

CODE OF ORDINANCES VILLAGE OF CLINTON, MICHIGAN

Published in 1995 by Order of the Village Council



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of the

VILLAGE OF

CLINTON, MICHIGAN

AT THE TIME OF THIS CODIFICATION

William C. Wise

President

Carl Habrick, President Pro-Tem

Charles Thompson

Larry Sines

Deborah Reeves

Merlin Mowrey

Village Council

Kevin Cornish

Village Manager

Gary Baldwin

Village Attorney

Wayne Brass

Village Clerk

CURRENT OFFICIALS

of the

VILLAGE OF

CLINTON, MICHIGAN

Merlin Mowery

President

Carl Habrick, President Pro-Tem

Dianne Davis

Larry Sines

Laurence Peters

Jon Fruitier

Warren Anderson

Village Council

Kevin Cornish

Village Manager

Gary Baldwin

Village Attorney

Wayne Brass

Village Clerk

PREFACE

This Code constitutes a complete codification of the general and permanent ordinances of the Village of Clinton, Michigan.

Source materials used in the preparation of the Code were the ordinances adopted by the village council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative table appearing in the back of this Code, the reader can locate any ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the

left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

CHARTER	CHT:1
CHARTER COMPARATIVE TABLE	CHTCT:1
CODE	CD1:1
CODE APPENDIX	CDA:1
CODE COMPARATIVE TABLE	CCT:1
STATE LAW REFERENCE TABLES	SLT:1
CHARTER INDEX	CHTi:1
CODE INDEX	CDi:1

Index

The index has been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the index itself which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up-to-date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up-to-date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of Allen Z. Paul, Supervising Editor, and Robert MacNaughton, Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Kevin Cornish, Village Manager, for his cooperation and assistance during the progress of the work on this publication. It is hoped that his efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the village readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the village's affairs.

Copyright

All editorial enhancements of this Code are copyrighted by Municipal Code Corporation and the Village of Clinton, Michigan. Editorial enhancements include, but are not limited to: organization; table of contents; section catchlines; prechapter section analyses; editor's notes; cross references; state law references; numbering system; code comparative table; state law reference tables; and index. Such material may not be used or reproduced for commercial purposes without the express written consent of Municipal Code Corporation and the Village of Clinton, Michigan.

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ADOPTING ORDINANCE

ORDINANCE NO. 96-01

An Ordinance Adopting and Enacting a New Code for the Village of Clinton, Michigan; Providing for the Repeal of Certain Ordinances Not Included Therein; Providing a Penalty for the Violation Thereof; Providing for the Manner of Amending Such Code; and Providing When Such Code and This Ordinance Shall Become Effective.

Be it Ordained by the Village of Clinton:

Section 1. The Code entitled ``Code of Ordinances, Village of Clinton" published by Municipal Code Corporation consisting of Chapters 1 through 66, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before September 5, 1995, and not included in the Code or recognized and continued in force by reference therein, are repealed.

Section 3. The repeal provided for in Section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine not to exceed \$500.00 and/or imprisonment not to exceed 90 days or both such fine and imprisonment. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the village council may pursue other remedies such as abatement of nuisances, injunctive relief, and revocation of licenses or permits.

Section 5. Additions or amendments to the Code when passed in the form as to indicate the intention of the village council to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. Ordinances adopted after September 5, 1995, that amend or refer to ordinances that have been codified in the Code, shall be construed as if they amend or refer to like provisions of the Code.

Section 7. This ordinance shall become effective February 1, 1996.

Passed and Adopted by the Village Council this 8th day of January, 1996.

/s/ William C. Wise
President

/s/ Wayne Brass
Village Clerk

Published January 11, 1996

SUPPLEMENT HISTORY TABLE

The table below allows users of this Code to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Code Book and are considered "Included." Ordinances that are not of a general and permanent nature are not codified in the Code Book and are considered "Omitted."

In addition, by adding to this table with each supplement, users of this Code of Ordinances will be able to gain a more complete picture of the Code's historical evolution.

Ordinance Number	Date Adopted	Included/ Omitted	Supplement Number
4 of 2008	6- 2-08	Omitted	6
5 of 2008	7- 7-08	Omitted	6
6 of 2008	7- 7-08	Included	6
7 of 2008	8- 4-08	Included	6
8 of 2008	8- 4-08	Included	6
01 of 2009	2- 2-09	Included	6
02 of 2009	7-20-09	Included	6
3 of 2009	9- 9-09	Included	6
4 of 2009	12- 7-09	Included	6
1 of 2010	3- 1-10	Included	6
2 of 2010	8- 2-10	Included	6
01 of 2011	3- 7-11	Included	6

02 of 2011	3- 7-11	Included	6
3 of 2011	8- 1-11	Included	7
4 of 2011	10- 3-11	Omitted	7
1 of 2012	1- 4-12	Omitted	7
2 of 2012	1- 4-12	Omitted	7
2 of 2012	5- 7-12	Included	7
3 of 2012	1- 4-12	Included	7
3 of 2012	8- 6-12	Omitted	7
1 of 2013	7- 8-13	Included	7
2013-02	11-11-13	Included	7
2014-01	3- 3-14	Included	7
2014-02	3- 3-14	Included	7
2014-03	4- 7-14	Included	7
2014-04	4- 7-14	Included	7
2014-05	4- 7-14	Omitted	7
2014-06	4- 7-14	Included	7
2014-07	5- 5-14	Included	8
2014-08	5- 5-14	Included	8
2015-01	5- 4-15	Included	8
2015-02	12- 7-15	Included	8

2015-03	12- 7-15	Included	8
2015-04	12- 7-15	Included	8
2015-05	12- 7-15	Included	8
2015-06	12- 7-15	Included	8
2015-07	12- 7-15	Included	8
2016-01	6- 6-16	Included	9
2016-02	10- 3-16	Included	9
2016-03	11- 7-16	Included	9
2017-01	1- 4-17	Omitted	9
2017-02	9- 6-17	Included	9
2018-01	4- 2-18	Omitted	9
2018-02	5- 7-18	Included	9
2018-03	8- 6-18	Included	9
2018-04	11-19-18	Included	9
2018-05	12- 3-18	Included	9
2019-01	4- 1-19	Included	9
2019-02	6- 3-19	Included	9
2019-03	6- 3-19	Included	9
2019-04	7- 1-19	Included	9
2019-05	7- 1-19	Included	9

2019-06	7- 1-19	Included	9
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CODE OF ORDINANCES

Chapter 1 - GENERAL PROVISIONS

Sec. 1-1. - Designation and citation of Code.

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances, Village of Clinton, Michigan," and may be so cited. Such Code may also be cited as the "Clinton Village Code."

State Law reference— Authority to codify ordinances, MCL 66.3a, MSA 5.1273(1).

Sec. 1-2. - Definitions and rules of construction.

- (a) It is the legislative intent of the councilmembers in adopting this Code that all provisions and sections of this Code be liberally construed to protect and preserve the peace, health, safety and welfare of the inhabitants of the village. In the construction of this Code and any amendment to this Code, the following rules shall be observed, unless the context clearly indicates otherwise:

Code. The term "this Code" or "Code" shall mean the Code of Ordinances, Village of Clinton, Michigan, as designated in section 1-1.

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

Councilmembers. The term "councilmembers" shall mean the president and trustees of the village.

County. The term "the county" or "this county" shall mean the County of Lenawee, State of Michigan.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations and to all neuter objects, as well as to males.

MCL, MSA. The abbreviation "MCL" shall mean the Michigan Compiled Laws, as amended. The abbreviation "MSA" shall mean the Michigan Statutes Annotated, as amended.

Municipal civil infraction. An act or omission that is prohibited by this Code or any ordinance of the village, but which is not a crime under this Code or other ordinance, and for which civil sanctions, including, without limitation, fines, damages, expenses and costs, may be ordered, as authorized by Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended. A municipal civil infraction is not a lesser included offense of a violation of this Code that is a criminal offense.

Number. A word importing the singular number only may extend and be applied to several persons and things, as well as to one person and thing.

Oath, affirmation, sworn, affirmed. The term "oath" shall be construed to include the term "affirmation" in all cases where by law an affirmation may be substituted for an oath, and in like cases the term "sworn" shall be construed to include the term "affirmed."

Officer, department, board, commission or other agency. Whenever any officer, department, board, commission or other agency is referred to by title only, such reference shall be construed as if followed by

the term "of the Village of Clinton, Michigan." Whenever by the provisions of this Code any officer of the village is assigned any duty or empowered to perform any act or duty, reference to such officer shall mean and include such officer or his deputy or authorized subordinate.

Or, and. The word "or" may be read "and," and the word "and" may be read "or" if the sense requires it.

Person. The term "person" includes firms, joint ventures, partnerships, corporations, clubs and all associations or organizations of natural persons, either incorporated or unincorporated, howsoever operating or named, and whether acting by themselves or by a servant, agent or fiduciary, and all federal, state and local agencies of government, as well as natural persons, and includes all legal representatives, heirs, successors and assigns thereof.

Public place. The term "public place" shall mean any place to or upon which the public resorts or travels, whether such place is owned or controlled by the village or any agency of the state or is a place to or upon which the public resorts or travels by custom or by invitation, express or implied.

Shall, may. Whenever the word "shall" appears in this Code it shall be considered mandatory and not discretionary, except as otherwise provided. The word "may" is permissive.

Sidewalk. The term "sidewalk" shall mean that portion of a street between the curblines or lateral lines and the right-of-way lines which is intended for the use of pedestrians.

State. The term "the state" or "this state" shall be construed to mean the State of Michigan.

Street, highway, alley. The terms "street," "highway" and "alley" shall mean the entire width subject to an easement for public right-of-way or owned in fee by the village, county or state or every way or place, of whatever nature, whenever any part thereof is open to the use of the traveling public. The term "alley" shall mean any such way or place providing a secondary means of ingress and egress from a property.

Tense. Words used in the present or past tense include the future, as well as the present and past.

Village. The term "village" shall mean the Village of Clinton, Michigan.

Village council. The term "village council" or "council" shall mean the village council of the Village of Clinton.

(b) Any word or term not defined in this Code shall be considered to be defined in accordance with its common or standard definition.

(Ord. No. 97-04, § 1, 7-7-97)

Sec. 1-3. - Section catchlines and other headings.

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

Sec. 1-4. - References and notes.

Charter references, cross references, state law references and editors' notes in this Code are explanatory only and should not be deemed a part of the text of any section.

Sec. 1-5. - History notes.

The history notes appearing in parentheses after sections of this Code are not intended to have any legal effect, but are merely intended to indicate the source of matter contained in this section.

Sec. 1-6. - Prior offenses, rights, etc., not affected by adoption of Code.

- (a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.
- (b) The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance of the village in effect on the date of adoption of this Code.

Sec. 1-7. - Amendments to Code.

- (a) Amendments to any of the sections of this Code shall be made by amending such sections by specific reference to the section number of this Code in the following language: "That section _____ of the Code of Ordinances, Village of Clinton, Michigan (or Clinton Village Code), is hereby amended to read as follows:...." The new provisions shall then be set out in full as desired.
- (b) If a new section not heretofore existing in the Code is to be added, the following language shall be used: "That the Code of Ordinances, Village of Clinton, Michigan (or Clinton Village Code), is hereby amended by adding a section, to be numbered _____, which section reads as follows:...." The new section shall then be set out in full as desired.
- (c) If a section is to be repealed, the following language shall be used: "That the Code of Ordinances, Village of Clinton, Michigan (or Clinton Village Code), is hereby amended by deleting a section, numbered _____."

Sec. 1-8. - Supplementation of Code.

- (a) By contract or by village personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the village council. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- (b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:
 - (1) Organize the ordinance material into appropriate subdivisions;
 - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement and make changes in such catchlines, headings and titles;
 - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
 - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and

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

Sec. 1-9. - Severability.

Should any provision or section of this Code be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions or sections, it being the intent of the village council that this Code shall stand, notwithstanding the invalidity of any provision or section thereof. This section shall apply to the amendment of any section of this Code, whether or not the wording of this section is set forth in the amendatory ordinance.

Sec. 1-10. - Notice.

Unless otherwise provided in this Code, notice regarding sidewalk repairs, sewer or water connections, dangerous structures, abating nuisances or any other act, the expense of which is performed by the village and may be assessed against the premises under this Code, shall be served by:

- (1) Delivering the notice to the owner personally or leaving the notice at his residence, his office or place of business with some person of suitable age and discretion;
- (2) Mailing the notice by certified or registered mail to the owner at his last known address; or
- (3) If the owner is unknown, posting the notice in some conspicuous place on the premises at least five days before the act or action for which the notice is given. No person shall interfere with, obstruct, mutilate, conceal or tear down any official notice or placard posted by any village officer, unless permission is given by the officer to remove the notice.

Sec. 1-11. - General penalties and sanctions for violations of Code and village ordinances; continuing violations; injunctive relief, revocation of licenses and permits.

- (a) Unless a violation of this Code or any ordinance of the village is specifically designated in the Code or ordinance as a municipal civil infraction, the violation shall be deemed to be a misdemeanor.
- (b) The penalty for a misdemeanor violation shall be a fine not exceeding \$500.00 plus costs of prosecution, or imprisonment not exceeding 90 days, or both, unless a specific penalty is otherwise provided for the violation by this Code or any ordinance.
- (c) The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by this Code or any ordinance, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended, and other applicable laws.
 - (1) Unless otherwise specifically provided for a particular municipal civil infraction violation by this Code or any ordinance, the civil fine shall be not less than \$50.00, plus costs and other sanctions, for each violation.
 - (2) Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of this Code or any ordinance. As used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision (1) committed by a person within any six-month period (unless some other period is specifically provided by this Code or any ordinance) and (2) for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by this Code or any ordinance for a particular violation, the increased fine for a repeat offense shall be as follows:
 - a. The fine for any offense which is a first repeat offense shall be no less than \$250.00, plus costs and other sanctions.
 - b. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than \$500.00, plus costs and other sanctions.

- (d) A "violation" includes any act which is prohibited or made or declared to be unlawful or an offense by this Code or any ordinance; and any omission or failure to act where the act is required by this Code or any ordinance.
- (e) Each day on which any violation of this Code or any ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.
- (f) The imposition of a fine, penalty or other sanction shall not excuse any person from compliance with the requirements of this Code.
- (g) In addition to any remedies available at law, the village may bring an action for an injunction or other process against a person to restrain, prevent, or abate any nuisance or violation of this Code or any village ordinance; or may revoke licenses or permits.

(Ord. No. 97-04, § 2, 7-7-97)

Cross reference— Municipal civil infractions, ch. 3.

State Law reference— Limitation on penalties, MCL 66.2, MSA 5.1272.

Sec. 1-12. - Aiding and abetting violations.

Whenever any act or omission to act is a violation of this Code, or of any rule or regulation adopted thereunder, any person who causes, secures, aids or abets such violation may be prosecuted, and any conviction thereof shall be punished as if he had directly committed such violation.

Secs. 1-13—1-19. - Reserved.

Editor's note— Ord. No. 97-04, § 3, adopted July 7, 1997, repealed former §§ 1-13—1-19 of the Code, which pertained to municipal civil infractions and derived unamended from the original Code.

Sec. 1-20. - Altering Code.

It shall be unlawful for any person in the village to change or amend by additions or deletions any part or portion of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the village to be misrepresented thereby.

Sec. 1-21. - Certain provisions saved from repeal.

Nothing in this Code or the ordinance adopting this Code, when not inconsistent with this Code, shall affect any ordinance:

- (1) Affecting the boundaries of the village;
- (2) Vacating, abandoning, or accepting any street, alley or easement;
- (3) Relating to any specific local improvement;
- (4) Authorizing, directing or ratifying any purchase or sale;
- (5) Approving or accepting any subdivision or plat;
- (6) Authorizing or directing the issuance of any bonds or other evidence of indebtedness;
- (7) Authorizing or directing the making of any investment;
- (8) Making or otherwise affecting any appropriations;

- (9) Levying or otherwise affecting any taxes, not inconsistent herewith;
- (10) Relating to franchises;
- (11) Pertaining to zoning or rezoning;
- (12) Regulating or restricting traffic to parking on particular streets or in particular locations in the village;

and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code. Such ordinances are on file in the office of the village clerk. No offense committed or penalty incurred or any right established prior to the effective date of the Code shall be affected.

Sec. 1-22. - Reserved.

Editor's note— Ord. No. 2016-03, § 1, adopted Nov. 7, 2016, repealed § 1-22, which pertained to violations of laws prohibited and derived from Ord. No. 2, of 2012, § 1, adopted May 7, 2012.

Chapter 2 - ADMINISTRATION⁽¹⁾

Footnotes:

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Cross reference— Buildings and building regulations, ch. 10; cable communications, ch. 14; downtown development authority, § 18-31 et seq.; environment, ch. 22; fire prevention and protection, ch. 26; offenses and miscellaneous provisions, ch. 34; special assessments, ch. 46; streets, sidewalks and other public places, ch. 50; subdivisions, ch. 54; traffic and vehicles, ch. 58; utilities, ch. 62; zoning, ch. 66.

ARTICLE I. - IN GENERAL

Secs. 2-1—2-30. - Reserved.

ARTICLE II. - VILLAGE COUNCIL

DIVISION 1. - GENERALLY

Sec. 2-31. - Election of candidates; terms.

The village elections for council and president will be held in staggered even year Novembers. The council and president shall hold their respective offices for the term of four years and until their successors are elected and qualified. In order to continue the staggered terms, the three council positions with terms ending in March of 2005 will now end in November of 2006, and the three council positions and council president with terms ending in March of 2006 will now end in November of 2008.

(Ord. No. 86-1, § 1, 1-27-86; Ord. No. 6 of 2004, § 1, 12-6-04)

Secs. 2-32—2-34. - Reserved.

Editor's note— Ord. No. 6 of 2004, adopted Dec. 6, 2004, superseded the provisions of former §§ 2-32—2-34. See § 2-31 for similar provisions. Former §§ 2-32—2-34 derived from Ord. No. 86-1, §§ 2—4, adopted Jan. 27, 1986.

Sec. 2-35. - Regular meetings.

Council will hold its regular meeting on the first Monday of each month unless otherwise posted.

(Ord. No. 98-05, § 2, 12-7-98; Ord. No. 2014-06, § 1, 2, 4-7-14)

Editor's note— Ord. No. 98-05, § 2, adopted Dec. 7, 1998, did not specifically amend this Code; hence inclusion of its provisions as § 2-35 was at the discretion of the editor.

Secs. 2-36—2-50. - Reserved.

DIVISION 2. - COMPENSATION

Sec. 2-51. - President and councilmembers.

- (a) The president of the village shall receive the sum of \$125.00 for each regular meeting of the village council which the president attends.
- (b) The councilmembers shall receive the sum of \$75.00 for each regular meeting of the village council which they attend.
- (c) They will receive no other compensation for services performed for the village during their term of office.

(Ord. No. 95-02, § 2, 5-1-95)

State Law reference— Compensation of village officers, MCL 64.21, MSA 5.1263.

Secs. 2-52—2-70. - Reserved.

DIVISION 3. - POWERS RELATING TO PROPERTY

Sec. 2-71. - Sale of land or buildings—Generally.

Pursuant to MCL 67.4, the village is hereby empowered to sell at private sale such land or buildings as it may own, other than those lands described in Ordinance No. 2 of 1981, or lands dedicated to use as a public park at private sale.

(Ord. No. 89-5, § 1, 9-20-89)

Sec. 2-72. - Private sale of real estate.

To sell real estate at private sale the village council shall first publish a notice in a newspaper of local circulation, hold a public hearing at a regularly scheduled village council meeting, then adopt an ordinance authorizing the private sale.

(Ord. No. 89-5, § 2, 9-20-89; Ord. No. 4 of 2004, § 1, 11-1-04)

Sec. 2-73. - Description of lands essential to village.

The lands and premises in the village which are essential to the village are described as follows:

All that portion of Owen's & Pomeroy's Addition to the village, lying in the easterly portion of Lots 15 and 27 formerly occupied as part of the right-of-way of the New York Central Railroad's so-called Jackson Branch, being all that triangular tract of land described as beginning at a point at the intersection of the west line of Railroad Street and the north line of Church Street; thence north along the west line of Railroad Street to the south line of Michigan Avenue; thence westerly along the south line of Michigan Avenue to a point which is 15 feet distant westerly from and at right angles to the centerline of the abandoned New York Central Railroad so-called Jackson Branch Main Line; thence southeasterly on a line parallel with and 15 feet westerly of the New York Central Railroad Main Line to the point of beginning.

Also, all that property conveyed by John J. Adam to the Lake Shore & Michigan Southern Railway Company (predecessor of the New York Central Railroad Company) by deed dated May 13, 1873, and recorded in Liber 101 of Deeds on Pages 84 and 85 in the county and also by conveyance from Hiram Reynolds to the Lake Shore & Michigan Southern Railway Company (predecessor of the New York Central Railroad Company) by deed dated May 19, 1873, and recorded in Liber 101 of Deeds on Pages 86 and 87 in the county. Together with the 15-foot strip of land lying between Michigan Avenue on the south, Brown Street on the north, and the above-mentioned conveyances on the west and east, respectively.

Also, all that part of the NE $\frac{1}{4}$ section 5, T5S, R4E, described as commencing on the north line of section 5, aforesaid, at a point located 2278.67 feet west from the northeast corner of section 5, and running thence S $4^{\circ}38'$ E 413.93 feet; thence S $4^{\circ}13'$ E 307.40 feet; thence S $4^{\circ}39'$ E 110.49 feet to the northwest corner of Lot 6, Assessor's Plat No. 5, of the village; thence S $5^{\circ}42'$ E 148.94 feet to the southwest corner of Lot 5, Assessor's Plat No. 5, of the village; plat record is S $5^{\circ}18'$ E 149.0 feet; thence S $6^{\circ}45'$ E 202.63 feet to the south line of Loomis Street extended; thence S $7^{\circ}26'$ E 133.37 feet; thence S $6^{\circ}52'$ E 95.96 feet; thence S $7^{\circ}10'$ E 37.40 feet; thence S $0^{\circ}05'$ E 66.96 feet to the south line of Coman Street; thence S $9^{\circ}32'$ E 332.74 feet to the south line of Litchfield Street; thence S $9^{\circ}31'$ E 334.09 feet to the south line of Brown Street and the northwest corner of Lot 19, Assessor's Plat No. 1 of the village; thence N $89^{\circ}48'$ W along the south line of Brown Street 30.40 feet to the northeast corner of Lot 21, the Assessor's Plat No. 1; thence N $9^{\circ}31'$ W 333.41 feet to the south line of Litchfield Street; thence N $9^{\circ}32'$ W 333.60 feet to the south line of Coman Street; thence N $31^{\circ}23'$ W 79.27 feet; thence N $10^{\circ}46'$ W 24.56 feet; thence on a 7,519.42-foot radius curve right 697.75 feet (long chord bearing N $6^{\circ}57'30''$ W 697.33 feet); thence N $4^{\circ}13'$ W 727.95 feet, more or less, to the north line of section 5; thence S $89.18'$ E along such section line 77.28 feet to the place of beginning, excepting and reserving therefrom the lands conveyed to Clinton Township, Lenawee County, Michigan, by the deed recorded March 25, 1980, in Liber 893 on Page 916, Lenawee County Records;

such lands are hereby determined to be essential to the village and to its future growth and development.

(Ord. No. 81-2, § 1, 7-14-81)

Sec. 2-74. - Sale, conveyance or disposal of lands described in section 2-73.

The lands and premises described in section 2-73 shall not be sold, conveyed or otherwise disposed of by the village.

(Ord. No. 81-2, § 2, 7-14-81)

Sec. 2-75. - Exchange of property—Purpose.

The village is in need of additional property to construct an addition to the radiator room of the light plant in order to comply with the side yard setback requirements of the village zoning ordinance. Hardwoods of Michigan, Inc. has agreed to convey certain of its real property to the village to facilitate the zoning compliance in exchange for village property of like size.

(Ord. No. 92-3, § 1, 10-5-92)

Sec. 2-76. - Same—Description.

- (a) The village is hereby authorized to sell (exchange) that village property situated in the village and more particularly described as follows:

A parcel of land containing 0.143 acre located in the west one-half of the southeast one-quarter of Section 5, Town 5 South, Range 4 East, Clinton Township, Lenawee County, Michigan being described as: Commencing at the south one-quarter corner of section 5; thence south 88°21'10" east 104.08 feet; thence south 89°59'02" east 385.78 feet; thence north 09°30'00" west 328.28 feet; thence north 84°28'00" east 160.00 feet to the point of beginning; thence north 84°28'00" east 250.00 feet; thence south 05°32'00" east 25.00 feet; thence south 84°28'00" west 250.00 feet; thence north 05°32'00" west 25.00 feet to the point of beginning.

- (b) The property described in subsection (a) of this section shall be exchanged for Hardwoods of Michigan property situated in the village and more particularly described as follows:

A parcel of land containing 0.143 acre located in the west one-half of the southeast one-quarter of section 5, Town 5 South, Range 4 East, Clinton Township, Lenawee County, Michigan being described as commencing at the south one-quarter corner of section 5; thence south 88°21'10" east 104.08 feet; thence south 89°59'02" east 385.78 feet; thence north 09°30'00" west 328.28 feet; thence north 23°53'20" east 288.15 feet; thence north 15°30'30" west 274.49 feet; thence north 48°17'50" west 127.83 feet; thence north 17°08'55" west 165.77 feet; thence north 00°04'00" west 114.40 feet to the point of beginning; thence north 00°12'35" west 214.00 feet; thence north 89°58'38" east 218.00 feet; thence south 00°01'42" east 15.00 feet; thence south 89°58'38" west 202.95 feet; thence south 00°12'35" east 198.36 feet; thence south 87°33'00" west 15.01 feet to the point of beginning.

(Ord. No. 92-3, § 2, 10-5-92)

Sec. 2-77. - Same—Form of conveyance.

The conveyance of the property described in section 2-73 to and from the village shall be accomplished by quit-claim deed. Hardwoods of Michigan, Inc. shall retain an easement over the property conveyed to the village and shall further cause all mortgage liens against such parcel to be released.

(Ord. No. 92-3, § 3, 10-5-92)

Sec. 2-78. - Option of village to reject bids.

In all cases where the village shall solicit the public for bids for the purchase or sale of real or personal property, the village has the option of rejecting all bids tendered.

(Ord. No. 87-2, § 1, 3-17-87)

Secs. 2-79—2-100. - Reserved.

ARTICLE III. - OFFICERS AND EMPLOYEES

DIVISION 1. - GENERALLY

Sec. 2-101. - Clerk and treasurer.

- (a) *Appointed.* The village president may nominate and the council may appoint the clerk and treasurer.
- (b) *Term.* The clerk and treasurer will be appointed to two-year terms.

(Ord. No. 99-02, §§ 2, 3, 1-4-99)

Editor's note— Ord. No. 99-02, §§ 2, 3, adopted Jan. 4, 1999, did not specifically amend this Code; hence inclusion of its provisions as § 2-101 was at the discretion of the editor.

Secs. 2-102—2-120. - Reserved.

DIVISION 2. - VILLAGE MANAGER

Sec. 2-121. - Establishment of office.

In accordance with the authority for the appointment of such village officers as the village council shall deem necessary for the execution of the powers granted to the village contained in section 2 of chapter 11 and section 8 of chapter V of Act No. 3 of the Public Acts of Michigan of 1895 (MCL 62.1 et seq., MSA 5.1215 et seq.), as amended, which is the Charter of the village, there is hereby established the office of village manager.

(Ord. No. 91-5, § 1, 7-1-91)

Sec. 2-122. - Appointment.

The president shall, with the concurrence of four or more councilmembers, appoint a village manager for an indefinite term, and the village council may, by contract, enter into such other terms and conditions as the manager and village council deem appropriate. The manager shall serve at the pleasure of the village council and may be removed by the affirmative vote of four or more councilmembers, but only after a hearing before the village council. The president may, for cause, suspend the manager with full pay, until the hearing. The action of the village council in removing the manager shall be final. The manager shall be selected solely on the basis of administrative and executive abilities with special reference to training and experience. The manager need not be a resident of the village at the time of the appointment but shall become a resident within 180 days from the date of the appointment with extensions permitted upon approval of the village council. The manager shall reside in the village thereafter during the term of office.

(Ord. No. 91-5, § 2, 7-1-91)

Sec. 2-123. - Acting village manager.

The president, with the concurrence of four or more councilmembers, shall appoint or designate an acting manager during a vacancy in the office of village manager and shall make a permanent appointment within 180 days from the effective date of the vacancy. A village manager, in accordance with section 2-122, shall be deemed to be the acting manager from the date of the appointment until the appointee becomes a resident, if residency is deemed to be a qualification for the appointment.

(Ord. No. 91-5, § 3, 7-1-91)

Sec. 2-124. - Compensation.

The village manager shall receive such compensation as the village council shall determine annually by resolution or contract.

(Ord. No. 91-5, § 4, 7-1-91)

Sec. 2-125. - Duties.

The village manager shall be chief administrative officer of the village and shall be responsible to the village council for the efficient administration of all affairs of the village and shall exercise management supervision over all departments and over all public property belonging to the village. The manager shall have the following functions and duties:

- (1) Attend all meetings of the village council and committees and take part therein but without a vote.
- (2) Be responsible for personnel management and shall issue, subject to village council approval, personnel rules applicable to all village employees. The manager shall have the following responsibilities:
 - a. Appoint, suspend or remove all appointed administrative officers and department heads, subject to council approval. The manager shall recommend to the council the salary or wages to be paid each such official.
 - b. Appoint, suspend or remove all other employees of the village. All such actions shall be based on merit and taken pursuant to personnel rules approved by the council. The manager shall fix the salaries or wages of all such employees.
- (3) Exercise supervisory control over all departments including the police department, the department of public works, and the fire department; and the chief of police, street commissioner and chief of the fire department shall be subject to the direction of the manager.
- (4) Exercise supervisory responsibility over the accounting, budgeting, personnel, purchasing and related management functions of the village clerk and village treasurer.
- (5) Shall be authorized to attend all meetings of village boards and commissions including the village planning commission with the right to take part therein but without a vote.
- (6) Prepare and administer the budget as provided for in the Uniform Budgeting and Accounting Act, Act No. 2 of the Public Acts of Michigan of 1968 (MCL 141.421 et seq., MSA 5.3228(21) et seq.), as amended.
- (7) Be the purchasing agent of the village.
- (8) Prepare and maintain an administrative code defining the duties and functions of the several officers and departments of the village, subject to approval by the council.
- (9) Investigate all complaints concerning the administration of the village, and shall have authority at all times to inspect the books, records and papers of any agent, employee or officer of the village.
- (10) Make recommendations to the council for the adoption of such measures as may be deemed necessary or expedient for the improvement or betterment of the village.
- (11) Perform other duties required from time to time by the village council.

(Ord. No. 91-5, § 5, 7-1-91)

Sec. 2-126. - Purchasing responsibilities.

The village manager shall act as purchasing agent for all village offices and departments. The manager may delegate some or all the duties as purchasing agent to another office or employee,

provided that such delegation shall not relieve the manager of the responsibility for the proper conduct of those duties. The village manager shall have the authority to purchase any product or service the cost of which does not exceed the amount established by council resolution, provided that funds have been appropriated. The cost of the product or service shall not exceed the unencumbered balance of the appropriation for that account. Except as provided in this section, the village manager shall not purchase any product or service the cost of which exceeds the above dollar amount without prior approval of the village council. The village manager may promulgate rules governing the purchase of products or services. The village manager shall have the authority to purchase any product or service regardless of its cost when such purchase is necessitated by an emergency condition. The expression "emergency condition" is defined to mean any event which presents an imminent threat to the public health or safety or any event which would result in the disruption of a village service which is essential to the public health or safety.

(Ord. No. 91-5, § 6, 7-1-91)

Sec. 2-127. - Dealing with employees.

Neither the council nor the village president shall attempt to influence the employment of any person by the village manager or in any way interfere in the management of departments under the jurisdiction of the manager. Except for purpose of inquiry, the president and council and its members shall deal with departments under the jurisdiction of the village manager through the manager.

(Ord. No. 91-5, § 7, 7-1-91)

Secs. 2-128—2-150. - Reserved.

ARTICLE IV. - BOARDS AND COMMISSIONS

DIVISION 1. - GENERALLY

Secs. 2-151—2-175. - Reserved.

DIVISION 2. - ADVISORY PLANNING COMMISSION^[2]

Footnotes:

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Editor's note— Ord. No. 3 of 2011, § 1, adopted Aug. 1, 2011, repealed the former Div. 1, §§ 2-176—2-200, and enacted a new Div. 1, §§ 2-176—2-200.2, as set out herein. The former Div. 1 pertained to similar subject matter and derived from Ord. No. 92-1, §§ 1—5, adopted April 6, 1992.

Sec. 2-176. - Establishment.

An advisory planning commission for the village is hereby created. The advisory planning commission shall serve in an advisory capacity to provide advice, recommendations and direction to the village council on matters of municipal planning and zoning. The advisory planning commission created by this division is and shall be distinguished from a municipal planning commission authorized by Act 285 of the Public Acts of Michigan of 1931 (MCL 125.31 et seq., MSA 5.2991 et seq.), as amended.

