied by his or her parent or guardian or other person having legal custody and control of such minor, or unless such minor is engaged in the performance of a duty directed by such parent, guardian or custodian, or is attending approved church, community or school activities.

(B) The Village Marshal and/or any other law enforcement official may take into his or her custody any minor found by him or her violating the provisions of this section and detain such minor until proper complaint can be made to the Juvenile Court for the county. Provided, however, that no minor taken into custody under the provisions of this section shall be placed in any jail or locked up or shall be placed in any detention home without the order of the Judge of the Juvenile Court for said county.

(Ord. 35, passed 10-3-1963) Penalty, see § 130.99

§ 130.36 FURNISHING MINORS WITH ALCOHOL; MINORS POSSESSING ALCOHOL.

(A) It shall be unlawful for any person to willfully give, sell or furnish any alcoholic beverage to any person under the age of 21 years.

(B) It shall be unlawful for any person under the age of 21 years to purchase or knowingly possess or transport any alcoholic liquor or knowingly possess, transport or have under his or her control in any motor vehicle any alcoholic liquor.

(Ord. 42, passed 4-4-1968) Penalty, see § 130.99

§ 130.37 PARENTAL RESPONSIBILITIES AS TO MINORS.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DELINQUENT ACTS. Acts which violate the laws of the United States, or the statutes of the state or the ordinances of the village or those acts which would cause or tend to cause the minor to come under the jurisdiction of the juvenile division of the Probate Court as defined by M.C.L.A. § 712A.2, but does not include traffic violations.

ILLEGAL DRUGS. Controlled substances obtained without a legal prescription.

JUVENILE DELINQUENT. Minors whose behavior interferes with the rights of other or menaces the welfare of the community.

MINOR. Any person under the age of 18 years residing with a parent.

PARENT. Mother, father, legal guardian and any other person having the care or custody of a minor or any person acting in the parents' stead who has custody or control of the minor.

(B) *Parental duties.*

(1) It is the continuous duty of the parent of any minor to exercise reasonable control to prevent the minor from committing any delinquent act.

(2) Included (without limitation) in this continuous duty of reasonable parental control are the following parental duties:

(a) To keep illegal drugs or illegal firearms out of the home and legal firearms locked in places that are inaccessible to the minor;

(b) To know the curfew ordinance of the village (Ord. 35 - codified herein as § 130.35) and to require the minor to observe the curfew ordinance;

(c) To require the minor to attend regular school sessions and to forbid the minor to be absent from class without parental or school permission;

(d) To arrange proper supervision for the minor when the parent must be absent;

(e) To take the necessary precautions to prevent the minor from maliciously or willfully damaging or destroying any real, personal or mixed property which belongs to the village, or is located in the village; and

(f) To forbid the minor from keeping stolen property, illegally possessing firearms or illegal drugs, or associating with known juvenile delinquents, and to seek help from appropriate governmental authorities or private agencies in handling or controlling the minor, when necessary.

(C) *Notification of parents; record of notification.*

(1) Whenever a minor is arrested or detained for the commission of any delinquent act within the village, the parent of the minor shall be immediately notified by the village, advising the parent of such arrest or detention, the reason therefor and the parent's responsibility under this section.

(2) A record of such notifications shall be kept by the Police Department.

(D) *Parental violation.* If a minor commits a delinquent act, the parent shall be guilty of a violation of this section if it is proven that any act, word or non-performance of parental duty by the parent encouraged, contributed toward, caused or tended to cause the commission of the delinquent act by the minor.

(E) *Restitution.* In addition to any civil penalty imposed pursuant to this section, the court may order the parent to pay any restitution to a victim of the minor's conduct. The amount of the restitution ordered pursuant to this section shall not exceed \$2,500.

(Ord. 125, passed 5-14-1997) Penalty, see § 130.99

§ 130.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is otherwise provided, shall be subject to the provisions of § 10.99.

(B) Any person, firm or corporation who violates any of the provisions of § 130.15 shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of up to \$500 or imprisonment in the county jail up to 90 days or both such fine and

imprisonment. Each day that a violation shall continue shall constitute a separate offense.

(C) (1) Any person indicated in divisions (C)(1)(a) through (C)(1)(c) below is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50 nor more than \$500, plus costs and other sanctions, for each infraction:

(a) Any person or persons, partnership or corporation who shall violate any of the provisions of §§ 130.16 through 130.21, 130.23 and 130.24;

(b) Any, parent, guardian or other person who assists, aids, allows, permits or encourages any minor under the age of 18 years to violate the provisions of § 130.35; and/or

(c) Any parent who violates the provisions of § 130.37, in addition to the other provisions of § 130.37.

(2) Repeat offenses shall be subject to an increased civil fine as follows:

(a) The fine for any offense which is a first repeat offense shall be not less than \$250, plus costs and other sanctions; and

(b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be not less than \$500, plus costs and other sanctions.

(3) A **REPEAT OFFENSE** means a second (or any subsequent) violation of any of the sections listed in division (C)(1) above committed by a person within any six-month period and for which the person admits responsibility or is determined to be responsible.

(4) Each day on which any violation of those sections continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(D) Any person or persons, partnership or corporation who shall violate the provisions of § 130.22 shall, upon conviction, be punished by a fine of not less than \$5 nor more than \$100, and the costs of prosecution, or imprisonment in the county jail for a period not to exceed 90 days, or by both such fine and imprisonment in the discretion of the court.

(E) Any person, firm or corporation that violates any provision of § 130.36 shall, upon conviction thereof, be punished by a fine of not to exceed \$100 together with the cost of prosecution or by imprisonment for a period of not to exceed 90 days or by both such fine and imprisonment in the discretion of the court.

(Ord. 3, passed 4-3-1947; Ord. 64, passed 12-2-1976; Ord. 119, passed 4-12-1995; Ord. 125, passed 5-14-1997; Ord. 140, passed 6-13-2001)

TITLE XV: LAND USAGE

Chapter

150. BUILDING REGULATIONS

151. DOWNTOWN DEVELOPMENT AUTHORITY

152. RENTAL OF DWELLING UNITS

153. SWIMMING POOLS

CHAPTER 150: BUILDING REGULATIONS

Section

Standard Codes and Enforcement

150.01 State Building Code adopted by reference; enforcing agency

150.02 State Electrical Code adopted by reference; enforcing agency

150.03 National Electrical Code adopted by reference

150.04 State Plumbing Code adopted by reference

150.05 International Property Maintenance Code adopted by reference; revisions

Dangerous Buildings

150.20 Title

150.21 Definitions

150.22 Prohibition of dangerous buildings

150.23 Notice of dangerous buildings; hearing

150.24 Dangerous building hearing officer

150.25 Enforcement hearing before the Village Council

150.26 Implementation and enforcement of remedies

150.27 Appeal of Village Council decision

Other Uses of Lots

150.40 Division of lots in recorded plats

150.41 Prohibiting maintenance of trailer camp

150.99 Penalty

STANDARD CODES AND ENFORCEMENT

§ 150.01 STATE BUILDING CODE ADOPTED BY REFERENCE; ENFORCING AGENCY.

(A) *Code adopted.* Pursuant to the provisions of the State Construction Code Act of 1972 (Public Act 230 of 1972, being M.C.L.A. §§ 125.1501 et seq.; M.S.A. § 5.2949(1) et seq.), the State Building Code as promulgated by the State Construction Code Commission is hereby adopted by reference and made a part of this code the same as if set forth in full herein. All future additions, deletions, amendments or other changes contained in subsequent additions and supplements of the State Building Code, promulgated by the State Construction Code Commission are hereby referred to, adopted and made a part hereof as though fully set forth in this section.

(B) *Enforcing agency designated.* Pursuant to the provisions of the State Construction Code, in accordance with Public Act 230 of 1972, § 8b(6), as amended, being M.C.L.A. § 125.1508b(6), the village hereby elects to administer and enforce Public Act 230 of 1972, being M.C.L.A. §§ 125.1501 through 125.1531, as amended, and the State Plumbing Code. The village shall also administer and enforce the respective provisions of the State Residential Code, State Uniform Energy Code, and State Rehabilitation Code and all applicable laws and ordinances. A government official registered in accordance with Public Act 54 of 1986, being M.C.L.A. §§ 338.2301 et seq., shall be appointed to receive all fees, issue permits, plan reviews, notices orders and certificates of use and occupancy. All personnel performing plan reviews and inspections shall be registered in accordance with Public Act 54 of 1986, being M.C.L.A. §§ 338.2301 et seq.

(C) *Board of Appeals.* In order to provide for reasonable interpretations of the provisions of the Building Code there shall be and is hereby created pursuant to § 14 of the State Construction Code Act of 1972, as amended, a Construction Board of Appeals. The Zoning Board of Appeals of the village is hereby constituted the Construction Board of Appeals under the State Building Code. The Building Inspector shall be an ex officio member and shall act as Secretary of the Board. The Board shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the Building Inspector with a duplicate copy to the appellant.

(D) *Public inspection and distribution of Building Code.* Printed copies of the State Building Code are available in the Village Clerk's office for inspection and use by the public. Copies of the State Building Code are also available for distribution to the public at cost.

(Ord. 94, passed 1-13-1988; Ord. 193, passed 6-8-2011) Penalty, see § 150.99

§ 150.02 STATE ELECTRICAL CODE ADOPTED BY REFERENCE; ENFORCING AGENCY.

(A) *Code adopted.* Pursuant to the provisions of the State Construction Code Act of 1972 (Public Act 230 of 1972, being M.C.L.A. §§ 125.1501 et seq.; M.S.A. § 5.2949(1) et seq.), the State Electrical Code as promulgated by the State Construction Code Commission is hereby adopted by reference and made a part of this code the same as if set forth in full herein. All future additions, deletions, amendments or other changes contained in subsequent additions and supplements of the State Electrical Code, promulgated by the State Construction Code Commission are hereby referred to, adopted and made a part hereof as though fully set forth in this section.

