

**TITLE XV: LAND USAGE**

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**CHAPTER 150: BUILDING REGULATIONS**

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**STANDARD CODES AND ENFORCEMENT**

(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 appellent.

(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**

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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**

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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

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### 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)