(Ord. No. 3 of 2011, § 2, 8-1-11)

Sec. 2-177. - Duties and responsibilities.

The advisory planning commission is hereby vested with the powers and duties set forth in this division, together with such other powers and duties now and hereafter set forth in the zoning ordinance, together with such further duties and responsibilities as from time to time determined by the village council by ordinance or resolution. All reference to the advisory planning commission now or hereafter in this division, the zoning ordinance, or in future ordinances and resolutions adopted by the village council, unless specifically stating otherwise, shall be deemed to be to the advisory planning commission created in this division.

(Ord. No. 3 of 2011, § 3, 8-1-11)

Sec. 2-178. - Composition; appointment.

The planning commission shall consist of seven voting members, whom shall be appointed by the president with the consent of the majority vote of the village council and shall represent, so far as possible, different segments of the community such as the economic, governmental, educational, and social development of the village, in accordance with the major interests as they exist in the village, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. The membership shall also be representative of the entire geography of the village to the extent practicable.

(Ord. No. 3 of 2011, § 4, 8-1-11)

Sec. 2-179. - Members prohibited from commission.

No member may be an elected village council member or employee of the village.

(Ord. No. 3 of 2011, § 5, 8-1-11)

Sec. 2-180. - Compensation.

All members of the planning commission shall serve as such with compensation as may be approved by the village council.

(Ord. No. 3 of 2011, § 6, 8-1-11)

Sec. 2-181. - Terms of office.

Each of the appointed members shall be appointed for a term of two years ending on March 31 of the second year after appointment or until his/her successor takes office. Appointed members shall serve staggered terms.

(Ord. No. 3 of 2011, § 7, 8-1-11)

Sec. 2-182. - Removal of appointed members.

Any appointed members of the planning commission may be removed by village council for misfeasance, malfeasance or nonfeasance in office upon written charges and after public hearing.

(Ord. No. 3 of 2011, § 8, 8-1-11)

Sec. 2-183. - Vacancies.

Vacancies in the planning commission occurring other than through the expiration of a term of office shall be filled for the unexpired term by a person appointed by the president with the approval of a majority vote of the village council.

(Ord. No. 3 of 2011, § 9, 8-1-11)

Sec. 2-184. - Chairman.

The commission shall recommend a chairman from among its members who will be appointed by the president, subject to approval of the village council by majority vote. Such chairman shall be eligible for reelection, and he/she shall be the chief executive officer of the commission and shall preside over all meetings of the commission. On behalf of the commission, such chairman shall sign all approved site plans, contracts and legal documents required to be signed by the commission; provided, however, that prior approval of the commission has been obtained.

(Ord. No. 3 of 2011, § 10, 8-1-11)

Sec. 2-185. - Vice-chairman.

The commission shall recommend a vice-chairman from among its members who will be appointed by the president, subject to approval of the village council by majority vote. Such vice-chairman shall be eligible for reelection, and shall preside over all meetings of the commission in the absence of the chairman. On behalf of the commission, in the absence of the chairman, shall sign all approved site plans, contracts and legal documents required to be signed by the commission; provided, however, that prior approval of the commission has been obtained.

(Ord. No. 3 of 2011, § 11, 8-1-11)

Sec. 2-186. - Secretary.

The commission shall recommend a secretary from among its members who will be appointed by the president, subject to approval of the village council by majority vote. The secretary shall be eligible for reelection; shall attend all meetings of the commission and prepare minutes of the proceedings of all such meetings; shall give all notice of meetings; shall be the custodian of the official records of the commission; shall cause to be maintained a record of the members of the commission who are eligible to vote and the members and terms of office of each member of the commission; and in general shall perform all of the duties incident to the office of secretary and such additional duties as may be from time to time assigned by the chairman or by the commission.

(Ord. No. 3 of 2011, § 12, 8-1-11)

Sec. 2-187. - Attorney.

The village attorney shall act as attorney for the planning commission.

(Ord. No. 3 of 2011, § 13, 8-1-11)

Sec. 2-188. - Regular meeting.

The planning commission shall hold at least four regular public meetings per year on such date and at such time and place as may be established by the planning commission.

(Ord. No. 3 of 2011, § 14, 8-1-11)

Sec. 2-189. - Special meetintgs.

Special meetings may be called by the secretary on the written request of the chairman or any two members of the commission on at least 48 hour notice to each member of the commission, and provided that all pertinent information is submitted to the secretary's office; but any such meeting at which all members of the commission are present or have waived notice in writing shall be a legal meeting for all purposes, without such notice, provided that the requirements of the Open Meetings Act have been followed.

(Ord. No. 3 of 2011, § 15, 8-1-11)

Sec. 2-190. - Adoption of rules.

The planning commission shall adopt such rules for the transaction of its business as it may determine.

(Ord. No. 3 of 2011, § 16, 8-1-11)

Sec. 2-191. - Record keeping.

The planning commission shall keep a written or printed record of its, transactions, findings and determinations, which record shall be a public record.

(Ord. No. 3 of 2011, § 17, 8-1-11)

Sec. 2-192. - Contracting professional services.

The planning commission may, with the approval of the village council, contract with village planners, engineers, architects and other consultants for such services as it may require, subject to village council approval as to expenditures.

(Ord. No. 3 of 2011, § 18, 8-1-11)

Sec. 2-193. - Expenditures and appropriations.

All expenditures of the planning commission shall be within the amount appropriated for planning commission purposes by the village council. The village council shall provide the funds, equipment and accommodations necessary for the commission's work.

(Ord. No. 3 of 2011, § 19, 8-1-11)

Sec. 2-194. - Conflicts of interest.

Before casting a vote on a matter on which a member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the planning commission.

The member is disqualified from voting on the matter if so provided by the bylaws or by a majority vote of the remaining members of the planning commission.

(Ord. No. 3 of 2011, § 20, 8-1-11)

Sec. 2-195. - Power to fulfill municipal planning.

In general, the planning commission shall have such powers as may be necessary to enable it to fulfill its functions, promote municipal planning, or carry out the purposes of this chapter.

(Ord. No. 3 of 2011, § 21, 8-1-11)

Sec. 2-196. - Power to promote master plan.

The planning commission shall have the power to promote public interest in and understanding of the master plan and, to that end, may publish and distribute copies of the plan or of any report and may employ such other means of publication and education as it may determine.

(Ord. No. 3 of 2011, § 22, 8-1-11)

Sec. 2-197. - Planning conferences.

Members of the planning commission, when duly authorized by the planning commission, may attend planning conferences or meetings of planning institutes, or hearings upon pending village planning legislation, and the commission may, with the approval of a majority vote of the village council, pay the reasonable traveling and other expenses incident to such attendance.

(Ord. No. 3 of 2011, § 23, 8-1-11)

Sec. 2-198. - Programs of public structures and improvements.

For the purpose of furthering the desirable future development of the village under the master plan, the planning commission, after the commission shall have adopted a master plan, shall prepare coordinated and comprehensive programs of public structures and improvements. The planning commission shall prepare such a program for the ensuing five years, which program shall show those public structures and improvements, in the general order of their priority, which in the commission's judgment will be needed or desirable and can be undertaken within the five-year period. The comprehensive coordinated programs in this section shall be based upon the requirements of the village for all types of public improvements, and, to that end, each agency or department of the village concerned with such improvements shall, upon request, furnish the planning commission with lists, plans and estimates of time and cost of public structures and improvements within the purview of such department.

(Ord. No. 3 of 2011, § 24, 8-1-11)

Sec. 2-199. - Recommendations of public officials and bodies.

The planning commission shall, from time to time, recommend to the appropriate public officials programs for public structures and improvements and for the financing of such structures and improvements. It shall be part of its duties to consult and advise with public officials and agencies, public utility companies, civic, educational, professional and other organizations, and with citizens with relation to protecting or carrying out the master plan.

(Ord. No. 3 of 2011, § 25, 8-1-11)

Sec. 2-200. - Right of entry.

The planning commission, its members, officers and employees, in the performance of their functions, may enter upon any land and make examinations and surveys and place and maintain necessary monuments, and marks thereon.

(Ord. No. 3 of 2011, § 26, 8-1-11)

Sec. 2-200.1. - Duty to adopt plan.

It shall be the function and duty of the planning commission to make a recommendation to council for the physical development of the village, including any areas outside of its boundaries which in the commission's judgment bear relation to the planning of the village.

(Ord. No. 3 of 2011, § 27, 8-1-11)

Sec. 2-200.2. - Periodic review of master plan.

At least every five years after adoption of a master plan, the planning commission shall review the master plan and determine whether to commence the procedure to amend the master plan or adopt a new master plan. The review and its findings shall be recorded in the minutes of the relevant meeting or meetings of the planning commission.

(Ord. No. 3 of 2011, § 28, 8-1-11)

DIVISION 3. - CONSTRUCTION BOARD OF APPEALS

Sec. 2-201. - Established.

A construction board of appeals is created and shall consist of not more than five members appointed by the village council for two-year terms.

(Ord. No. 3 of 2009, § 1, 9-9-09)

Sec. 2-202. - Powers.

The construction board of appeals is granted those powers and duties as set forth in Public Act No. 230 of 1972 (MCL 125.1501 et seq., MSA 5.2949(1) et seq.)

(Ord. No. 3 of 2009, § 1, 9-9-09)

Chapter 3 - MUNICIPAL CIVIL INFRACTIONS

Sec. 3-1. - Definitions.

As used in this chapter:

Act means Act No. 236 of the Public Acts of 1961, as amended.

Authorized village official means the personnel of the village authorized by this Code or any village ordinance or as designated by the village manager to issue municipal civil infraction citations or municipal civil infraction violation notices. In addition to any other designated village personnel (whether designated by the Village Code, a village ordinance, or the village manager), police officers are authorized to issue municipal civil infraction citations or municipal civil infraction violation notices for any violation of the Village Code or any village ordinance.

Bureau means the village municipal ordinance violations bureau as established by this chapter.

Municipal civil infraction action means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

Municipal civil infraction citation means a written complaint or notice prepared by an authorized village official directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

Municipal civil infraction violation notice means a written notice prepared by an authorized village official directing a person to appear at the village municipal ordinance violations bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the village (see section 3-6), as authorized under Sections 8396 and 8707(6) of the Act.

(Ord. No. 97-04, § 4, 7-7-97)

Sec. 3-2. - Municipal civil infraction actions; commencement.

A municipal civil infraction action may be commenced upon the issuance by an authorized village official of (1) a municipal civil infraction citation directing the alleged violator to appear in court; or (2) a municipal civil infraction violation notice directing the alleged violator to appear at the village municipal ordinance violations bureau.

(Ord. No. 97-04, § 4, 7-7-97)

Sec. 3-3. - Municipal civil infraction citations; issuance and service.

Municipal civil infraction citations shall be issued and served by authorized village officials as follows:

- (1) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.
- (2) The place for appearance specified in a citation shall be the district court.
- (3) Each citation shall be numbered consecutively and shall be in a form approved by the state court administrator. The original citation shall be filed with the district court. Copies of the citation shall be retained by the village and issued to the alleged violator as provided by Section 8705 of the Act.
- (4) A citation for a municipal civil infraction signed by an authorized village official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief."
- (5) An authorized village official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as soon as possible and as completely as possible, an original and required copies of a citation.
- (6) An authorized village official may issue a citation to a person if:

- a. Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or
 - b. Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction and if the prosecuting attorney or village attorney approves in writing the issuance of the citation.
- (7) Municipal civil infraction citations shall be served by an authorized village official as follows:
- a. Except as provided by section 3-3(7)b, an authorized village official shall personally serve a copy of the citation upon the alleged violator.
 - b. If the municipal civil infraction action involves the use or occupancy of land, a building or other structure, a copy of the citation does not need to be personally served upon the alleged violator, but may be served upon an owner or occupant of the land, building or structure by posting the copy of the land or attaching the copy to the building or structure. In addition, a copy of the citation shall be sent by first-class mail to the owner of the land, building, or structure at the owner's last known address.

(Ord. No. 97-04, § 4, 7-7-97)

Sec. 3-4. - Municipal civil infraction citations; contents.

- (a) A municipal ordinance citation shall contain the name and address of the alleged violator, the municipal civil infraction alleged, the place where the alleged violator shall appear in court, the telephone number of the court, and the time at or by which the appearance shall be made.
- (b) Further, the citation shall inform the alleged violator that he or she may do one of the following:
 - (1) Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.
 - (2) Admit responsibility for the municipal civil infraction "with explanation" by mail by the time specified for appearance, or in person, or by representation.
 - (3) Deny responsibility for the municipal civil infraction by doing either of the following:
 - a. Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the village.
 - b. Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.
- (c) The citation shall also inform the alleged violator of all of the following:
 - (1) That if the alleged violator desires to admit responsibility "with explanation" in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time for an appearance.
 - (2) That if the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation.
 - (3) That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the village.
 - (4) That at an informal hearing the alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney.

- (5) That at a formal hearing the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.
- (d) The citation shall contain a notice in boldfaced type that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in entry of a default judgment against the alleged violator on the municipal civil infraction.

(Ord. No. 97-04, § 4, 7-7-97)

Sec. 3-5. - Municipal ordinance violations bureau.

- (a) *Bureau established.* The village hereby establishes a municipal ordinance violations bureau ("bureau") as authorized under Section 8396 of the Act to accept admissions of responsibility for municipal civil infractions in response to municipal civil infraction violation notices issued and served by authorized village officials, and to collect and retain civil fines and costs as prescribed by this Code or any ordinance.
- (b) *Location; supervision; employees; rules and regulations.* The bureau shall be located at the village offices, and shall be under the supervision and control of the village treasurer. The village treasurer, subject to the approval of the village council, shall adopt rules and regulations for the operation of the bureau and appoint any necessary qualified village employees to administer the bureau.
- (c) *Disposition of violations.* The bureau shall dispose only of municipal civil infraction violations for which a fine has been scheduled and for which a municipal civil infraction violation notice (as compared with a citation) has been issued.
- (d) *Bureau limited to accepting admissions of responsibility.* The scope of the bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions and collecting and retaining civil fines and costs as a result of those admissions. The bureau shall not accept payment of a fine from any person who denies having committed the offense or who admits responsibility only with explanation, and in no event shall the bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to an alleged violation. No person shall be required to dispose of a municipal civil infraction violation at the bureau and may have the violation processed before a court of appropriate jurisdiction. The unwillingness of any person to dispose of any violation at the bureau shall not prejudice the person or in any way diminish the person's rights, privileges and protection accorded by law.
- (e) *Municipal civil infraction violation notices.* Municipal civil infraction violation notices shall be issued and served by authorized village officials under the same circumstances and upon the same persons as provided for citations as provided in sections 3-3(f) and (g) of this chapter. In addition to any other information required by this Code or other ordinance, the notice of violation shall indicate the time by which the alleged violator must appear at the bureau, the methods by which an appearance may be made, the address and telephone number of the bureau, the hours during which the bureau is open, the amount of the fine scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.
- (f) *Appearance; payment of fines and costs.* An alleged violator receiving a municipal civil infraction violation notice shall appear at the bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal civil infraction violation notice. An appearance may be made by mail, in person, or by representation.
- (g) *Procedure where admission of responsibility not made or fine not paid.* If an authorized village official issues and serves a municipal ordinance violation notice and if an admission of responsibility is not made and the civil fine and costs, if any, prescribed by the schedule of fines for the violation are not paid at the bureau, a municipal civil infraction citation may be filed with the district court and a copy of the citation may be served by first-class mail upon the alleged violator at the alleged violator's last known address. The citation filed with the court does not need to comply in all particulars with the

requirements for citations as provided by Sections 8705 and 8709 of the Act, but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation.

(Ord. No. 97-04, § 4, 7-7-97)

Sec. 3-6. - Schedule of civil fines.

(a) *Schedule of civil fines.* A schedule of civil fines to be paid upon an admission of responsibility at the bureau in response to the issuance by an authorized village official of a municipal civil infraction violation notice is hereby established. The fines for the violations listed below shall be as follows:

Code Section(s)*	Municipal Civil Infraction Offense	Fine
Chapter 6 (all)	Failure to comply with any provision of Chapter 6, as amended (Animals).	\$50.00
	First repeat offense.	\$250.00
	Second (or any subsequent) repeat offense.	\$500.00
Chapter 10, Article II (all)	Failure to comply with any provision of Article II of Chapter 10, as amended (Construction Code).	\$100.00
	First repeat offense.	\$250.00
	Second (or any subsequent) repeat offense.	\$500.00
Chapter 10, Article III (all)	Failure to comply with any provision of Article III of Chapter 10, as amended (Building Numbers).	\$50.00
	First repeat offense.	\$250.00
	Second (or any subsequent) repeat offense.	\$500.00
	Failure to comply with any provision of Article II of Chapter 14, as	\$100.00

Chapter 14, Article II (all, except section 14-37)	amended, except section 14-37 (Cable Communications; Franchise).	
	First repeat offense.	\$250.00
	Second (or any subsequent) repeat offense.	\$500.00
Chapter 14, Article III (all)	Failure to comply with any provision of Article III of Chapter 14, as amended (Cable Communications; Rate Regulations).	\$100.00
	First repeat offense.	\$250.00
	Second (or any subsequent) repeat offense.	\$500.00
Chapter 22, Article II (all)	Failure to comply with any provision of Article II of Chapter 22, as amended (Soil Erosion and Sedimentation Control).	\$100.00
	First repeat offense.	\$1,000.00
	Second (or any subsequent) repeat offense.	\$2,000.00
Chapter 22, Article III (all)	Failure to comply with any provision of Article III of Chapter 22, as amended (Noxious Weeds).	\$50.00
	First repeat offense.	\$250.00
	Second (or any subsequent) repeat offense.	\$500.00
Chapter 22, Article IV (all)	Failure to comply with any provision of Article IV of Chapter 22, as amended (Nuisances).	\$100.00

	First repeat offense.	\$250.00
	Second (or any subsequent) repeat offense.	\$500.00
Chapter 26, Article IV (all)	Failure to comply with any provision of Article IV of Chapter 26, as amended (Open Burning).	\$100.00
	First repeat offense.	\$250.00
	Second (or any subsequent) repeat offense.	\$500.00
Chapter 38, Article II (all)	Failure to comply with any provision of Article II of Chapter 38, as amended (Garage Sales).	\$50.00
	First repeat offense.	\$250.00
	Second (or any subsequent) repeat offense.	\$500.00
Chapter 42 (all)	Failure to comply with any provision of Chapter 42, as amended (Solid Waste).	\$100.00
	First repeat offense.	\$250.00
	Second (or any subsequent) repeat offense.	\$500.00
Section 50-32 (all)	Failure to comply with any provision of section 50-32, as amended (Skating on sidewalks and Michigan Avenue).	\$25.00
	First repeat offense.	\$250.00
	Second (or any subsequent) repeat offense.	\$500.00

Chapter 50, Article III (all)	Failure to comply with any provision of Article III of Chapter 50, as amended (Sidewalks).	\$50.00
	First repeat offense.	\$250.00
	Second (or any subsequent) repeat offense.	\$500.00
Chapter 50, Article IV (all)	Failure to comply with any provision of Article IV of Chapter 50, as amended (Driveway Aprons).	\$50.00
	First repeat offense.	\$250.00
	Second (or any subsequent) repeat offense.	\$500.00
Chapter 54 (all)	Failure to comply with any provision of Chapter 54, as amended (Subdivisions).	\$100.00
	First repeat offense.	\$250.00
	Second (or any subsequent) repeat offense.	\$500.00
Chapter 62, Article II, Division 2 (all)	Failure to comply with any provision of Division 2, Article II, of Chapter 62, as amended (Water; Cross Connections).	\$1,000.00
	First repeat offense.	\$2,500.00
	Second (or any subsequent) repeat offense.	\$5,000.00
Chapter 62, Article IV, Division 3 (all, except as provided)	Failure to comply with any provision of Division 3, Article IV, of Chapter 62, as amended, except misdemeanor	\$1,000.00

by section 62-200 (c)	offenses as provided by section 62-200(c) (Sewers; Use).	
	First repeat offense.	\$2,500.00
	Second (or any subsequent) repeat offense.	\$5,000.00
Chapter 66 (all)	Failure to comply with any provision of Chapter 66, as amended (Zoning).	\$100.00
	First repeat offense.	\$250.00
	Second (or any subsequent) repeat offense.	\$500.00

*Including title(s), chapter(s), article(s), section(s) and subsection(s), or portions thereof, as specified in this schedule.

(b) A copy of the schedule, as amended from time to time, shall be posted at the bureau.

(Ord. No. 97-04, § 4, 7-7-97)

Chapter 6 - ANIMALS¹¹

Footnotes:

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State Law reference— Authority to adopt animal control ordinance, MCL 287.290, MSA 12.541; crimes relating to animals and birds, MCL 750.49 et seq., MSA 28.244 et seq.

ARTICLE I. - IN GENERAL

Sec. 6-1. - Prohibited acts.

No land or building shall be used for the housing, keeping or raising of livestock, fowl or nondomesticated varieties of animals within the village limits.

(Ord. No. 84-4, § 1, 9-30-84)

Sec. 6-2. - Violation of chapter; municipal civil infraction.

A person who violates any provision of this chapter is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50.00 nor more than \$500.00, plus costs and other

sanctions, for each violation. Repeat offenses shall be subject to increased fines as provided by section 1-11(c)(2) of this Code. Any authorized village official as designated by this Code or by the village manager may issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the village municipal ordinance violations bureau) for violations under this chapter.

(Ord. No. 84-4, § 2, 9-30-84; Ord. No. 97-03, § 1, 7-7-97)

Secs. 6-3—6-30. - Reserved.

ARTICLE II. - DOGS

Sec. 6-31. - Reserved.

Editor's note— Ord. No. 97-03, § 2, adopted July 7, 1997, repealed former § 6-31 of the Code, which pertained to the penalty for violation of art. II of this chapter and derived from Ord. No. 51-3, § 10, adopted July 2, 1951.

Sec. 6-32. - Running at large.

- (a) *Unlawful.* It shall be unlawful for the owner or keeper of any dog to allow such dog to go beyond the premises of the owner or keeper unless the dog is held securely on a leash not more than eight feet in length and at all times held by a person over the age of seven years.
- (b) *Fall festival.* For health, safety and sanitary reasons it shall be unlawful for any owner or keeper to bring a dog to fall festival activities, with the exception of service dogs.

(Ord. No. 51-3, § 1, 7-2-51; Ord. No. 2014-07, §§ 2, 3, 5-5-14)

Sec. 6-33. - Habitual barking.

No person shall keep or harbor any dog which by loud or frequent or habitual barking, yelping or howling shall cause a serious annoyance to the neighborhood or to people passing to and from upon the streets.

(Ord. No. 51-3, § 2, 7-2-51)

Sec. 6-34. - Dangerous dogs.

It shall be unlawful for any person to own or harbor any dog known to be dangerous to persons or property.

(Ord. No. 51-3, § 3, 7-2-51)

Sec. 6-35. - Unsanitary conditions.

It shall be unlawful for any person to harbor any dog on or about his premises or elsewhere in such manner that the harboring results in an unsanitary condition on the premises.

(Ord. No. 51-3, § 4, 7-2-51)

Sec. 6-36. - Impounding—Redeeming impounded dogs.

Any dog found running at large shall be seized and placed in the village pound or other suitable place where it shall be properly kept, fed and sheltered. The owner or keeper of the dog may redeem the dog at any time within three days after the dog is impounded by paying all charges for impounding and keeping the dog, and obtaining a license therefor if the dog is required by law to be licensed.

(Ord. No. 51-3, § 5, 7-2-51)

Sec. 6-37. - Same—Charges.

The impoundment charges shall be paid to the village by the owner or keeper of such animal, and such charges will be determined by resolution of the village council from time to time. A copy of this resolution will be kept in the village offices.

(Ord. No. 51-3, § 6, 7-2-51)

Sec. 6-38. - Same—Unredeemed dogs.

If the owner or keeper of the dog so impounded does not redeem the dog within a period of three days after the dog is impounded, the officer in charge of the pound shall deliver the dog to the county dog warden or, at his option, may sell the dog to any person in satisfaction of the charges due the village for impounding and keeping the dog, and upon payment of the license fee, if a license is required.

(Ord. No. 51-3, § 7, 7-2-51)

Sec. 6-39. - Pound operation; records; rules.

The village shall provide an adequate pound in which to keep all dogs so impounded, and the police chief shall enforce the provisions of this article and shall be in control of and operate such pound. He shall carefully keep a record of the description of every dog impounded, together with the date and hour of impounding and of all fees received upon redemption or sale. The village council shall have power to adopt rules and regulations governing the operation of the pound.

(Ord. No. 51-3, § 8, 7-2-51)

Sec. 6-40. - Bitings.

Any dog which shall bite any person or other animal shall be seized and held at the village pound or other suitable place until such time as it can be determined whether or not such dog is suffering from rabies. The owner or keeper of such dog shall pay the expenses of keeping the animal at the rate provided for in section 6-37, and also shall pay all necessary expenses incurred in determining whether such dog is suffering from rabies. The failure to pay any such charges, upon demand, shall be deemed to be a violation of this article and shall be punishable as set forth in section 6-2.

(Ord. No. 51-3, § 9, 7-2-51)

Chapter 10 - BUILDINGS AND BUILDING REGULATIONS^[1]

Footnotes:

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Cross reference— Administration, ch. 2; community development, ch. 18; fire prevention and protection, ch. 26; subdivisions, ch. 54; utilities, ch. 62; zoning, ch. 66.

ARTICLE I. - IN GENERAL

Secs. 10-1—10-30. - Reserved.

ARTICLE II. - CONSTRUCTION CODE

Sec. 10-31. - Adoption of state construction code.

The state construction code as established by Act No. 230 of the Public Acts of Michigan of 1972 (MCL 125.1501 et seq.), as amended, is hereby adopted. Such code includes the building, electrical, mechanical and plumbing codes.

State Law reference— Authority to adopt technical code by reference, MCL 117.3(k).

Sec. 10-32. - Enforcing agency.

Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act of 230, of the Public Acts of 1972, as amended, the building official of the village is hereby designated as the enforcing agency to discharge the responsibility of the village, under Act 230, of the Public Acts of 1972, as amended, State of Michigan. The village assumes responsibility for the administration and enforcement of said Act through out the corporate limits of the community adopting this section.

(Ord. No. 95-03, § 1, 5-1-95; Ord. No. 99-06, § 2, 4-5-99; Ord. No. 00-01, § 1, 1-3-00; Ord. No. 00-03, § 1, 5-1-00; Ord. No. 6-2001, § 1, 8-6-01; Ord. No. 2019-03, § 1, 6-3-19; Ord. No. 2019-04, § 1, 7-1-19; Ord. No. 2019-05, § 1, 7-1-19)

Sec. 10-33. - Fees.

Fees required under the state construction code adopted in this article shall be as prescribed by resolution of the village council.

Sec. 10-34. - Violation of article; municipal civil infraction.

Notwithstanding anything to the contrary in the state construction code, references in the state construction code to "fines," "penalties," or "sanctions" shall mean "municipal civil infraction fines or sanctions." Further, any provision of the state construction code providing that a violation of that code is a "misdemeanor" or "criminal" act subject to a maximum criminal penalty or imprisonment or both penalty and imprisonment, is amended to provide that a violation of that code is a municipal civil infraction subject to payment of a civil fine of not less than \$100.00 nor more than \$500.00, plus costs and other sanctions, for each violation. Repeat offenses under the state construction code shall be subject to increased fines as provided by section 1-11(c)(2) of this Code. Any authorized village official as designated by this Code or by the village manager may issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the village municipal ordinance violations bureau) for violations of the state construction code as provided by this article.

(Ord. No. 90-3, § 1, 5-8-90; Ord. No. 97-03, § 3, 7-7-97)

Sec. 10-35. - Code appendix enforced.

Pursuant to the provisions of the state construction code, in accordance with Section 8 b (6) of Act 230, of the Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the enforcing agency within the village.

(Ord. No. 2019-05, § 2, 7-1-19)

Editor's note— Ord. No. 2019-03, adopted June 3, 2019, established provisions pertaining to the designation of agency, code appendix enforcement, and the designation of flood prone hazard areas. Subsequently, Ord. No. 2019-04 rescinded said ordinance while Ord. No. 2019-05 reestablished stated provisions. The ordinances did not specify a Code section; hence, their inclusion herein was at the discretion of the editor.

Sec. 10-36. - Designation of regulated flood prone hazard areas.

The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) for "Lenawee County, All Jurisdictions" effective August 15, 2019 and the following Flood Insurance Rate Maps (FIRMs): 26091CIND0A, 26091C0078D, 26091C0086D, and 26091C0087D all effective on August 15, 2019 are adopted by reference for the purposes of administration of the Michigan Construction Code, and declared to be a part of Section 1612.3 of the Michigan Building Code, and to provide the content of the "Flood Hazards" section of Table R301.2(1) of the Michigan Residential Code.

(Ord. No. 2019-05, § 3, 7-1-19)

Editor's note— Ord. No. 2019-03, adopted June 3, 2019, established provisions pertaining to the designation of agency, code appendix enforcement, and the designation of flood prone hazard areas. Subsequently, Ord. No. 2019-04 rescinded said ordinance while Ord. No. 2019-05 reestablished stated provisions. The ordinances did not specify a Code section; hence, their inclusion herein was at the discretion of the editor.

Secs. 10-37—10-50. - Reserved.

ARTICLE III. - BUILDING NUMBERS

Sec. 10-51. - Violation of article; municipal civil infraction.

A person who violates any provision of this article is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50.00 nor more than \$500.00, plus costs and other sanctions, for each violation. Repeat offenses shall be subject to increased fines as provided by section 1-11(c)(2) of this Code. Any authorized village official as designated by this Code or by the village manager may issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the village municipal ordinance violations bureau) for violations under this article.

(Ord. No. 94-1, § 7, 1-10-94; Ord. No. 97-03, § 4, 7-7-97)

Sec. 10-52. - Numbering of buildings and premises.

All buildings and premises shall be clearly marked with a property number placed in accordance with the provisions of this article.

(Ord. No. 94-1, § 1, 1-10-94)

Sec. 10-53. - Authorized numbering system.

The authorized numbering system is established by the village. The owner of a building or premises must contact the village office to obtain the correct identification number.

(Ord. No. 94-1, § 2, 1-10-94)

Sec. 10-54. - Required marking of property.

All buildings and premises shall be marked with an identification number as follows:

- (1) Numbers must be Arabic numerals.
- (2) The numbers used shall be at least three inches high and easily identified. Hand written numbers shall not be used.
- (3) The numbers shall be placed on or near the front entrance and clearly visible from the street.

(Ord. No. 94-1, § 3, 1-10-94)

Sec. 10-55. - Issuance of permits prior to number assignment.

- (a) No building permit shall be issued for any building/premises until the owner has acquired an identification number from the village office.
- (b) No certificate of use and occupancy shall be issued until the building or premises is properly numbered.

(Ord. No. 94-1, § 4, 1-10-94)

Sec. 10-56. - Notice of violation; noncompliance.

The village may give the property owner written notice of a violation of any provision of this article. The notice shall provide that the property owner has ten days from the date of the notice to abate the violation or otherwise comply with the requirements of this article. It shall be an additional violation of this article for a person to fail to comply with any such written notice.

(Ord. No. 94-1, § 5, 1-10-94; Ord. No. 97-03, § 5, 7-7-97)

Secs. 10-57—10-70. - Reserved.

Editor's note— Ord. No. 97-03, § 6, adopted July 7, 1997, repealed former § 10-57 of the Code, which pertained to noncompliance with notices of violation and derived from Ord. No. 94-1, § 6, adopted Jan. 10, 1994.

ARTICLE IV. - INTERNATIONAL PROPERTY MAINTENANCE CODE

Sec. 10-71. - Code adopted.

The International Property Maintenance Code, as published by the International Code Council, is on file in the village office, and is hereby adopted as the property maintenance code of the village for the control of buildings and structures as herein provided. 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 article, with the additions, insertions, deletions and changes, if any, prescribed in sections 10-72 and 10-73.

(Ord. No. 6 of 2003, § 1, 11-3-03)

Sec. 10-72. - Amendments.

Section 102.3 of the International Property Maintenance Code is hereby amended to delete the references to the "International" codes and substitute in place thereof the "Michigan" Building Code, "Michigan" Plumbing Code, "Michigan" Mechanical Code, "Michigan" Fuel Gas Code, "Michigan" Electrical Code and the "Village of Clinton" Zoning Code.

(Ord. No. 6 of 2003, § 2, 11-3-03)

Cross reference— Technical codes generally, § 10-31; zoning, ch. 66.

Sec. 10-73. - Violations; municipal civil infraction.

Section 106.3 of the International Property Maintenance Code shall be amended to read as follows:

A person who violates any provision of this article is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50.00 nor more than \$500.00, plus costs and other sanctions, for each violation. Repeat offenses shall be subject to increased fines as provided by section 1-11(c)(2) of this Code, except that as used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this article (i) committed by a person within any 180-day period and (ii) for which the person admits responsibility or is determined to be responsible. Any authorized village official as designated by this Code or by the village manager may issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the village municipal ordinance violations bureau) for violations under this article.

(Ord. No. 6 of 2003, § 3, 11-3-03)

Chapter 11 - BUSINESSES

Article III. - Liquor Licenses

ARTICLE I. - IN GENERAL

Sec. 11-1. - Marijuana establishments; prohibited.