(B) *Agency designated.* Pursuant to the provisions of the State Electrical Code, in accordance with Public Act 230 of 1972, being M.C.L.A. §§ 125.1501 through 125.1531, as amended, the Village Electrical Inspector is hereby designated as the enforcing agency to discharge the responsibilities of the village under the aforementioned Public Act 230 of 1972, as amended. The village assumes responsibility for the administration and enforcement of said Act throughout its corporate limits.

(C) *Public inspection and distribution of code.* Printed copies of the State Electrical Code are available in the Village Clerk's office for inspection and use by the public. Copies of the State Electrical Code are also available for distribution to the public at cost.

(Ord. 95, passed 8-10-1988) Penalty, see § 150.99

§ 150.03 NATIONAL ELECTRICAL CODE ADOPTED BY REFERENCE.

Electrical installations and materials shall conform to the requirements of the National Electrical Code, 1962 Edition, approved July 24, 1962, by American Standards Association, Inc. The National Electrical Code, 1962 Edition, as promulgated and published by the National Board of Fire Underwriters, New York City, New York, is hereby adopted by reference and made a part of this code the same as if set forth in full herein. The code is adopted by the village for the purpose of regulating the installation, alteration, repair, conversion, use and maintenance of all new electric wiring for light, heat and power service equipment, for radio and television receiving systems and all alterations or extensions to existing wiring systems in buildings and structures. Complete printed copies of the National Electrical Code, herein adopted, are available for public use and inspection at the office of the Village Clerk.

(Ord. 33, passed - -1963; Ord. 61, passed 10-21-1974; Ord. 94, passed 1-13-1988) Penalty, see § 150.99

§ 150.04 STATE PLUMBING CODE ADOPTED BY REFERENCE.

(A) The installation of all interior plumbing work shall comply with Articles I to XI, inclusive of the State Plumbing Code, which is hereby adopted by reference and made a part of this code, the same as if set forth in full herein.

(B) Within each living unit, there shall be provided the following plumbing fixtures:

- (1) A kitchen sink properly located to facilitate food preparation and dishwashing;
- (2) A water closet properly vented, located either in the bathroom or in a separate toilet compartment; and
- (3) A bathtub or shower located in a bathroom or other equivalently vented space.

(C) Each of the plumbing fixtures shall be permanently installed and connected to the plumbing and water system.

(Ord. 33, passed - -1963; Ord. 61, passed 10-21-1974; Ord. 94, passed 1-13-1988) Penalty, see § 150.99

§ 150.05 INTERNATIONAL PROPERTY MAINTENANCE CODE ADOPTED BY REFERENCE; REVISIONS.

(A) Pursuant to the provisions of § 4 of Chapter V of The General Law Village Act (Public Act 3 of 1895, being M.C.L.A. §§ 61.1 et seq.) the International Property Maintenance Code as published by the International Code Council, Inc., is hereby adopted by reference, for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code are hereby referred to, adopted and made a part hereof, as if fully set out in

this section, with the additions, insertions, deletions and changes, if any, prescribed in this section.

(B) The following sections are hereby revised:

- (1) Section 101.1. Insert: Village of Three Oaks;
- (2) Section 103.6. Insert: As set from time to time by resolution of the Three Oaks Village Council;
- (3) Section 303.14. Insert: June 1 to September 1;
- (4) Section 602.3. Insert: October 1 to April 1; and
- (5) Section 602.4. Insert: October 1 to April 1.

(C) The following sections of the International Property Maintenance Code are hereby amended or deleted as set forth in additional sections as set forth herein. The following section numbers refer to like numbers of sections of the International Property Maintenance Code.

(1) Section 106.3 of the International Property Maintenance Code is amended to read:

Section 106.3 Prosecution of Violation and Penalties. Any person who violates any of the provisions of this Ordinance, or fails to comply with a notice of violation or order served in accordance with Section 107, in addition to the other provisions of this Ordinance, is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than Fifty (\$50.00) Dollars or more than Five Hundred (\$500.00) Dollars, plus costs and other sanctions, for each infraction. Repeat offenses shall be subject to an increased civil fine as follows:

(1) The fine for any offense which is a first repeat offense shall be not less than Two Hundred Fifty (\$250.00) Dollars, plus costs and other sanctions.

(2) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall not be less than Five Hundred (\$500.00) Dollars, plus costs and other sanctions.

A repeat offense means a second (or any subsequent) violation of this Ordinance (i) committed by a person within any six (6) month period and (ii) for which the person admits responsibility or is determined to be responsible.

Each day on which any violation of this Ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(2) Section 106.4 of the International Property Maintenance Code is amended to read:

Section 106.4 Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

(3) Section 106.5 of the International Property Maintenance Code is hereby deleted.

(Ord. 137, passed 9-13-2000)

DANGEROUS BUILDINGS

§ 150.20 TITLE.

This subchapter shall be known and may be cited as the Dangerous Buildings Subchapter.

(Ord. 123, passed 5-14-1997)

§ 150.21 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DANGEROUS BUILDING. Any building or structure, residential or otherwise, that has one or more of the following defects or is in one or more of the following conditions:

(1) A door, aisle, passageway, stairway or other means of exit that does not conform to the Village Fire Code or Village Building Code;

(2) A portion of the building or structure is damaged by fire, wind, flood or other cause so that the structural strength or stability of the building or structure is appreciably less than it was before the catastrophe and does not meet the minimum requirements of the Housing Law of the State, Public Act 167 of 1917, M.C.L.A. §§ 125.401 et seq., as amended, or the Village Building Code for a new building or structure, purpose or location;

(3) A part of the building or structure is likely to fall, become detached or dislodged, or collapse and injure persons or damage property;

(4) A portion of the building or structure has settled to such an extent that walls or other structural portions of the building or structure have materially less resistance to wind than is required in the case of new construction by the Housing Law of the State, Public Act 167 of 1917, being M.C.L.A. §§ 125.401 et seq., as amended, or the Village Building Code;

(5) The building or structure, or a part of the building or structure, because of dilapidation, deterioration, decay, faulty construction or the removal or movement of some portion of the ground necessary for the support, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way;

(6) The building or structure, or a part of the building or structure, is manifestly unsafe for the purpose for which it is used;

(7) The building or structure is damaged by fire, wind or flood, or is dilapidated or deteriorated and becomes an attractive nuisance to children who might play in the building or structure to their danger, or becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful or immoral act;

(8) A building or structure used or intended to be used for dwelling purposes, including the adjoining grounds, because of dilapidation, decay, damage, faulty construction or arrangement, or otherwise, is unsanitary or unfit for human habitation, is in a condition that the Health Officer of the village or county determines is likely to cause sickness or disease, or is likely to injure the health, safety or general welfare of people living in the dwelling;

(9) A building or structure is vacant, dilapidated and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers; or

(10) A building or structure remains unoccupied for a period of 180 consecutive days or longer, and is not listed as being available for sale, lease or rent with a real estate broker licensed under Article 25 of the Occupational Code, Public Act 299 of 1980, being M.C.L.A. §§ 339.2501 et seq., or is not publicly offered for sale by the owner. This division (10) does not apply to either of the following:

(a) A building or structure as to which the owner or agent does both of the following:

1. Notifies the Police Department that the building or structure will remain unoccupied for a period of 180 consecutive days. The notice shall be given by the owner or agent not more than 30 days after the building or structure becomes unoccupied; and

2. Maintains the exterior of the building or structure and adjoining grounds in accordance with this subchapter and the Housing Law of the State, Public Act 167 of 1917, being M.C.L.A. §§ 125.401 et seq., as amended, or the Village Building Code; or

(b) A secondary dwelling of the owner that is regularly unoccupied for a period of 180 days or longer each year, if the owner notifies the Police Department that the dwelling will remain unoccupied for a period of 180 consecutive days or more each year. An owner who has given the notice prescribed by this division (10)(b) shall notify the Police Department not more than 30 days after the dwelling no longer qualifies for this exception. As used in this division (b), **SECONDARY DWELLING** means a dwelling such as a vacation home or summer home, that is occupied by the owner or a member of the owner's family during part of year.

ENFORCING AGENCY. This village, through the Village Building Official and/or such other official(s) or agency as may be designated by the Village Council to enforce this subchapter.

VILLAGE BUILDING CODE. The building code administered and enforced in the village pursuant to the State Construction Code Commission Act, Public Act 230 of 1972, being M.C.L.A. §§ 125.1501 et seq., as amended.

(Ord. 123, passed 5-14-1997)

§ 150.22 PROHIBITION OF DANGEROUS BUILDINGS.

It shall be unlawful for any owner or agent thereof to keep or maintain any building or part thereof which is a dangerous building as defined in this subchapter.

(Ord. 123, passed 5-14-1997) Penalty, see § 150.99

§ 150.23 NOTICE OF DANGEROUS BUILDINGS; HEARING.

(A) *Notice requirement.* Notwithstanding any other provision of this subchapter, if a building or structure is found to be a dangerous building, the enforcing agency shall issue a notice that the building or structure is a dangerous building.

(B) *Parties entitled to notice.* The notice shall be served on each owner of or party in interest in the building or structure in whose name the property appears on the last local tax assessment records of the village.

(C) *Contents of notice.* The notice shall specify the time and place of a hearing on whether the building or structure is a dangerous building and state that the person to whom the notice is directed shall have the opportunity at the hearing to show cause why the Hearing Officer should not order the building or structure to be demolished, otherwise made safe or properly maintained.

