

TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: ANIMALS

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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)

CHAPTER 91: NUISANCES

Section

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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

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92.03 Cost of construction; replacement; certain repairs

92.04 Liability of property owner

92.05 Permit required; exception

92.06 Specifications, standards and inspection

92.07 Construction, reconstruction or replacement by village; lien

92.08 Repair or maintenance; notice; performed by village; lien

92.09 Construction, reconstruction, replacement or repair in conjunction with street project

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Use of Streets

92.25 Prohibiting operation of tractors or machinery with lugs over streets

92.26 Prohibiting dumping on streets, alleys and public places

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
- 93.05 Parks and Recreation Master Plan

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.

(Ord. 189, passed 10-13-2010)

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)