Pursuant to the Michigan Regulation and Taxation of Marijuana Act, Section 6.1, the village elects to prohibit marijuana establishments within its boundaries.

(Ord. No. 2018-04, § 1, 11-19-18)

Editor's note— Ord. No. 2018-04, § 1, adopted Nov. 19, 2018, established provisions prohibited marijuana establishments, but did not designate a Code section. Hence, its inclusion herein was at the discretion of the editor.

Secs. 11-2—11-50. - Reserved.

ARTICLE II. - PEDDLERS, SOLICITORS AND TRANSIENT TRADERS¹¹

Footnotes:

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Editor's note— Ord. No. 02 of 2009, § 1, adopted July 20, 2009, repealed the former Art. II, §§ 11-51—11-71, and enacted a new Art. II as set out herein. The former Art. II pertained to similar subject matter and derived from Ord. No. 96-05, §§ 1—19, and § 24.

Cross reference— Secondhand goods, ch.38.

Sec. 11-51. - Definitions.

Peddler, person engaged in commercial solicitation, or transient trader means any individual traveling either by foot, automotive vehicle, or any other type of conveyance from place to place, from house to house, or from street to street, taking or attempting to sell or take order for sale of goods, wares and merchandise, farm products, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed immediately, in the future, whether or not such individual has, carries or exposes for sale a sample of the subject to such sale or whether he is collecting advance payments on such sales or who without traveling from place to place, shall sell or offer the same for sale from a yard, wagon, stand, street, alley, public place, automotive vehicle or other vehicle or conveyance; or who shall sell or offer the same for sale along an established route with an established customer list.

(Ord. No. 02 of 2009, § 2, 7-20-09)

Sec. 11-52. - Permit exclusions.

Properly permitted garage sales are exempt from this article. The village community schools, village nonprofit organizations or groups including religious groups do not need a permit to solicit for commercial purposes if they provide the village with advanced notice of the solicitation and its purpose.

(Ord. No. 02 of 2009, § 2, 7-20-09)

Sec. 11-53. - State licensed business.

The fact that a license or permit has been granted to any person by the state, any of its subdivisions or the village, to engage in the operation, conduct or carrying on of any trade, profession, business or privilege shall not exempt such person from the necessity of securing a permit from the village if such license or permit is required by this Code. Applicants must provide the village with a copy of the license or permit at time of application.

(Ord. No. 02 of 2009, § 2, 7-20-09)

Sec. 11-54. - Permit required.

It shall be unlawful for any peddler, person engaged in commercial solicitation or transient trader to engage in such business within the corporate limits of the village without first obtaining a permit therefor in compliance with the provisions of this article.

(Ord. No. 02 of 2009, § 2, 7-20-09)

Sec. 11-55. - Clinton Fall Festival.

No permits shall be issued and all issued permits shall not be effective for all fall festival locations during the fall festival weekend from 6:00 a.m. Thursday to 12:00 midnight Sunday. All vendors, peddlers, persons engaged in commercial solicitation, and transient traders, who shall have made application to the Clinton Fall Festival and who have been authorized by the Clinton Fall Festival to conduct their trade or business during that year's fall festival shall be deemed to satisfy the permit requirements herein for conducting their business for that year's fall festival.

Prior to the fall festival, the Clinton Fall Festival shall provide the village with a list of names and addresses of all vendors, peddlers, those engaged in commercial solicitation, and transient traders, that Clinton Fall Festival recommends that the village issue a permit to conduct trade or business within the village for that year's annual fall festival.

The Clinton Fall Festival shall also provide a list to the village of all applications that were denied by the Clinton Fall Festival. The list shall include the name and address of the applicant as well as the reason for the denial. All denials of permits by the Clinton Fall Festival shall be based solely on the standards set forth in section 11-67. An applicant who is denied a permit by the Clinton Fall Festival may appeal that denial to the village.

(Ord. No. 02 of 2009, § 2, 7-20-09)

Sec. 11-56. - Permit duration.

The duration of permits can be for any combination of daily, weekly, or monthly, or annually, within a calendar year. All permits expire on December 31 of the year the permit was issued.

(Ord. No. 02 of 2009, § 2, 7-20-09)

Sec. 11-57. - Application.

Applicants for a permit under this article must file with the village a sworn application in writing on a form to be furnished by the village. The village shall process the application within five business days.

(Ord. No. 02 of 2009, § 2, 7-20-09)

Sec. 11-58. - Application and permit fee.

At the time of filing the application under this article, a fee, to be established from time to time by a resolution of the village council, shall be paid to the village to cover the cost of investigation of the facts stated therein and for the permit. The application fee is non-refundable even if the application is denied.

(Ord. No. 02 of 2009, § 2, 7-20-09)

Sec. 11-59. - Investigation of applicant.

Upon receipt of an application under this article, the original shall be referred to the police department for investigation by the police chief or his/her designee.

(Ord. No. 02 of 2009, § 2, 7-20-09)

Sec. 11-60. - Denial of application and permit.

If as a result of the investigation, the police chief or his/her designee denies the application for reasons set forth in section 11-67, he/she shall state the reasons for denial and shall notify the applicant that the application is disapproved and that no permit will be issued.

(Ord. No. 02 of 2009, § 2, 7-20-09)

Sec. 11-61. - Issuance of permit; contents, records.

If as a result of investigation, the police chief or his/her designee determines that the application should be approved, he/she shall complete and approve the application and forward a copy to the village office.

(Ord. No. 02 of 2009, § 2, 7-20-09)

Sec. 11-62. - Substitution or addition of persons by permittee.

In cases where a licensee under this article shall request the substitution or addition of persons engaged in commercial solicitation, or peddling under the license, the licensee shall be required to apply for a permit for the substitute(s) or additional person(s) so that an investigation of such substitute or additional person can be made.

(Ord. No. 02 of 2009, § 2, 7-20-09)

Sec. 11-63. - Duty to exhibit permit.

Persons engaged in commercial solicitation, peddlers, and transient traders are required to exhibit their permit at the request of any citizen.

(Ord. No. 02 of 2009, § 2, 7-20-09)

Sec. 11-64. - Enforcement of article.

It shall be the duty of any police officer of the village to require any person seen engaging in commercial solicitation, peddling, or conducting transient trades and who is not known by such officer to be duly licensed, to produce permit and to enforce the provisions of this article against any person found to be violating the same.

(Ord. No. 02 of 2009, § 2, 7-20-09)

Sec. 11-65. - Reports, records of violations.

The village shall maintain a record for each license issued, violations and convictions therein.

(Ord. No. 02 of 2009, § 2, 7-20-09)

Sec. 11-66. - Practices prohibited.

No peddler, person engaged in commercial solicitation or transient trader shall shout or cry out his/her goods or merchandise, nor blow any horns, ring any bell or use any other similar device to attract the attention of the public.

(Ord. No. 02 of 2009, § 2, 7-20-09)

Sec. 11-67. - Application denial or revocation; grounds.

The police chief may deny an application or revoke an approved permit for doing or omitting any act, or permitting any condition to exist in connection with any trade, profession, business or upon any premises or facilities used in connection therewith, which act, omission or condition is:

- (1) Contrary to the health, safety or welfare of the public.
- (2) Unlawful, irregular or fraudulent in nature.
- (3) Unauthorized or beyond the scope of the permit granted.
- (4) Forbidden by the provisions of this Code or any duly established ordinance, rule or regulation of the village.
- (5) Conviction of any crime or misdemeanor involving moral turpitude.
- (6) Conducting the business or commercial soliciting, or peddling in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

(Ord. No. 02 of 2009, § 2, 7-20-09)

Sec. 11-68. - Request for appeal.

The denied applicant or revoked permittee must notify the village clerk within 14 days of the date on the denied application or the revoked permit notice if they want to appeal the decision of the police chief or his/her designee. The request must be properly postmarked or date stamped at the village office. The request must specifically state the grounds for the appeal.

(Ord. No. 02 of 2009, § 2, 7-20-09)

Sec. 11-69. - Right of appeal; hearing.

Any person aggrieved by the action of the police chief in the denial of an application or revocation of a permit as provided herein shall have the right of appeal to the Municipal Civil Infraction Bureau. The village clerk shall schedule a hearing with notice given to the applicant at their last known address at least ten days prior to the hearing. The decision of the Municipal Civil Infraction Bureau on such appeal shall be final and conclusive.

(Ord. No. 02 of 2009, § 2, 7-20-09)

Sec. 11-70. - State law provisions.

Permits issued under this article shall be subject to the provisions of Act 350 of 1917, of the Public Acts of the State of Michigan.

(Ord. No. 02 of 2009, § 2, 7-20-09)

Sec. 11-71. - Penalty.

Whoever violates any provision of this article is responsible for a municipal civil infraction, and shall be subject to such civil infraction fines and costs as provided in the Village of Clinton Code of Ordinances. Each day that a violation exists or continues shall constitute a separate and additional violation.

(Ord. No. 02 of 2009, § 2, 7-20-09)

ARTICLE III. - LIQUOR LICENSES

Sec. 11-72. - Purpose.

The purpose of this article is to establish the village's policies for the issuance, transfer, renewal, revocation and enforcement of liquor licenses and to provide an orderly and nondiscriminatory procedure for the review and approval by the village for any and all requests for liquor licenses or any matters relating thereto, including the issuance, transfer, renewal, revocation and enforcement of liquor licenses.

(Ord. No. 2014-02, § 1, 3-3-14)

Sec. 11-73. - Definitions.

Words or phrases used in this article that are specifically defined in the Michigan Liquor Control Code, as amended, MCL 436.1 et seq., MSA 18.971 et seq. have the meanings given to them by that Code and the regulations promulgated under the Code, including, without limitation, the following: "alcoholic liquor" (also referred to in this article as "alcoholic beverage"), "beer," "wine," and "spirits."

(Ord. No. 2014-02, § 2, 3-3-14)

Sec. 11-74. - Application for new licenses.

- (a) In addition to the application required by the state liquor control commission for licensing by the state, application for a liquor license shall be made to the village to sell alcoholic liquor, beer, wine or spirits in the village. The applicant must first submit an application for a liquor license to the state liquor control commission before submitting to the village an application for a liquor license. No application for a liquor license will be considered by the village until the village has been notified by the state liquor control commission that it has received such an application.
- (b) Every applicant for liquor license approval must complete and file an application with the village on forms that will be provided by the village. At the time of filing an application for a liquor license approval and/or liquor license renewal with the village, the applicant must pay to the village a nonrefundable application fee in an amount to be established by resolution of the village council, the amount of such fee to include, but not be limited to, the cost for all investigations and reviews required by this article.
- (c) The application for liquor license approval shall include the following information:
 - (1) The name, age and address of the applicant in the case of an individual; or in the case of a partnership the names, ages and addresses of the partners; or in the case of a corporation, the names and addresses of the officers and directors, and if a majority interest of the stock of such corporation is owned by one person or its nominee, the name and address of such person.

- (2) The name and address of the resident agent for accepting service of process, if the applicant is a corporation.
- (3) The character of business of the applicant and the length of time the applicant has been in business of that character. In the case of a corporation, the date when its charter was issued and the objects for which the corporation was formed.
- (4) The location, legal description, address and zoning classification of the premises which is to be operated under the proposed license.
- (5) A statement of whether the premise which is to be operated under the proposed license is located within 500 feet of a church or school building.
- (6) The criminal record, if any, of the applicant, including all partners, if a partnership, and all officers and directors, if a corporation.
- (7) A statement regarding whether the applicant has made application for a liquor license other than described in the application, and the disposition of such application.
- (8) An accurate record and history of any liquor license complaint violations by applicant, by partnership, by a corporation or entity the applicant has worked for or had a substantial interest in, or by parent or subsidiary corporation of the applicant for the preceding five years.
- (9) A statement the applicant is not disqualified to receive a liquor license by reason of any matter or thing contained in this article or the laws of the state.
- (10) Site plan, floor plan, seating arrangement plan, building elevation plan and plans for future building alterations and all other pertinent plans showing the physical features for existing buildings or proposed buildings in which the applicant's business will be conducted.
- (11) Details of the applicant's experience and financial capability as a licensee.
- (12) A general operational statement outlining the proposed manner in which the business for which the license is being proposed will be operated, including a schedule of the hours of operation, food service, crowd control, use of facilities, and parking facilities.
- (13) Any other information relevant to a determination by the village.
- (14) The names of all managers employed or to be employed at the premises and business which is to be operated under the proposed license and the following information:
 - a. The manager's past experience in working for a licensed establishment;
 - b. A statement as to whether the manager has a criminal record and, if so, a description of the criminal record; and
 - c. A general statement of the manager's proposed duties.

(Ord. No. 2014-02, § 3, 3-3-14)

Sec. 11-75. - Restrictions on licenses.

No license shall be issued to:

- (1) A person whose liquor license has been revoked or not renewed.
- (2) A co-partnership or partnership, unless all of the members and partners of such co-partnership or partnership would be eligible to receive a license under this article.
- (3) A corporation, unless all officers, directors would be eligible to receive a license under this article.
- (4) A person whose place of business is conducted by a manager or agent unless the manager or agent would be eligible to receive a license under this article.

- (5) A person who is convicted of a violation of any federal or state law concerning the manufacturing, possession or sale of alcoholic liquor and/or controlled substances.
- (6) A person who does not own the premises for which a license is sought or does not have a lease therefore for the full period for which the license is issued.
- (7) Any entity or person for any premises where the sale of beer, wine or spirits is not incidental and subordinate to other permitted business uses upon the site such as, but not limited to, food sales, motel operations and recreational activities.
- (8) Any entity or person for any premises where it is determined by a majority of the village council that the premises do not or will not reasonably soon after commencement of operations comply fully with all village ordinances, including having adequate off-street parking, lighting, refuse disposal facilities, screening, noise and nuisance control and sewage facilities.
- (9) Any entity or person for any premises where it is determined by a majority of the village council that the proposed location is inappropriate, considering: the desirability of establishing a location in developed commercial areas, in preference to isolated underdeveloped areas; the compatibility with adjacent uses of land; traffic safety; accessibility to the site from abutting roads; capability of abutting roads to accommodate the commercial activity; distance from public or private schools; distance from churches; proximity of inconsistent zoning classifications; and accessibility from primary roads or state highways.

(Ord. No. 2014-02, § 4, 3-3-14)

Sec. 11-76. - Investigation.

Upon receipt of the fully completed application for a liquor license approval and/or liquor license renewal and application fee as provided in this article, the village shall forward the application to the police department, fire department, building department and such other departments as the village manager deems appropriate, which departments shall make written recommendations as to the liquor license approval, such recommendations to be filed with the village prior to final action by the village council.

(Ord. No. 2014-02, § 5, 3-3-14)

Sec. 11-77. - Hearing.

Upon the receipt by the village of the written recommendations, the village shall cause the application for a liquor license approval to be placed upon the agenda of the village council for hearing. The hearing shall be held by the village council within 60 days after the receipt of a properly submitted application. The village shall mail to the applicant, by mail with delivery confirmation, written of the date, time and location of the hearing before the village council.

At the hearing before the village council, the applicant shall have the right to present evidence, witnesses and arguments on his/her behalf. After the hearing, the village council shall make its decision with respect to the liquor license, and the village council shall put its decision and the reasons therefore in writing. The village shall hand deliver or mail with delivery confirmation to the applicant.

(Ord. No. 2014-02, § 6, 3-3-14)

Sec. 11-78. - License approval; denial.

If the village council determines after holding its hearing the applicant does not meet all of the criteria set forth in this article it may deny the applicant's request for approval of a liquor license. If the village determines the applicant meets all of the criteria set forth in this chapter, it may approve the applicant's

request for the liquor license, subject to the satisfaction of the conditions stated in this section which will be set forth in the village council's resolution for approval of the license. Approval of the license shall be granted with the following conditions:

- (1) In the village council's discretion, issuance of the license may be restricted to a tavern license.
- (2) The issuance of the license shall be contingent upon the application for and receipt of site plan approval, building permits, zoning approvals and all other necessary approvals required by the village within six months after the date of issuance of the license.
- (3) Construction shall be pursued within nine months after the issuance of the license, zoning approvals, site plan review approval and issuance of building permits.
- (4) The village council may extend the application process, upon a showing by the applicant of special or unusual circumstances that are not the fault of the applicant.
- (5) Failure of the applicant to meet any of the conditions of this article shall be reason for the village council to deny issuance of a new license or the renewal of the license issued.

(Ord. No. 2014-02, § 7, 3-3-14)

Sec. 11-79. - Transfer.

Applications for the transfer of a liquor license shall proceed and be reviewed pursuant to the procedures of the new license provisions of this article.

(Ord. No. 2014-02, § 8, 3-3-14)

Sec. 11-80. - Revocation.

The village council may at any time request the liquor control commission revoke a liquor license for any of the following reasons:

- (1) Failure to comply with any of the standards, conditions, requirements, plans or agreements entered into in consideration for the issuance or renewal of the license.
- (2) Repeated violations of the state liquor laws.
- (3) Violations of this article.
- (4) Violations of state law or village ordinances.
- (5) Maintenance of a nuisance upon or in connection with the licensed premises, including, but not limited, to any of the following:
 - a. Existing violations of the building code, electrical code, fire prevention code, mechanical code, plumbing code, health code or other applicable codes.
 - b. Repeated violation of the zoning ordinance.
 - c. A pattern of patron conduct in the neighborhood of the licensed premises which is in violation of the law and/or disturbs the peace, order and tranquility of the neighborhood.
 - d. Failure to maintain the grounds and exterior of the licensed premises, including litter, debris or refuse blowing or being deposited upon adjoining properties.
 - e. Entertainment on the licensed premises without a permit and/or entertainment which disturbs the peace, order and tranquility in the neighborhood of the licensed premises.
 - f. Any advertising, promotion or activity in connection with the licensed premises which by its nature causes, creates or contributes to disorder, disobedience of rules, ordinances or laws,

or contributes to the disruption of normal activity of those in the neighborhood of licensed premises.

- g. Multiple police contact with the licensed premises or the patrons of the premises.
- h. The licensee is serving minors or intoxicated persons.
- i. Failure by the licensee to permit the inspection of the licensed premises by the village's employees, agent and/or representatives in connection with the enforcement of this article.

(Ord. No. 2014-02, § 9, 3-3-14)

Sec. 11-81. - Procedure for objecting to renewal or requesting revocation of liquor license permit.

Prior to filing an objection with the liquor control commission to renew or request for revocation of a liquor license, the village council shall do the following:

- (1) Serve the licensee by mail, with delivery confirmation, at least 15 days prior to the hearing, with a written notice of the hearing, which notice shall contain the following information:
 - a. Notice of proposed action;
 - b. Reasons for the proposed action;
 - c. Date, time and location of hearing; and,
 - d. A statement that at the hearing the licensee may present witnesses, evidence and arguments on behalf of the licensee and that the licensee has the right to be represented by counsel.
- (2) At the hearing the licensee shall be given an opportunity to be represented by counsel and to present witnesses, evidence and arguments on their behalf.
- (3) Following the hearing, the village council shall make a written resolution as to its findings and determination and shall by mail, with delivery confirmation, forward a copy of the same to the licensee and the Michigan Liquor Control Commission.
- (4) If the village council determines that a recommendation of nonrenewal and/or request for revocation is to be filed with the liquor control commission, it shall forward the following documents to the liquor control commission:
 - a. A certified copy of the notice of hearing sent to the licensee.
 - b. A certified copy of the resolution adopted by the village council objecting to the renewal or seeking revocation of the license, and a certified copy of any statement of findings.
 - c. A copy of the ordinance from which this article derives.
 - d. A proof of service demonstrating that the notice of hearing was sent to the licensee.

(Ord. No. 2014-02, § 10, 3-3-14)

Sec. 11-82. - Illegal sale or possession of alcoholic beverages or spirituous liquor.

It shall be unlawful for any person to:

- (1) Illegally sell, keep for sale, offer for sale or otherwise dispense alcoholic beverages, or spirituous liquor either by the bottle or glass;
- (2) Aid and abet in the illegal sale of alcoholic beverage or spirituous liquor;
- (3) Have in his/her possession illegally an alcoholic beverage or spirituous liquor;

- (4) Be found loitering in or about a place where alcoholic beverages or spirituous liquor, either by bottle or glass, is illegally sold, offered for sale, or otherwise dispensed; or
- (5) Represent his/her age to be 21 years or over, when such person shall be under the age of 21 years, for the purpose of illegally obtaining any alcoholic beverage or spirituous liquor.

(Ord. No. 2014-02, § 11, 3-3-14)

Chapter 14 - CABLE COMMUNICATIONS¹¹

Footnotes:

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Cross reference— Administration, ch. 2; streets, sidewalks and other public places, ch. 50.

ARTICLE I. - IN GENERAL

Secs. 14-1—14-30. - Reserved.

ARTICLE II. - FRANCHISE

Sec. 14-31. - Violation of article; municipal civil infraction.

- (a) A person who violates any provision of this article, other than section 14-37, is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$100.00 nor more than \$500.00, plus costs and other sanctions, for each violation. Repeat offenses shall be subject to increased fines as provided by section 1-11(c)(2) of this Code. Any authorized village official as designated by this Code or by the village manager may issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the village municipal ordinance violations bureau) for violations under this article.
- (b) A person who violates section 14-37 shall, upon conviction, be guilty of a misdemeanor punishable as provided by section 1-11(b) of this Code.

(Ord. No. 82-1, § 8, 3-9-82; Ord. No. 97-03, § 7, 7-7-97)

Sec. 14-32. - Required.

No person shall construct, install, maintain, own, operate or participate in the operation of a cable communications system within the village without first obtaining a franchise from the village.

(Ord. No. 82-1, § 1, 3-9-82)

Sec. 14-33. - Application; proposal.

Any person desiring to install or operate a cable communications system in the village shall submit a written application for a franchise and a written proposal for its proposed system with the village clerk. The holder of an existing franchise desiring to renew its franchise shall file a written application requesting a renewal with the village clerk.

(Ord. No. 82-1, § 2, 3-9-82)

Sec. 14-34. - Term of franchise; renewal.

The term of any franchise or renewal of an existing franchise shall not exceed ten years. A renewal of an existing franchise may not be granted more than 12 months prior to the termination of the existing franchise.

(Ord. No. 82-1, § 3, 3-9-82)

Sec. 14-35. - Public hearing.

The village council may grant a cable communications franchise or renew an existing franchise only after it holds a public hearing on the application for such franchise. Notice of the public hearing shall be published in a local newspaper at least 20 days prior to the date of the hearing.

(Ord. No. 82-1, § 4, 3-9-82)

Sec. 14-36. - Resale.

No person shall resell, without the express written consent of both the franchise holder and the village, any cable service, program or signal transmitted by a cable communication company operating under a franchise issued by the village.

(Ord. No. 82-1, § 5, 3-9-82)

Sec. 14-37. - Damaging or tampering with system.

No person, whether or not a subscriber to the cable system, shall willfully, maliciously or otherwise damage or cause to be damaged any wire, cable, conduit, apparatus, or equipment of a cable communication company; commit any act with intent to cause such damage; tap, tamper with, or otherwise connect any wire or device to a wire, cable, conduit, apparatus, appurtenance or equipment of such company, with the intent to obtain a signal or impulse from the cable system without authorization from or compensation to the company; or obtain cable television or other communications service with intent to cheat or defraud the company of any lawful charge to which it is entitled.

(Ord. No. 82-1, § 6, 3-9-82)

Sec. 14-38. - Installation in multiple unit residential dwelling.

Neither the owner of any multiple unit residential dwelling nor the owner's agent or representative shall ask, demand or receive any payment, service or gratuity in any form as a condition for permitting or cooperating with the installation of a cable communication service to the dwelling unit occupied by a tenant or resident requesting service.

(Ord. No. 82-1, § 7, 3-9-82)

Secs. 14-39—14-60. - Reserved.

ARTICLE III. - RATE REGULATIONS

Sec. 14-61. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

Associated equipment means all equipment and services subject to regulation pursuant to 47 CFR 76.923.

Basic cable service means basic service as defined in the FCC Rules, and any other cable television service which is subject to rate regulation by the village pursuant to the Act and the FCC Rules.

FCC means the Federal Communications Commission.

FCC Rules means all rules of the FCC promulgated from time to time pursuant to the Act.

Increase in rates means an increase in rates or a decrease in programming or customer services.

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

(Ord. No. 93-17, § 1, 9-13-93)

Cross reference— Definitions generally, § 1-2.

Sec. 14-62. - Purpose and interpretation of article.

The purpose of this article is to:

- (1) Adopt regulations consistent with the Act and the FCC Rules with respect to basic cable service rate regulation; and
- (2) Prescribe procedures to provide a reasonable opportunity for consideration of the views of interested parties in connection with basic cable service rate regulation by the village.

This article shall be implemented and interpreted consistent with the Act and FCC Rules.

(Ord. No. 93-17, § 2, 9-13-93)

Sec. 14-63. - Promulgated by FCC.

In connection with the regulation of rates for basic cable service and associated equipment, the village shall follow all FCC Rules.

(Ord. No. 93-17, § 3, 9-13-93)

Sec. 14-64. - Filing; additional information; burden of proof.

- (a) A cable operator shall submit its schedule of rates for the basic service tier and associated equipment or a proposed increase in such rates in accordance with the Act and the FCC Rules. The cable operator shall include as part of its submission such information as is necessary to show that its schedule of rates or its proposed increase in rates complies with the Act and the FCC Rules. The cable operator shall file ten copies of the schedule or proposed increase with the village manager. For purposes of this article, the filing of the cable operator shall be deemed to have been made when at least ten copies have been received by the village manager. The village council may, by resolution or otherwise, adopt rules and regulations consistent with the Act or FCC Rules prescribing the information, data and

calculations which must be included as part of the cable operator's filing of the schedule of rates or a proposed increase.

- (b) In addition to information and data required by rules and regulations of the village pursuant to section 14-64(a), the village manager may request and the cable operator shall then provide additional information that is related to and helpful for the village's review and regulation of existing rates for the basic service tier and associated equipment or a proposed increase in these rates. The village manager may establish reasonable deadlines for submission of the requested information and the cable operator shall comply with such deadlines.
- (c) A cable operator has the burden of proving that its schedule of rates for the basic service tier and associated equipment or a proposed increase in such rates complies with the Act and the FCC Rules including, without limitation, 47 USC 543 and 47 CFR 76.922, 76.923.

(Ord. No. 93-17, § 4, 9-13-93)

Sec. 14-65. - Proprietary information.

- (a) If this article, any rules or regulations adopted by the village pursuant to section 14-64(a), or any request for information pursuant to section 14-64(b) requires the production of proprietary information, the cable operator shall produce the information unless permitted by applicable law (which includes the FCC Rules) to withhold it. However, at the time the allegedly proprietary information is submitted, a cable operator may request that specific, identified portions of its response be treated as confidential and withheld from public disclosure. The request must state the reason why the information should be treated as proprietary and the facts that support those reasons. The request for confidentiality will be granted if the village determines that the preponderance of the evidence shows that nondisclosure is consistent with the provisions of the Freedom of Information Act, 5 USC 552. The village shall place in a public file for inspection any decision that results in information being withheld. If the cable operator requests confidentiality and the request is denied, then where the cable operator is proposing a rate increase, it may withdraw the proposal, in which case the allegedly proprietary information will be returned to it; or the cable operator may seek review within five working days of the denial in any appropriate forum. Release of the information will be stayed pending review.
- (b) Any interested party may file a request to inspect material withheld as proprietary with the village. The village shall weigh the policy considerations favoring nondisclosure against the reasons cited for permitting inspection in light of the facts of the particular case. It will then promptly notify the requesting entity and the cable operator that submitted the information as to the disposition of the request. It may grant, deny or condition a request. The requesting party or the cable operator may seek review of the decision by filing an appeal with any appropriate forum. Disclosure will be stayed pending resolution of any appeal.
- (c) The procedures set forth in this section shall be construed to make them analogous to and consistent with the rules of the FCC regarding requests for confidentiality including, without limitation, 47 CFR 0.459.

(Ord. No. 93-17, § 5, 9-13-93)

Sec. 14-66. - Public notice; initial review of rates.

Upon the filing of ten copies of the schedule of rates or the proposed increase in rates pursuant to section 14-64(a), the village manager shall publish a public notice in a newspaper of general circulation in the village which shall state that the filing has been received by the village manager and, except those parts which may be withheld as proprietary, is available for public inspection and copying, and interested parties are encouraged to submit written comments on the filing to the village manager not later than seven days after the public notice is published. The village manager shall give notice to the cable operator of the date, time, and place of the meeting at which the village council shall first consider the

schedule of rates or the proposed increase. This notice shall be mailed by first class mail at least five days before the meeting. In addition, if a written staff or consultant's report on the schedule of rates or the proposed increase is prepared for consideration of the village council, then the village manager shall mail a copy of the report by first class mail to the cable operator at least five days before the meeting at which the village council shall first consider the schedule of rates or the proposed increase.

(Ord. No. 93-17, § 6, 9-13-93)

Sec. 14-67. - Tolling order.

After a cable operator has filed its existing schedule of rates or a proposed increase in these rates, the existing schedule of rates will remain in effect or the proposed increase in rates will become effective after 30 days from the date of filing under section 14-64(a) unless the village council or other properly authorized body or official tolls the 30-day deadline pursuant to 47 CFR 76.933 by issuing a brief written order, by resolution or otherwise, within 30 days of the date of filing. The village council may toll the 30-day deadline for an additional 90 days in cases not involving cost-of-service showings and for an additional 150 days in cases involving cost-of-service showings.

(Ord. No. 93-17, § 7, 9-13-93)

Sec. 14-68. - Hearing on basic cable service rates following tolling of 30-day deadline.

If a written order has been issued pursuant to section 14-67 and 47 CFR 76.933 to toll the effective date of existing rates for the basic service tier and associated equipment or a proposed increase in these rates, the cable operator shall submit to the village any additional information required or requested pursuant to section 14-64. In addition, the village council shall hold a public hearing to consider the comments of interested parties within the additional 90-day or 150-day period, as the case may be. The village manager shall publish a public notice of the public hearing in a newspaper of general circulation within the village which shall state:

- (1) The date, time, and place at which the hearing shall be held.
- (2) Interested parties may appear in person, by agent, or by letter at such hearing to submit comments on or objections to the existing rates or the proposed increase in rates.
- (3) Copies of the schedule of rates or the proposed increase in rates and related information, except those parts which may be withheld as proprietary, are available for inspection or copying from the office of the manager.

The public notice shall be published not less than 15 days before the hearing. In addition, the village manager shall mail by first class mail a copy of the public notice to the cable operator not less than 15 days before the hearing.

(Ord. No. 93-17, § 8, 9-13-93)

Sec. 14-69. - Staff or consultant report; written response.

Following the public hearing, the village manager shall cause a report to be prepared for the village council which shall, based on the filing of the cable operator, the comments or objections of interested parties, information requested from the cable operator and its response, staff or consultant's review, and other appropriate information, include a recommendation for the decision of the village council pursuant to section 14-70. The village manager shall mail a copy of the report to the cable operator by first class mail not less than 20 days before the village council acts under section 14-70. The cable operator may file a written response to the report with the village manager. If at least ten copies of the response are filed by

the cable operator with the village manager within ten days after the report is mailed to the cable operator, the village manager shall forward it to the village council.

(Ord. No. 93-17, § 9, 9-13-93)

Sec. 14-70. - Rate decisions and orders.

The village council shall issue a written order, by resolution or otherwise, which in whole or in part, approves the existing rates for basic cable service and associated equipment or a proposed increase in such rates, denies the existing rates or proposed increase, orders a rate reduction, prescribes a reasonable rate, allows the existing rates or proposed increase to become effective subject to refund, or orders other appropriate relief, in accordance with the FCC Rules. If the village council issues an order allowing the existing rates or proposed increase to become effective subject to refund, it shall also direct the cable operator to maintain an accounting pursuant to 47 CFR 76.933. The order specified in this section shall be issued within 90 days of the tolling order under section 14-67 in all cases not involving a cost-of-service showing. The order shall be issued within 150 days after the tolling order under section 14-67 in all cases involving a cost-of-service showing.

(Ord. No. 93-17, § 10, 9-13-93)

Sec. 14-71. - Refunds; notice.

The village council may order a refund to subscribers as provided in 47 CFR 76.942. Before the village council orders any refund to subscribers, the village manager shall give at least seven days' written notice to the cable operator by first class mail of the date, time, and place at which the village council shall consider issuing a refund order and shall provide an opportunity for the cable operator to comment. The cable operator may appear in person, by agent, or by letter at such time for the purpose of submitting comments to the village council.

(Ord. No. 93-17, § 11, 9-13-93)

Sec. 14-72. - Written decisions; public notice.

Any order of the village council pursuant to section 14-70 or section 14-71 shall be in writing, shall be effective upon adoption by the village council, and shall be deemed released to the public upon adoption. The manager shall publish a public notice of any such written order in a newspaper of general circulation within the village which shall:

- (1) Summarize the written decision; and
- (2) State that copies of the text of the written decision are available for inspection or copying from the office of the manager.

In addition, the village manager shall mail a copy of the text of the written decision to the cable operator by first class mail.

(Ord. No. 93-17, § 12, 9-13-93)

Sec. 14-73. - Rules and regulations.