(D) *Service of notice.* The notice shall be in writing and shall be served upon the person to whom the notice is directed either personally or by certified mail, return receipt requested, addressed to the owner or party in interest at the address shown on the tax records. If a notice is served upon a person by certified mail, a copy of the notice shall also be posted upon a conspicuous part of the building or structure. The notice shall be served upon the owner or party in interest at least ten days before the date of the hearing included in the notice.

(Ord. 123, passed 5-14-1997) Penalty, see § 150.99

§ 150.24 DANGEROUS BUILDING HEARING OFFICER.

(A) *Appointment of Hearing Officer.* The Hearing Officer shall be appointed by the Village President to serve at his or her pleasure. The Hearing Officer shall be a person who has expertise in housing matters, including, but not limited to, an engineer, architect, building contractor, building inspector or member of a community housing organization. An employee of the enforcing agency shall not be appointed as a Hearing Officer.

(B) *Filing dangerous building notice with Hearing Officer.* The enforcing agency shall file a copy of the notice of the dangerous condition of any building with the Hearing Officer.

(C) *Hearing testimony and decision.* At a hearing prescribed by this subchapter, the Hearing Officer shall take testimony of the enforcing agency, the owner of the property, and any interested party. Not more than five days after completion of the hearing, the Hearing Officer shall render a decision either closing the proceedings or ordering the building or structure demolished, otherwise made safe, or properly maintained.

(D) *Compliance with Hearing Officer order.* If the Hearing Officer determines that the building or structure should be demolished, otherwise made safe, or properly maintained, the Hearing Officer shall so order, fixing a time in the order for the owner, agent or lessee to comply with the order. If the building is a dangerous building under § 150.21 of this subchapter, the order may require the owner or agent to maintain the exterior of the building and adjoining grounds owned by the owner of the building including, but not limited to, the maintenance of lawns, trees and shrubs.

(E) *Noncompliance with Hearing Officer order/request to enforce order.* If the owner, agent or lessee fails to appear or neglects or refuses to comply with the order issued under division (D) above, the Hearing Officer shall file a report of the findings and a copy of the order with the Village Council not more than five days after noncompliance by the owner and request that necessary action be taken to enforce the order. A copy of the findings and order of the Hearing Officer shall be served on the owner, agent or lessee in the manner prescribed in § 150.23(D).

(Ord. 123, passed 5-14-1997) Penalty, see § 150.99

§ 150.25 ENFORCEMENT HEARING BEFORE THE VILLAGE COUNCIL.

The Village Council shall fix a date not less than 30 days after the hearing prescribed in § 150.24(C) of this subchapter for a hearing on the findings and order of the Hearing Officer and shall give notice to the owner, agent or lessee in the manner prescribed in § 150.23(D) of this subchapter of the time and place of the hearing. At the hearing, the owner, agent or lessee shall be given the opportunity to show cause why the order should not be enforced. The Village Council shall either approve, disapprove or modify the order. If the Village Council approves or modifies the order, the Village Council shall take all necessary action to enforce the order. If the order is approved or modified, the owner, agent or lessee shall comply with the order within 60 days after the date of the hearing under this section. In the case of an order of demolition, if the Village Council determines that the building or structure has been substantially destroyed by fire, wind, flood or other natural disaster and the cost of repair of the building or structure will be greater than the state equalized value of the building or structure, the owner, agent or lessee shall comply with the order of demolition within 21 days after the date of the hearing under this section.

(Ord. 123, passed 5-14-1997) Penalty, see § 150.99

§ 150.26 IMPLEMENTATION AND ENFORCEMENT OF REMEDIES.

(A) *Implementation of order by village.* In the event of the failure or refusal of the owner or party in interest to comply with the decision of the Village Council, it may, in its discretion, contract for the demolition, making safe or maintaining the exterior of the building or structure or grounds adjoining the building or structure.

(B) *Reimbursement of costs.* The costs of the demolition, of making the building safe or of maintaining the exterior of the building or structure or grounds adjoining the building or structure, incurred by the village to bring the property into conformance with this subchapter shall be reimbursed to the village by the owner or party in interest in whose name the property appears.

(C) *Notice of costs.* The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified by the Village Assessor of the amount of the costs of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure, by first class mail at the address shown on the village records.

(D) *Lien for unpaid costs.* If the owner or party in interest fails to pay the costs within 30 days after mailing by the Village Assessor of the notice of the amount of the cost, in the case of a single-family dwelling or a two-family dwelling, the village shall have a lien for the costs incurred by the village to bring the property into conformance with this subchapter. The lien shall not take effect until notice of the lien has been filed or recorded as provided by law. A lien provided for in this division (D) does not have priority over previously filed or recorded liens and encumbrances. The lien for the costs shall be collected and treated in the same manner as provided for property tax liens under the General Property Tax Act, Public Act 206 of 1893, being M.C.L.A. §§ 211.1 et seq., as amended.

(E) *Court judgment for unpaid costs.* In addition to other remedies under this subchapter, the village may bring an action against the owner of the building or structure for the full cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure. In the case of a single-family dwelling or a two-family dwelling, the village shall have a lien on the property for the amount of a judgment obtained pursuant to this division (E). The lien provided for in this division (E) shall not take effect until notice of the lien is filed and recorded as provided for by law. The lien does not have priority over prior filed or recorded liens and encumbrances.

(F) *Enforcement of judgment.* A judgment in an action brought pursuant to division (E) above may be enforced against assets of the owner other than the building or structure.

(G) *Lien for judgment amount.* In the case of a single-family dwelling or a two-family dwelling, the village shall have a lien for the amount of a judgment obtained pursuant to division (E) above against the owner's interest in all real property located in this state that is owned in whole or in part by the owner of the building or structure against which the judgment is obtained. A lien provided for in this division (G) does not take effect until notice of the lien is filed or recorded as provided by law, and the lien does not have priority over prior filed or recorded liens and encumbrances.

(Ord. 123, passed 5-14-1997) Penalty, see § 150.99

§ 150.27 APPEAL OF VILLAGE COUNCIL DECISION.

An owner aggrieved by any final decision or order of the Village Council under § 150.25 of this subchapter, may appeal the decision or order to the circuit court by filing a petition for an order of superintending control within 21 days from the date of the decision.

(Ord. 123, passed 5-14-1997)

OTHER USES OF LOTS

§ 150.40 DIVISION OF LOTS IN RECORDED PLATS.

(A) The division of a lot, out lot or parcel of land in a recorded plat is prohibited, unless approved following application to the Building Inspector or some other village officer that may be designated to receive such applications from time to time by the Village Council. The application shall state the reason for the proposed division. No lot, out lot or parcel of land in a recorded plat shall be divided into more than four parts and the resulting lots shall not be less in area than permitted by any Village zoning ordinance, building ordinance, or Public Act 288 of 1967, M.C.L.A. § 560.186 as amended, being the Subdivision Control Act of 1967, whichever is the more restrictive. No building permit shall be issued, or any building construction commenced, unless the division has been approved by the Building Inspector or other designated village officer.

(B) The division of a lot, out lot or parcel of land in a recorded plat resulting in a smaller area than prescribed herein may be permitted after prior approval of the Building Inspector or other designated village officer, for the purposes of adding to existing building site or sites, or for any other use that does not or is not likely to contravene any existing zoning ordinances, building ordinance or state statutes and does not and would not result in crowding, congestion or contribute unduly to problems of public health, sanitation and general welfare. Any person whose application for the division of any lot in a recorded plat is denied, shall have the right to appeal to the Village Council or to any court of competent jurisdiction.

(C) The application for the division of any lot, out lot or parcel of land in a recorded plat shall be in affidavit form and shall contain a drawing showing the dimensions and the description of:

- (1) The entire lot in question; and
- (2) Each lot or part of a lot resulting from the proposed division.

(D) The approval by the Building Inspector or other designated village officer of the division of any lot, out lot or parcel of land in any recorded plat shall be contingent on an agreement in writing by the applicant that any sales contract, deed or other documents presented for recording at the office of the County Register of Deeds, shall be accompanied by a copy of the written approval thereof by the village or its duly authorized representatives.

(Ord. 46, passed 10-2-1969) Penalty, see § 150.99

§ 150.41 PROHIBITING MAINTENANCE OF TRAILER CAMP.

(A) No person or persons, firm, corporation or partnership or combination of same, shall operate, maintain or permit to be operated or maintained on their land or on land under their control, any trailer camp within the corporate limits of the village.

(B) For the purposes of this section a **TRAILER CAMP** is hereby defined to be a group of two or more automobile trailers located within 100 feet of each other.

(Ord. 10, passed 4-3-1947) Penalty, see § 150.99

§ 150.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no specific penalty is otherwise provided, shall be subject to the provisions of § 10.99.

(B) (1) Any person indicated in divisions (B)(1)(a) or (B)(1)(b) below is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50 nor more than \$500, plus costs and other sanctions, for each infraction:

(a) Pursuant to the provisions of the State Construction Code, in accordance with Public Act 230 of 1972, § 23(3), being M.C.L.A. § 125.1523(3), a violation by any person of §§ 23(1) or 23(2) of said Act; and

(b) Any person, firm or corporation who violates any of the provisions of §§ 150.20 through 150.27, or § 150.41.

(2) Repeat offenses shall be subject to an increased civil fine as follows:

(a) The fine for any offense which is a first repeat offense shall be not less than \$250, plus costs and other sanctions; and

(b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall not be less than \$500 plus costs and other sanctions.

(3) A **REPEAT OFFENSE** means a second (or any subsequent) violation of the sections indicated in divisions (B)(1)(a) or (B)(1)(b) above:

(a) Committed by a person within any six-month period; and

(b) For which the person admits responsibility or is determined to be responsible.

(4) Each day on which any violation of the sections referred to in divisions (B)(1)(a) or (B)(1)(b) above continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(5) In addition, the village specifically reserves the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order or other appropriate remedy to compel compliance with § 150.01.