In addition to rules promulgated pursuant to section 14-74, the village council may, by resolution or otherwise, adopt rules and regulations for basic cable service rate regulation proceedings including, without limitation, the conduct of hearings, consistent with the Act and the FCC Rules.

(Ord. No. 93-17, § 13, 9-13-93)

Sec. 14-74. - Failure to give notice.

The failure of the village manager to give the notices or to mail copies of reports as required by this article shall not invalidate the decisions or proceedings of the village council, so long as there is substantial compliance with this article.

(Ord. No. 93-17, § 14, 9-13-93)

Sec. 14-75. - Additional hearings.

In addition to the requirements of this article, the village council may, in its sole discretion, hold additional public hearings upon such reasonable notice as the village council shall prescribe.

(Ord. No. 93-17, § 15, 9-13-93)

Sec. 14-76. - Additional powers.

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

(Ord. No. 93-17, § 16, 9-13-93)

Sec. 14-77. - Failure to comply; remedies.

Unless prohibited by applicable law, the village may pursue any and all legal and equitable remedies against the cable operator including, without limitation, all remedies provided under a cable operator's franchise with the village for failure to comply with the Act, the FCC Rules, any orders or determinations of the village pursuant to this article, any requirements of this article, or any rules or regulations promulgated under this article. Unless prohibited or limited by applicable law, failure to comply with the Act, the FCC Rules, any orders or determinations of the village pursuant to this article, any requirements of this article, or any rules and regulations promulgated under this article, shall also be sufficient grounds for revocation or denial of renewal of a cable operator's franchise. Further, unless prohibited by applicable law, a person who violates any provision of this article is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$100.00 nor more than \$500.00, plus costs and other sanctions, for each violation. Repeat offenses shall be subject to increased fines as provided by section 1-11(c)(2) of this Code. Any authorized village official as designated by this Code or by the village manager may issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the village municipal ordinance violations bureau) for violations under this article.

(Ord. No. 93-17, § 17, 9-13-93; Ord. No. 97-04, § 8, 7-7-97)

Sec. 14-78. - Conflicting provisions.

In the event of any conflict between this article and the provisions of any prior ordinance, then subject to applicable law and to the extent necessary to reasonably comply with the Act and FCC Rules, the provisions of this article shall control. In the event of any conflict between this article and the

provisions of any franchise, permit or other agreements with a cable operator, then subject to applicable law and to the extent necessary to reasonably comply with the Act and FCC Rules, the provision of this article shall control.

(Ord. No. 93-17, § 19, 9-13-93)

Chapter 18 - COMMUNITY DEVELOPMENT¹¹

Footnotes:

--- (1) ---

Cross reference— Buildings and building regulations, ch. 10; zoning, ch. 66.

ARTICLE I. - IN GENERAL

Secs. 18-1—18-30. - Reserved.

ARTICLE II. - DOWNTOWN DEVELOPMENT AUTHORITY¹²

Footnotes:

--- (2) ---

Cross reference— Administration, ch. 2.

State Law reference— Downtown development authority, MCL 125.1651 et seq., MSA 5.3010(1) et seq.; housing and slum clearance projects, MCL 125.651 et seq., MSA 5.3011 et seq.; housing corporation law, MCL 125.601 et seq., MSA 5.3057(1) et seq.; urban redevelopment corporations, MCL 125.901 et seq., MSA 5.3058(1) et seq.; rehabilitation of blighted areas, MCL 125.71 et seq., MSA 5.3501 et seq.; economic development corporations, MCL 126.1601 et seq., MSA 5.3520(1) et seq.

Sec. 18-31. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act No. 197 means the Downtown Development Authority Act, Act No. 197 of the Public Acts of Michigan of 1975 (MCL 125.1651 et seq., MSA 5.3010(1) et seq.), as amended.

Development plan means the plan as defined by Act No. 197.

Tax increment financing plan means the plan as defined by Act No. 197.

(Ord. No. 93-3, 4-15-93)

Cross reference— Definitions generally, § 1-2.

Sec. 18-32. - Establishment.

A downtown development authority is hereby established and created in the village pursuant to Act No. 197 of the Public Acts of Michigan of 1975 (MCL 125.1651 et seq., MSA 5.3010(1) et seq.), as amended.

(Ord. No. 91-1, 1-15-91)

Sec. 18-33. - Operation.

The downtown development authority, as established, shall have those powers and duties and shall operate as provided in Act No. 197 of the Public Acts of Michigan of 1975 (MCL 125.1651 et seq., MSA 5.3010(1) et seq.), as amended.

(Ord. No. 91-1, 1-15-91)

Sec. 18-34. - Boundaries.

The boundaries of the downtown development authority shall be as set forth on that map on file in the village office, made a part of this article by reference, and described as follows:

- (1) Original Assessor's Plat. Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34 and 84.
- (2) Assessor's Plat No. 1. Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 of Block 1; 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33 of Block 2; and 1, 2, 3, 4, 6, 7, 10, 11, 14, 15 of Block 3.
- (3) Assessor's Plat No. 2. Lots 2, 3, 4, 5, 6, 7, 16, 26, 27, 30, 31, 32, 33, 34, 35.
- (4) Assessor's Plat No. 2 (Kies Addition). Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10.
- (5) Assessor's Plat No. 3. Lots 1, 2, 3, 4, 5, 6, 7.
- (6) Other Land. Land beginning 1336.52 feet south 89;deg;07;min;35;sec; east and 15.14 feet north 01;deg;15;min;03;sec; east from west $\frac{1}{4}$ post section 5 running thence north 01;deg;15;min;03;sec; east 2306 feet, thence south 57;deg;27;min;39;sec; east 107.84 feet, thence south 52;deg;45;min;01;sec; east 303.71 feet, thence south 58;deg;24;min;33;sec; east 241.99 feet, thence north 80;deg;10;min;57;sec; east 119.02 feet, thence south 36;deg;57;min;25;sec; east 89.48 feet, thence north 87;deg;01;min;18;sec; east 36.82 feet, thence south 02;deg;58;min;42;sec; east 560.55 feet, thence south 07;deg;50;min;01;sec; west 356.37 feet, thence south 14;deg;37;min;58;sec; west 357.95 feet, thence south 04;deg;24;min;03;sec; west 489.98 feet, thence south 12;deg;51;min;36;sec; east 148.70 feet to centerline of US-12, thence north 89;deg;38;min;35;sec; west 682.69 feet to point of beginning excluding land beginning 1336.52 feet south 89;deg;07;min;35;sec; east and 15.14 feet north 01;deg;15;min;03;sec; east from west $\frac{1}{4}$ post section 5, thence north 01;deg;15;min;03;sec; east 2306 feet, thence south 57;deg;27;min;39;sec; east 32.29 feet, thence south 01;deg;29;min;26;sec; west 2288.97 feet along east line of west $\frac{1}{2}$ of northwest $\frac{1}{4}$, thence north 89;deg;38;min;35;sec; west 18.02 feet to point of beginning also excluding land beginning 1577.33 feet east and 82.32 feet north from west $\frac{1}{4}$ post section 5 being 140 feet north and south by 220 feet east and west, containing .707 acre, section 5, Descriptive Village of Clinton.

Land beginning 1577.33 feet south 89;deg;07;min;35;sec; east and 82.32 feet north 00;deg;21;min;25;sec; east from west $\frac{1}{4}$ post section 5 running thence north 00;deg;21;min;25;sec; east 140 feet, thence south 89;deg;38;min;35;sec; east 220 feet, thence south 00;deg;21;min;25;sec; west 140 feet, thence north 89;deg;38;min;35;sec; west 220 feet to point of beginning, section 5, Descriptive Village of Clinton.

Land beginning in center of section 5 running thence north six feet to southerly right-of-way of Highway US-12, thence south 88;deg;08;min; west along the right-of-way 218.55 feet for point of beginning, thence south 87;deg;53;min; west 203.3 feet, thence 89;deg;28;min; west 238.35 feet, thence leaving the right-of-way south 31;deg;58;min; east 145.06 feet, thence south 08;deg; east 374 feet, thence south 73;deg;45;min; east 188 feet, thence south 03;deg; west 121 feet, thence east 100 feet, thence north 127.85 feet, thence east 21.7 feet, thence north

26;deg;58;min; west 118.4 feet, thence north 02;deg;24;min; west 126.2 feet, thence north 25;deg;21;min; east 136 feet, thence east 1.5 feet, thence north 04;deg;15;min; east 195 feet to point of beginning, Descriptive Village of Clinton.

Land commencing at center of section 5 running thence east 165.16 feet, thence south 26.06 feet, thence east 15 feet, thence south 84.33 feet, thence east 41.17 feet, thence south 127.84 feet to northeast corner Lot 1 Assessor's Plat No. 3, thence west 91 feet, thence south 67 feet, thence west 44.5 feet, to southwest corner Lot 1 said plat, thence south 82.25 feet, thence north 86;deg;06;min; west 228.65 feet, thence west 143.14 feet, thence north 02;deg;24;min; west 49.4 feet, thence north 25;deg;21;min; east 136 feet, thence east 1.5 feet, thence north 04;deg;15;min; east 195 feet to southerly right-of-way of Highway US-12, thence north 88;deg;08;min; east 218.55 feet, thence south six feet to point of beginning, Descriptive Village of Clinton.

Land beginning on west line of River Street 127.84 feet north from northeast corner of Lot 1 of Assessor's Plat No. 3, thence west 41.17 feet, thence north 84.33 feet, thence west 15 feet, thence north 26.05 feet to east and west ¼ line, thence east 55.65 feet, thence south 110.83 feet to point of beginning excluding that part located on the right-of-way of US-12, Descriptive Village of Clinton.

That part of section 5, T5S, R4E beginning in west line Lot 3 Assessor's Plat No. 3, Village of Clinton, at a point 82.25 feet south from northwest corner Lot 2, running thence north 86;deg;06;min; west 228.65 feet, thence north 89;deg;33;min; west 143.14 feet, thence south 2;deg;24;min; east 76.8 feet, thence south 26;deg;58;min; east 118.4 feet, thence north 89;deg;27;min; west 21.7 feet, thence south 127.85 feet, thence east to the east line of Tail Race, thence southerly along the east line of Tail Race to the south line of Lot 7 extending west, thence east on the line to a point which is 152 feet west from the west edge of sidewalk on the west side of River Street, thence northwesterly to the south line of Franklin Street extending west and west line of an alley running north and south along west side of lots, thence east to southwest corner Lot 6, thence north along west line of lots to beginning, also Mill Race lying south of US-112, Descriptive Village of Clinton.

Land beginning center of section 5, running thence north 40.26 feet, thence south 87;deg;38;min; west 216 feet along the centerline of Highway US-12, thence north 03;deg;52;min; east 33.20 feet, thence south 87;deg;38;min; west 41.17 feet along the northerly line of the highway, thence curve right chord bearing south 88;deg;03;min; west 178.83 feet for a further point of beginning, running thence along the curve chord bearing south 89;deg;11;min; west 120.60 feet, thence south 89;deg;23;min; west 79.36 feet, thence north 06;deg;50;min; east 34 feet, thence north 86;deg;23;min; east 196.29 feet, thence south 43.56 feet to the point of beginning, section 5, Descriptive Village of Clinton.

Land beginning center of section 5, running thence north 40.26 feet, thence south 87;deg;38;min; west 216 feet along the centerline of Highway US-12, thence north 03;deg;52;min; east 33.20 feet for a further point of beginning, running thence south 87;deg;38;min; west 41.17 feet along the northerly line of said highway, thence on curve right chord bearing south 88;deg;03;min; west 178.83 feet, thence north 43.56 feet, thence north 86;deg;23;min; east 223.41 feet, thence south 03;deg;53;min; west 50 feet to point of beginning, section 5, Descriptive Village of Clinton.

(Ord. No. 91-1, 1-15-91)

Sec. 18-35. - Development plan—Findings.

- (a) The development plan portion of the plan meets the requirements set forth in section 17(2) of the Act, and the tax increment financing plan portion of the plan meets the requirements set forth in section 14(2) of the Act.

- (b) The proposed method of financing the development is feasible, and the authority has the ability to arrange the financing.
- (c) The development is reasonable and necessary to carry out the purposes of the Act.
- (d) Any land included within the development area to be acquired is reasonably necessary to carry out the purposes of the Act.
- (e) The development plan portion of the plan is in reasonable accord with the master plan of the village.
- (f) Public services, such as fire and police protection and utilities, are or will be adequate to service the development area.
- (g) Changes in zoning, streets, street levels, intersections, and utilities, to the extent required by the plan, are reasonably necessary for the plan and for the village.

(Ord. No. 93-3, § 1, 4-15-93; Ord. No. 1 of 2010, § 4, 3-1-10)

Sec. 18-36. - Same—Public purpose.

The village council hereby determines that the plan constitutes a public purpose.

(Ord. No. 93-3, § 2, 4-15-93; Ord. No. 1 of 2010, § 5, 3-1-10)

Sec. 18-37. - Same—Best interest of the public.

The village council hereby determines that it is in the best interests of the public to halt property value deterioration, increase property tax valuation, eliminate the causes of the deterioration in property values, and to promote growth in the downtown district to proceed with the plan.

(Ord. No. 93-3, § 3, 4-15-93; Ord. No. 1 of 2010, § 6, 3-1-10)

Sec. 18-38. - Same—Approval and adoption.

The plan is approved and adopted. A copy of the plan and all later amendments thereto shall be maintained on file in the village clerk's office.

(Ord. No. 93-3, § 4, 4-15-93; Ord. No. 1 of 2010, § 7, 3-1-10)

Chapter 22 - ENVIRONMENT¹¹

Footnotes:

--- (1) ---

Cross reference— Administration, ch. 2; animals, ch. 6; offenses and miscellaneous provisions, ch. 34; streets, sidewalks and other public places, ch. 50.

ARTICLE I. - IN GENERAL

Secs. 22-1—22-30. - Reserved.

ARTICLE II. - SOIL EROSION AND SEDIMENTATION CONTROL

Sec. 22-31. - Standards and specifications adopted.

The village hereby adopts by reference the standards and specifications for soil erosion and sediment control as established by the county soil conservation district and the state department of state highways and transportation.

(Ord. No. 78-4, § 1, 8-1-78)

Sec. 22-32. - Village authority; duties.

The village shall be the inspector of all construction projects on public lands in the village and is directed to prepare the necessary application forms and permits to carry out the purposes of this article.

(Ord. No. 78-4, § 2, 8-1-78)

Sec. 22-33. - Violation of article; municipal civil infraction.

- (a) A person who violates any provision of this article is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$100.00 nor more than \$500.00, plus costs and other sanctions, for each violation.
- (b) Increased fines may be imposed for repeat offenses. As used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this article (i) committed by a person within any 30-day period and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this article shall be as follows:
 - (1) The fine for any offense that is a first repeat offense shall be not less than \$1,000.00, plus costs.
 - (2) The fine for any offense that is a second repeat offense or any subsequent repeat offense shall be not less than \$2,000.00, plus costs.
- (c) Any authorized village official as designated by this Code or by the village manager may issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the village municipal ordinance violations bureau) for violations under this article.

(Ord. No. 97-03, § 9, 7-7-97)

Secs. 22-34—22-55. - Reserved.

ARTICLE III. - NOXIOUS WEEDS²¹

Footnotes:

--- (2) ---

Editor's note— Ord. No. 7 of 2003, § 1, adopted Dec. 1, 2003, repealed the former Art. III, §§22-56—22-59, and enacted a new Art. III as set out herein. The former Art. III pertained to similar subject matter and derived from Ord. No. 85-8, §§ 1—4, adopted July 1, 1985; and Ord. No. 97-03, § 10, adopted July 7, 1997.

Cross reference— Streets, sidewalks and other public places, ch. 50; traffic and motor vehicles, ch. 58.

Sec. 22-56. - Violation of article; municipal civil infraction.

A person who violates any provision of this article is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50.00 nor more than \$500.00, plus costs and other sanctions, for each violation. Repeat offenses shall be subject to increased fines as provided by section 1-11(c)(2) of this Code, except that as used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this article (i) committed by a person within any 30-day period and (ii) for which the person admits responsibility or is determined to be responsible. Any authorized village official as designated by this Code or by the village manager may issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the village municipal ordinance violations bureau) for violations under this article.

(Ord. No. 7 of 2003, § 2, 12-1-03)

Sec. 22-57. - Noxious weeds prohibited.

No owner or occupant of any lot, within the village shall permit on such lot, or upon any sidewalk or portion of a street adjoining such lot, any weeds, including but not limited to ragweed, Canada thistles, burdocks, crab grass, wild growing bushes, milkweeds, wild carrots, daisies, or deleterious, unhealthful growths, or other noxious matter, that may be growing, lying or located on such lot, or permit any growth which, in the opinion of the village manager, or his/her designee are a fire hazard, obstructs the clear vision of a driver of a motor vehicle or otherwise detrimental to the health or appearance of any neighborhood.

(Ord. No. 7 of 2003, § 3, 12-1-03)

Sec. 22-58. - Grass and weed height.

Any such weeds or grass of any nature, which attain a height of six inches are declared to be a noxious weed and a public nuisance.

(Ord. No. 7 of 2003, § 4, 12-1-03)

Sec. 22-59. - Duty of owner.

It shall be the duty of the owner of every premises within the village to cut and remove or destroy by lawful means all such weeds and grass as often as may be necessary to comply with the provisions of this article.

(Ord. No. 7 of 2003, § 5, 12-1-03; Ord. No. 7 of 2008, §§ 1, 2, 8-4-08)

Sec. 22-60. - Right-of-way trees.

The village manager or his/her designee shall direct, regulate and control the planting, insect and disease control, fertilizing, mulching and removal of all trees growing in any rights-of-way, parkways, parks or other public areas of the village. The department of public works shall be charged with the routine maintenance and care of the trees under the provision of this article. The village manager or his designee shall cause the provisions of this article to be enforced.

(Ord. No. 7 of 2003, § 6, 12-1-03)

Sec. 22-61. - Notification of first violation; repeat offenses.

- (a) The owner of any property upon which such noxious vegetation is found shall be notified in writing for the first violation to remove such vegetation within five days after service of the notice. Such notice may be personally served or may be served by mailing with delivery confirmation to the last known address of the owner. Failure to comply with such notice within the time allowed shall constitute a violation of this article and allow the village to have the property mowed.
- (b) The notice of first violation will notify property owner that there will be no more notices of violation for noxious vegetation during that calendar year. All repeat offenses during that calendar year will allow the village to have the property mowed without additional notice.

(Ord. No. 7 of 2003, § 7, 12-1-03; Ord. No. 7 of 2008, §§ 1, 3, 8-4-08)

Sec. 22-62. - Removal by village; lien.

If the village is required to remove such noxious vegetation, the village shall make a reasonable charge for such service plus administrative and enforcement charges which shall constitute a lien on the property involved, and if not paid within 30 days may assess addition late fees each month, and the official in charge of the collection shall, prior to April 30 each year, certify to the village assessing officer the facts of such failure to pay, whereupon the village assessing officer shall enter such charges for the removal of such vegetation upon the next general village tax roll as a charge against such premises. The same shall be collected, and a lien enforced in the same manner as general village taxes against such premises are collected and the lien enforced.

(Ord. No. 7 of 2003, § 8, 12-1-03)

Secs. 22-63—22-85. - Reserved.

ARTICLE IV. - NUISANCES^[3]

Footnotes:

--- (3) ---

Cross reference— Offenses and miscellaneous provisions, ch. 34; solid waste as nuisance, § 42-3.

Sec. 22-86. - Violation of article; municipal civil infraction.

A person who violates any provision of this article, or who fails or neglects to comply with any of the requirements, rules, or regulations of the board of health, is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$100.00 nor more than \$500.00, plus costs and other sanctions, for each violation. Repeat offenses shall be subject to increased fines as provided by section 1-11(c)(2) of this Code, except that as used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this article (i) committed by a person within any 30-day period and (ii) for which the person admits responsibility or is determined to be responsible. Any authorized village official as designated by this Code or by the village manager may issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the village municipal ordinance violations bureau) for violations under this article.

(Ord. No. 1890-2, § 5, 2-6-1890; Ord. No. 97-03, § 11, 7-7-97)

Sec. 22-87. - Stagnant or filthy water, garbage and other offensive things.

No person shall suffer or permit any stagnant or filthy water, dead animal, putrid meats, decayed fruits or vegetables, or any foul and offensive drain, sink, privy, cesspool, slops, garbage, manure, or any other offensive thing that may be detrimental to the health of any person, to remain on their premises, nor shall they deposit the same in any street, alley or open lot.

(Ord. No. 1890-2, § 1, 2-6-1890)

Sec. 22-88. - Privies, stables or similar nuisances.

No person shall erect or allow to remain any privy, hogpen, cow stable, or any like or similar nuisances, so near to the premises of any other person, or any street or alley, as to injure the health, or materially disturb the comfort of any other person or family.

(Ord. No. 1890-2, § 2, 2-6-1890)

Sec. 22-89. - Inspection; order to abate.

Whenever any nuisance or cause for complaint shall exist within the village, notice may be given to the health officer. He is authorized, and it shall be his duty to visit, enter and inspect any premises or places in which any such nuisance or source of filth is said to exist. If he shall find that which in his opinion constitutes a nuisance, or is prejudicial to good health, and if the same shall be found upon private property, he shall order the owner or occupant of the premises to abate or remove the same within 24 hours. If the owner or occupant shall refuse or neglect to comply with such order, then in each and every such case, such person shall be deemed to be guilty of a violation of this article. If any nuisance shall be found to exist in any street, alley, or public place, the health officer shall abate or remove the nuisance forthwith.

(Ord. No. 1890-2, § 3, 2-6-1890)

Sec. 22-90. - Refusal to abate.

Whenever in the judgment of the board of health, it shall be deemed necessary for the public health, the board may at once enter and take possession of any building, premises or grounds, upon which in their judgment there exists any nuisance prejudicial to the public health. If the owners or occupant shall refuse or neglect to abate such nuisance in the manner directed by the board, the board may cause the same to be abated forthwith in such manner as they deem proper, and all expenses incurred shall be a legal claim against the owner and a lien upon the premises, to be collected in the same manner as other special assessments. Any person who shall resist the action of the board or their agents under this section shall be liable to the penalties provided in section 22-86.

(Ord. No. 1890-2, § 4, 2-6-1890)

Chapter 26 - FIRE PREVENTION AND PROTECTION¹¹

Footnotes:

--- (1) ---

Cross reference— Administration, ch. 2; buildings and building regulations, ch. 10.

State Law reference— Fires and fire departments, MCL 70.1 et seq.; state fire prevention act, MCL 29.1 et seq.; crimes related to explosives and bombs, MCL 750.200 et seq.; crimes related to fires, MCL 750.240 et seq.

ARTICLE I. - IN GENERAL

Secs. 26-1—26-30. - Reserved.

ARTICLE II. - FIRE DEPARTMENT

DIVISION 1. - GENERALLY

Sec. 26-31. - Establishment.

The village and the Township of Clinton shall operate and maintain a joint fire department to provide fire protection for the village and for the Township of Clinton.

(Ord. No. 73-3, § 1, 12-26-73)

Sec. 26-32. - Name.

The fire department shall be known as the Clinton Volunteer Fire Department.

(Ord. No. 73-3, § 2, 12-26-73)

Sec. 26-33. - Personnel.

The fire department shall consist of a fire chief and sufficient officers, firefighters and auxiliary firefighters to provide for the operation and maintenance of the fire department.

(Ord. No. 73-3, § 3, 12-26-73)

Sec. 26-34. - Policies and procedures.

The village council and the Clinton Township Board shall determine the general policies and procedures for the operation and maintenance of the fire department.

(Ord. No. 73-3, § 4, 12-26-73)

Sec. 26-35. - Fire board; appointment and meetings.

In April of each year, the village council and the Clinton Township Board shall each appoint two of its members to a board which shall be known as the fire board. The fire board may meet at such times as may be necessary to provide for the operation and maintenance of the fire department.

(Ord. No. 73-3, § 5, 12-26-73)

Sec. 26-36. - Code of regulations.

The fire board shall oversee the operation of the fire department and is hereby authorized and directed to adopt a code of regulations for the control, management and government of the fire department. Such code of regulations shall become operative after the code is approved by resolution of the village council and the Clinton Township Board.

(Ord. No. 73-3, § 6, 12-26-73)

Sec. 26-37. - Operational records.

The fire board is hereby authorized and directed to formulate the number and type of operational records to be maintained by the fire department.

(Ord. No. 73-3, § 7, 12-26-73)

Sec. 26-38. - Fire station.

The village will provide a suitable fire station in the village for the fire department.

(Ord. No. 73-3, § 8, 12-26-73)

Sec. 26-39. - Costs.

The village and the Township of Clinton shall share equally the cost of operating and maintaining the fire department. This shall not include any obligation by the village to share in the cost of purchasing firefighting trucks or rescue vehicles.

(Ord. No. 73-3, § 9, 12-26-73)

Sec. 26-40. - Financial records and statement.

The village treasurer shall maintain the financial records of the fire department and shall furnish a monthly and an annual financial statement to the village council and to the Clinton Township Board.

(Ord. No. 73-3, § 10, 12-26-73)

Sec. 26-41. - Equipment, personnel and operation records.

The village clerk shall maintain the equipment, personnel and operation records of the fire department.

(Ord. No. 73-3, § 11, 12-26-73)

Sec. 26-42. - Remuneration.

The members of the fire department shall receive such remuneration as the village council and the Clinton Township Board shall by resolution provide.

(Ord. No. 73-3, § 12, 12-26-73)

Sec. 26-43. - Protection—Within village limits.

The fire department shall provide fire protection for all property within the village limits as such limits shall from time to time be established.

(Ord. No. 85-5, § 1, 3-31-85)

Sec. 26-44. - Same—Outside of village limits.

The fire department may, subject to the approval of the village council, enter into contracts to provide fire protection outside the village limits and enter into mutual aid agreements with other area fire departments.

(Ord. No. 85-5, § 2, 3-31-85)

Secs. 26-45—26-50. - Reserved.

DIVISION 2. - FIRE AND RESCUE SERVICE CHARGES FOR NONRESIDENTS AND NONPROPERTY OWNERS.[\[2\]](#)

Footnotes:

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Editor's note— Ord. No. 2018-05, §§ 1—9, adopted Dec. 3, 2018, established provisions pertaining to fire and rescue service charges for nonresidents and nonproperty owners, but did not specify a code section. Its inclusion herein was at the discretion of the editor.

Sec. 26-51. - Name.

The ordinance shall be known and cited as the Clinton Fire Department Cost Recovery Ordinance.

(Ord. No. 2018-05, § 1, 12-3-18)

Sec. 26-52. - Definitions.

For purposes of this section the following terms shall have the meanings designated in this subsection:

Clinton Fire Board shall mean a board established by Clinton Township and the village for providing supervision and direction to the Clinton Fire Department.

Clinton Fire Department shall mean the fire department that is jointly owned and operated by Clinton Township and the village.

Clinton Township or township shall mean a Michigan municipal corporation whose address is 172 W. Michigan Avenue, Clinton, Michigan 49236.

Fire services shall mean, but not be limited to, fire, rescue, medical, hazardous material, technical rescue, disaster services and other similar fire department services provided to assist people in emergency situations.

Nonresident shall mean any person other than a resident as herein defined.

Resident shall mean a person that (i) has a bona fide residence or (ii) owns property or (iii) has a bona fide business in Clinton Township or the village.

Village of Clinton or village shall mean a Michigan municipal corporation whose address is 119 East Michigan Avenue, Clinton, Michigan 49236.

(Ord. No. 2018-05, § 2, 12-3-18)

Sec. 26-53. - Purpose.

The purpose of this division is to provide financial assistance to the Clinton Fire Department for furnishing fire services to those nonresidents who receive direct benefits from said services but who do not financially support the village or township with their taxes. Also, to provide for full funding of fire services, which remain in large part at large government expenses based on the general benefits derived by citizens from the availability of said service.

(Ord. No. 2018-05, § 3, 12-3-18)

Sec. 26-54. - Joint ordinance.

As joint owners and operators of the Clinton Fire Department, each municipality will adopt a Fire Cost Recovery Ordinance, so the Clinton Fire Department may assess charges for fire services to nonresidents.

(Ord. No. 2018-05, § 4, 12-3-18)

Sec. 26-55. - Charges.

The Clinton Fire Department shall charge nonresidents for fire services pursuant to a fee schedule agreed to by both the village and township and adopted by resolution of village. With the consent of the governing bodies of both the township and village this fee schedule may from time to time be amended by resolution. The adopted charges shall be reasonably based on the actual cost incurred by the Clinton Fire Department in providing the fire service, including, but not limited to township and village costs, and the cost of administering the ordinance.

(Ord. No. 2018-05, § 5, 12-3-18)

Sec. 26-56. - Exemptions.

The following properties and services shall be exempt from, the foregoing charges:

- (1) Fires involving village or township buildings, grounds, and/or property.
- (2) Fire services performed outside the jurisdiction of the village or township under a mutual aid contract with Lenawee County Fire Chiefs Association.
- (3) Fire services performed outside the jurisdiction of the village or township under a mutual aid contract with Washtenaw County Fire Chiefs Association.
- (4) Fire services for MABAS mutual aid.
- (5) Fire services performed under contract with Manchester Township.
- (6) Fire services performed under contract with Macon Township
- (7) Fire services performed under contract with Bridgewater Township.

(Ord. No. 2018-05, § 6, 12-3-18)

Sec. 26-57. - Payment.

All charges made pursuant to this division shall be due and payable within 60 days from the date of billing for the fire service rendered. Any default of payments shall be collectible through proceedings in any court of competent jurisdiction as a mature debt, including actual attorney fees and costs of collection. Unpaid charges shall bear interest at a rate of ten percent per annum beginning 30 days after the date of the invoice and continuing every 30 days until payment is made in full.

(Ord. No. 2018-05, § 7, 12-3-18)

Sec. 26-58. - Billing.

The Clinton Fire Department shall obtain the necessary information and bill the nonresident for fire services. Upon receipt of payment, monies will be deposited in the appropriate fire department budget line.

(Ord. No. 2018-05, § 8, 12-3-18)

Sec. 26-59. - Right-of-appeal.

A nonresident billed for fire services may appeal the invoice within 60 days of the date of the bill by submitting a written request to the Clinton Village Manager. The written appeal shall state specific reasons for the appeal and the outcome sought. The village manager will review the request and issue findings within 45 days from date of receipt of the appeal.

If the appeal is not satisfactorily resolved, the appealing party may make a final appeal to the Clinton Fire Board within 45 days of the date of village manager's response letter. The Clinton Fire Board shall have the right to review the charges for fire services rendered upon timely application made and determine whether to increase minimum charges, abate charges in whole or part, based upon the facts of any specific claim as it shall appear.

(Ord. No. 2018-05, § 9, 12-3-18)

Secs. 26-60—26-65. - Reserved.

ARTICLE III. - HAZARDOUS MATERIALS³

Footnotes:

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Editor's note— Ord. No. 1 of 2007, § 1, adopted Jan. 3, 2007, amended Art. III in its entirety to read as herein set out. Former Art. III, §§ 26-66—26-69, pertained to similar subject matter and derived from Ord. No. 95-01, §§ 1—4, adopted Apr. 3, 1995.

Sec. 26-66. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Emergency hazardous material incident means a spill, leakage, release, or other dissemination or threat of any hazardous materials requiring immediate action to mitigate a threat to public health, safety or welfare.

Expenses shall include but not be limited to the actual labor costs to the Clinton Fire Department and the village and its personnel including workers' compensation benefits, fringe benefits, administrative overhead, costs of equipment, costs of equipment operation, costs of materials, cost of disposal, costs of any contract labor and materials, and those costs associated with an emergency hazardous materials incident, in order to ensure the safety of the village and its populace. Expenses shall also include the charges of costs incurred by the Clinton Fire Department and the village as a result of a HazMat unit response to an emergency hazardous materials incident.

Hazardous materials shall include all those materials designated as hazardous by the State of Michigan in Public Act 307 of 1982, as amended, or by the Federal Superfund Amendment and Reauthorization Act (SARA), as amended.

HazMat unit means the vehicle requested or provided by the Clinton Fire Department or the village, individually or pursuant to an agreement with another municipality, entity or individual, equipped with apparatus designed to provide emergency service in situations involving a spill, leak, accident or other similar occurrence involving hazardous materials.

Owner means any individual, firm, company, association, society, corporation, partnership, or group, including their officers and employees, who are either listed as the owner of record, have a land contract vendee interest in, or are listed as the taxpayer of record for the real property where the emergency hazardous material incident occurred, or have title, use, possession or control of the hazardous material or the vehicle used to transport same.

Person means any individual, firm, company, association, society, corporation, partnership, or group, including their officers and employees, who has responsibility for an actual involvement in the emergency hazardous materials incidents.

(Ord. No. 1 of 2007, § 1, 1-3-07)

Sec. 26-67. - Hazardous materials incident emergency.

In the event a spill, leakage, release, or other dissemination of any hazardous material has occurred, the chief of the Clinton Fire Department, or an authorized representative, shall determine whether such occurrence constitutes an emergency hazardous materials incident, and if so determined, the Clinton Fire Department and the village may take immediate steps to abate and control the hazardous materials.

(Ord. No. 1 of 2007, § 2, 1-3-07)

Sec. 26-68. - Expenses of an emergency hazardous materials incident.

In the event of an emergency hazardous materials incident, all owners or persons who have responsibility for or involvement in the emergency hazardous materials incident shall be jointly and severally liable to the village for any expenses incurred in responding to said emergency hazardous materials incident including, but not limited to, persons with title, use, possession, or control of a vehicle used to transport hazardous materials. In the event said owner or person fails to pay said expenses within 60 days after the village mails its invoice of expenses to said owner or person, the village may take such collection efforts to recover said expenses that it deems appropriate, including, but not limited to, adding the unpaid expenses to the real property tax bill of the owner of the real property where the hazardous materials emergency occurred, and collecting the same in the same manner that ad valorem property taxes are collected; provided, however, such unpaid expenses may not be added to the tax bill or any real property unless the owner or person in charge of or responsible for said real property, has a connection or involvement with the hazardous material that resulted in an emergency hazardous materials incident.

(Ord. No. 1 of 2007, § 3, 1-3-07)

Sec. 66-69. - Payment of invoice.

Payment of an invoice for expenses incurred by the village under this article shall not constitute an admission of guilt or responsibility under any other ordinance, law, rule or regulation.

(Ord. No. 1 of 2007, § 4, 1-3-07)

Secs. 26-70—26-90. - Reserved.

ARTICLE IV. - OPEN BURNING^[4]

Footnotes:

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Editor's note— Ord. No. 9 of 2001, § 1, adopted Nov. 5, 2001, repealed the former Art. IV, §§ 26-91—26-93, and enacted a new Art. IV as set out herein. The former Art. IV pertained to similar subject matter and derived from Ord. No. 91-6, §§ 2—4, adopted Dec. 1, 1991; and Ord. No. 97-03, § 11, adopted July 7, 1997.

Sec. 26-91. - Definitions.

Open burning as used in this article is defined as the burning of materials such as refuse, rubbish, garbage, brush, leaves, and other debris for the purpose of disposal.

Campfire as used in this article is defined as the burning of seasoned firewood and other similar materials for the purpose of food preparation or recreation.

(Ord. No. 9 of 2001, § 2, 11-5-01)

Sec. 26-92. - Prohibited burning.

Open burning is strictly prohibited in the village, except under special conditions.

(Ord. No. 9 of 2001, § 3, 11-5-01)

Sec. 26-93. - Campfires.

Campfires are permitted under the following conditions. The campfire must be in a clear area of the rear yard a sufficient distance from all structures and flammable material. The campfire must be on or close to the ground in a properly secured fire structure of no larger than 30 inches in diameter. The campfire must be under the direct supervision of the property owner. Campfires are not allowed when fire conditions are high, or when they create smoke, odor, or noise, which causes a nuisance or otherwise interferes with another person's reasonable use and enjoyment of his/her property.

(Ord. No. 9 of 2001, § 4, 11-5-01)

Sec. 26-94. - Exceptions.

The village may periodically dispose of materials by open burning or allow open burning at special events when it is deemed to be in the community's best interest. Open burning will also be permitted when duly licensed by the State of Michigan.

(Ord. No. 9 of 2001, § 5, 11-5-01)

Sec. 26-95. - Penalty.

A person who violates any provision of this article is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$100.00 nor more than \$500.00, plus costs and other sanctions, for each violation. Repeat offenses shall be subject to increased fines as provided by subsection 1-11(c)(2) of this Code, except that as used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this chapter (i) committed by a person within any 15-day period and (ii) for which the person admits responsibility or is determined to be responsible. Any authorized village official as designated by this Code or by the village manager may issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the village municipal ordinance violations bureau) for violations under this article.

(Ord. No. 9 of 2001, § 6, 11-5-01)

Secs. 26-96—26-105. - Reserved.

ARTICLE V. - CONSUMER FIREWORKS

Sec. 26-106. - Definitions.

The following definitions shall be used with this article.

Consumer fireworks means fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States consumer product safety commission under 16 CFR Pts. 1500 and 1507, and that are listed in APA standard 87-1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks do not include low-impact fireworks.

Display fireworks means large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as provided in 27 CFR 555.11, 49 CFR 172, and APA standard 87-1, 4.1.

Firework or fireworks means any composition or device, except for a starting pistol, a flare gun, or a flare, designated for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, and special effects.

Low-impact fireworks means ground and handheld sparkling devices as that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.18, and 3.5.

Novelties means that term as defined under APA standard 87-1, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4, and 3.2.5 and all of the following:

- (1) Toy plastic or paper caps for toy pistols in sheets, strips, rolls, or individual caps containing not more than 0.25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap.
- (2) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in subsection (1) are used, that are constructed so that the hand cannot come in contact

with the cap when in place for the explosion, and that are not designed to break apart or be separated so as to form a missile by the explosion.

- (3) Flitter sparklers in paper tubes not exceeding one-eighth inch in diameter.

(Ord. No. 2014-08, § 1, 5-5-14)

Sec. 26-107. - Prohibition on use of consumer fireworks.

- (a) Consistent with Act No. 635 of the Public Acts of 2018 no person shall ignite, discharge or use consumer fireworks except after 11:00 a.m. on December 31 until 1:00 a.m. on January 1; the Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m.; June 29 to July 4 until 11:45 p.m. on each of those days; July 5, if that date is a Friday or Saturday until 11:45 p.m.; the Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.
- (b) No person shall ignite, discharge, or use consumer fireworks within the village while under the influence of alcohol, a controlled substance, or a combination of alcohol and a controlled substance at any time.
- (c) No person under the age of 18 shall ignite, discharge or use consumer fireworks within the village at any time.

(Ord. No. 2014-08, § 2, 5-5-14; Ord. No. 2019-02, §§ 1, 2, 6-3-19)

Sec. 26-108. - Enforcement.

The fire chief, his designees and sworn enforcement officers are authorized to enforce the provisions of this article.

(Ord. No. 2014-08, § 3, 5-5-14)

Sec. 26-109. - Penalty.

Whoever violates any provision of this article is responsible for a municipal civil infraction. Each day that a violation exists or continues shall constitute a separate and additional violation.

(Ord. No. 2014-08, § 4, 5-5-14)

Chapter 30 - LAW ENFORCEMENT

ARTICLE I. - IN GENERAL

Secs. 30-1—30-30. - Reserved.

ARTICLE II. - POLICE DEPARTMENT

Sec. 30-31. - Establishment.

There is hereby established a police department in the village.

(Ord. No. 83-1, § 1, 4-22-83)

Sec. 30-32. - Personnel.

The police department of the village shall consist of the village police chief and such other officers as the village president may, by and with the consent of the village council, from time to time appoint.

(Ord. No. 83-1, § 2, 4-22-83)

Sec. 30-33. - Powers.

The members of the police department shall have the same powers as sheriffs and constables in serving process and making arrests within the state.

(Ord. No. 83-1, § 3, 4-22-83)

Sec. 30-34. - Rules.

The village council shall make and adopt, by resolution, all necessary rules for government of the police department. Such rules shall be entered in writing in a book of police department rules which shall be kept and maintained in the office of the village clerk.

(Ord. No. 83-1, § 4, 4-22-83)

Chapter 34 - OFFENSES AND MISCELLANEOUS PROVISIONS⁽¹⁾

Footnotes:

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Cross reference— Administration, ch. 2; nuisances, § 22-86 et seq.; traffic and vehicles, ch. 58.

ARTICLE I. - IN GENERAL

Sec. 34-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Public place means any street, alley, park, public building, any place of business or assembly open to or frequented by the public, any other place which is open to the public view, or to which the public has access.

(Ord. No. 93-14, § 1, 6-7-93)

Cross reference— Definitions generally, § 1-2.

Sec. 34-2. - Penalty for violation of chapter.

Any person found guilty of violating any of the provisions of this chapter, or aiding and abetting another to violate the provisions of this chapter, shall be guilty of a misdemeanor and punishable by a fine of not more than \$500.00 or imprisonment in the county jail for not more than 90 days, or both such fine and imprisonment, in the discretion of the court, plus court costs, and the cost of prosecution.

(Ord. No. 93-14, § 3, 6-7-93)

Sec. 34-3. - Aiding or abetting others to commit prohibited acts.

It shall be unlawful for any person to aid or abet another person to commit any of the acts prohibited in this chapter.

(Ord. No. 93-14, § 2R, 6-7-93)

Sec. 34-4. - Loitering near place of illegal occupation or business.

It shall be unlawful for any person within the village to knowingly loiter in or about any place where an illegal occupation or business is being conducted.

(Ord. No. 86-5, § 2(e), 6-22-86)

State Law reference— Such person deemed a disorderly person, MCL 750.167(1)(j), MSA 28.364(1)(j).

Sec. 34-5. - Reserved.

Editor's note— Ord. No. 2013-02, § 1, adopted Nov. 11, 2013, repealed § 34-5, which pertained to begging and derived from Ord. No. 86-5, § 2(c), adopted June 22, 1986.

Sec. 34-6. - Resisting or obstructing a police or peace officer.

It shall be unlawful for any person to obstruct, resist, hinder or oppose any member of the police force or any peace officer in the discharge of his duties as such.

(Ord. No. 93-14, § 2Z, 6-7-93)

Sec. 34-7. - Spitting in public places.

It shall be unlawful for any person to spit on any sidewalk or on the floor or seat of any public carrier, or on any floor, wall, seat or equipment of any place of public assemblage.

(Ord. No. 93-14, § 2CC, 6-7-93)

Sec. 34-8. - Possession of tobacco products and vapor products by minors.

(a) *Definitions.* As used in this section, the following definitions apply:

Alternative nicotine products mean any product containing nicotine or synthetic nicotine, or its equivalent, intended for human consumption or use, whether chewed, absorbed, dissolved, or ingested by any means.

Tobacco products mean any product that contains nicotine or synthetic nicotine, or its equivalent, and is used for smoking, chewing, sucking, inhaling or placing against the gums of a user. This includes but is not limited to any cigarette, cigar, cigarillo, little cigar; pipe tobacco, chewing tobacco, tobacco snuff or other kinds and forms of tobacco.

Vapor products mean any product that contains nicotine or synthetic nicotine, or its equivalent, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce a vapor or mist, in a solution or other form. This includes but is not limited to any electronic cigarette, electronic cigar, electronic cigarillo, electronic little cigar, electronic pipe, hookah, vaporizer or similar product or device and any cartridge or other container of nicotine or synthetic nicotine, or its equivalent, in a solution or other form.

The terms tobacco products, vapor products or alternative nicotine products shall not include products regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetic Act.

- (b) *Purchase, possession or use.* A person under 18 years of age shall not purchase, possess or use a tobacco product, a vapor product, or an alternative nicotine product, which allows a user to simulate cigarette smoking and ingest nicotine.
- (c) *Furnishing to minors.* No person in the Village shall sell, give to or in any way furnish tobacco products, vapor products or alternative nicotine products, in any form, to any person under 18 years of age.
- (d) *Point of sale sign.* A person who sells tobacco products, vapor products or alternative nicotine products, at a retail location, shall post, in a place close to the point of sale and conspicuous to both employees and customers, a sign meeting the State of Michigan Department of Public Health requirements that The purchase of a tobacco product or vapor product by a minor under 18 years of age and the provision of a tobacco product or vapor product to a minor are prohibited by law. A minor who unlawfully purchases or uses a tobacco product or vapor product is subject to criminal or civil penalties.

(Ord. No. 2019-01, §§ 1—5, 4-1-19)

Secs. 34-9—34-35. - Reserved.

ARTICLE II. - OFFENSES AGAINST PROPERTY

Sec. 34-36. - Prohibited acts.

A person who does any of the following in a store or in its immediate vicinity shall be guilty of retail fraud:

- (1) While a store is open to the public, steals property in the store that is offered for sale.
- (2) While a store is open to the public, alters, transfers, removes and replaces, conceals or otherwise misrepresents the price at which property is offered for sale with the intent not to pay for the property or to pay less than the price at which the property is offered for sale.
- (3) With intent to defraud, obtains or attempts to obtain money or property from the store as a refund or exchange property that was not paid for and belongs to the store.

(Ord. No. 93-15, § 1, 6-7-93)

Sec. 34-37. - Penalty for violation of article.

Any person who violates this article shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for a term not to exceed 90 days, or a fine not exceeding \$500.00, or both such fine and imprisonment, plus court costs.

(Ord. No. 93-15, § 2, 6-7-93)

Sec. 34-38. - Authority to arrest.

- (a) Where a peace officer has reasonable cause to believe that a violation of this article has occurred and has reasonable cause to believe that the person either committed or is committing a violation of this article, such peace officer may arrest without a warrant, regardless of whether the violation was committed in his presence.
- (b) A private person may make an arrest if such person is a merchant, an agent or employee of a merchant or an independent contractor providing security for a merchant or a store and who has reasonable cause to believe that a violation of this article has been committed by the person to be arrested, regardless of whether the violation was committed in the presence of the private person.

(Ord. No. 93-15, § 3, 6-7-93)

Sec. 34-39. - Civil remedies.

In addition to the criminal sanctions imposed in this article, a person who commits an act which he could be charged with under this article, may also be held responsible for money damages, as provided for in Act No. 50 of the Public Acts of Michigan of 1988 (MCL 600.2917, 600.2953, MSA 27A.2917, 27A.2953), as amended.

(Ord. No. 93-15, § 4, 6-7-93)

Sec. 34-40. - Destruction or defacement of public property and buildings.

It shall be unlawful for any person to wilfully destroy, remove, damage, alter or in any manner deface any property not his own; any public building on school property or any public building; other public property, bridge, fire hydrant, alarm box, streetlight, street sign, traffic control device, railroad sign or signal, parking meter, or shade tree belonging to the village or located in the public places of the village; mark or post handbills on, or in any manner mar the walls of any public building, fence, tree, or pole within the village; or damage, destroy, take, or meddle with any property belonging to the village, or remove the same from the building or place where it may be kept, placed or stored, without proper authority.

(Ord. No. 93-14, § 2DD, 6-7-93)

Sec. 34-41. - Depositing rubbish in streets and public places.

- (a) It shall be unlawful for any person to throw, dump, place or deposit tin cans, bottles, ashes, or rubbish in any street or public place.
- (b) No person shall place, deposit, throw, or abandon any rubbish, refuse, papers, or rags in any park or public place of the village or in any street or alley thereof, except in such receptacles as may be provided therefor.

(Ord. No. 86-5, § 2(m), 6-22-86)

Sec. 34-42. - Trespass upon lands or premises of another.

Any person who shall willfully enter upon the lands or premises of another without lawful authority, after having been forbidden so to do, or after such lands or premises have been previously posted with a conspicuous notice forbidding any trespass thereon by the owner or occupant, or agent or servant of the owner or occupant, or any person being upon the land or premises of another, upon being notified to

depart therefrom by the owner or occupant, or agent or servant of either, who, without lawful authority, neglects or refuses to depart therefrom, shall be guilty of a misdemeanor.

(Ord. No. 93-14, § 2AA, 6-7-93)

State Law reference— Similar provisions, MCL 750.552, MSA 28.820(1).

Sec. 34-43. - Unauthorized connection to cable television system.

It shall be unlawful for any person to make any connection, whether physically, electrically, acoustically, inductively, or otherwise, with any part of the franchised cable television system within the village for the purpose of enabling himself or others to receive any television signal, radio signal, picture, program or sound, which connection has not been authorized by the owner of said cable television system.

(Ord. No. 93-14, § 2EE, 6-7-93)

Sec. 34-44. - Tampering with radio or television broadcasting equipment.

It shall be unlawful for any person to tamper with, remove or injure any cables, wires, or equipment used for distribution of television signals, radio signals, pictures, programs or sound without consent of the owner thereof.

(Ord. No. 93-14, § 2FF, 6-7-93)

Sec. 34-45. - Operation of motor vehicles—On property of others.

It shall be unlawful for any person to drive or operate any motor vehicle including, but not limited to, automobiles, motorcycles, motorized bicycles, snowmobiles, motorscooters, trail bikes, trucks, or tractors on property owned by another person, corporation, school, college or unit of government, in areas on the property not specifically designated for use as roadways, driveways or parking lots, without first having obtained permission of the owner or occupant thereof or the authorized servant or agent of either.

(Ord. No. 93-14, § 2GG, 6-7-93)

Sec. 34-46. - Same—Careless or negligent to injury of property or persons.

It shall be unlawful for any person to drive or operate any motor vehicle as prohibited in section 34-45 in a careless or negligent manner likely to endanger any person or property including, but not limited to, animals, fences, shrubbery, trees, flowers, garden crops, lawns, or any interior or exterior portions of any structure of any nature.

(Ord. No. 93-14, § 2HH, 6-7-93)

Sec. 34-47. - Nighttime trespass.

It shall be unlawful for any person to wilfully enter upon the lands or premises of any person in the nighttime, without authority or permission of the owner of such premises.

(Ord. No. 93-14, § 2BB, 6-7-93)

Secs. 34-48—34-70. - Reserved.

ARTICLE III. - OFFENSES AGAINST PUBLIC PEACE

Sec. 34-71. - Permitting the gathering of disorderly persons.

It shall be unlawful for any person within the village to permit or suffer any place occupied or controlled by him to be a resort of noisy, boisterous, or disorderly persons.

(Ord. No. 93-14, § 2Y, 6-7-93)

Sec. 34-72. - Breach of peace.

Any person who shall make or assist in making any noise, disturbance, trouble or improper diversion, or any rout or riot, by which the peace and good order of the village are disturbed, shall be guilty of a breach of the peace and disorderly conduct.

(Ord. No. 86-5, § 2(a), (b), 6-22-86)

State Law reference— Disturbing public places, MCL 750.170, MSA 28.367.

Sec. 34-73. - Jostling.

It shall be unlawful for any person within the village to be found jostling or roughly crowding people unnecessarily in a public place.

(Ord. No. 86-5, § 2(i), 6-22-86)

State Law reference— Such person defined as a disorderly person, MCL 750.167(1)(l), MSA 28.364(1)(l).

Sec. 34-74. - Fighting.

It shall be unlawful for any person within the village to engage in any disturbance, fight or quarrel in a public place.

(Ord. No. 93-14, § 2M, 6-7-93)

Sec. 34-75. - Obstructing passage of public on streets and sidewalks.

It shall be unlawful for any person to obstruct the free and uninterrupted passage of the public on any street, roadway, sidewalk or alleyway, for any purpose by:

- (1) Collecting in groups thereon;
- (2) Playing any game thereon; or
- (3) Erecting, placing or maintaining any barrier or object thereon, except such barrier or object may be erected, placed or maintained when necessary for the safety of passersby in connection with the building, erection, modification or demolition of any building, or by prior written consent of the chief of police.

(Ord. No. 93-14, § 2N, P, 6-7-93)

Sec. 34-76. - Disturbing conduct of classes in school.

It shall be unlawful for any person to disturb or interfere in any manner with the orderly conduct of classes or other school sanctioned activity conducted in or on any school premises, whether public, private or parochial including, but not limited to, interference through the operation of a motor vehicle.

(Ord. No. 93-14, § 2LL, 6-7-93)

Secs. 34-77—34-100. - Reserved.

ARTICLE IV. - OFFENSES AGAINST PUBLIC MORALS

Sec. 34-101. - Lewd acts or acts of prostitution or moral perversion.

- (a) It shall be unlawful for any person within the village to commit or offer or agree to commit a lewd act or an act of prostitution or moral perversion.
- (b) It shall be unlawful for any person within the village to secure or offer another for the purpose of committing a lewd act or an act of prostitution or moral perversion.
- (c) It shall be unlawful for any person within the village to be in or near any place frequented by the public or any public place for the purpose of inducing, enticing or procuring another to commit a lewd act or an act of prostitution or moral perversion.
- (d) It shall be unlawful for any person within the village to knowingly transport any person to any place for the purpose of committing a lewd act or an act of prostitution or moral perversion.
- (e) It shall be unlawful for any person within the village to knowingly receive or offer to or agree to receive any person into any place or building for the purpose of performing a lewd act or an act of prostitution or moral perversion or to knowingly permit any person to remain in any place or building for any such purpose.
- (f) It shall be unlawful for any person within the village to direct or offer to direct any person to any place or building for the purpose of committing any lewd act or act of prostitution or moral perversion.

(Ord. No. 86-5, § 2(d), (f), 6-22-86)

Sec. 34-102. - Publication and distribution of obscene or lewd literature; distribution of lewd or obscene images or items.

It shall be unlawful for any person to print, engrave, sell, offer for sale, give away, exhibit or publish, or have in his possession for any such purpose, any obscene, lewd, lascivious, indecent or immodest book, pamphlet, paper, picture, cast statuary, image or representation or other article of an indecent or immoral nature, or any book, paper, print, circular or writing made up principally of pictures or stories of immodest deeds, lust, or crime, or exhibit any such article within the view of any passerby.

(Ord. No. 93-14, § 2K, 6-7-93)

Sec. 34-103. - Indecent exposure.

It shall be unlawful for any person within the village to knowingly make any open or indecent exposure of his person or of the person of another.

(Ord. No. 93-14, § 2G, J, 6-7-93)

State Law reference— Similar provisions, MCL 750.335a, MSA 28.567(1).

Sec. 34-104. - Indecent or obscene conduct.

It shall be unlawful for any person within the village to engage in any indecent or obscene conduct in any public place.

(Ord. No. 93-14, § 2I, 6-7-93)

State Law reference— Such person deemed a disorderly person, MCL 750.167(1)(f).

Sec. 34-105. - Gambling; keeping of gaming rooms or paraphernalia.

It shall be unlawful for any person to keep or maintain a gaming room, gaming tables or any policy or pool tickets used for gaming; or knowingly suffer a gaming room, gaming tables or any policy or pool tickets to be kept, maintained, played or sold on any premises occupied or controlled by him.

(Ord. No. 93-14, § 2W, 6-7-93)

Sec. 34-106. - Soliciting or accosting another for prostitution and gambling.

It shall be unlawful for any person to solicit or accost any person for the purpose of inducing the commission of any illegal or immoral act or to knowingly transport any person to a place where prostitution or gambling is practiced, encouraged or allowed for the purpose of enabling such person to engage in gambling or in any illegal act.

(Ord. No. 93-14, § 2U, V, 6-7-93)

Sec. 34-107. - Illegal or immoral businesses or occupations—Engaging in.

It shall be unlawful for any person to engage in prostitution, gambling, the illegal sale of intoxicating liquor, or any other illegal or immoral business or occupation.

(Ord. No. 93-14, § 2T, 6-7-93)

Sec. 34-108. - Same—Frequenting or operating establishments.

It shall be unlawful for any person to attend, frequent, operate or be an occupant or inmate of any place where prostitution, gambling, the illegal sale of intoxicating liquor, or where any other illegal or immoral business or occupation is permitted or conducted.

(Ord. No. 93-14, § 2S, 6-7-93)

Sec. 34-109. - Same—Transportation to establishments.

It shall be unlawful for any person to knowingly transport any person to a place where any illegal activity is encouraged or allowed for the purpose of enabling the person transported to engage in such activities.

(Ord. No. 93-14, § 2KK, 6-7-93)

Secs. 34-110—34-130. - Reserved.

ARTICLE V. - OFFENSES AGAINST PUBLIC SAFETY

Sec. 34-131. - Consumption of liquor in public areas.

It shall be unlawful for any person to consume any alcoholic liquor or possess any open or unsealed container of alcoholic liquor on any street, alley, public sidewalk, or public parking area within the village.

(Ord. No. 93-14, § 2II, 6-7-93)

Sec. 34-132. - Throwing stones or missiles.

It shall be unlawful for any person within the village to throw any stone, brick or any other missile at any motorbus, automobile or other motor vehicle or at other property or persons.

(Ord. No. 86-5, § 2(1), 6-22-86)

Sec. 34-133. - Intoxication in public places.

It shall be unlawful for any person within the village to be under the influence of any narcotic drug or be intoxicated in a public place and either endanger directly the safety of another person or property or act in a manner that causes a public disturbance.

(Ord. No. 93-14, § 2B, 6-7-93)

Sec. 34-134. - Drug paraphernalia.

- (a) *Definition.* The term "drug paraphernalia" as used in this section means any equipment, product or material of any kind or nature whatsoever which is used, intended for use or designed for use in planting, propagating, cultivating, producing, processing, preparing, testing, analyzing, packing, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance as defined by the Controlled Substance Act (MCL 333.7101 et seq.), as amended.
- (b) *Purpose.* This section is enacted to preserve the health, safety and welfare of the people of the village by rendering unlawful the manufacture, sale, use, delivery, possession or distribution, or the attempt to manufacture, sell, use, deliver, possess or distribute drug paraphernalia.
- (c) *Possession of drug paraphernalia.* It is unlawful for any person, business entity or corporation to use, or to possess with intent to use, drug paraphernalia.
- (d) *Manufacture, sale or delivery of drug paraphernalia.* It is unlawful for any person to sell, deliver, possess with intent to deliver or sell, or manufacture with intent to deliver or sell, drug paraphernalia.
- (e) *Advertisement of drug paraphernalia.* It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication distributed in the village any advertisement, the purpose of which, in whole or in part, is to promote the sale of any object designed or intended for use as drug paraphernalia.
- (f) *Exemptions.* This section shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, technologists, nurses, hospitals, research teaching institutions, clinical laboratories, medical doctors, osteopathic physicians, dentists, chiropodists, veterinarians, law enforcement

agencies, pharmacists and embalmers in the lawful course of business or professional activity, nor to persons suffering from any medical condition which requires administering prescribed medication.

(Ord. No. 1 of 2001, §§ 1—6, 1-2-01)

Secs. 34-135—34-150. - Reserved.

ARTICLE VI. - OFFENSES INVOLVING UNDERAGED PERSONS

Sec. 34-151. - Air guns and slingshots.

- (a) *Defined.* An air gun or slingshot means any gun which shoots a projectile either by means of air pressure or spring.
- (b) *Prohibited acts.* It shall be unlawful for any person under the age of 21 years to do bodily harm or destruction of property with an air gun or slingshot within the village.
- (c) *Permitted acts.* It shall be permissible for any person under the age of 21 years to transport an unloaded air gun or slingshot within village limits, and it shall be permissible for such person to target shoot on private property in the presence of a parent or guardian.
- (d) *Confiscation.* Any police officer shall have the authority and duty to confiscate any air gun or slingshot in the possession of any person under the age of 21 years if such person is not on private property with a parent or guardian, or is within village limits with a loaded air gun.

(Ord. No. 57-1, 7-3-57)

Sec. 34-152. - Curfew.

- (a) *Established; restrictions.* No minor, being a person under the age of 18 years, shall loiter, idle or congregate in or on any public street, highway, alley, park or other area or place open to the public within the village between the hours of 10:00 p.m. and 6:00 a.m., Sunday through Thursday, or 11:00 p.m. and 6:00 a.m., Friday and Saturday, except where the minor is accompanied by a parent or guardian or some adult delegated by the parent or guardian to accompany the minor child, or where the minor is upon an errand or other legitimate business directed by the minor's parent or guardian.
- (b) *Aiding or abetting violation.* It shall be unlawful for any adult including, but not limited to, any parent, guardian or other person having the legal care and custody of any minor child, to aid, abet, allow, permit or encourage any minor to violate the provisions of subsection (a) of this section.
- (c) *Penalty for violation of section.* A minor who violates this section, or any adult who aids or abets violation by a minor shall be guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$500.00, or both, plus court costs.

(Ord. No. 93-16, §§ 1—3, 7-19-93)

Sec. 34-153. - Use, storage or display of alcoholic beverages or drugs by underaged persons.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Alcoholic beverage means any beverage containing more than one-half of one percent of alcohol by weight. The percentage of alcohol by weight shall be determined in accordance with the provisions of MCL 436.2, as amended.

Control means any form of regulation or dominion including a possessory or management right or duty.

Drug means a controlled substance as defined by state law; currently such controlled substances are defined by the public health code (MCL 333.1101 et seq.), as amended.

Minor means a person not legally permitted by reason of age to possess alcoholic beverages pursuant to MCL 436.33b, as amended.

- (b) *Exceptions.* The provisions of this section shall not apply to a person related to a minor as a parent or guardian, to a person placed in the position of a parent by a parent or guardian of the minor, or to legally protected religious observances, educational activities or medical treatments.
- (c) *Consumption of alcoholic beverages or drugs; owner responsibility.* The person who has the ownership, possession or control of any premises in the village and who permits the consumption or use of alcoholic beverages or drugs in any form by any minor on such premises, or who fails to make diligent inquiries as to whether such person is a minor, is guilty of a misdemeanor. In an action for violation of this section, proof that the defendant demanded and was shown, before permitting such minor to consume such alcoholic beverages, a motor vehicle operator's license or other bona fide documentary evidence that such person is not a minor shall be a defense to an action under this section.
- (d) *Storage or display of alcoholic beverages or drugs; owner responsibility.* A person who has the ownership, possession or control of any premises in the village and who stores or displays, or allows to be stored or displayed, alcoholic beverages or drugs in any form on such premises shall take reasonable steps to prevent any minor on the premises from obtaining possession of such alcoholic beverages or drugs for any purpose whatsoever. Any such person who fails to take such reasonable steps shall be guilty of a misdemeanor.
- (e) *Penalty for violation of section.* The penalties for violation of this section shall be as follows:
 - (1) For the first violation a fine not exceeding \$300.00 or imprisonment in the county jail for a term not to exceed 30 days, or by both such fine and imprisonment and required attendance at a court-approved substance abuse program at the expense of the defendant.
 - (2) For subsequent violations a fine not exceeding \$500.00 or imprisonment in the county jail for a term not to exceed 90 days, or by both such fine and imprisonment and required attendance at a court-approved substance abuse program at the expense of the defendant.

(Ord. No. 87-6, §§ 1—5, 7-6-87)

Sec. 34-154. - Possession or consumption of alcoholic liquor.

It shall be unlawful for any person under the age of 21 to possess or consume any alcoholic liquor.

(Ord. No. 93-14, § 2JJ, 6-7-93)

Secs. 34-155—34-180. - Reserved.

ARTICLE VII. - OFFENSES AGAINST THE PERSON

Sec. 34-181. - Assault and battery.

It shall be unlawful for any person within the village to attempt or offer, with force and violence, to do a corporal hurt to another, or assault and/or batter any other person.

(Ord. No. 93-14, § 2A, 6-7-93)

State Law reference— Similar provisions, MCL 750.81.

Sec. 34-182. - Window peeping.

It shall be unlawful for any person to look, peer, or peep into, or be found loitering around, or within view of any window, doorway or other opening not on his own property, with the intent of looking through such opening in such a manner as would be likely to interfere with the occupant's reasonable expectation of privacy, without the occupant's express or implied consent.

(Ord. No. 93-14, § 2E, 6-7-93)

State Law reference— Such person defined as a disorderly person, MCL 750.167(1)(c).

Sec. 34-183. - Molestation of persons in public places or vehicles.

It shall be unlawful for any person to improperly, lewdly or wrongfully accost, ogle, insult, annoy, follow, pursue, lay hands on, or by any gesture, movement of body or otherwise wrongfully molest any person in any public place or public vehicle.

(Ord. No. 93-14, § 2L, 6-7-93)

Chapter 38 - SECONDHAND GOODS

ARTICLE I. - IN GENERAL

Secs. 38-1—38-30. - Reserved.

ARTICLE II. - GARAGE SALES

Sec. 38-31. - Violation of article; municipal civil infraction.

A person who violates any provision of this article is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50.00 nor more than \$500.00, plus costs and other sanctions, for each violation. Repeat offenses shall be subject to increased fines as provided by section 1-11(c)(2) of this Code, except that as used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this article (i) committed by a person within any 15-day period and (ii) for which the person admits responsibility or is determined to be responsible. Any authorized village official as designated by this Code or by the village manager may issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the village municipal ordinance violations bureau) for violations under this article.

(Ord. No. 89-3, § 5, 7-1-89; Ord. No. 97-03, § 13, 7-7-97)

Sec. 38-32. - Conditions of sale.

In all residential districts and areas used as residential districts, garage sales, including yard sales, basement sales and the like, may be allowed, subject to the following conditions:

- (1) Any person conducting or participating in such sales shall be required to register with the village clerk or designee giving the dates when such sales will be held, the names of all persons participating and the address where such sale is planned.

- (2) No person shall be allowed to hold, operate or participate in such sales for more than three consecutive days.
- (3) No more than three such sales shall be allowed during any calendar year per address in the village.
- (4) All signs and advertising shall be removed upon the completion of such sale.
- (5) If any sale causes any traffic congestion or any other hazard, in the opinion of any police officer, then such hazard or congestion shall be immediately ceased.

(Ord. No. 89-3, § 1, 7-1-89)

Sec. 38-33. - License fees.

A license fee set from time to time by resolution of the village council shall be paid to the village at the time of the first application and another fee set from time to time by resolution of the village council at the time of a second application for a sale by a particular applicant or a particular location in any calendar year. A license fee in the amount set from time to time by resolution of the village council shall be paid to the village at the time of application for a third license during any calendar year.

(Ord. No. 89-3, § 2, 7-1-89)

Sec. 38-34. - Signs.

There shall be no more than one sign advertising the garage sale which shall be not more than two feet by three feet in size, which may be posted only on the property where the sale is located. No such sign may be posted on any public property, including utility poles or the median strip between the sidewalk and public street.