(Ord. 10, passed 4-3-1947; Ord. 119, passed 4-12-1995; Ord. 123, passed 5-14-1997; Ord. 193, passed 6-8-2011)

CHAPTER 151: DOWNTOWN DEVELOPMENT AUTHORITY

Section

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GENERAL PROVISIONS

§ 151.01 DESCRIPTION OF DISTRICT.

A Downtown Development Authority is hereby created, pursuant to Public Act 197 of 1975, being M.C.L.A. §§ 125.1651 through 125.1680, as amended, for the following described district, being in the village:

A part of Sections 2, 3, 10 and 11, Township 8 South, Range 20 West, Three Oaks Township, also being a part of the Village of Three Oaks, Berrien County, Michigan described as: Beginning at a point on the center line of US Highway 12 and the North line of Section 10, 900.1 feet West of the North quarter post of Section 10; thence North T 40 feet East, 307 feet; thence North 29° 22' East 266.82 feet to the Southerly right-of-way line of the Amtrak Railroad; thence Easterly, along said right-of-way line 2031 feet; thence North 149.7 feet, more or less, to the Northerly line of said right-of-way; thence Easterly, along said Northerly right-of-way line, 113.41 feet; thence North 00° 02' East 358.28 feet; thence South 89° 58' 19" East 397.71 feet; thence North 278.88 feet, thence South 89° 18' East 156.78 feet; thence North, 124 feet, more or less, to the North line of Chicago Street; thence East, along the North line of said Chicago Street, 194.3 feet, more or less, to the West line of Featherbone Avenue; thence North, along said West line, 140 feet; thence East 284 feet; thence South 50 feet; thence East 166 feet to the center line of Elm Street; thence continuing East 33 feet to the East line of said Elm Street; thence South, along said East line, 82 feet to the North line of Sycamore Street; thence East, along said North line 132 feet; thence South 330 feet to the North line of Maple Street; thence East, along said North line, 528 feet; thence South 227 feet; thence East 264 feet to the East line of Hickory Street; thence South, along said East line, 208 feet to the center line of the Amtrak Railroad; thence Westerly, along said center line 445.5 feet; thence south 446 feet to the South line of Linden Street; thence West, along said South line, 132 feet to the East line of Oak Street; thence South, along said East line, 330 feet to the South line of Ash Street; thence continuing South, along the East line of Oak Street, 198 feet; thence West 379.5 feet to the center line of Elm Street; thence continuing West 165 feet; thence South 49.5 feet; thence West 132 feet; thence North 247.5 feet to the South line of Ash Street; thence Northeast 66 feet, more or less, to the Southeast corner of Lot 1, Friedle's Addition; thence North, along said East line of said Friedle's Addition, 330 feet to the South line of Linden Street; thence West, along said South line, 1003.5 feet to the East line of Memorial Drive; thence South, along said East line, 330 feet to the South line of Ash Street; thence West along said South line 18 feet; thence South 447.25 feet to the South line of Locust Street; thence West, along said South line 1013 feet; thence South 200 feet; thence West 297 feet to the North and South Quarter line of said Section 10; thence North, on the North and South Quarter line of said Section, to a point 419.24 feet, more or less, to the center line of US Highway 12 and the North line of Section 10; thence West, on the center line of US Highway 12 and the North line of Section 10, to the place of beginning.

(Ord. 187, passed 7-14-2010)

§ 151.02 PURPOSE OF AUTHORITY.

The Downtown Development Authority is hereby created to halt property value deterioration and increase property tax valuation in the above district, to eliminate the causes of that deterioration and to promote economic growth.

(Ord. 187, passed 7-14-2010)

§ 151.03 AUTHORITY DEFINED.

The Authority shall be deemed an instrumentality of a political subdivision for purposes of Public Act 227 of 1972, being M.C.L.A. §§ 213.321 through 213.332.

(Ord. 187, passed 7-14-2010)

§ 151.04 TERMINATION OF AUTHORITY.

An Authority which has completed the purposes for which it was organized shall be dissolved by ordinance of the Village Council. The property and assets of the Authority remaining after the satisfaction of the obligations of the Authority shall belong to the village.

(Ord. 187, passed 7-14-2010)

GOVERNING BOARD

§ 151.15 ESTABLISHMENT OF GOVERNING BOARD.

The said Authority shall be under the supervision and control of a Board, consisting of the President of the village and eight members appointed by the said President; subject to the approval of the Village Council. A majority of the members shall be persons having an interest in the property located in the downtown district. One of the members shall be a resident of the district, if the district is found to have 100 or more persons residing therein. Of the first members appointed, as equal a number as practicable shall be appointed for one year, two years, three years and four years. A member of the Board shall hold office until the member's successor is appointed. Thereafter, each member of the Board shall serve for a term of four years. Members of the Board shall serve without compensation, but they shall be reimbursed for actual and necessary expenses. The Chairperson of the Board shall be elected by the Board.

(Ord. 187, passed 7-14-2010; Ord. 199, passed 12-12-2012)

§ 151.16 REMOVAL OF BOARD MEMBER.

A member of the Board may be removed for cause by the Village Council. Before a member is removed the member shall be given written notice of the cause or causes for removal and an opportunity to be heard before the Village Council. The removal of a member is subject to review by the circuit court.

(Ord. 187, passed 7-14-2010)

§ 151.17 BOARD RULES AND MEETINGS.

The Board shall adopt rules consistent with Public Act 267 of 1976, being M.C.L.A. §§ 15.261 through 15.275, governing its procedure, the holding of regular and special meetings subject to the approval of the Village Council. All meetings of the Board shall be open to the public.

(Ord. 187, passed 7-14-2010)

§ 151.18 EMPLOYMENT OF PERSONNEL BY BOARD.

(A) The Board may employ and fix the compensation of a Director, subject to the approval of the Village Council. The Director shall serve at the pleasure of the Board. A member of the Board is not eligible to hold the position of Director. Before entering upon the duties of his or her office, the Director shall take and subscribe to the constitutional oath, and furnish bond, by posting a bond in the amount of \$10,000, payable to the Authority, for the use and benefit of the Authority, approved by the Board, and filed with the Village Clerk. The premium on the bond shall be deemed an operating expense of the Authority, payable from funds available to the Authority for expenses of operation. The Director shall be the Chief Executive Officer of the Authority. Subject to the approval of the Board, the Director shall supervise, and be responsible for, the preparation of plans and the performance of the functions of the Authority. The Director shall attend the meetings of the Board and shall render to the Board and to the Village Council a regular report covering the activities and financial condition of the Authority. If the Director is absent or disabled, the Board may designate a qualified person as acting Director to perform the duties of the office. Before entering upon the duties of his or her office, the acting Director shall take and subscribe to the oath, and furnish bond, as require of the Director. The Director shall furnish the Board with information or reports governing the operation of the Authority as the Board requires.

(B) The Board may employ and fix the compensation of a Treasurer, who shall keep the financial records of the Authority and who, together with the Director, shall approve all vouchers for the expenditure of funds for the Authority. The Treasurer shall perform

such other duties as may be delegated to him or her by the Board and shall furnish bond in an amount as prescribed by the Board.

(C) The Board may employ and fix the compensation of a Secretary, who shall maintain custody of the official seal of records, books, documents or other papers not required to be maintained by the Treasurer. The Secretary shall attend meetings of the Board and keep a record of its proceedings, and shall perform such other duties delegated by the Board.

(D) The Board may retain Legal Counsel to advise the Board in the proper performance of its duties. The Legal Counsel shall represent the Authority in actions brought by or against the Authority.

(E) The Board may employ other personnel deemed necessary by the Board.

(Ord. 187, passed 7-14-2010)

§ 151.19 DUTIES OF BOARD.

The Board shall:

(A) Prepare an analysis of economic changes taking place in the district;

(B) Study and analyze the impact of metropolitan growth upon the district;

(C) Plan and propose the construction, the renovation, repair, remodeling, rehabilitation, restoration, preservation or reconstruction of a public facility, an existing building, or a multiple-family dwelling unit which may be necessary or appropriate to the execution of a plan which, in the opinion of the Board, aids in the economic growth of the district;

(D) Develop long-range plans, in cooperation with the agency which is chiefly responsible for planning in the village, designed to halt the deterioration of property values in the district and to promote the economic growth of the district, and take such steps as may be necessary to persuade property owners to implement the plans to the fullest extent possible;

(E) Implement any plan of development in the district necessary to achieve the purposes of this chapter, in accordance with the powers of the Authority as granted by this chapter;

(F) Make and enter into contracts necessary or incidental to the exercise of its powers and the performance of its duties;

(G) Acquire by purchase or otherwise, on terms and conditions and in a manner the Authority deems proper to own, convey, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights or interests therein, which the Authority determines is reasonably necessary to achieve the purposes of this chapter, and to grant or acquire licenses, easements and options with respect thereof;

(H) Improve land and construct, reconstruct, rehabilitate, restore and preserve, equip, improve, maintain, repair and operate any building, including multiple-family dwellings, and any necessary or desirable appurtenances thereto, within the district for the use, in whole or in part, of any public or private person or corporation, or a combination thereof;

(I) Fix, charge and collect fees, rents and charges for the use of any building or property under its control or any part thereof, or facility therein, and pledge the fees, rents and charges for the payment of revenue bonds issued by the Authority;

(J) Lease any building or property under its control, or any part thereof;

(K) Accept grants and donations of property, labor or other things of value from a public or private source; and

(L) Acquire and construct public facilities.

(Ord. 187, passed 7-14-2010)

FINANCING, TAXATION AND OTHER PROVISIONS CONCERNING THE AUTHORITY

§ 151.30 TRANSFER OF PRIVATE PROPERTY TO AUTHORITY.

The village may take private property under Public Act 149 of 1911, M.C.L.A. §§ 213.21 et seq., as amended, for the purpose of transfer to the Authority, and may transfer the property to the Authority for use in an approved development, on terms and conditions it

deems appropriate, and the taking, transfer and use shall be considered necessary for public purposes and for the benefit of the public.

(Ord. 187, passed 7-14-2010)

§ 151.31 FINANCING OF AUTHORITY.

(A) The activities of the Authority shall be financed from one or more of the following sources:

- (1) Donations to the Authority for the performance of its functions;
- (2) Proceeds of a tax imposed pursuant to § 151.32;
- (3) Money borrowed and to be paid as authorized by § 151.33;
- (4) Revenues from any property, building or facility owned, leased, licensed or operated by the Authority or under its control, subject to the limitations imposed upon the Authority by trusts or other agreements;
- (5) Proceeds of a tax increment financing plan, established under §§ 151.34 through 151.36;
- (6) Proceeds from a special assessment district created as provided by law; and
- (7) Money obtained from other sources approved by the Village Council.

(B) Money received by the Authority and not covered under division (A) above shall immediately be deposited to the credit of the Authority, subject to disbursement pursuant to this chapter. Except as provided in this chapter, the village shall not obligate itself, nor shall it ever be obligated to pay any sums from public funds, other than money received by the village pursuant to this section, for or on account of the activities of the Authority.

(Ord. 187, passed 7-14-2010)

§ 151.32 LEVYING OF AD VALOREM TAX.

(A) The Authority with the approval of the Village Council may levy an ad valorem tax on the real and tangible personal property not exempt by law and as finally equalized in the downtown district. The tax shall not be more than two mills. The tax shall be collected by the village. The village shall collect the tax at the same time and in the same manner as it collects its other ad valorem taxes. The tax shall be paid to the Treasurer of the Authority, if one has been appointed, and credited to the General Fund of the Authority for purposes of the Authority.

(B) The village may, at the request of the Authority, borrow money and issue its notes therefor in anticipation of collection of the ad valorem tax authorized in this section.

(Ord. 187, passed 7-14-2010)

§ 151.33 BORROWING MONEY; ISSUING REVENUE BONDS.

(A) The Authority may borrow money and issue its negotiable revenue bonds therefore pursuant to Public Act 94 of 1933, being M.C.L.A. §§ 141.101 through 141.138, as amended. Revenue bonds issued by the Authority shall not, except as hereinafter provided, be deemed a debt of the village or the state. The village, by a majority vote of the members of the Village Council, may pledge its full faith and credit to support the Authority's revenue bonds.

(B) The Authority may, with approval of the Village Council, borrow money and issue its revenue bonds or notes to finance all or part of the costs of acquiring or constructing property in connection with the implementation of a development plan in the downtown district or to refund or refund in advance bonds or notes issued pursuant to this section. The costs which may be financed by the issuance of revenue bonds or notes may include the cost of purchasing, acquiring, constructing, improving, enlarging, extending or repairing property in connection with the implementation of a development plan in the downtown district; any engineering, architectural, legal, accounting or financial expenses; the costs necessary or incidental to the borrowing of money; interest on the bonds or notes during the period of construction; a reserve for payment of principal and interest on the bonds or notes; and a reserve for operation and maintenance until sufficient revenues have developed. The Authority may secure the bonds and notes by mortgage, assignment or pledge of the property and any money, revenues or income received in connection therewith.

(C) A pledge made by the Authority shall be valid and binding from the time the pledge is made. The money or property pledged by the Authority immediately shall be subject to the lien of the pledge without a physical delivery, filing or further act. The lien of such a pledge shall be valid and binding as against parties having claims of any kind in tort, contract or otherwise, against the Authority, irrespective of whether the parties have notice of the lien. Neither the resolution, the trust agreement nor any other instrument by which a pledge is created need be filed or recorded.

(D) The village shall not be liable on bonds or notes the Authority issued pursuant to this section and the bonds or notes shall not be a debt of the village. The bonds or notes shall contain on their face a statement to that effect.

(Ord. 187, passed 7-14-2010)

§ 151.34 TAX INCREMENT FINANCING PLAN.

(A) As used in this section and §§ 151.35 and 151.36 the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

CAPTURED ASSESSED VALUE. The amount in any one year, by which the current assessed value of the project area, including the assessed value of the property for which a commercial facilities exemption certificate has been issued pursuant to Public Act 255 of 1978, M.C.L.A. §§ 207.651 et seq., as amended, the assessed value of property for which an industrial facilities exemption certificate has been issued pursuant to Public Act 198 of 1974, M.C.L.A. §§ 207.551 et seq., as amended, and the assessed value of property for which a commercial housing facilities exemption certificate has been issued pursuant to Public Act 438 of 1976, M.C.L.A. §§ 207.601 et seq., as amended, exceeds the initial assessed value.

INITIAL ASSESSED VALUE. The most recently assessed value, as finally equalized by the State Board of Equalization, of all the taxable property within the boundaries of the development area at the time the ordinance establishing the tax increment financing plan is approved. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero. For the purpose of determining initial assessed value, property for which a commercial facilities exemption certificate, an industrial facilities exemption certificate or a commercial housing facilities exemption certificate is in effect shall not be considered to be property which is exempt from taxation.

(B) When the Authority determines that it is necessary for the achievement of the purposes of this chapter, the Authority shall prepare and submit a tax increment financing plan to the Village Council. The plan shall include a development plan as provided in § 151.37, a detailed explanation of the tax increment procedure, the maximum amount of bonded indebtedness to be incurred, the duration of the program and shall be in compliance with § 151.35. The plan shall contain a statement of the estimated impact of tax increment financing on the assessed values of all taxing jurisdictions in which the development area is located. The plan may be provided for the use of part or all of the captured assessed value, but the portion intended to be used by the Authority shall be clearly stated in the tax increment financing plan.

(C) Approval of the tax increment financing plan shall be in accordance with the notice, hearing and disclosure provisions of § 151.38. When the development plan is part of the tax increment financing plan, only one hearing and approval procedure is required for the two plans together.

(D) Before the public hearing on the tax increment financing plan, the Village Council shall provide a reasonable opportunity to the members of the County Board of Commissioners to meet with the Village Council. The Authority shall fully inform members of the County Board of Commissioners of the fiscal and economic implications of the proposed development area. The members of the County Board of Commissioners may present their recommendations at the public hearing on the tax increment financing plan. The Authority may enter into agreements with the County Board of Commissioners and the governing body of the village to share a portion of the captured assessed value of the district.

(E) A tax increment financing may be modified if the modification is approved by the Village Council upon notice and after public hearings and agreements as are required for approval of the original plan.

(Ord. 187, passed 7-14-2010)

§ 151.35 DISPOSITION OF TAX INCREMENT.

(A) The amount of tax increment to be transmitted to the Authority by the Village Treasurer and County Treasurer shall be that portion of the tax levy of all taxing bodies paid each year on real and personal property in the project area on the captured assessed

value. For the purpose of this section, that portion of a commercial facilities tax levied pursuant to Public Act 255 of 1978, § 12, M.C.L.A. § 207.662, that portion of an industrial facilities tax levied after December 30, 1980 pursuant to Public Act 198 of 1974, § 11, M.C.L.A. § 207.561, as amended, and that portion of a commercial housing facilities tax levied after December 30, 1980 pursuant to Public Act 438 or 1976, § 6, M.C.L.A. § 207.606, amended, which is attributable to the captured assessed value of the facility shall be included as a part of the tax increment to be transmitted to the Authority.

(B) The Authority shall expend the tax increments received for the development program only pursuant to the tax increment financing plan. Surplus funds shall revert proportionately to the respective taxing bodies. These revenues shall not be used to circumvent existing property tax limitations. The Village Council may abolish the tax increment financing plan when it finds that the purposes for which it was established are accomplished. However, the tax increment financing plan shall not be abolished until the principle of, and interest on, bonds issued pursuant to § 151.36 have been paid or funds sufficient to make the payment have been segregated.

(C) Annually, the Authority shall submit to the Village Council a report on the status of the tax increment financing account. The report shall include: the amount and source of revenue in the account; the amount and purpose of expenditures from the account; the amount of principle and interest in any outstanding bonding indebtedness; the initial assessed value of the project area; the captured assessed value retained by the Authority; the tax increments received; and any additional information the Village Council considers necessary. The report shall be published in a newspaper of general circulation in the village.

(Ord. 187, passed 7-14-2010)

§ 151.36 GENERAL OBLIGATION BONDS.

(A) The village may by resolution of its Village Council authorize, issue and sell general obligation bonds subject to the limitations set forth in this section to finance the development program of the tax increment financing plan or to refund bonds issued under this section and shall pledge its full faith and credit for the payment of the bonds. The bonds shall mature in not more than 30 years and shall be subject to the Municipal Financing Act, Public Act 202 of 1943, as amended. Before the village may authorize the borrowing, the Authority shall submit an estimate of the anticipated tax increment revenue to be available for payment of principle and interest on the bonds, to the Village Council. This estimate shall be approved by the Village Council by resolution adopted by a majority vote of the members of the Village Council in the resolution authorizing the bonds. If the bonds are approved by the Department of Treasury in those instances in which an exception to prior approval is not available under Public Act 202 of 1943, Ch. III, § 11, or if the Village Council adopts the resolution authorizing the bonds and prior approval of the Department of Treasury is not required pursuant to Public Act 202 of 1943, Ch. III, § 11, the estimate of the anticipated tax increment revenue to be available for payment of principle and interest on the bonds shall be conclusive for the purposes of this section. The village may not pledge for annual debt service requirements in any one year in excess of 80% of the estimated tax increment revenue to be received from the development area for that year, and the total aggregate amount of borrowing shall not exceed an amount which the 80% of the estimated tax increment will service as to annual principle and interest requirements. The bonds issued under this section shall be considered a single series for the purposes of Public Act 202 of 1943, as amended.