(Ord. No. 89-3, § 3, 7-1-89)

Sec. 38-35. - Sales during weekend of Clinton Fall Festival.

No permit shall be issued for a garage sale during the weekend of the Clinton Fall Festival.

(Ord. No. 89-3, § 4, 7-1-89)

Chapter 42 - SOLID WASTE

Sec. 42-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Garbage means all putrescible wastes (wastes subject to rotting or decomposition), including meat, fish, fowl, animal, fruit, plant or vegetable waste.

Rubbish means, in general, all nonputrescible wastes including, but not limited to, any of the following:

- (1) Junk.
- (2) Building debris, sand, gravel, concrete, dirt, earth, excavated material, bricks, manure, metal, or castoff materials or articles of any kind.

- (3) Automobile parts, exhaust system parts, tires, batteries, or parts of machinery.
- (4) Kitchen rubbish, food containers and wrappings, cans, bottles, jars, paper and metal objects.
- (5) Household rubbish, newspapers, magazines, wastepaper, books, wrappings, excelsior, rags, clothing, bedding, furniture, floor covering, leather objects, sweepings, appliances, bathroom fixtures or other objects found in a household.
- (6) Yard rubbish, grass clippings, weeds, leaves, dead plants, tree, branches, ashes, roots, stumps, wood, brush, sod, shavings, sawdust, and chips.

(Ord. No. 93-4, § 1, 4-29-93)

Cross reference— Definitions generally, § 1-2.

Sec. 42-2. - Violation of chapter; municipal civil infraction.

A person who violates any provision of this chapter is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$100.00 nor more than \$500.00, plus costs and other sanctions, for each violation. Repeat offenses shall be subject to increased fines as provided by subsection 1-11(c)(2) of this Code, except that as used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this chapter (i) committed by a person within any 15-day period and (ii) for which the person admits responsibility or is determined to be responsible. Any authorized village official as designated by this Code or by the village manager may issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the village municipal ordinance violations bureau) for violations under this chapter.

(Ord. No. 93-4, § 8, 4-29-93; Ord. No. 97-03, § 14, 7-7-97)

Sec. 42-3. - Declaration of nuisance.

It shall be unlawful for any person to knowingly, without the consent of the village, dump, deposit, place, throw, accumulate, or cause or permit the dumping, depositing, placing, throwing or accumulation of, garbage and/or rubbish on public or private property within the village. It shall be the duty of every occupant of property and of the owner of such property at all times to maintain premises occupied or owned by such person, in a clean and orderly condition, permitting no deposit or accumulation of garbage or rubbish upon such premises, unless properly stored or accumulated for village refuse collection or unless suitably contained and deposited for composting but only to the extent that such composting does not create a nuisance by reason of odor. The presence of garbage and/or rubbish on any parcel of land in violation of the conditions of this chapter is hereby declared to be a public nuisance.

(Ord. No. 93-4, § 2, 4-29-93)

Cross reference— Nuisances, § 22-86 et seq.

Sec. 42-4. - Notice to remove.

The owner or occupant of any property upon which is accumulated or placed garbage and/or rubbish in violation of this chapter shall be notified in writing by the village to remove the same from such property within seven days after service of notice. Such notice may be personally served or may be served by mailing the same by certified mail, return receipt requested, to the last known address of the owner and, if the premises are occupied, to the premises. A time extension not exceeding 14 additional days may be

granted by the village upon the showing of a hardship, which hardship can be eliminated by the granting of such a time extension.

(Ord. No. 93-4, § 3, 4-29-93)

Sec. 42-5. - Failure to comply with notice.

It shall be an additional violation of this chapter for a person to fail to comply with any written notice from the village to remove garbage or rubbish as provided by this chapter.

(Ord. No. 93-4, § 4, 4-29-93; Ord. No. 97-03, § 15, 7-7-97)

Sec. 42-6. - Disposal by village; lien.

The village manager is authorized to order village personnel to collect and dispose of garbage or rubbish which is not removed by an owner or occupant of property in accordance with written notice, as provided in this chapter. The expense of such collection and disposal, including reasonable administrative expenses, shall become a debt to the village from the property owner and may be collected in a single lot assessment.

(Ord. No. 93-4, § 5, 4-29-93)

Sec. 42-7. - Rules and regulations.

The village manager is hereby authorized, subject to the approval of the council, to make reasonable and necessary rules and regulations consistent with the provisions of this chapter pertaining to the disposal of garbage and rubbish.

(Ord. No. 93-4, § 6, 4-29-93)

Sec. 42-8. - Compost site.

- (a) *Organic yard waste.* Organic yard waste only means leaves, grass clippings, garden plants, or other similar type plants that will decompose within a few months. It does not include brush, shrubs, branches, wood chips, rocks, plastic bags or any other type of waste.
- (b) *Use of compost site.* Village residents only may properly dispose of organic yard waste in the compost site as defined in this section and in accordance with village compost site regulations, as amended.
- (c) *Violation of section; municipal civil infraction.* A person who violates any provision of this section is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50.00 nor more than \$500.00, plus costs and other sanctions, for each violation. Repeat offenses shall be subject to increased fines as provided by subsection 1-11(c)(2) of this Code, except that as used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this article (i) committed by a person within any 30-day period and (ii) for which the person admits responsibility or is determined to be responsible. Any authorized village official as designated by this Code or by the village manager may issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the village municipal ordinance violations bureau) for violations under this article.

(Ord. No. 6 of 2005, §§ 1—3, 9-7-05)

Sec. 42-9. - Use of dumpster.

- (a) No refuse receptacle or dumpster shall be used by any person other than the owner, occupant, tenant or lessee of the building, house or structure for which such receptacle is provided unless they are given prior approval by the owner, occupant, tenant or lessee.
- (b) A person who violates any provision of this section is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50.00 nor more than \$500.00, plus costs and other sanctions, for each violation. Repeat offenses shall be subject to increased fines as provided by subsection 1-11(c)(2) of this Code, except that as used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this article (i) committed by a person within any 30-day period and (ii) for which the person admits responsibility or is determined to be responsible. Any authorized village official as designated by this Code or by the village manager may issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the village municipal ordinance violations bureau) for violations under this article.

(Ord. No. 6 of 2008, §§ 1, 2, 7-7-08)

Chapter 46 - SPECIAL ASSESSMENTS¹¹

Footnotes:

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Cross reference— Administration, ch. 2; streets, sidewalks and other public places, ch. 50.

State Law reference— Special assessments for public improvements, MCL 68.31 et seq., MSA 5.1370(1) et seq.; notices and hearings, MCL 211.741 et seq., MSA 5.3534(1) et seq.; deferment for older persons, MCL 211.761 et seq., MSA 5.3536(1) et seq.

Sec. 46-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cost, when referring to the cost of any local public improvement, means the cost of services, plans, condemnation, spreading of rolls, notices, advertising, financing, construction and legal fees and all other costs incident to the making of such improvement, the special assessments for such improvement and the financing of such improvement.

Local public improvement means any public improvement which is of such a nature as to benefit especially any real property within a district in the vicinity of such improvement.

(Ord. No. 78-1, § 1, 3-6-78)

Cross reference— Definitions generally, § 1-2.

Sec. 46-2. - Authority to assess.

The whole cost or any part thereof of any local public improvement may be defrayed by special assessment upon the lands specially benefited by the improvement in the manner provided in this chapter.

(Ord. No. 78-1, § 2, 3-6-78)

Sec. 46-3. - Initiation of special assessment projects—Generally.

Proceedings for the making of local public improvements within the village, the tentative necessity of such improvements, and the determination that the whole or any part of the expense of such improvements shall be defrayed by special assessment upon the property especially benefited, provided that all special assessments levied shall be in proportion to the benefits derived from the improvements, may be commenced by resolution of the council, with or without a petition.

(Ord. No. 78-1, § 3, 3-6-78)

Sec. 46-4. - Same—By petition.

Local public improvements may be initiated by petition signed by property owners whose aggregate property in the proposed district was assessed for not less than 60 percent of the total assessed value of the privately owned real property located therein, as shown by the last preceding general tax records of the village. Such petition shall contain a brief description of the property owned by the respective signatories, and, if it shall appear that the petition is signed by at least 60 percent, the clerk shall certify the same to the council. The petition shall be addressed to the council and filed with the clerk and shall in no event be considered directory but is advisory only.

(Ord. No. 78-1, § 4, 3-6-78)

Sec. 46-5. - Survey and report.

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

(Ord. No. 78-1, § 5, 3-6-78)

Sec. 46-6. - Determination on the project; notice.

After the village clerk has presented the report required in section 46-5 for making any local public improvement, as requested in the resolution of the council, and the council has reviewed the report, a resolution may be passed tentatively determining the necessity of the improvement, setting forth the nature of the improvement; prescribing what part or proportion of the cost of such improvement shall be paid by special assessment upon the property especially benefited; determining the benefit received by affected properties, and what part, if any, shall be paid by the village at large; designating the limits of the special assessment district to be affected; designating whether to be assessed according to frontage or other benefits, placing the complete information on file in the office of the village clerk, where the same may be found for examination; and directing the village clerk to give notice of public hearing on the proposed improvement, at which time and place opportunity will be given interested persons to be heard. Such notice shall be given by one publication in a newspaper published or circulated within the village and by first class mail addressed to each owner of or person in interest in property to be assessed as

shown by the last general tax assessment roll of the village. Such publication and mailing shall be made at least ten full days prior to the date of the hearing. The hearing required by this section may be held at any regular, adjourned or special meeting of the council.

(Ord. No. 78-1, § 6, 3-6-78)

Sec. 46-7. - Hearing on necessity.

At the public hearing on the proposed improvement, all persons interested shall be given an opportunity to be heard, after which the council may modify the scope of the local public improvement in such a manner as they shall deem to be in the best interest of the village as a whole; provided, however, that if the amount of work is increased or additions are made to the district, then another hearing shall be held pursuant to notice prescribed in section 46-6. If the determination of the council shall be to proceed with the improvement, a resolution shall be passed approving the necessary profiles, plans, specifications, assessment district and detailed estimates of cost, directing the assessor to prepare a special assessment roll in accordance with the council's determination and reporting the same to the council for confirmation.

(Ord. No. 78-1, § 7, 3-6-78)

Sec. 46-8. - Deviation from plans and specifications.

No deviation from original plans or specifications as adopted shall be permitted by any officer or employee of the village without the authority of the council by resolution. A copy of the resolution authorizing such changes or deviation shall be certified by the village clerk and attached to the original plans and specifications on file in his office.

(Ord. No. 78-1, § 8, 3-6-78)

Sec. 46-9. - Limitations on preliminary expenses.

The council shall specify the provisions and procedures for financing a local public improvement. No contract or expenditure, except for the cost of preparing necessary profiles, plans, specifications and estimates of cost, shall be made for the improvement, nor shall any improvement be commenced until the special assessment roll to defray the costs of the same shall have been made and confirmed.

(Ord. No. 78-1, § 9, 3-6-78)

Sec. 46-10. - Special assessment roll—Generally.

The assessor shall make a special assessment roll of all lots and parcels of land within the designated district benefited by the proposed improvement and assess to each lot or parcel of land the proportionate amount benefited thereby. The amount spread in each case shall be based upon the detailed estimate of the village clerk, as approved by the council.

(Ord. No. 78-1, § 10, 3-6-78)

Sec. 46-11. - Same—Assessor to file.

When the assessor shall have completed such assessment roll he shall file the assessment roll with the village clerk for presentation to the council for review and certification by it.

(Ord. No. 78-1, § 11, 3-6-78)

Sec. 46-12. - Same—Meeting to review; objections in writing.

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

(Ord. No. 78-1, § 12, 3-6-78)

Sec. 46-13. - Same—Changes and corrections.

The council shall meet at the time and place designated for the review of such special assessment roll, and at such meeting, or a proper adjournment of such meeting, shall consider all objections thereto submitted in writing. The council may correct the roll as to any special assessment or description of any lot or parcel of land or other errors appearing therein; or it may, by resolution, annul such assessment roll and direct that new proceedings be instituted. The same proceedings shall be followed in making a new roll as in the making of the original roll. If, after hearing all objections and making a record of such changes as the council deems justified, the council determines that it is satisfied with the special assessment roll and that assessments are in proportion to benefits received, it shall thereupon pass a resolution reciting such determinations, confirming such roll, placing it on file in the office of the village clerk and directing the village clerk to attach his warrant to a certified copy of such roll within ten days, therein commanding the assessor to spread and the treasurer to collect the various sums and amounts appearing thereon as directed by the council. Such roll shall have the date of confirmation endorsed thereon and shall from that date be final and conclusive for the purpose of the improvement to which it applies, subject only to adjustment to conform to the actual cost of the improvement, as provided in section 46-9.

(Ord. No. 78-1, § 13, 3-6-78)

Sec. 46-14. - Assessment—Objections.

If at, or prior to, the final confirmation of any special assessments, more than 50 percent of the number of owners of privately owned real property to be assessed for an improvement, or in the case of paving or similar improvements more than 50 percent of the number of owners of frontage to be assessed for any such improvement, shall object in writing to the proposed improvement, the improvement shall not be made by proceedings delineated by this chapter without a five-sixths vote of the members elect of the council, provided, however, that this section shall not apply to sidewalk construction.

(Ord. No. 78-1, § 14, 3-6-78)

Sec. 46-15. - Same—Special; due date.

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

(Ord. No. 78-1, § 15, 3-6-78)

Sec. 46-16. - Partial payments; due date.

The council may provide for the payment of special assessments in annual installments. Such annual installments shall not exceed 30 in number, the first installment being due upon confirmation of the roll or on such date as the council may determine with deferred installments being due annually thereafter or, in the discretion of the council, may be spread upon and made a part of each annual tax roll thereafter until all are paid. Interest shall be charged on all deferred installments at a rate not to exceed seven percent per annum, commencing on the due date of the first installment and payable on the due date of each subsequent installment. The full amount of all or any deferred installments, with interest accrued thereon to the date of payment, may be paid in advance of the due dates of such installments. If the full assessment or the first installment shall be due upon confirmation, each property owner shall have 60 days from the date of confirmation to pay the full amount of the assessment, or the full amount of any installments, without interest or penalty. Following the 60-day period, the assessment or first installment shall, if unpaid, be considered as delinquent, and the same penalties shall be collected on such unpaid assessments or first installments as are provided for in the collection of delinquent village property taxes. Deferred installments shall be collected without penalty until 60 days after the due date, after which time such installments shall be considered as delinquent, and such penalties on the installments shall be collected as provided for in the collection of delinquent village property taxes. After the council has confirmed the roll, the village treasurer shall notify by mail each property owner on the roll that the roll has been filed, stating the amount assessed and the terms of payment. Failure on the part of the village treasurer to give the notice or of such owner to receive the notice shall not invalidate any special assessment roll of the village or any assessment thereon, nor excuse the payment of interest or penalties.

(Ord. No. 78-1, § 16, 3-6-78)

Sec. 46-17. - Delinquent special assessments.

Any assessment, or part of an assessment, remaining unpaid on the first Monday of March following the date when the assessment became delinquent shall be reported as unpaid by the treasurer to the council. Any such delinquent assessment, together with all accrued interest, shall be transferred and reassessed on the next annual village tax roll in a column headed "Special Assessments" with a penalty of seven percent upon such total amount added thereto, and when so transferred and reassessed upon the tax roll shall be collected in all respects as provided for the collection of village taxes.

(Ord. No. 78-1, § 17, 3-6-78)

Sec. 46-18. - Creation of lien.

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

(Ord. No. 78-1, § 18, 3-6-78)

Sec. 46-19. - Additional assessments; refunds.

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

(Ord. No. 78-1, § 19, 3-6-78)

Sec. 46-20. - Additional procedures.

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

(Ord. No. 78-1, § 20, 3-6-78)

Sec. 46-21. - Collection of special assessments.

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

(Ord. No. 78-1, § 21, 3-6-78)

Sec. 46-22. - Special assessment accounts.

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

(Ord. No. 78-1, § 22, 3-6-78)

Sec. 46-23. - Contested assessments.

No suit or action of any kind shall be constituted or maintained for the purpose of contesting or enjoining the collection of any special assessment unless within 30 days after the confirmation of the special assessment roll, written notice is given to the council of intention to file such suit or action, stating the grounds on which it is claimed such assessment is illegal, and unless such suit or action shall be commenced within 60 days after confirmation of the roll.

(Ord. No. 78-1, § 23, 3-6-78)

Sec. 46-24. - Reassessment for benefits.

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

(Ord. No. 78-1, § 24, 3-6-78)

Sec. 46-25. - Combination of projects.

The council may combine several districts into one project for the purpose of effecting a saving in the costs; provided, however, that for each district there shall be established separate funds and accounts to cover the cost of the same.

(Ord. No. 78-1, § 25, 3-6-78)

Sec. 46-26. - Deferred payments of special assessments.

The council may provide for the deferred payment of special assessments from persons who, in the opinion of the council and assessor, by reason of poverty are unable to contribute toward such cost. In all such cases, as a condition to the granting of such deferred payments, the village shall require mortgage security on the real property of the beneficiary payable on or before his death, or, in any event, on the sale or transfer of the property.

(Ord. No. 78-1, § 26, 3-6-78)

Chapter 50 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES¹¹

Footnotes:

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Cross reference— Administration, ch. 2; cable communications, ch. 14; special assessments, ch. 46; subdivisions, ch. 54; traffic and vehicles, ch. 58, zoning, ch. 66.

State Law reference— Streets and sidewalks, MCL 67.7 et seq.; paving and improvements, MCL 67.17 et seq.; street regulations, MCL 67.20 et seq.

ARTICLE I. - IN GENERAL

Sec. 50-1. - Declaration of a snow or ice emergency.

(a) *Street emergency coordinator.* The village manager or his/her authorized representative(s) is hereby appointed street emergency coordinator.

- (b) *Snow or ice emergency.* A snow or ice emergency shall be deemed to exist when snow, ice or a combination thereof exceeds the depth of two inches on village streets or highways. If, in the judgment of the street emergency coordinator, a snow or ice emergency exists, the parking or standing of a motor vehicle on a public street or highway in the village shall be prohibited during the term of said emergency. A snow or ice emergency can only be declared for a period of 24 hours or less.
- (c) *Declaration of a snow or ice emergency.* The street emergency coordinator shall post a notice of the snow or ice emergency at the village police department and shall notify one public media, newspaper or radio station that disseminates news within the village.
- (d) *Public notice.* The written public notice posted shall state the street emergency coordinator declared a snow or ice emergency, for a specified period of time less than 24 hours, and that vehicles not removed from the street will be ticketed and towed at the owner's expense. If a public notice is published in a newspaper it shall contain the same information as the one posted at the village police department. If an announcement is made on the radio it will generally state that a snow emergency has been declared in the village.
- (e) *Enforcement.* Any person who owns or is in the control of a motor vehicle that is in violation of this section shall be subject to fines and costs as set forth in the village parking ordinance, and said motor vehicle may be removed from said village street or highway by the village police department or its authorized designee, with the cost thereof paid by said person.
- (f) *Posting.* Appropriate signs shall be posted at entrances to the Village of Clinton in conformance with applicable Michigan statutes pertaining thereto.

(Ord. No. 3 of 2001, §§ 1—5, 1-2-01)

Cross reference— Law enforcement, ch. 30; traffic and motor vehicles, ch. 58.

Sec. 50-2. - Skateboard and in-line skate park.

- (a) *Location.* The skateboard and in-line skate park is located on the northwest corner of E. Franklin Street and Currier Street, in the Village of Clinton.
- (b) *Rules.* All individuals involved in skateboarding, in-line skating or other activities at the skateboard and in-line skate park must adhere to the following rules:
 - (1) Use of this facility is at your own risk.
 - (2) No bicycles allowed.
 - (3) Only skateboards and in-line skates permitted.
 - (4) All skaters should use safety equipment such as helmets, gloves, knee and elbow pads, wrist supports, and proper shoes.
 - (5) No alcohol, tobacco products, or illegal substances permitted.
 - (6) Skaters should enter and exit designated areas one at a time.
 - (7) All users are responsible for providing their own skateboard, skates and equipment, and for ensuring that they are maintained in good working order.
 - (8) The municipality reserves the right to revoke use of the facility privileges for individuals who are rowdy or do not obey the rules.
 - (9) Hours of permitted use are from 7:30 a.m. to dusk.
 - (10) No graffiti allowed. Park will be closed until graffiti is removed.
 - (11) No loud music allowed. This facility is located next to a residential area. Be considerate of people living in the area.

- (12) No makeshift items or modification to existing ramps and like items is permitted.
 - (13) Skating is allowed only in authorized areas.
 - (14) No food or beverages allowed on skating surface.
 - (15) Skaters must be courteous of others, share the facility with other skaters, and provide adequate distance and time for skaters of lesser ability.
 - (16) Have fun, be safe and respect your fellow skaters.
- (c) *Violation of section; municipal civil infraction.* A person who violates any provision of this section is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50.00 nor more than \$500.00, plus costs and other sanctions, for each violation. Repeat offenses shall be subject to increased fines as provided by subsection 1-11(c)(2) of this Code, except that as used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this section for which the person admits responsibility or is determined to be responsible. Any authorized village official as designated by this Code or by the village manager may issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the village municipal ordinance violations bureau) for violations under this section.

(Ord. No. 3 of 2006, §§ 1—3, 10-16-06)

Sec. 50-3. - Mail box location.

- (a) *Established.* Mail boxes shall be located as prescribed by United States Postal Service regulations, with the exception that the front of the box should not extend beyond the back edge (house side) of the curb.
- (b) *Responsibility for damage.* The village will only be responsible for damage to a mail box or support structure if the mail box was properly installed behind the back edge (house side) of the curb and it was actually hit by a village vehicle or equipment. The village will not be responsible for any damage caused by snow or ice discharged from snow plowing activities, or if a snow plowing vehicle or equipment hits a mail box located in front of the back edge of the curb while performing snow plowing activity.

(Ord. No. 4 of 2009, §§ 1, 2, 12-7-09)

Secs. 50-4—50-30. - Reserved.

ARTICLE II. - STREETS

Sec. 50-31. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Arterial streets means streets which provide a continuous route connecting various areas of the community and high traffic generation points. Arterial streets, where possible, shall be designed to define the limits of a subdivision or neighborhood.

Collector streets means streets which provide for traffic movement between arterial and local streets, and provide direct access to abutting properties.

Local streets means streets which serve only as a means of access to abutting residential property.

(Ord. No. 87-1, § 1, 3-2-87)

Cross reference— Definitions generally, § 1-2.

Sec. 50-32. - Skating on sidewalks and Michigan Avenue.

- (a) *Prohibited areas.* No person shall use a bicycle or skate upon roller skates or roller blades or skateboards on the sidewalks, or on Michigan Avenue in the village, between Division Street and Tecumseh Streets.
- (b) *Penalty for violation of section.* A person who violates any provision of this section is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$25.00 nor more than \$500.00, plus costs and other sanctions, for each violation. Repeat offenses shall be subject to increased fines as provided by subsection 1-11(c)(2) of this Code, except that as used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this section (i) committed by a person within any 15-day period and (ii) for which the person admits responsibility or is determined to be responsible. Any authorized village official as designated by this Code or by the village manager may issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the village municipal ordinance violations bureau) for violations under this section.

(Ord. No. 1910-1, §§ 1, 3, 6-7-1910; Ord. No. 97-03, § 16, 7-7-97)

Sec. 50-33. - Subdivision street plans.

The design of subdivision streets shall conform to the following principles:

- (1) Adequate vehicular and pedestrian access should be provided to all parcels.
- (2) Local street systems should be designed to minimize through traffic movements through the use of curvilinear alignment, discontinuities in the street patterns, and application of cul-de-sac design. A maximum 1,000-foot length or a provision for a maximum of 20 dwelling units should guide the development of the cul-de-sac. To ensure free movement of such vehicles as moving vans and emergency vehicles, a minimum radius of 55 feet to the face of the curb should be recognized.
- (3) Street patterns should minimize the need for circuitous movement.
- (4) Local streets should be designed to discourage excessive speeds.
- (5) Pedestrian vehicular conflict points should be minimized.
- (6) There should be a minimum number of intersections.
- (7) The centerline offset between intersections shall be at least 150 feet.
- (8) A minimum angle for any intersection should be 75 degrees and most intersections should be at or close to 90 degrees.
- (9) Local circulation systems and land development patterns should not detract from the bordering arterial streets.
- (10) Elements in the local circulation system should not have to rely on extensive traffic regulations in order to function efficiently and safely.
- (11) Traffic generators within residential areas should be considered in planning the local circulation pattern.
- (12) Planning and construction of residential streets should clearly reflect their local function.
- (13) Local streets should be related to topography from the standpoint of both economics and amenities.

(14) The number of streets intersecting at any one location should not exceed two. Multiple intersections create signing and signal problems, produce confusion, and have a high accident potential.

(Ord. No. 87-1, § 1.2, 3-2-87)

Sec. 50-34. - Design standards.

All streets hereafter constructed in the village shall conform to the following design standards:

Table A
Local Street

Number of lanes	2
Street width, parking one side	32 feet face to face of curb
Street width, parking both sides	38 feet face to face of curb
Border area (minimum)	10 feet back curb right-of-way
Minimum right-of-way	66 feet
Sidewalks	4 feet
Design speed	25 to 30 miles per hour
Minimum stopping sight distance	200 feet
Maximum degree of curvature	23 degrees
Maximum grade	8 percent
Minimum grade	0.5 percent
Curb radii	25 feet
Intersection to first curb cut from intersection corner radii	20 feet
Drives:	
Minimum length of tangent curb between drives	4 feet

Amount of property frontage in drives	30 percent maximum
Width of drive at property line	24 feet maximum

Table B
Collector Street

Number of lanes	2 feet
Street width, no parking	30 feet face to face of curb
Street width, parking one side	38 feet face to face of curb
Border area (minimum)	11 feet back curb right-of-way
Minimum right-of-way	66 feet
Sidewalks	4 feet
Design speed	35 miles per hour
Minimum stopping sight distance	275 feet
Maximum degree of curvature	16 degrees
Maximum grade	6 percent
Minimum grade	0.5 percent
Curb radii	25 feet
Intersection to first curb cut from intersection corner radii	40 feet
Drives:	
Minimum length of tangent curb between drives	4 feet
Amount of property frontage in drives	40 percent maximum

Width of drive at property line	24 feet maximum
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Table C
Arterial Street

Number of lanes	4
Street width	50 feet face to face of curb
Border area (minimum)	13 feet back curb right-of-way
Minimum right-of-way	80 feet
Sidewalks	4 feet
Design speed	40 miles per hour
Minimum stopping sight distance	315 feet
Maximum degree of curvature	10 degrees
Maximum grade	6 percent
Minimum grade	0.5 percent
Curb radii	35 feet
Intersection to first curb cut from intersection corner radii	40 feet
Drives:	
Minimum length of tangent curb between drives	4 feet
Amount of property frontage in drives	40 percent maximum
Width of drive at property line	24 feet maximum

(Ord. No. 87-1, § 1.3, 3-2-87)

Sec. 50-35. - Pavement design standards.

The pavement hereafter constructed in the village, including pavement installed to meet off-street parking requirements, shall conform to the following design standards.

(Ord. No. 87-1, § 2, 3-2-87)

Sec. 50-36. - Soil supporting strength.

The subgrade shall be determined by a recognized soil testing laboratory, a university, or assume the poorest soil conditions for this area (CBR 3 or K equals modulus of subgrade reaction 100).

(Ord. No. 87-1, § 2.1, 3-2-87)

Sec. 50-37. - Pavement analysis.

An economical analysis as to pavement type shall be performed. Major resurfacing will be assumed when the present serviceable index drops to 2.5. A design life of 20 years shall be used.

(Ord. No. 87-1, § 2.2, 3-2-87)

Sec. 50-38. - Minimum pavement thickness.

Street minimum thickness shall be six inches granular subbase (MDOT Class II); eight inches crushed limestone (MDOT 22A); two inches bituminous leveling course (MDOT 1500L); and one inch bituminous wearing course (MDOT 1500T).

(Ord. No. 87-1, § 2.3, 3-2-87)

Sec. 50-39. - References for design use.

The following references are acceptable for design use:

- (1) "The Design of Concrete Pavements for City Streets," by the Portland Cement Association (latest edition).
- (2) "Thickness Design for Concrete Pavements" by the Portland Cement Association.
- (3) "Thickness Design—Asphalt Pavement Structure for Highways and Streets" by the Asphalt Institute (latest edition).
- (4) "Thickness Design Procedures" by AASHTO.

(Ord. No. 87-1, § 2.4, 3-2-87)

Sec. 50-40. - Pavement design; basis.

Pavement design shall be based on equivalent daily 18,000-pound single axle application. Actual or estimated traffic counts shall be required for each street. A local street shall have a 20-year design subjected to at least four axles per lane per day at the legal load limit. A collector street shall have a 20-

year design subjected to at least 30 axles per lane per day at the legal load limit. An arterial street shall have a 20-year design subjected to at least 100 axles per lane per day at the legal load limit.

(Ord. No. 87-1, § 2.5, 3-2-87)

Sec. 50-41. - Submission of design calculations; soil test.

Design calculations shall be submitted with a copy of the indicated soil test for approval by the village.

(Ord. No. 87-1, § 2.6, 3-2-87)

Sec. 50-42. - Standard specifications.

All material used in the construction of streets shall comply with the village standard specifications, copies of which are available for review and purchase at the village office.

(Ord. No. 87-1, § 2.7, 3-2-87)

Sec. 50-43. - Utilities construction.

- (a) *Water main.* All water main construction shall be in accordance with the village standard specifications, as approved by the village council, and modified from time to time. The owners shall comply with Act No. 399 of the Public Acts of Michigan of 1976 (MCL 325.1001 et seq., MSA 14.427(1) et seq.).
- (b) *Sanitary sewer.* All sanitary sewers constructed in the village shall be in accordance with the village standard specifications, as approved by the village council and modified from time to time. The owners shall comply with Act No. 98 of the Public Acts of Michigan of 1913 (MCL 325.201 et seq., MSA 14.411 et seq.), as amended.
- (c) *Storm sewer.* All storm sewer and other drainage structure construction shall be in accordance with the village standard specifications, as approved by the village council, and as modified from time to time.

(Ord. No. 87-1, §§ 3.1—3.3, 3-2-87)

Sec. 50-44. - Construction inspection.

- (a) *Inspecting party.* All street and utility construction within the village shall be inspected by the village or a qualified representative of the village.
- (b) *Responsibility.* Construction inspection of all streets and utilities shall be on a full-time basis by qualified personnel or firms.
- (c) *Cost.* All costs associated with inspection of streets and utilities incurred by the village shall be paid for by the developer or the owner of the facility for whom the infrastructure is to service.
- (d) *Payment of costs.* No certificate of occupancy shall be issued by the village to any developer or owner until all costs incurred by the village for inspection have been paid in full.

(Ord. No. 87-1, § 4.4, 3-2-87)

Sec. 50-45. - Nonconforming streets and pavement.

The provisions of this article shall not be construed to require the replacement of existing nonconforming streets and pavement with streets and pavement conforming to the provisions of this article; provided, however, that when such replacement is deemed necessary by the village council, it shall conform to the provisions of this article in all cases where deemed economically, legally, and aesthetically feasible by the village council.

(Ord. No. 87-1, § 5, 3-2-87)

Sec. 50-46. - Modifications of standard specifications.

Modifications of the standard specifications shall be by resolution of the village council.

(Ord. No. 87-1, § 6, 3-2-87)

Secs. 50-47—50-70. - Reserved.

ARTICLE III. - SIDEWALKS

DIVISION 1. - GENERALLY⁽²⁾

Footnotes:

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Editor's note— Ord. No. 2018-03, § 1, adopted Aug. 6, 2018, repealed Div. 1, §§ 50-71—50-73, and reenacted a new division as set out herein. Former Div. 1 pertained to similar subject matter and derived from Ord. No. 51-4, §§ 5, 6, adopted July 2, 1951; Ord. No. 90-2, § 1, adopted March 8, 1990; Ord. No. 97-03, § 17, adopted July 7, 1997; and Ord. No. 1 of 2005, adopted Jan. 3, 2005.

Sec. 50-71. - Violation of article, municipal civil infraction.

A person who violates any provision of this article is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50.00 nor more than \$500.00, plus costs and other sanctions, for each violation. Repeat offenses shall be subject to increased fines as provided by subsection 1-11(c)(2) of this Code, except that as used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this chapter (i) committed by a person within any seven-day period and (ii) for which the person admits responsibility or is determined to be responsible. Any authorized village official as designated by this Code or by the village manager may issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the village municipal ordinance violations bureau) for violations under this article.

(Ord. No. 2018-03, § 2, 8-6-18)

Sec. 50-72. - Duty to keep clear.

The owner or occupant of any lands and premises abutting upon any public sidewalk shall keep the sidewalk free of all sand, rubbish, dirt and litter and shall remove promptly all snow which shall fall thereon and all ice which shall fall thereon. upon property owner's petition, the village council may waive a property owner's or occupant's responsibility to keep a public sidewalk clear if the sidewalk is in their rear yard and the property owner has limited access to the sidewalk.