(B) By resolution of its governing body, the Authority may authorize, issue and sell tax increment bonds subject to the limitations set forth in this section to finance the development program of the tax increment financing plan or to refund bonds issued under this section. The tax increment bonds issued by the Authority under this section shall pledge solely the tax increments of the project for which the bonds are issued and any other revenues which the Authority shall specifically pledge in the resolution and shall not pledge the full faith and credit of either the Authority or the village. The bonds shall mature in not more than 30 years and shall bear interest and be payable upon the terms and conditions determined by the Authority in the resolution approving the bonds and shall be sold at public or private sale by the Authority. The bond issue may include a sum sufficient to pay interest on the tax increment bonds until full development of tax increments from the project and also a sum to provide a reasonable reserve for payment of principle and interest on the bonds. The resolution authorizing the bonds shall create a lien on the tax increments and other revenues pledged by the resolution which shall be a statutory lien and shall be a first lien subject only to liens previously created. The resolution may provide the terms upon which additional bonds may be issued of equal standing and parity of lien as to the tax increments and other revenues pledged pursuant to the resolution.

(Ord. 187, passed 7-14-2010)

§ 151.37 CONTENTS OF DEVELOPMENT PLAN.

(A) When the Board decides to finance a project in the downtown district by the use of revenue bonds as authorized in § 151.33 or

tax increment financing as authorized in §§ 151.34 through 151.36, it shall prepare a development plan.

(B) The development plan shall contain:

- (1) The designation of boundaries of the development area in relation to highways, streets, streams or otherwise;
- (2) The location and extent of existing streets and other public facilities within the development area and shall designate the location, character and extent of the categories of public and private land uses then existing and proposed for the development area, including residential, recreational, commercial, industrial, educational and other uses and shall include a legal description of the development area;
- (3) A description of existing improvements in the development area to be demolished, repaired or altered, a description of any repairs and alterations, and an estimate of the time required for completion;
- (4) The location, extent, character and estimated cost of the improvements including rehabilitation contemplated for the development area and an estimate of the time required for completion;
- (5) A statement of the construction or stages of construction planned, and the estimated time of completion of each stage;
- (6) A description of any parts of the development area to be left as open space and the use contemplated for the space;
- (7) A description of any portions of the development area which the Authority desires to sell, donate, exchange or lease to or from the village and the proposed terms;
- (8) A description of desired zoning changes and changes in streets, street levels, intersections and utilities;
- (9) An estimate of the cost of the development, a statement of the proposed method of financing the development and the ability of the Authority to arrange the financing;
- (10) Designation of the person or persons, natural or corporate, to whom all or a portion of the development is to be leased, sold, or conveyed in any manner and for whose benefit the project is being undertaken if that information is available to the Authority;
- (11) The procedures for bidding for the leasing, purchasing or conveying in any manner of all or a portion of the development upon its completion, if there is no express or implied agreement between the Authority and persons, natural or corporate, that all or a portion of the development will be leased, sold or conveyed in any manner to those persons;
- (12) Estimates of the number of persons residing in the development area and the number of families and individuals to be displaced. If occupied residences are designated for acquisition and clearance by the Authority, a development plan shall include a survey of the families and individuals to be displaced, including their income and racial composition, a statistical description of the housing supply in the community, including the number of private and public units in existence or under construction, the condition of those in existence, the number of owner-occupied and renter-occupied units, the annual rate of turnover of the various types of housing and the range of rents and sale prices, an estimate of the total demand for housing in the community and the estimated capacity of private and public housing available to displaced families and individuals;
- (13) A plan for establishing priority for the relocation of persons displaced by the development in any new housing in the development area;
- (14) Provision for the costs of relocating persons displaced by the development and financial assistance and reimbursement for expenses, including litigation expenses and expenses incident to the transfer of title, in accordance with the standards and provisions of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, being Pub. L. No. 91-646, 42 U.S.C. §§ 4601 et seq.;
- (15) A plan for compliance with Public Act 227 of 1972, being M.C.L.A. §§ 213.321 through 213.332; and
- (16) Other material which the Authority, local public agency or Village Council deems pertinent.

(Ord. 187, passed 7-14-2010)

§ 151.38 PUBLIC HEARINGS ON DEVELOPMENT PLAN.

(A) The Village Council, before adoption of an ordinance approving a development plan or tax increment financing plan, shall hold a public hearing on the development plan. Notice of the time and place of the hearing shall be given by publication twice in a newspaper

of general circulation designated by the village, the first of which shall be not less than 20 days before the date set for the hearing. Proof of publication shall be by affidavit of the publisher, secured and made a part of said proceedings. Notice of the hearing shall be posted in at least 20 conspicuous and public places in the downtown district not less than 20 days before the hearing. Notice shall also be mailed to all property taxpayers of record in the downtown district not less than 20 days before the hearing. The Village Clerk shall attest to proof of posting and mailing by affidavit made a part of said proceedings.

(B) Notice of the time and place of hearing on a development plan shall contain: a description of the proposed development area in relation to highways, streets, streams or otherwise; a statement that maps, plats and a description of the development plan, including the method of relocating families and individuals who may be displaced from the area, are available for public inspection at a place designated in the notice, and that all aspects of the development plan will be open for discussion at the public hearing; and other information that the Village Council deems appropriate. At the time set for the hearing, the Village Council shall provide an opportunity for interested persons to be heard and shall receive and consider communications in writing with reference thereto. The hearing shall provide the fullest opportunity for expression of opinion, for argument on the merits, and for introduction of documentary evidence pertinent to the development plan. The Village Council shall make and preserve a record of the public hearing, including all data presented thereat.

(Ord. 187, passed 7-14-2010)

§ 151.39 CONDITIONS FOR APPROVAL OF DEVELOPMENT PLAN.

(A) The Village Council after a public hearing on the development plan or the tax increment financing plan, or both, with notice thereof given in accordance with § 151.38, shall determine whether the development plan or tax increment financing plan constitutes a public purpose.

(B) If it determines that the development plan or tax increment financing plan constitutes a public purpose, it shall then approve or reject the plan, or approve it with modification, by ordinance based on the following considerations:

- (1) The plan meets the requirements set forth in § 151.37(B);
- (2) The proposed method of financing the development is feasible and the Authority has the ability to arrange the financing;
- (3) The development is reasonable and necessary to carry out the purposes of this chapter;
- (4) The land included within the development area to be acquired is reasonably necessary to carry out the purposes of the plan and of this chapter in an efficient and economically satisfactory manner;
- (5) The development plan is in reasonable accord with the Master Plan of the village;
- (6) Public services, such as fire and police protection and utilities, are or will be adequate to service the project area; and
- (7) Changes in zoning, streets, street levels, intersections and utilities are reasonably necessary for the project and for the village.

(C) Amendments to an approved development plan or tax increment plan must be submitted by the Authority to the Village Council for approval or rejection.

(Ord. 187, passed 7-14-2010)

§ 151.40 RELOCATION OF PERSONS.

A person to be relocated under this chapter shall be given not less than 90 days' written notice to vacate unless modified by court order for good cause.

(Ord. 187, passed 7-14-2010)

§ 151.41 BUDGET.

(A) The Director of the Authority, if one has been appointed, or otherwise the Board as a whole, shall prepare and submit for the approval of the Board a budget for the operation of the Authority for the ensuing fiscal year. The budget shall be prepared in a manner and contain the information required of municipal departments. Before the budget may be adopted by the Board, it shall be approved

by the Village Council. Funds of the village shall not be included in the budget of the Authority except those funds authorized in this ordinance or by the Village Council.

(B) The Village Council may assess a reasonable pro rata share of the funds for the cost of handling and auditing the funds against the funds of the Authority, other than those committed, which cost shall be paid annually by the Board pursuant to an appropriate item in its budget.

(Ord. 187, passed 7-14-2010)

§ 151.42 HISTORIC SITES.

(A) A public facility, building or structure which is determined by the village to have significant historical interests shall be preserved in a manner as deemed necessary by the village in accordance with laws relative to the preservation of historical sites.

(B) The Authority shall refer all proposed changes to the exterior of sites listed on the State Register of Historic Sites and the National Register of Historic Places to the applicable Historic District Commission created under Public Act 169 of 1970, M.C.L.A. §§ 399.201 et seq., or the Secretary of State for review.

(Ord. 187, passed 7-14-2010)

CHAPTER 152: RENTAL OF DWELLING UNITS

Section

- 152.01 Scope
- 152.02 Definitions
- 152.03 Registration required
- 152.04 Registration forms
- 152.05 Certificate of compliance
- 152.06 Inspections and fees

- 152.99 Penalty

§ 152.01 SCOPE.

This chapter shall apply to any dwelling or part thereof which is occupied by persons pursuant to any oral or written rental or lease agreement or other valuable compensation. Such dwelling shall include, but is not limited to, single-family dwellings, multiple-family dwellings, rooming houses, boarding houses, and bed and breakfast facilities. This chapter also includes mobile home inspections as provided for in Public Act 215 of 2009, being M.C.L.A. § 125.2307.

(Ord. 198, passed 5-9-2012)

§ 152.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUILDING OFFICIAL/ZONING ADMINISTRATOR. The official who is charged with the administration and enforcement of this chapter or any duly authorized representative.

CERTIFICATE OF COMPLIANCE. A certificate issued by the Village Building Official/Zoning Administrator which certifies compliance with the provisions of the ordinances of the village for rental dwellings.

DWELLING. Any structure, building or other facility promised and/or leased to a residential tenant or tenants for use as a home, residence or sleeping unit. This definition includes, but without limitation, one and two family **DWELLINGS**.

OCCUPANT. Includes all tenants, lessees and persons residing within a rental dwelling or rental unit.

OWNER. Any person, firm, corporation or any other legal entity having a legal or equitable interest in the premises.

OWNER REPRESENTATIVE. A person or representative of a corporation, partnership, firm, joint venture, trust, association, organization or other entity designated by the owner of the premises as responsible for operating such property in compliance with all the provisions of the village ordinances.

(Ord. 198, passed 5-9-2012)

§ 152.03 REGISTRATION REQUIRED.

All rental dwelling units are required to be registered pursuant to this chapter and shall comply with the following:

(A) All existing rental property shall be registered within 90 days of the effective date of this chapter and every three years thereafter re-registration is required;

(B) All newly constructed rental dwelling units shall be registered prior to any use or occupancy as a rental dwelling unit and every three years thereafter re-registration is required;

(C) A change in ownership of a rental dwelling requires the new owner to register within 30 days of the ownership change. An existing certificate of compliance shall be transferred to the new owner and shall be valid until its expiration; and

(D) All existing non-rental dwelling units, which are converted to rental dwelling units, shall be registered prior to the date on which the property is first occupied for rental purposes and every three years thereafter shall be re-registered.

(Ord. 198, passed 5-9-2012) Penalty, see § 152.99

§ 152.04 REGISTRATION FORMS.

Applications for registration shall be made in such form as may be provided in accordance with such instructions by the Building Official/Zoning Administrator designated by the Village Manager and shall include the following information:

(A) The name, address and telephone number of the owner, no post office box will be accepted unless accompanied by a physical address;

(B) The rental property owner may appoint a representative. The owner representative's name, address and phone number shall be included on the registration form including a physical address;

(C) Upon registration, the Building Official/Zoning Administrator shall inform applicants of the certificate of compliance requirements; and

(D) There shall be no registration fee.

(Ord. 198, passed 5-9-2012)

§ 152.05 CERTIFICATE OF COMPLIANCE.

(A) No person shall lease or rent a rental dwelling unit, unless there is a valid certificate of compliance issued in the name of the owner for the specific rental dwelling unit. The certificate shall be issued after registration and inspection by the Building Official/Zoning Administrator to determine that each rental dwelling unit complies with the provisions of the codes and ordinances and applicable state statutes.

(B) The Building Official/Zoning Administrator shall inspect the premises before the certificate of compliance is issued. In the event the owner or representative refuses to permit an inspection after 30 days' notice of the intent to inspect, the owner or representative shall not rent the property without the certificate of compliance as required. If the owner, representative or tenant refuse to permit a scheduled inspection, the Building Official/Zoning Administrator may through the Village Attorney, seek a search warrant to conduct the inspection.

(Ord. 198, passed 5-9-2012) Penalty, see § 152.99

§ 152.06 INSPECTIONS AND FEES.

(A) The Building Official/Zoning Administrator shall inspect rental dwelling units on a three-year rotating basis from the date of issue pursuant to this chapter or under any of the following circumstances:

(1) After the initial registration of the rental unit;

(2) Upon receipt of a complaint from an owner, owner's agent or occupant that the premises are believed to be in violation of this chapter. If the Building Official/Zoning Administrator determines that a complaint was filed without a factual basis and such inspection is made on a complaint basis, an inspection fee may be charged to the complainant;

(3) Upon receipt of a report or referral from the Police Department, Fire Department or other public agency; or

(4) Upon evidence of an existing ordinance violation observed by the Building Official/Zoning Administrator.

(B) The fee for an inspection is \$35 per unit per inspection and must be paid in advance of an inspection. Following a successful inspection, a certificate of compliance shall be issued.

(Ord. 198, passed 5-9-2012)

§ 152.99 PENALTY.

(A) Any person who violates any of the provisions of this chapter is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50 nor more than \$500, plus costs and other sanctions, for each infraction:

(B) Repeat offenses shall be subject to an increased civil fine as follows:

(1) The fine for any offense which is a first repeat offense shall be not less than \$250, plus costs and other sanctions; and

(2) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall not be less than \$500 plus costs and other sanctions.

(C) A **REPEAT OFFENSE** means a second (or any subsequent) violation of this chapter:

(1) Committed by a person within any six-month period; and

(2) For which the person admits responsibility or is determined to be responsible.

(Ord. 198, passed 5-9-2012)

CHAPTER 153: SWIMMING POOLS

Section

153.01 Application of regulations

153.02 Locations

153.03 Design and construction

153.04 Safety precautions

153.05 Unnecessary noise

153.06 Abatement of violations

153.99 Penalty

§ 153.01 APPLICATION OF REGULATIONS.

All pools, permanent or portable, erected or constructed, used or intended to be used for swimming, bathing or wading, either above or below ground level, shall be constructed and maintained in conformity with the regulations and requirements of this chapter, provided, however, these regulations and requirements shall not apply to any pool less than 24 inches deep and/or having a surface area of less than 144 square feet, or 12 feet in the largest dimension.

(Ord. 30, passed - -1962) Penalty, see § 153.99

§ 153.02 LOCATIONS.

Swimming pools shall not be erected in the front yard and shall not be erected closer than five feet to adjoining lot line except on corner lots which shall require a 15-foot set-back off side street lot line. No swimming pool or appurtenance thereto shall be erected or constructed on any private or public easement or within five feet from rear property lines and six feet from building line of principal building on any lot.

(Ord. 30, passed - -1962) Penalty, see § 153.99

§ 153.03 DESIGN AND CONSTRUCTION.

Swimming pools if installed below grade, shall be designed and constructed to withstand the water pressure from within when full and to resist the pressure of all external forces when the pool is empty.

(Ord. 30, passed - -1962) Penalty, see § 153.99

§ 153.04 SAFETY PRECAUTIONS.

(A) In the event that the yard space occupied by a swimming pool shall be provided with lighting facilities to illuminate the area, then the electrical switch shall be permanently located outside of the principal building. All such lights shall be shielded to prevent illumination of other than property on which the pool is located. There shall be no overhead electrical conductors installed over or within ten feet of any swimming pool. All metal fences, enclosures or railings near or adjacent to the swimming pool to which bathers have access, which may become electrically alive as a result of contact with broken overhead conductors or from any other cause, shall be effectively grounded.

(B) Pumps, filters and other mechanical and electrical equipment shall be enclosed in such a manner as to be accessible only to authorized persons and not to bathers. Construction and drainage shall be such as to avoid the entrance and accumulation of water in the vicinity of electrical equipment and electrically operated equipment.

(C) Every swimming pool other than those pools above exempted shall be completely surrounded by a wood or chain link fence not less than 48 inches in height. Wooden fences shall be constructed of vertical boards not exceeding eight inches in width and openings between such boards shall not be more than two inches. A dwelling house or accessory building may be used as part of such enclosure. All gates or doors opening through such enclosure shall be equipped with a self-closing and self-latching device on the inside of the enclosure for keeping the gate or door securely closed at all times except that the door of any dwelling house which forms a part of such enclosure need not be so equipped. Doors and gates shall be securely locked when premises are vacated for any period in excess of 24 hours or when the pool is not attended by the householder or his or her authorized attendant. Horizontally woven wood fences are not considered acceptable for the purposes of keeping a pool inaccessible.

(Ord. 30, passed - -1962) Penalty, see § 153.99

§ 153.05 UNNECESSARY NOISE.

There shall be no unnecessary loud noise such as might be made by musical instruments, shouting, whistling, yelling, singing and the like, so as to annoy or disturb the quiet, comfort or repose of persons in any school, place of worship, office, dwelling and/or any persons in the vicinity.

(Ord. 30, passed - -1962) Penalty, see § 153.99

§ 153.06 ABATEMENT OF VIOLATIONS.

Violation of any part of this chapter shall be abated within ten days after receiving notice thereof from the Health Officer or other duly appointed representative of the village. Immediate abatement may be ordered by the Village President and/or the village police officers in cases of extreme necessity.

(Ord. 30, passed - -1962)

§ 153.99 PENALTY.

(A) Any person who violates any of the provisions of this chapter is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50 nor more than \$500, plus costs and other sanctions, for each infraction.

(B) Repeat offenses shall be subject to an increased civil fine as follows:

(1) The fine for any offense which is a first repeat offense shall be not less than \$250, plus costs and other sanctions; and

(2) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall not be less than \$500 plus costs and other sanctions.

(C) A **REPEAT OFFENSE** means a second (or any subsequent) violation of this chapter:

(1) Committed by a person within any six-month period; and

(2) For which the person admits responsibility or is determined to be responsible.