(Ord. No. 2018-03, § 2, 8-6-18)

Sec. 50-73. - Obstructions.

No person shall obstruct or encroach upon any public sidewalk in any manner whatsoever.

(Ord. No. 2018-03, § 2, 8-6-18)

Secs. 50-74—50-95. - Reserved.

DIVISION 2. - CONSTRUCTION, REPAIR AND RECONSTRUCTION^[3]

Footnotes:

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Editor's note— Ord. No. 2018-03, § 1, adopted Aug. 6, 2018, repealed Div. 2, §§ 50-96—50-99, and enacted a new division as set out herein. Former Div. 2 pertained to similar subject matter and derived from Ord. No. 51-4, §§ 1—4, adopted July 2, 1951.

Sec. 50-96. - Permit required.

No person shall construct, repair or reconstruct any public sidewalk without a permit from the village.

(Ord. No. 2018-03, § 2, 8-6-18)

Sec. 50-97. - Specifications.

No person shall construct, repair or reconstruct any public sidewalk except in accordance with the grade, slope, line and the specifications established by the village.

(Ord. No. 2018-03, § 2, 8-6-18)

Sec. 50-98. - Petition for repair or new construction.

The village, on its own motion, or the owner or owners of record of any premises in the village who desire to have a sidewalk in front of or adjacent to their premises repaired or reconstructed or a new sidewalk constructed by the village may petition the village. If the village council shall, by motion or resolution, approve the petition, the village shall repair, reconstruct or construct new sidewalk or cause it to be done.

(Ord. No. 2018-03, § 2, 8-6-18)

Sec. 50-99. - Ordering repair, reconstruction or new construction.

Whenever the village, by council resolution or motion or as allocated in the budget, declare the necessity for and direct the, repair, reconstruction or construction of new sidewalk, in front of or adjacent to any property, the village shall give notice to the abutting property owners.

(Ord. No. 2018-03, § 2, 8-6-18)

Sec. 50-100. - Notice.

The notice shall be given either by personal service or first-class mail. The notice shall identify the premises; the amount of sidewalk to be repaired, reconstructed or new sidewalk to be constructed; the estimated total cost and estimated cost to the property owner; the time line for responding to the village; and an explanation of the payment process. If the owner shall neglect to construct, repair or reconstruct such sidewalk within the time specified in the notice it shall be the duty of the village to, repair, reconstruct or construct new sidewalk or cause it to be done.

(Ord. No. 2018-03, § 2, 8-6-18)

Sec. 50-101. - Cost of repair or reconstruction.

The village apportions the cost of repair or reconstruction of the sidewalks with 70 percent to the lot owner and 30 percent to the village. Corner lots, with sidewalk affronting both streets, will only be required to pay for the cost to repair the sidewalk along the frontage with the shortest length. The lot owner shall have six months from the date of completion to pay the cost of the sidewalk repair or reconstruction without the assessment of interest. The cost of sidewalks, unless otherwise paid for in the six-month period, shall become a lien on the property and placed on the property taxes. If the property owner has a larger than average bill for sidewalk repair or reconstruction, the village may enter into a written payment plan to extend pays out several months.

The costs and expenses of the repair or reconstruction shall be and remain a lien against the premises of the owners until paid. Immediately after the repair or reconstruction of the sidewalks, the village shall make a certificate setting forth the amount of the costs and expenses of the repair or reconstruction; the names of the owners with the address of each owner's premises; the amount of sidewalk repaired or reconstructed in front of or adjacent to the premises; and each owner's respective share of the costs and expenses of the repair or reconstruction. Thereupon, the village shall mail a statement to each of the property owners named in the certificate, setting forth the amount to be paid by each property owner for the sidewalk repair or reconstruction.

(Ord. No. 2018-03, § 2, 8-6-18)

Sec. 50-102. - Cost of new sidewalk.

When deemed by the village council, for the health, safety and welfare of the community, the village will pay for the cost of new sidewalk construction in existing portions of the community. With the construction of a new home the property owner or developer is responsible for the cost of installing new sidewalk.

(Ord. No. 2018-03, § 2, 8-6-18)

Secs. 50-103—50-125. - Reserved.

ARTICLE IV. - DRIVEWAY APRONS

Sec. 50-126. - Permit required.

No person shall construct, repair or reconstruct any driveway apron without a permit from the village council.

(Ord. No. 68-1, § 1, 8-20-68)

Sec. 50-127. - Violation of article; municipal civil infraction.

A person who violates any provision of this article is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50.00 nor more than \$500.00, plus costs and other sanctions, for each violation. Repeat offenses shall be subject to increased fines as provided by section 1-11(c)(2) of this Code. Any authorized village official as designated by this Code or by the village manager may issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the village municipal ordinance violations bureau) for violations under this article.

(Ord. No. 68-1, § 4, 8-20-68; Ord. No. 97-03, § 18, 7-7-97)

Sec. 50-128. - Specifications.

All driveway aprons in the village shall be constructed in accordance with the specifications which the village may adopt by resolution.

(Ord. No. 68-1, § 2, 8-20-68)

Sec. 50-129. - Public notice.

- (a) Whenever the village council shall by resolution declare the necessity for and direct the construction, repair or reconstruction of any driveway apron, the resolution shall provide that notice shall be given to the affected property owner who shall bear all the costs of same. The notice shall be substantially in the following form:

Public Notice

Public notice is hereby given to the following property owners:

That the village council of the Village of Clinton, Michigan, did by resolution made and adopted at a meeting held on _____, 19__ determine that the construction of the driveway apron at the above described properties is a public necessity.

You are hereby notified to conform to this notice and the applicable village ordinances and village specifications within 30 days from the date hereof, or the improvement will be made by the village and that all costs thereof will be assessed against the affected property.

Dated:	_____ Village Clerk
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- (b) The notice in subsection (a) of this section shall be given either by mailing such notice to the property owner or by two publications in a newspaper published and circulated in the village. If the property owner shall neglect to construct, repair or reconstruct such driveway apron or aprons within the time specified in the notice, it shall be the duty of the village to construct the same, or cause it to be done at the expense of affected property owner.
- (c) The costs and expenses of the construction, repair or reconstruction shall be and shall remain a lien against the property of the owner until paid. Within 30 days after the construction, repair or

reconstruction of any such driveway apron, the village clerk shall mail a statement to the property owner setting forth the amount to be paid for the driveway apron construction, repair or reconstruction. In the event of nonpayment by the property owner within 60 days from the date of mailing of the statement, the village may assess the costs against the property as a special assessment or bring suit to recover the costs in any court of competent jurisdiction.

(Ord. No. 68-1, § 3, 8-20-68)

Chapter 54 - SUBDIVISIONS¹¹

Footnotes:

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Cross reference— Administration, ch. 2; buildings and building regulations, ch. 10; streets, sidewalks and other public places, ch. 50; utilities, ch. 62; zoning, ch. 66.

State Law reference— Subdivision Control Act, MCL 560.101 et seq.

ARTICLE I. - IN GENERAL

Sec. 54-1. - Policy of chapter.

- (a) Land to be subdivided shall be safe for building purposes without danger to health or peril from fire, flood, or other menace. Land shall not be subdivided unless proper provision has been made for all improvements required in this chapter.
- (b) Improvements shall be properly related to proposals set forth in the adopted general development plan and the capital budget of the village. It is intended that this chapter shall supplement and facilitate enforcement of the provisions and standards contained in the building code, zoning article, general development plan and capital improvements program of the village.

(Ord. No. 81-3, § 1.02, 10-5-81)

Sec. 54-2. - Purpose of chapter.

The purpose of this chapter is to regulate the subdivision of land within the village in order to promote the safety, public health, and general welfare of the community. This chapter is specifically designed to:

- (1) Provide for the orderly growth and harmonious development of the community, consistent with adopted development policies of the village.
- (2) Secure proper vehicular traffic circulation through a coordinated street system with proper relation to major thoroughfares, adjoining subdivisions, public facilities, and pertinent elements of the adopted general development plan.
- (3) Create individual lots of maximum utility and livability, and lots of such layout and size as to be in harmony with the existing and proposed development pattern of the area.
- (4) Ensure adequate provision of water, drainage, and sanitary sewer facilities and other related health requirements.
- (5) Ensure adequate provision of recreational areas, school sites, and other public facilities.
- (6) Preserve natural features and provide open space areas.

(Ord. No. 81-3, § 1.03, 10-5-81)

Sec. 54-3. - Scope of chapter.

- (a) This chapter shall apply to all subdivisions of land within the village.
- (b) No land shall be subdivided within the village until all requirements of this chapter and the Subdivision Control Act (MCL 560.101 et seq., MSA 26.430(101) et seq.) have been met.
- (c) No building permit or certificate of occupancy shall be issued for any parcel of land which was created by subdivision, and not in conformity with this chapter. No excavation of land or construction of any improvement shall be commenced except in conformity of this chapter.
- (d) In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of public health, safety, and welfare.
- (e) The provisions of this chapter are not intended to abrogate any easement, covenant or any other private agreement or restriction. Where provisions of this chapter are more restrictive or impose higher standards or regulations, this chapter shall govern.
- (f) This chapter shall not apply to any lots which are a part of a subdivision created and recorded prior to the adoption of this chapter, or to lots which are part of a subdivision which is in process of review or construction prior to the adoption of this chapter, except in either case for further dividing of such lots.

(Ord. No. 81-3, § 1.04, 10-5-81)

Sec. 54-4. - Legal basis of chapter.

This chapter is enacted pursuant to the statutory authority granted by Act No. 288 of the Public Acts of Michigan of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.), as amended.

(Ord. No. 81-3, § 1.05, 10-5-81)

Sec. 54-5. - Fees generally.

The fees charged under this chapter shall be as prescribed by resolution of the village council from time to time and shall be on file in the village hall.

(Ord. No. 81-3, § 1.06, 10-5-81)

Sec. 54-6. - Rules of construction.

For the purpose of this chapter certain rules of construction apply to the text, as follows:

- (1) Unless the contents clearly indicate to the contrary, words used in the present tense include the future tense; words used in the plural number include the singular; the word "herein" means "in this chapter."
- (2) The word "person" includes a corporation, a partnership, and an incorporated association of persons, such as a club; the word "shall" is always mandatory; the word "building" includes a "structure"; the word "building" or "structure" includes any part thereof; the word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, designed to be used or occupied."

(Ord. No. 81-3, § 2.01, 10-5-81)

Sec. 54-7. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The definitions set forth in section 102 of the Subdivision Control Act are adopted by reference.

Advisory planning commission means the village planning commission.

As-built plans means construction plans revised to show the facility as actually constructed.

Common open space means an area within a subdivision held out of development by the proprietor and designed for the common use or enjoyment of residents of the subdivision. Common open space may contain such complementary structures as are necessary and appropriate for the use or enjoyment of the subdivision.

Comprehensive development means a commercial, office, or industrial park or a planned unit development.

County drain commissioner means the county drain commissioner.

Dedication means the intentional transfer by the proprietor to the public of the ownership of, or an interest in land for a public purpose. Dedication may be effected by compliance with the statutes relating to dedication of land, by formal deed of conveyance, or by any other method recognized by the law of the state.

Development means a subdivision of land or any material change in the use or appearance of any parcel of land subject to the provisions of this chapter, or the act of building structures and installing site improvements.

General development plan means a comprehensive plan or part of a comprehensive plan for the village which through any combination of text, charts, and maps, sets forth proposals for general locations and extent of land uses, streets and public facilities and general standards and density of development, adopted and published by the village advisory planning commission. The term includes such commonly used terms as basic plan, master plan, general plan, comprehensive plan, and land use plan.

Improvements means any structure or material change incident to servicing or furnishing facilities for a subdivision such as, but not limited to, grading, street surfacing, curb and gutter, sidewalk, pedestrian ways, water mains and lines, sanitary sewers, storm sewers, culverts, bridges, utilities, lagoons, slips, waterways, lakes, bays, canals, and other appropriate items, with appurtenant construction; demolition of structures; planting or removal of trees and other vegetation cover.

Model home means a dwelling unit used initially for display purposes which typifies the type of dwelling unit that will be constructed in the subdivision.

Pedestrian way means a separate right-of-way, either public or private, for pedestrian use.

Sidewalk means a facility, placed within the right-of-way of streets, or a facility connecting with buildings, parking lots, or other activities having access to the street right-of-way for the purpose of providing safe movement of pedestrians.

Street means a public or private traffic way which provides vehicular and pedestrian access to abutting properties.

Structure means anything constructed, erected, or placed with a fixed location on the surface of the ground, or attached to something having a fixed location on the ground.

Subdivision (subdivide) means the partitioning or dividing of a parcel or tract of land by the proprietor or by his heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale or lease of more than one year, or of building development, where the act of division creates five or more parcels of land, each of which is ten acres or less in area; or five or more parcels of land each of which is ten acres or less in area are created by successive divisions within a period of ten years. The term subdivision also refers to any area which is subdivided with the foregoing definition.

Subdivision, commercial means a subdivision of land in which the land is to be developed for retail stores, wholesale businesses, offices, business services, and similar uses.

Subdivision, industrial means a subdivision of land in which the land is to be developed for manufacturing plants, trucking and warehouse facilities, and similar activities.

Subdivision Control Act means Act No. 288 of the Public Acts of Michigan of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.), as amended.

Village engineer means a person appointed by the village council to the position of, or designated from time to time as village engineer.

Village staff means the village engineer, superintendent, fire chief, police chief, planner, or other officials which the village council might designate for the purpose of reviewing subdivision plats and related drawings and documents.

Zoning article means the zoning article of the village.

(Ord. No. 81-3, § 2.02, 10-5-81)

Cross reference— Definitions generally, § 1-2.

Sec. 54-8. - Enforcing officer.

The village manager shall have the duty and responsibility to enforce this chapter and shall promptly notify the village council and village attorney of any violations of this chapter.

(Ord. No. 81-3, § 7.01, 10-5-81)

Sec. 54-9. - Permits and certificates.

- (a) *Building permits.* The building inspector shall not issue permits for the building of houses or other structures intended for human occupancy, or any portion thereof, until the preliminary plat has received final approval as provided in article II of this chapter, and until he has been officially notified of such approval by the village clerk. No building permits shall be issued for a tract of land between the time that the subdivision process has commenced and a preliminary plat thereof has received final approval. The clerk shall immediately notify the building inspector that such process has been initiated. No building permit shall be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of this chapter.
- (b) *Occupancy certificates.* The building inspector shall not issue permits for the occupancy of structures or any parts thereof until all improvements required by this chapter have been completed or otherwise provided for according to this chapter, and until the building inspector has been notified by the clerk of completion of improvements. A certificate of completion issued by the village engineer shall be evidence of adequate and complete installation of facilities.

(Ord. No. 81-3, § 7.02, 10-5-81)

Sec. 54-10. - Violation of chapter; municipal civil infraction.

A person who violates any provision of this chapter is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$100.00 nor more than \$500.00, plus costs and other sanctions, for each violation. Repeat offenses shall be subject to increased fines as provided by section 1-11(c)(2) of this Code. Any authorized village official as designated by this Code or by the village manager may issue municipal civil infraction citations (directing alleged violators to appear in court) or

municipal civil infraction violation notices (directing alleged violators to appear at the village municipal article violations bureau) for violations under this chapter.

(Ord. No. 81-3, § 7.04, 10-5-81; Ord. No. 97-03, § 19, 7-7-97)

Sec. 54-11. - Civil enforcement.

Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of this chapter, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation, to prevent illegal occupancy of a building, structure, or premises, and these remedies shall be in addition to the penalties provided in this chapter.

(Ord. No. 81-3, § 7.05, 10-5-81)

Sec. 54-12. - Additional legal remedies.

Nothing contained in this chapter shall be deemed or construed to be a substitute for or to abolish or impair existing other or future legal remedies of the village or its officers, or agency, including criminal prosecution under this chapter or any other article of the village, or of the laws of the state, even though such remedies may be specifically enumerated or mentioned in this chapter.

(Ord. No. 81-3, § 1.11, 10-5-81)

Sec. 54-13. - Transfer of lots.

No owner or agent of the owner of any parcel of land located in a proposed subdivision shall sell or transfer any such parcel, except as provided in the Subdivision Control Act, before the final plat containing such parcel has been approved and recorded as provided by this chapter and the Subdivision Control Act.

(Ord. No. 81-3, § 7.03, 10-5-81)

Sec. 54-14. - Cemeteries.

Cemeteries shall not be included within the definition of subdivision, and shall not be subject to this chapter's provisions.

(Ord. No. 81-3, § 1.07, 10-5-81)

Sec. 54-15. - Conformance of laws, rules, and regulations.

In addition to the requirements established in this chapter, all subdivision plats shall comply with the following laws, rules, and regulations:

- (1) The Subdivision Control Act and all other applicable statutes.
- (2) The zoning article of the village.
- (3) The adopted general development plan and capital improvements program of the village.
- (4) The adopted subdivision regulations and standards of the village.

(Ord. No. 81-3, § 1.08, 10-5-81)

Sec. 54-16. - Compliance with subdivision regulations created by village council required of proprietors.

Regulation of subdivision of land and attachment of reasonable conditions to approval of land subdivision is an exercise of valid police power of the village. The proprietor has the duty of compliance with conditions established by the village council.

(Ord. No. 81-3, § 1.12, 10-5-81)

Sec. 54-17. - Advisory planning commission responsibility.

The village advisory planning commission shall have the responsibility to review each plat as required by this chapter. The advisory planning commission shall report its findings and recommendations to the village council.

(Ord. No. 81-3, § 1.13, 10-5-81)

Sec. 54-18. - Public water and sanitary sewer services.

All subdivisions shall provide public water and sanitary services to each lot therein. Each lot in the subdivision shall connect with public water and sanitary sewer lines.

(Ord. No. 81-3, § 1.14, 10-5-81)

Sec. 54-19. - Public hearings.

Notification of a public hearing required by this chapter shall be made in the village local at least 15 days prior to the date of the hearing. In the case of a subdivision plat, notice of the hearing shall also be sent by regular mail to the owners of land adjacent to and directly across a street from the land in the proposed plat. The notice shall be sent not less than 15 days prior to the hearing date.

(Ord. No. 81-3, § 1.15, 10-5-81)

Sec. 54-20. - Time extensions.

The time limits on the review of plats contained in article II of this chapter may be extended upon written request by the proprietor and approval by the village advisory planning commission or council, whichever applies.

(Ord. No. 81-3, § 1.16, 10-5-81)

Sec. 54-21. - Agreement between village council and proprietor.

The proprietor and village council shall enter into an agreement prior to approval of any final plat. The agreement shall provide for completion of improvements, details of performance guarantees, inspections, dedications, site cleanup, and other items deemed appropriate.

(Ord. No. 81-3, § 1.17, 10-5-81)

Sec. 54-22. - Preliminary plat drawing scale.

Each preliminary plat shall be drawn at a scale not greater than one inch equals 100 feet. Each preliminary plat, all engineering plans, as-built plans, and any other drawings which might be submitted for preliminary plat review shall be submitted to the village on sheets 24 inches by 36 inches in dimension. Required reduced copies of preliminary plats shall be submitted on sheets 8½ by 11 inches in dimension.

(Ord. No. 81-3, § 1.18, 10-5-81)

Secs. 54-23—54-50. - Reserved.

ARTICLE II. - PLAT PROCEDURES AND SPECIFICATIONS

Sec. 54-51. - General requirements.

A proposed subdivision shall be reviewed and approved in the following three steps, in accordance with the Subdivision Control Act:

- (1) Preliminary plat, tentative approval, will establish the basic layout of the subdivision, lot sizes, zoning compliance, and general feasibility;
- (2) Preliminary plat, final approval will authorize, upon issuance of proper permits, construction of improvements; and
- (3) Final plat, upon recording, will authorize the transfer of lots.

(Ord. No. 81-3, § 3.01, 10-5-81)

Sec. 54-52. - Preliminary plat—Tentative approval.

- (a) *Filing procedures.* The proprietor shall file ten prints and 20 reduced copies of the preliminary plat, completed application form, and review fees with the village clerk. The clerk shall immediately transmit one print and ten reduced copies of the plat to the advisory planning commission and one print copy to each member of the village staff.
- (b) *Information required.* The following information is required:
 - (1) Name of proposed subdivision.
 - (2) Legal description.
 - (3) Location map.
 - (4) Date, north point, scale.
 - (5) Name, address, and phone number of proprietor, owners of record, and planner, engineer, surveyor, or other designer who prepared the plat.
 - (6) Details of adjacent parcels, including: subdivision names; layout and names of streets; right-of-way widths; connections with adjoining streets; location and width of alleys, easements, and public walkways; layout and dimensions of adjacent lots; names and addresses of owners of record; and zoning.
 - (7) Existing topography, at two-foot contour intervals, correlated with USGS data.
 - (8) Proposed streets: location, right-of-way, surface type and width; designate whether public or private; typical cross section; names; and curve radii.
 - (9) Proposed lots: layout, dimensions, area (in square feet), setback requirements and lot numbers.

- (10) Parcels to be dedicated or reserved for public use or for use in common by property owners in the subdivision.
 - (11) Location and size of existing and proposed water, sanitary sewer, and storm sewer lines; points of connection to existing lines; location of existing natural gas lines and utility poles; location of stormwater retention facilities.
 - (12) Location and nature or uses other than single-family residential to be included within the subdivision.
 - (13) Phases; development summary by phase.
 - (14) Location, dimension, and purpose of proposed easements.
 - (15) Zoning district of parcel included in plat.
 - (16) Natural features, such as individual trees, wooded areas, wet soils, wetlands, water bodies and watercourses.
 - (17) Estimated floodplain.
 - (18) Aerial photograph of the site and surrounding area, with the proposed subdivision delineated thereon.
- (c) *Review procedures.* Review procedures are as follows:
- (1) The advisory planning commission shall hold a public hearing on the proposed preliminary plat within 30 days of the filing date. Notice of the hearing shall be provided as set forth in section 54-19.
 - (2) The village staff shall submit written comments on the preliminary plat to the advisory planning commission within 30 days of the filing date.
 - (3) The advisory planning commission shall review the preliminary plat for compliance with the zoning article, village regulations and standards for subdivisions, the Subdivision Control Act, and this chapter.
 - (4) The advisory planning commission shall submit its findings, recommendations for tentative approval and conditions of such approval, or for denial to the village council, within 60 days of the filing date.
 - (5) The village council shall, within 90 days of the filing date, tentatively approve the preliminary plat, or shall disapprove the preliminary plat and set forth its reasons for rejection and requirements for tentative approval.
 - (6) The proprietor, upon receiving tentative approval from the village council, shall submit the preliminary plat to all authorities as required by the Subdivision Control Act.
- (d) *Effect of tentative approval.* Tentative approval of the preliminary plat shall confer upon the proprietor for a period of one year from the approval date, approval of lot sizes, lot orientations and street layout of the proposed subdivision. The tentative approval may be extended if an extension is approved in accordance with section 54-21.
- (e) *Expiration of tentative approval.* If the preliminary plat is not submitted to the village council for final approval within one year of the date of tentative approval thereof by the council, the council may declare tentative approval expired and to be of no effect, unless good cause can be shown for the delay. In such case the proprietor shall submit a new preliminary plat for approval in accordance with this chapter and the Subdivision Control Act, if tentative approval is desired.

(Ord. No. 81-3, § 3.02, 10-5-81)

Sec. 54-53. - Same—Final approval.

- (a) *Filing procedures.* The proprietor shall file ten prints and 20 reduced copies of the preliminary plat, completed application form, and review fee with the village clerk. The clerk shall immediately transmit the prints and the reduced copies of the plat to the council, advisory planning commission, and village staff.
- (b) *Information required.* The information required is as follows:
 - (1) A list of all county and state authorities required by the Subdivision Control Act to approve the preliminary plat, certifying that the list is complete and that each authority has approved the preliminary plat, with the approval dates.
 - (2) A list of all changes made in the preliminary plat after tentative approval.
 - (3) Grading plan, showing proposed contours at not more than two-foot intervals, superimposed on existing contours.
 - (4) Proposed restrictive covenants, association bylaws, and means to maintain common areas and facilities.
 - (5) Location of manholes and catch basins, inverts, and calculations for storm drainage retention and discharge.
 - (6) Final determination of floodplain.
 - (7) Location, width, and surface type, with typical section of proposed sidewalks and pedestrian ways.
- (c) *Review procedures.* Review procedures are as follows:
 - (1) The village staff shall review the preliminary plat and shall present written comments and recommendations to the advisory planning commission within ten days of the filing date.
 - (2) The advisory planning commission shall review the plat for compliance with the preliminary plat as tentatively approved and the requirements of this chapter. The advisory planning commission shall also review the staff's comments and recommendations.
 - (3) The advisory planning commission shall submit its findings, recommendations for final approval, and conditions for such approval, or for denial to the village council within 20 days of the filing date.
 - (4) The village council shall, within 20 days of the filing date, take action on the preliminary plat. If the council gives final approval, the clerk shall promptly notify the proprietor of final approval in writing, and shall enter a certificate of approval on the plat. The council may attach conditions to its approval. If the council denies the preliminary plat, the clerk shall promptly notify the proprietor of disapproval and the reasons therefor, in writing. The action and reasons shall be accurately recorded in the record of the council meeting.
 - (5) In case of disapproval of the preliminary plat, further consideration of a plat for subdividing the same land can be obtained only if a proprietor applies for tentative approval of a new preliminary plat.
- (d) *Effect of final approval of preliminary plat.* The effects of final approval of a preliminary plat are as follows:
 - (1) Final approval of the preliminary plat shall ensure the proprietor for a period of two years from the date of approval that the general terms and conditions under which the final approval of the preliminary plat was granted will not be changed. The two-year period may be extended if an extension is approved in accordance with section 54-20.
 - (2) Construction of improvements may commence following final approval of the preliminary plat, provided all required permits for such construction have been issued and are in effect.
 - (3) Final approval of a preliminary plat shall permit construction and display of not more than four model homes, provided that the lots on which the model homes are to be located are individual

lots as shown on the approved preliminary plat; that such lots are located within 300 feet of and have access to an improved public street; that future street and other required improvements will be provided where such lots are proposed; and provided that such model homes shall not interfere with permanent lot or public improvements. The model homes shall not be occupied as residences until the final plat containing such lots is approved and recorded and all other requirements of this chapter are met. Such lots shall be identified before the council gives final approval to the preliminary plat and shall be approved by the council for such use before the model homes may be constructed.

(Ord. No. 81-3, § 3.03, 10-5-81)

Sec. 54-54. - Final plat.

(a) *Filing procedures.* Final plats, together with the completed application form; fees for filing, recording, plat review, and inspection of improvements; and agreement and security required to guarantee performance shall be submitted to the village clerk. A final plat shall not be accepted for review after the date of expiration of the final approval of the preliminary plat. The final plat shall be signed by the following agencies, as required by the Subdivision Control Act, in the indicated order, prior to filing with the village clerk:

- (1) County and village treasurer;
- (2) County drain commissioner;
- (3) Board of county road commissioners.

The final plat shall be signed by a land surveyor or a civil engineer registered in the state and by the proprietor prior to filing with the village clerk.

(b) *Information required.* The following information is required:

- (1) All final plats shall be in the form and contain the information required by the Subdivision Control Act.
- (2) One reproducible copy on dimensionally stable material and four paper prints of the final plat.
- (3) Evidence of the proprietor's ownership interest and any other information deemed necessary to determine whether proper parties have signed the plat.
- (4) Approved construction plans and schedules, as provided in article IV of this chapter.
- (5) The proprietor shall provide the village clerk with a certificate from the proprietor's engineer indicating that improvements have been installed in conformance with the approved engineering drawings, with any changes noted therein and attached in drawings.
- (6) Proof of a guarantee of completion for those improvements to be installed after final plat approval, as finally approved in the preliminary plat. A detailed estimate of all costs of all required improvements to be installed after final plat approval, as provided in article IV of this chapter, shall be provided. The estimate of costs shall be checked and approved by the village engineer prior to review of the final plat by the village council.
- (7) Final computed area, in square feet, of each lot.

(c) *Review of final plat.* Review of the final plat shall be as follows:

- (1) The final plat shall conform to the preliminary plat as finally approved. The final plat may cover only a portion of the area covered by the preliminary plat as finally approved.
- (2) The final plat shall be reviewed by the village engineer as to compliance with the preliminary plat as finally approved, and plans for utilities, lot drainage plans, and other improvements, before the village council acts on the final plat.

- (3) All improvements and facilities to be provided by the proprietor shall be installed, and shall be inspected and approved by the village engineer, and all dedications and easements shall be evidenced as having been made, or adequate security in lieu of installation and dedication shall be provided before the council may approve the final plat. However, approval of the final plat shall not constitute acceptance by the council of any improvements or land areas to be dedicated to the village.
- (4) The council shall review all recommendations and either approve or disapprove the final plat within 20 days of the date of filing.
- (5) If the final plat is approved, the clerk shall transmit the reproducible copy of the plat and the filing and recording fee to the county plat board. One print shall be forwarded to the advisory planning commission, to the village engineer, and to the building department. One print shall be retained by the clerk. The reproducible copy and prints shall have the date of approval marked thereon.
- (6) If the final plat is approved, the clerk shall sign a certificate signifying approval of the final plat by the village council, which shall include the date of approval and the date on which the clerk signs the certificate. If the final plat is disapproved, the clerk shall record the reasons therefor in the minutes of the meeting, notify the proprietor in writing of the actions and reasons, and return the plat to the proprietor.

(Ord. No. 81-3, § 3.04, 10-5-81)

Secs. 54-55—54-75. - Reserved.

ARTICLE III. - REGULATIONS AND STANDARDS

Sec. 54-76. - Preparation and content.

The advisory planning commission shall prepare regulations and standards for the design and development of subdivisions in the village. The regulations shall be prepared with the assistance of village staff. The regulations and standards shall include, but not be limited to, street layout, design and construction; grading; lot layout and access; sidewalks and pedestrian ways; water, sanitary sewer and drainage improvements; other public utilities; soil erosion control; street trees and streetlights; and floodplains and other unbuildable areas.

(Ord. No. 81-3, § 4.01, 10-5-81)

Sec. 54-77. - Public hearing.

The advisory planning commission shall hold a public hearing on the proposed regulations and standards.

(Ord. No. 81-3, § 4.02, 10-5-81)

Sec. 54-78. - Advisory planning commission action.

After the public hearing and review of the comments of the village staff, the advisory planning commission shall transmit the proposed regulations and standards to the village council.

(Ord. No. 81-3, § 4.03, 10-5-81)

Sec. 54-79. - Village council action.

The village council shall review the proposed regulations and standards. The council may make changes therein but shall request comments and recommendations on such changes from village staff and the advisory planning commission. After receiving and reviewing comments and recommendations, the council shall adopt the regulations and standards by resolution.

(Ord. No. 81-3, § 4.04, 10-5-81)

Sec. 54-80. - Amendments.

The regulations and standards may be amended by following the procedures set forth in this chapter for initial adoption.

(Ord. No. 81-3, § 4.05, 10-5-81)

Sec. 54-81. - Compliance required.

Every subdivision plat and all improvement plans associated therewith, submitted for approval, shall conform to the regulations and standards adopted pursuant to this article.

(Ord. No. 81-3, § 4.06, 10-5-81)

Secs. 54-82—54-110. - Reserved.

ARTICLE IV. - IMPROVEMENTS

Sec. 54-111. - Purpose of article.

The purpose of this article is to establish and define the improvements which the proprietor will be required to provide as conditions for final plat approval; to outline the procedures and responsibilities of the proprietor and the various public officials and agencies concerned with the planning, design, construction, financing, and administration of improvements; and to establish procedures for ensuring compliance with this article.

(Ord. No. 81-3, § 5.01, 10-5-81)

Sec. 54-112. - General requirements.

- (a) *Standards.* Improvements shall be provided by the proprietor in accordance with this chapter and the village's adopted "Subdivision Regulations and Standards," and other applicable standards of county and state agencies. The improvements required under this article shall be considered the minimum acceptable improvements.
- (b) *Construction plans.* The proprietor shall have plans and specifications for soil erosion and sedimentation controls, and construction plans for streets, utilities, and similar improvements required in this section prepared by a civil engineer registered in the state. Such plans shall conform to the preliminary plat as finally approved. Construction plans shall be reviewed and approved by the village engineer before construction permits may be issued.
- (c) *Timing of site work.* No grading, removal of trees or other vegetation, land filling, or other material change except that which is required by reviewing agencies shall commence on the subject property until the council has given final approval to the preliminary plat.