(Ord. 30, passed - -1962; Ord. 119, passed 4-12-1995)

TABLE OF SPECIAL ORDINANCES

Table

I. FRANCHISES

II. REAL PROPERTY TRANSACTIONS

III. VACATIONS

IV. ZONING MAP CHANGES

TABLE I: FRANCHISES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
25	6-23-1954	Granting a gas franchise to Michigan Gas and Electric

78	9-3-1981	Company for a period of 30 years Granting a cable television franchise to Michiana Cablevision Corporation for a period of 15 years
80	10-1-1981	Amending Ordinance 78, the cable television franchise
88	8-1-1985	Granting a gas franchise to Michigan Power Company for a period of 30 years
96	8-10-1988	Granting an electric franchise to Indiana Michigan Power Company for a period of 30 years
122	10-9-1996	Granting a cable television franchise to Michiana Cablevision Corporation for a period of 15 years

TABLE II: REAL PROPERTY TRANSACTIONS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
182	4-29-2009	Providing for the private sale of certain real property known as Watkins Park by the village to the county

TABLE III: VACATIONS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
106	1-8-1992	The entire length, width and area of the street previously known as Bridge Street, is hereby vacated, discontinued and abolished
		The entire length, width and area of the street known as

116	6-9-1993	Chamberlain Street, adjoining Lots 159, 166, 167, 170 and 171, and the alley lying between Lots 165 through 172, inclusive, are hereby vacated, discontinued and abolished

TABLE IV: ZONING MAP CHANGES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
158	1-12-2005	Amending the zoning map so the following parcel of land is zoned C-1 Commercial District: The north one-half of Lot 11, Ryther's Addition to the village
159	6-8-2005	Amending the zoning map so that the following described parcel of land is zoned PUD Planned Unit Development District: Part of the southwest quarter of the northwest quarter of Section 11, Township 8 South, Range 20 West
162	9-14-2005	Amending the zoning map so that the following described parcel of land is zoned C-2 Central Business District: Lots 25 through 29, inclusive, and Lots 38 through 41, inclusive, original plat of the village
163	10-12-2005	Amending the zoning map so that the following described parcel of land is rezoned from R-1A Single-Family Residential District to PUD Planned Unit Development District: Commencing 165 feet west of the northeast corner of the southeast quarter of the northeast quarter of Section 3, Township 8 South, Range 20 West

167	10-11-2006	Amending the zoning map so that the following described parcel of land is zoned PUD Planned Unit Development: Part of the east half of the northeast quarter of Section 10, Township 8 South, Range 20 West
168	5-9-2007	Amending the zoning map so that the following described parcel of land is zoned PUD Planned Unit Development: Part of the northwest quarter of Section 11, Township 8 South, Range 20 West
173	10-10-2007	Amending the zoning map so that the following described parcel of land is rezoned as C-2 Central Business District: The south half of Lots 50 and 52, plat of part of the village
174	10-10-2007	Amending the zoning map so that the following described parcel of land is rezoned C-1 Commercial District: Lot 1, Block 10, Sherwood's Addition to the village
181	3-11-2009	Amending the zoning map so that the following described parcel of land is rezoned C-2 Central Business District: Part of Lots 7 and 8, Subdivision of the east half of the southeast quarter of Section 3, Township 8 South, Range 20 West

PARALLEL REFERENCES

References to Michigan Compiled Laws Annotated

References to Ordinances

REFERENCES TO MICHIGAN COMPILED LAWS ANNOTATED

<i>M.C.L.A. Cites</i>	<i>Code Section</i>
15.231 et seq.	32.01
15.261 et seq.	32.01
15.261 through 15.275	151.17
24.201 through 24.328	70.02, 71.24
48.801 to 48.813	32.02
61.1 et seq.	31.02, 31.03, 150.05
62.1	31.02, 31.03
62.2	31.01
65.8	31.01
123.731 et seq.	51.20
125.31 et seq.	32.01
125.31 through 125.45	32.01
125.401 et seq.	150.21
125.581 et seq.	32.01
125.1501 et seq.	150.01, 150.02, 150.21
125.1501 through 125.1531	150.01, 150.02
125.1508b(6)	150.01
125.1523(3)	150.99
125.1651 through 125.1680	151.01
125.2307	152.01
125.3101 et seq.	32.01
125.3801 et seq.	32.01
141.101 et seq.	51.21
141.101 through 141.140	51.20, 51.30, 151.33
141.121	51.23, 52.10
141.421 to 141.440a	31.01
207.551 et seq.	151.34
207.561	151.35
207.601 et seq.	151.34
207.606	151.35
207.651 et seq.	151.34
207.662	151.35
211.1 et seq.	150.26
213.21 et seq.	151.30
213.321 through 213.332	151.03, 151.37

247.401	70.15
247.403(7)	70.15
257.1 through 257.923	70.01, 71.01, 71.03, 71.17, 71.22
257.710B	71.24
325.191	52.40
325.192	52.40
333.127101 et seq.	51.25
338.2301 et seq.	150.01
339.2501 et seq.	150.21
399.201 et seq.	151.42
436.1 et seq.	93.20
560.101 et seq.	32.01
560.186	150.40
600.113	70.99
600.8101 et seq.	72.01
600.8395	72.01
600.8701 through 600.8735	10.02
712A.2	130.37
722.673	110.02, 130.15
752.362	110.02, 130.15
764.9a through 764.9e	10.10

REFERENCES TO ORDINANCES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
1	3-6-1947	91.40 - 91.43, 91.99
2	4-3-1947	130.21
3	4-3-1947	130.22, 130.99
4	4-3-1947	130.23
6	4-3-1947	130.24
7	4-3-1947	130.20
9	4-3-1947	90.23, 90.99
10	4-3-1947	150.41, 150.99

11	4-3-1947	92.25, 92.99
12	4-3-1947	92.26, 92.99
13	4-3-1947	70.17, 70.99
16	4-1-1948	Ch. 73, Sch. V
17	4-1-1948	Ch. 73, Sch. VII
18	6-3-1948	Ch. 73, Schs. I, VI
-	6-3-1948	Ch. 73, Sch. VII
19	5-5-1949	Ch. 73, Sch. I
21	- -1952	71.01 - 71.22, 71.99, 72.20 - 72.23, 72.99
20	6-5-1952	Ch. 73, Sch. II
24	7-2-1953	114.01 - 114.12, 114.99
25	6-23-1954	T.S.O. I
27	8-9-1959	52.41, 52.99
29	3-2-1961	71.23, 71.99
30	- -1962	153.01 - 153.06, 153.99
31	- -1962	71.26
33	- -1963	150.03, 150.04
35	10-3-1963	130.35
39	4-14-1966	91.20 - 91.27, 91.99
42	4-4-1968	130.36
45	6-5-1969	72.01 - 72.06
46	10-2-1969	150.40
51	4-5-1973	71.25, 71.99
54	5-3-1973	Ch. 73, Schs. III, IV
55	6-7-1973	52.40
58	1-3-1974	53.01 - 53.06, 53.99
60	9-5-1974	93.21, 93.99
61	10-21-1974	150.03, 150.04
63	8-5-1976	72.24, 72.99; Ch.73, Sch. I
64	12-2-1976	130.01, 130.16 - 130.20, 130.99
74	11-14-1979	51.20 - 51.31
75	11-14-1979	51.01 - 51.08, 51.99
77	8-6-1981	113.01 - 113.14
78	9-3-1981	T.S.O. I
80	10-1-1981	T.S.O. I
86	5-2-1985	90.01 - 90.07, 90.20 - 90.22,

88	7-11-1985	90.99 T.S.O. I
94	1-13-1988	150.01, 150.03, 150.04
95	8-10-1988	150.02
96	8-10-1988	T.S.O. I
98	3-8-1989	95.02, 95.99
101	11-14-1990	71.24, 71.99
103	12-12-1990	50.01 - 50.16, 50.99
104	1-9-1991	50.11
106	1-8-1992	T.S.O. III
110	5-13-1992	112.01 - 112.12, 112.99
112	11-11-1992	95.01, 95.99
114	4-14-1993	50.10, 50.13
115	4-14-1993	112.04
116	6-9-1993	T.S.O. III
117	10-13-1993	113.25 - 113.42
119	4-12-1995	50.99, 51.99, 71.99, 72.99, 90.99, 91.99, 92.99, 93.99, 95.99, 112.99, 130.99, 150.99, 153.99
120	3-13-1996	30.01
122	10-9-1996	T.S.O. I
123	5-14-1997	150.20 - 150.27, 150.99
124	5-14-1997	91.01 - 91.05, 91.99
125	5-14-1997	130.37, 130.99
126	5-14-1997	111.01 - 111.10, 111.99
127	4-8-1998	71.26
129	7-8-1998	51.23
131	3-10-1999	51.23
132	5-12-1999	93.20
133	6-9-1999	93.20
134	8-11-1999	32.02
137	9-13-2000	150.05
138	11-8-2000	31.03
140	6-13-2001	130.15, 130.99
145	7-18-2001	51.23
151	2-19-2003	51.23
147	5-19-2004	33.01 - 33.18
149	5-19-2004	130.18

153	5-19-2004	31.01
154	5-19-2004	51.23
155	5-19-2004	52.25 - 52.29, 52.99
156	5-19-2004	34.01 - 34.20
157	1-12-2005	92.01 - 92.11, 92.99
158	1-12-2005	T.S.O. IV
159	6-8-2005	T.S.O. IV
161	7-13-2005	70.15, 70.99
162	9-4-2005	T.S.O. IV
163	10-12-2005	T.S.O. IV
164	11-9-2005	92.04
165	11-10-2005	70.01
166	4-12-2006	70.02
167	10-11-2006	T.S.O. IV
168	5-9-2007	T.S.O. IV
169	5-9-2007	33.02, 33.04, 33.05, 33.09, 33.11
171	5-9-2007	51.27
173	10-10-2007	T.S.O. IV
174	10-10-2007	T.S.O. IV
178	11-20-2008	31.01
179	2-25-2009	52.01 - 52.12, 52.99
180	2-25-2009	51.23, 51.31
181	3-11-2009	T.S.O. IV
182	4-29-2009	T.S.O. II
184	8-12-2009	50.30 - 50.35, 50.99, 51.99
185	11-11-2009	110.01 - 110.03, 110.15 - 110.22, 110.35 - 110.43, 110.99
186	4-14-2010	93.20
187	7-14-2010	151.01 - 151.04, 151.15 - 151.19, 151.30 - 151.42
189	10-13-2010	93.01 - 93.05
190	12-8-2010	52.03
191	5-11-2011	33.03
193	6-8-2011	150.01, 150.99
194	6-8-2011	32.01
196	12-14-2011	52.02
197	12-14-2011	51.23
198	5-9-2012	152.01 - 152.06, 152.99

199	12-12-2012	151.15
200	4-10-2013	70.15, 70.99
201	6-12-2013	51.23
202	7-10-2013	94.01 - 94.16, 94.99
204	8-13-2014	91.03