- (d) *Permits required.* No grading or excavating of land, and no construction of streets, sanitary sewer lines and appurtenances, water lines and appurtenances, storm drainage facilities, and sidewalks may commence, street signs and streetlights shall not be installed until permits therefor and for soil erosion control have been issued by the village clerk and are in effect. Such permits shall not be issued unless the village engineer has approved plans, materials, and equipment as complying with adopted village standards and acceptable engineering practice. No permit shall be issued until the village council has given final approval to the preliminary plat.
- (e) *Phasing.* Where a subdivision is to be developed in phases, the provisions of this article shall apply to each phase. However, improvements and financial guarantees therefor may be required to extend beyond the boundaries of a subdivision phase if such extension is necessary to ensure the self-sufficiency of the phase pending completion of the entire subdivision. Such extensions, schedules, and similar arrangements shall be set forth in the subdivision agreement prior to council approval of the final plat for the phase involved.
- (f) *Costs of improvements.* All required improvements shall be made by the proprietor, at the proprietor's expense, without reimbursement by a public agency, unless the public agency agrees to other arrangements.
- (g) *Completion of improvements.* All required improvements shall either be completed prior to council approval of the final plat, or shall be completed following final plat approval, if adequate financial guarantees of performance are provided, subject to the discretion of the approving agency in each case, and subject to the requirements of this chapter, published rules of other approving authorities, and the Subdivision Control Act. For all improvements installed prior to final plat approval by the council, and which are to be dedicated to the village, such dedication shall be made prior to submittal of the final plat approval by the council. The property and public improvements to be dedicated shall be free and clear of all liens and encumbrances.
- (h) *Compliance with standards.* The proprietor shall be responsible for the installation and construction of all required improvements according to the provisions of this chapter and to the standards and specifications of the various public agencies. Where improvements are covered by a performance bond, the proprietor and the bonding company shall be severally and jointly liable for completing the improvements according to specifications and approved plans.

(Ord. No. 81-3, § 5.02, 10-5-81)

Sec. 54-113. - Construction plans and schedules.

- (a) *Required.* Construction plans of all required improvements shall be reviewed and approved by the village engineer, except for improvements to be made under the jurisdiction of county or state agencies, in which case the drawings shall be submitted to the appropriate agency for review and approval. Where review and approval of engineering drawings is made by a county or state agency, the proprietor shall supply written confirmation of such approvals to the village engineer.
- (b) *Engineering review fees.* At the time of submittal of construction plans to the clerk, the proprietor shall pay a fee for engineering review of such plans as adopted by resolution by the council.
- (c) *Changes during construction.* All installations and construction shall conform to the approved plans. If the proprietor makes changes in such plans during construction, such changes shall be made at the proprietor's own risk without any assurance that the village or other public agency will approve the completed facility. It shall be the responsibility of the proprietor to notify the appropriate agency of any changes. The proprietor may be required to correct the installed improvements so as to conform to the approved plans.
- (d) *As-built plans.* As-built plans shall be as follows:
 - (1) The proprietor shall submit to the village engineer one reproducible copy of as-built plans of each of the required improvements that have been completed prior to final plat approval. Each set of plans shall be certified by the proprietor's engineer. Similar plans shall also be submitted for

improvements installed under a financial guarantee, after final plat approval. This provision shall not apply to improvements made under the jurisdiction of other public agencies. The plans shall be submitted to, and shall be approved by, the village engineer prior to release of any financial guarantee or part thereof covering such installation.

- (2) As-built plans shall show, but shall not be limited to, such information as materials; exact size, type and location of pipes; location and size of manholes and catch basins; location and size of valves, fire hydrants, tees and crosses; depth and slope of open drainage courses and retention basins; and location and type of other utility installations. The plans shall show plan and profile view of all sanitary and storm sewer lines and plan views of all water lines.
 - (3) As-built plans shall show all work as actually installed and as field verified by a registered civil engineer. As-built plans shall be provided on dimensionally stable reproducible film. The drawings shall be identified as as-built plans in the title block of each drawing, shall be signed and dated by the proprietor, and shall bear the seal of the registered civil engineer.
- (e) *Construction schedules.* The proprietor shall submit a schedule for construction of all improvements to the village engineer, with the construction plans.

(Ord. No. 81-3, § 5.03, 10-5-81)

Sec. 54-114. - Required improvements.

The proprietor shall provide the following improvements in accordance with this chapter, village standards, the Subdivision Control Act, and the subdivision agreement. Improvements shall be installed prior to council approval of the final plat, or prior to release of the performance guarantee by the village, whichever is applicable.

- (1) Survey monuments.
- (2) Streets.
- (3) Public utilities as follows:
 - a. Water supply system: Lines, hydrants, valves, and all other appurtenances.
 - b. Sanitary sewer system: Lines, manholes, and all appurtenances.
 - c. Storm drainage system: Lines, swales, culverts, retention facilities, headwalls, and all other appurtenances.
 - d. Wire and natural gas utilities.
 - e. Oversizing: Where required, the proprietor shall be responsible for that portion of the cost as provided in the subdivision agreement.
- (4) Street signs as follows: Street names, traffic control, and information signs shall be installed by the village at the proprietor's expense.
- (5) Sidewalks and pedestrian ways.
- (6) Public use areas as follows: The proprietor shall provide the areas and improvements, where applicable, in accordance with the subdivision agreement.
- (7) Street trees as follows: Street trees shall be planted by the village, at the proprietor's expense.
- (8) Street lighting as follows: Streetlights shall be installed by the village, at the proprietor's expense.
- (9) Driveways as follows: Driveways shall be installed by the proprietor, between the edge of the street surface to the lot line which abuts that street.

(Ord. No. 81-3, § 5.04, 10-5-81)

Sec. 54-115. - Guarantee of completion.

- (a) *Financial guarantees.* In lieu of the provision of required improvements prior to council approval of a final plat, the proprietor shall provide to the village a performance guarantee of one or a combination of the following financial arrangements. Such guarantees shall be required only for those improvements which have not been installed or provided, and are without certificates of completion, prior to the council approval of the final plat. A guarantee shall be sufficient to secure to the village the satisfactory construction, installation, and dedication, where applicable, of the improvements. This section shall not apply to improvements which are required by county and state agencies, and whose completion is properly guaranteed to those agencies.
- (1) *Performance or security bond.* A performance or security bond shall be as follows:
- a. The bond shall comply with all statutory requirements and shall be satisfactory to the village attorney as to form, sufficiency, and manner of execution.
 - b. The bond shall accrue to the village council.
 - c. The bond shall be sufficient to cover the total estimated cost of completing construction of the improvements, including contingencies and administration, as estimated by the proprietor's engineer and approved by the village engineer.
 - d. The term in which the bond is in force shall be for a period to be specified in the subdivision agreement, but shall not exceed two years from the date on which the council approves the final plat. The council may, upon good cause shown, extend the completion date set forth in the bond for a maximum period of one additional year.
 - e. The bond shall be with a surety company authorized to do business in the state.
- (2) *Cash deposit, certified check, or irrevocable bank letter of credit.* A cash deposit, certified check or irrevocable bank letter of credit shall be as follows:
- a. The proprietor may deposit cash, a certified check, or irrevocable letter of credit with the village clerk. The deposit shall accrue to the village for administering the construction, operation or maintenance of the improvement.
 - b. The amount of the deposit shall cover the total estimated cost of construction of the improvement, including contingencies and administration, as estimated by the proprietor's engineer and approved by the village engineer.
 - c. The escrow time for the deposit shall be for a period to be specified in the subdivision agreement.
 - d. The subdivision agreement may provide for periodic payment out of the deposit.
- (b) *Maintenance security.* The council may require the proprietor to post security, in addition to the foregoing security, to ensure satisfactory condition of all improvements required by the village. The security shall be in an amount determined by the village engineer to be adequate and in a form satisfactory to the village attorney. The term shall not exceed one year from the date of the certificate of completion.
- (c) *Failure to complete construction of a required improvement.* If the proprietor fails to complete improvements required by the village within the period of time required by the conditions of the guarantee of completion, the village council shall have authority to have such work completed. The council may reimburse itself for the expense thereof by appropriating the cash deposit, certified check, or irrevocable bank letter of credit, or may require performance by the bonding or surety company.

(Ord. No. 81-3, § 5.05, 10-5-81)

Sec. 54-116. - Inspection.

- (a) *Generally.* All required improvements shall be inspected during construction by the village engineer, except improvement made under the jurisdiction of county or state agencies. Where inspections are made by other agencies, the proprietor shall supply written reports of each final inspection to the village engineer.
- (b) *Notification.* The proprietor shall notify the village or other appropriate public agency when installations are ready for inspection.
- (c) *Agreement and schedule.* Before commencement of construction of required improvements, an agreement shall be made between the proprietor and the village engineer to provide for inspecting the construction or installation of each improvement under village jurisdiction, and to establish schedules for such inspections.
- (d) *Fees.* The proprietor shall pay all inspection costs incurred by the village according to schedules adopted by resolution by the council. The proprietor shall deposit funds to cover such costs prior to commencement of construction. Any funds not used by the village in its inspection shall be refunded to the proprietor when the subdivision or stage thereof is completed. The proprietor shall pay to the village an amount by which the inspection costs exceed the deposited fees.

(Ord. No. 81-3, § 5.06, 10-5-81)

Sec. 54-117. - Certificate of completion.

The village engineer shall supply a certificate of completion to the proprietor when a required improvement under the jurisdiction of the village is satisfactorily completed according to the approved construction plans and village standards. The certificate shall not be issued until the village engineer has made final inspections, has approved the installations, and has approved the as-built plans. If the improvement is installed prior to final plat approval, the council shall not approve the final plat until the certificate of completion is provided. If the improvement is to be installed subsequent to final plat approval, no bond or other deposit shall be released or reduced until a certificate of completion is provided.

(Ord. No. 81-3, § 5.07, 10-5-81)

Sec. 54-118. - Dedications.

- (a) *Acceptance.* Acceptance of dedication of improvements and lands to the village shall be by resolution of the village council. Approval of a subdivision plat by the council shall not constitute or imply acceptance by the council of improvements and lands shown on such plat.
- (b) *Requirements.* The following conditions shall be met before a dedication shall be accepted by the village council.
 - (1) A certificate of completion, where required, shall have been issued by the village engineer.
 - (2) A title insurance policy shall have been furnished to and approved by the village attorney. The policy shall indicate that the improvements and lands are ready for dedication to the village, and are free and clear of any and all liens and encumbrances.
 - (3) Maintenance security, when required by the village council, shall have been supplied by the proprietor.

(Ord. No. 81-3, § 5.08, 10-5-81)

Sec. 54-119. - Site cleanup.

The proprietor shall remove all equipment, material, and construction debris from the subdivision and from any lot, street, or public way or property therein or in the vicinity, within the time period set forth in the subdivision agreement (see section 54-21).

(Ord. No. 81-3, § 5.09, 10-5-81)

Sec. 54-120. - Building permits and certificates of occupancy.

- (a) Where a financial guarantee of performance has been required for a subdivision, the council may direct the village building inspector to refuse to issue a certificate of occupancy for any building within the subdivision prior to the completion of the improvements, if, in the council's opinion, such occupancy might endanger the health, safety, and general welfare of the occupants or residents of the vicinity.
- (b) The extent of street improvements shall be adequate for vehicular access by prospective occupants and by fire and police equipment, as determined by the council, prior to the issuance of a certificate of occupancy.
- (c) No building permit shall be issued for the final ten percent of lots in a subdivision, or if ten percent be less than two lots, for the final two lots of a subdivision, until all required public improvements have been completed, and where applicable, dedicated.

(Ord. No. 81-3, § 5.10, 10-5-81)

Secs. 54-121—54-150. - Reserved.

ARTICLE V. - VARIANCES

Sec. 54-151. - Basis.

A variance from the provisions of this chapter may be obtained for relief from hardship or to permit a comprehensive development. Variances shall apply only to improvements, standards, and specifications set forth in this chapter, and no variances shall be granted on procedures required by the Subdivision Control Act.

(Ord. No. 81-3, § 6.01, 10-5-81)

Sec. 54-152. - Hardship variance.

- (a) *Generally.* A hardship variance may be granted so that substantial justice may be done and the public interest secured. The proprietor shall show that strict compliance with the provisions of this chapter, as they apply to the proprietor's property or parts of a property, will result in extraordinary hardship or practical difficulty.
- (b) *Findings required.* No variance shall be granted unless all the following findings are made:
 - (1) There are special circumstances or conditions affecting the property, such that strict application of the provisions of this chapter would clearly be impractical or unreasonable. These conditions or circumstances shall be unique to the subject property, and shall not be generally applicable to other property.
 - (2) The conditions supporting the variance request were not created by the proprietor.
 - (3) A variance is necessary for the preservation and enjoyment of a substantial property right, and is not primarily intended for the proprietor's economic gain.

- (4) The granting of a variance will not be detrimental to the public health, safety, or welfare or injurious to other property in the area in which the property is situated.
- (5) Such variance will not have the effect of nullifying the intent and purpose of this chapter, the adopted general development plan, and the zoning article, and will not in any manner vary the provisions of the zoning article.
- (6) Such variance will not violate the Subdivision Control Act.
- (c) *Record.* The village council shall prepare a complete record of the proceedings concerning the requested variance, containing all findings of fact and actions taken, which shall be made part of the record of the meeting at which action is taken.
- (d) *Conditions.* In granting a variance the council may attach conditions which will substantially secure the objectives of this chapter, and which will further adopt policies of the village.

(Ord. No. 81-3, § 6.02, 10-5-81)

Sec. 54-153. - Comprehensive development variance.

- (a) The village council may authorize variances from the provisions of this chapter for a comprehensive development. The council shall find that such comprehensive development is permitted by the zoning article, and shall have the recommendation of the advisory planning commission, before acting on the request for a variance.
- (b) The council shall determine on the basis of the advisory planning commission's report that the comprehensive development plan, together with the requested variances, provides for efficient circulation, adequate light and air, and other needs, and otherwise meets the intent of this chapter, the zoning article, and the adopted general development plan or part of such plan. The council, in making its determination, shall take into account the criteria set forth in section 54-152 and the following:
 - (1) The proposed project will constitute a desirable and stable community development.
 - (2) The proposed project will be in harmony with the existing or proposed development of adjacent areas.
 - (3) The advisory planning commission has reviewed the project plan and recommends its approval as having met the standards and intent of the general development plan, or part of such plan, as it applies to the area in and around the subdivision.
 - (4) Any variance granted for a comprehensive development shall be valid only so long as the plan for the comprehensive development is carried out as approved. Any departure from the approved plan shall permit the council to revoke any variance granted.
 - (5) The proprietor shall submit a time schedule for completion of the various stages of a comprehensive development with the preliminary plat.

(Ord. No. 81-3, § 6.03, 10-5-81)

Sec. 54-154. - Applications required.

- (a) *Hardship variance.* Application for such variance shall be submitted in writing by the proprietor at the time the preliminary plat is filed for the tentative approval. The application shall state fully the grounds of the variance.
- (b) *Comprehensive development variance.* Application for such variance shall be made in writing by the proprietor at the time the preliminary plat is filed for tentative approval, stating fully and clearly all facts relied upon by the proprietor. The application shall be supplemented with maps, plans, or other additional data which might aid the analysis of the proposed project. The plans for such development

shall include covenants, restrictions, or other legal provisions necessary to guarantee the full achievement of the plan.

(Ord. No. 81-3, § 6.04(B), 10-5-81)

Sec. 54-155. - Authority for granting.

The village council shall have authority for granting variances to this chapter.

(Ord. No. 81-3, § 6.05, 10-5-81)

Secs. 54-156—54-185. - Reserved.

ARTICLE VI. - CONDOMINIUMS

Sec. 54-186. - Purpose.

Pursuant to authority conferred by the Condominium Act, Act 59 of 1978, as amended, all condominium plats must be approved by the village council, pursuant to the review and recommendation of the planning commission. A site plan shall be required for all site condominium projects. Each condominium unit shall be located within a zoning district that permits the proposed use.

(Ord. No. 1 of 2002, § 1, 6-3-02)

Sec. 54-187. - Definitions.

The following definitions shall apply in the construction and application of this article:

Area lines:

- (1) *Front yard area line.* A line located at the outer edge of a limited common area associated with a particular building envelope. The front yard area line is the area line which runs most nearly parallel with the street or private road which provides access to the condominium lot.
- (2) *Rear yard area line.* A line located at the outer edge of a limited common area associated with a particular building envelope. The rear yard area line is the area line lying opposite of the front yard area line.
- (3) *Side yard area line.* A line located at the outer edge of a limited common area associated with a particular building envelope. The side yard area lines are those area lines which are neither front or rear yard area lines.

Building envelope. The area on a condominium lot eligible for placement of a principal structure and any attached accessory structures.

Condominium lot. The portions of a condominium project designed and intended for separate ownership and use, as described in the master deed. A condominium lot contains a building envelope and limited commons area.

Condominium plan. The site, survey and utility plans, and sections as appropriate, showing the existing and proposed structures and improvements including the location thereof on the land. The condominium plan shall show the size, location, area, and height of each unit. A number shall be assigned to each condominium unit. The condominium plan shall include the nature, location, and approximate size of the common elements.

Condominium unit. The portion of a condominium project designed and intended for separate ownership and use, as described in the master deed.

Contractible condominium. A condominium project from which any portion of the submitted land or buildings may be withdrawn pursuant to express provisions in the condominium documents and in accordance with this article and the condominium act.

Convertible condominium. A condominium project containing condominium units some or all of which were occupied before the establishment of the condominium project.

Expandable condominium. A condominium project to which additional land may be added pursuant to express provision in the condominium documents and in accordance with this article and the condominium act.

Limited commons. The area of a condominium lot other than the building envelope.

Lot. See "Condominium lot".

Master deed. The condominium documents recording the condominium project as approved by the village council to which is attached as exhibits and incorporated by reference the approved by-laws for the project and the approved condominium subdivision plan for the project.

Setback:

- (1) *Front yard setback.* The distance between the front yard area line and the building envelope.
- (2) *Rear yard setback.* The distance between the rear yard area line and the building envelope.
- (3) *Side yard setback.* The distance between the side yard area line and the building envelope.

(Ord. No. 1 of 2002, § 2, 6-3-02)

Sec. 54-188. - Condominium plan.

- (a) *Condominium plan contents.* All condominium plans shall include the information required by section 66 of the condominium act and the following:
 - (1) A survey plan of the condominium subdivision.
 - (2) A floodplain plan, when appropriate.
 - (3) A site plan showing the location, size, shape, area and width of all condominium units.
 - (4) A detailed utility plan showing all sanitary sewer, water, electric, and storm sewer lines and easements granted for installation, repair and maintenance of all utilities.
 - (5) A detailed street construction, paving and maintenance plan for all roads within the proposed site condominium development. Roads shall comply with all applicable village street design standards.
 - (6) A detailed storm drainage and storm water management plan, including all lines, swales, basins, and other facilities.
- (b) *Easements for utilities.* The condominium plan shall include all necessary easements of record for the purposes of constructing, operating, inspecting, maintaining, repairing, altering, replacing, and/or removing pipelines, mains, conduits and other installations of a similar character (hereinafter collectively called "public structures") for the purpose of providing public utilities, including conveyance of electric, sewage, water and storm water run-off across, through and under the property subject to said easement, and excavating and refilling ditches and trenches necessary for the location of said structures.
- (c) *Private streets.* If a condominium development is proposed to have private streets, they shall be developed to the minimum design, construction, inspection, approval, and other applicable standards and requirements of the village.

- (d) *Encroachment prohibited.* Encroachment of one condominium unit upon another, as described in section 40 of the condominium act, shall be prohibited by the condominium by-laws and recorded as part of the master deed.
- (e) *Relocation of boundaries.* The relocation of boundaries, as described in section 48 of the condominium act, shall conform to all setback requirements of this article for the district in which the project is located, shall be approved by the village council, and this requirement shall be made part of the by-laws and recorded as part of the master deed.
- (f) *Subdivision of condominium units.* All individual condominium units shall conform to the minimum requirements of this article for lot width, lot area, and building setback for the zoning district in which the development is proposed. These requirements shall be made part of the by-laws and recorded as part of the master deed.
- (g) *Condominium subdivision layout, design and approval.* All condominium subdivision plans shall conform to the plan preparation requirements; review and approval procedures; design, layout and improvements standards of section 66-307 (site plan review and approval) of the Village of Clinton Zoning Ordinance. A deposit in the form of cash, certified check, irrevocable bank letter or credit or performance bond may be required by the village council to guarantee the installation and completion of public or private streets, electric, sanitary sewer, water supply, and storm water facilities.

(Ord. No. 1 of 2002, § 3, 6-3-02)

Sec. 54-189. - Subdivision approval and additional regulations.

The following regulations shall apply to all condominium projects within the village:

- (1) *Required information for preliminary site plan review.* Concurrently with notice required to be given the village pursuant to section 71 of Public Act 59 of 1978, as amended, a person, firm or corporation intending to develop a condominium project shall provide the following information with respect to the project. The information shall constitute the minimum necessary submittal for preliminary site plan review under section 66-307 of the Village of Clinton Zoning Ordinance.
 - a. The name, address and telephone number of:
 - 1. All persons, firms or corporations with an ownership interest in the land on which the condominium project will be located together with a description of the nature of each entity's interest (for example; fee owner, optionee, or land contract vendee).
 - 2. All engineers, attorneys, architects or registered land surveyors associated with the project.
 - 3. The developer or proprietor of the condominium project.
 - b. The legal description of the land on which the condominium project will be developed together with the appropriate tax identification numbers.
 - c. The acreage of the land on which the condominium project will be developed.
 - d. The purpose of the project (for example; residential, commercial, industrial, etc.).
 - e. Approximate number of condominium units to be developed in the subject parcel.
 - f. A preliminary site plan depicting the general layout of the proposed development. The preliminary site plan shall include proposed condominium lots, roads, and any other development features. If appropriate, a phasing plan shall be included.
- (2) *Required information for final site plan.* Subsequent to approval of a preliminary site plan, the applicant shall furnish the planning commission with the following:
 - a. A condominium plan meeting the specifications of section 66-321(c) and section 66-307(c) of the village's zoning ordinance.

- b. The proposed condominium master deed and association by-laws.

(Ord. No. 1 of 2002, § 4, 6-3-02)

Sec. 54-190. - General requirements.

- (a) *Information to be kept current.* The information shall be furnished to the village building inspector and clerk and shall be kept updated until such time as a certificate of occupancy has been issued pursuant to the village's zoning ordinance.
- (b) *Engineering and inspections.* Prior to recording of the master deed required by Section 72 of Public Act 59 of 1978, as amended, the condominium project shall undergo site review and approval pursuant to section 66-307 of the village's zoning ordinance. In addition, the village shall require appropriate engineering plans and inspections prior to the issuance of any certificates of occupancy. All engineering plans shall be sealed by a licensed engineer in the State of Michigan.
- (c) *Site plans—Expandable or convertible projects.* Prior to expansion or conversion of a condominium project to additional land the new phase of the project shall undergo site plan review and approval pursuant to section 66-307 of the village's zoning ordinance.
- (d) *Master deed, restrictive covenants and "as-built survey" to be furnished.* The condominium project developer or proprietor shall furnish the village with the following: One copy of the recorded master deed, one copy of all restrictive covenants and two copies of an "as-built survey". The "as-built survey" shall be reviewed by the village for compliance with village articles and applicable requirements and standards. Fees for this review shall be established by resolution of the village council.
- (e) *Monuments required—Site condominium projects.* All condominium projects, which consist in whole or in part of condominium units which are building sites, mobile home sites, or recreational sites, shall be marked with monuments as provided in this subsection:
 - (1) Monuments shall be located in the ground and made according to the following requirements, but it is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium project, if the angle points can be readily reestablished by reference to monuments along the sidelines of the streets.
 - (2) All monuments used shall be made of solid iron or steel bars at least one-half-inch in diameter and 36 inches long and completely encased in concrete at least four inches in diameter.
 - (3) Monuments shall be located in the ground at all angles in the boundaries of the condominium project; at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the condominium project and at the intersection of alleys with the boundaries of the condominium project; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alleys; at all angles of an intermediate traverse line and at the intersection of all limited common elements and common elements.
 - (4) If the required location of a monument is an inaccessible place, or where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the plans and referenced to the true point.
 - (5) If a point required to be monumented is on a bedrock outcropping, a steel rod, at least one-half-inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight inches.
 - (6) All required monuments shall be placed flush with the final ground elevation where practicable.
 - (7) All unit corners shall be monumented in the field by iron or steel bars or iron pipes at least 18 inches long and one-half-inch in diameter or other approved markers.
 - (8) The village council may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one year, on the condition that the proprietor deposits with the village clerk cash or a certified check, or irrevocable bank letter of credit payable to the Village of

Clinton, whichever the proprietor selects, for an amount equal to the cost of setting said monuments. Such cash, certified check or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.

- (f) *Monuments required—All condominium projects.* All condominium projects shall be marked at their boundaries with monuments meeting the requirements of subsection (e), above.
- (g) *Approval of public facilities required.* The developer or proprietor of the condominium project shall establish that all appropriate state, county and local approvals have been received with regard to proper drainage, wetland compliance, road and street design, the fresh water system for the proposed project and with regard to the wastewater disposal system for the proposed project.
- (h) *Temporary occupancy.* The building inspector may allow occupancy of the condominium project before all improvements required by this article are installed provided that a bond is submitted sufficient in amount and type to provide for the installation of improvements before the expiration of the temporary occupancy permit without expense to the village.

(Ord. No. 1 of 2002, § 5, 6-3-02)

Chapter 58 - TRAFFIC AND VEHICLES¹

Footnotes:

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Cross reference— Administration, ch. 2; offenses and miscellaneous provisions, ch. 34.

ARTICLE I. - IN GENERAL

Sec. 58-1. - Electronically amplified sound from motor vehicle.

- (a) *Prohibited while operating or in control of parked or moving motor vehicle.* No person operating or in control of a parked or moving motor vehicle (including motorcycles and mopeds) shall operate or permit the operation of an electronically amplified sound system in or about the vehicle so as to produce sound that is clearly audible at a distance of 50 feet from the vehicle between the hours of 7:00 a.m. and 10:00 p.m., or clearly audible at a distance of 25 feet from the vehicle between the hours of 10:00 p.m. and 7:00 a.m.
- (b) *Violation.* A person who violates any provision of this section is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$100.00 nor more than \$500.00, plus costs and other sanctions, for each violation. Repeat offenses shall be subject to increased fines as provided by section 1-11(c)(2) of this Code, except that as used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this chapter (i) committed by a person within any 15-day period and (ii) for which the person admits responsibility or is determined to be responsible. Any authorized village official as designated by this Code or by the village manager may issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the village municipal ordinance violations bureau) for violations under this section.

(Ord. No. 7 of 2001, §§ 1, 2, 9-5-01)

Sec. 58-2. - Motor carrier weight limits.

Sections 722, 724, 726 and 726b of Act No. 300 of the Public Acts of Michigan of 1949 (MCL 257.722, 257.724, 257.726, 257.726b), as amended, are hereby adopted by reference. A copy of these sections shall be available for inspection by the public at the village office.

(Ord. No. 8 of 2001, § 1, 10-1-01)

Sec. 58-3. - Motor Carrier Safety Act adopted.

The Motor Carrier Safety Act of 1963, Act No. 181 of the Public Acts of Michigan of 1963 (MCL 480.11 et seq.), as amended, together with rules and/or regulations promulgated pursuant to the act by the department of state police, motor carrier division, are hereby adopted by reference. A copy of this act shall be available at the village office.

(Ord. No. 8 of 2001, § 2, 10-1-01)

Sec. 58-4. - School property; municipal regulation of operation, parking and speed of vehicles.

Pursuant to Section 257.961 of the Michigan Vehicle Code governing the regulation of vehicles on school grounds, the Clinton Police Department is hereby authorized to enforce any and all applicable traffic laws, including the operation, parking without fees and the speed of motor vehicles, on property owned or under the control of the Clinton Public Schools.

(Ord. No. 8 of 2008, § 1, 8-4-08)

Secs. 58-5—58-30. - Reserved.

ARTICLE II. - UNIFORM TRAFFIC CODE

Sec. 58-31. - Adopted.

The Uniform Traffic Code for Cities, Townships, and Villages as promulgated by the director of the Michigan Department of State Police pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328 and made effective October 30, 2002, and all future amendments and revisions to the uniform traffic code when they are promulgated and effective in this state are incorporated and adopted by reference.

(Ord. No. 93-7, § 1, 6-7-93; Ord. No. 03-03, § 1, 3-3-03)

Sec. 58-32. - References in code.

References in the Uniform Traffic Code for Cities, Townships, and Villages to a "governmental unit" shall mean the Village of Clinton.

(Ord. No. 93-7, § 2, 6-7-93; Ord. No. 03-03, § 2, 3-3-03)

Sec. 58-33. - Notice to be published.

The village clerk shall publish this article in the manner required by law and shall publish, at the same time, a notice stating the purpose of the Uniform Traffic Code for Cities, Townships, and Villages and the fact that a complete copy of the code is available to the public at the office of the clerk for inspection.

(Ord. No. 93-7, § 3, 6-7-93; Ord. No. 03-03, § 3, 3-3-03)

Sec. 58-34. - Penalties.

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

(Ord. No. 93-7, § 4, 6-7-93; Ord. No. 03-03, § 4, 3-3-03)

Secs. 58-35, 58-36. - Reserved.

Sec. 58-37. - Changes in code.

The following sections and subsections of the Uniform Traffic Code for Cities, Townships and Villages are hereby amended as set forth and additional sections and subsections are added as indicated. Subsequent section numbers used in this section shall refer to the like-numbered sections in the uniform traffic code.

Sec. 2.5. Reports of stolen and recovered vehicles.

A police agency, upon receiving reliable information that any vehicle registered under this act has been stolen, shall immediately report the theft through the law enforcement information network. Upon receiving information that a vehicle previously reported as stolen has been recovered, the police agency shall immediately report the fact of the recovery through the law enforcement information network.

Sec. 2.5a. Abandoned vehicle procedures.

- (1) As used in this section, "abandoned vehicle" means a vehicle which has remained on public property or private property for a period of 48 hours after the police agency or other governmental agency designated by the police agency has affixed a written notice to the vehicle. Prior to affixing a written notice to a vehicle in accordance section 2.5a(2)(b), the police agency shall consider the following:
 - (a) Whether or not the vehicle is in an enclosed structure.
 - (b) Whether or not the vehicle is currently registered.
 - (c) Whether or not the vehicle appears to be operable.
 - (d) Whether or not the vehicle appears to be damaged to the extent that the cost of repairing the vehicle exceeds its fair market value.
 - (e) Whether or not the vehicle is parked on private property without the owner's permission or on public property without the permission of the municipality.
 - (f) Whether or not the vehicle has remained on public or private property for a significant period of time without being moved.
- (2) If, based on the above considerations, a vehicle appears to the police department to be abandoned, the police department shall do all of the following:
 - (a) Determine if the vehicle has been reported stolen.
 - (b) Affix a written notice to the vehicle. The written notice shall contain the following information:
 - (i) The date and time the notice was affixed.
 - (ii) The name and address of the police department taking the action.
 - (iii) The name and badge number of the police officer affixing the notice.
 - (iv) The date and time the vehicle may be taken into custody and stored at the owner's expense or scrapped if the vehicle is not removed.

- (v) The year, make, and vehicle identification number of the vehicle, if available.
- (3) If the vehicle is not removed within 48 hours after the date the notice was affixed, the vehicle is deemed abandoned and the police agency may have the vehicle taken into custody.
- (4) A police agency which has a vehicle taken into custody shall do all of the following:
- (a) Recheck to determine if the vehicle has been reported stolen.
 - (b) Within 24 hours after taking the vehicle into custody, enter the vehicle as abandoned into the law enforcement information network.
 - (c) Within seven days after taking the vehicle into custody, send to the registered owner and secured party, as shown by the records of the secretary of state, by first class mail or personal service, notice that the vehicle has been deemed abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:
 - (i) The year, make, and vehicle identification number of the vehicle if available.
 - (ii) The location from which the vehicle was taken into custody.
 - (iii) The date on which the vehicle was taken into custody.
 - (iv) The name and address of the police agency which had the vehicle taken into custody.
 - (v) The business address of the custodian of the vehicle.
 - (vi) The procedure to redeem the vehicle.
 - (vii) The procedure to contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees.
 - (viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.
 - (ix) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale.
- (5) The registered owner may contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 2.5e and 2.5f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond in an amount equal to the accrued towing and storage fees with the court. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly deemed abandoned, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.
- (6) If the owner does not request a hearing, he may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.
- (7) If the owner does not redeem the vehicle or request a hearing within 20 days after the date of the notice, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle and the police agency for its accrued costs.
- (8) Not less than 20 days after the disposition of the hearing described in subsection (5) or, if a hearing is not requested, not less than 20 days after the date of the notice, the police agency shall offer the vehicle for sale at a public sale pursuant to section 2.5g.
- (9) If the ownership of a vehicle which has been deemed abandoned under this section cannot be determined either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state does not reveal ownership, the police agency may sell the

vehicle at public sale pursuant to section 2.5g, not less than 30 days after public notice of the sale has been published.

Sec. 2.5b. Abandoned scrap vehicle procedures.

- (1) As used in this section:
 - (a) "Registered abandoned scrap vehicle" means a vehicle which meets all of the following requirements:
 - (i) Is on public or private property.
 - (ii) Is seven or more years old.
 - (iii) Is apparently inoperable or is extensively damaged, to the extent that the cost of repairing the vehicle so that it is operational and safe as required by section 683 would exceed the fair market value of that vehicle.
 - (iv) Is currently registered in the State of Michigan or displays current year registration plates from another state.
 - (v) Is not removed within 48 hours after a written notice as described in section 2.5a(2)(b) is affixed to the vehicle.
 - (b) "Unregistered abandoned scrap vehicle" means a vehicle which meets all of the following requirements:
 - (i) Is on public or private property.
 - (ii) Is seven or more years old.
 - (iii) Is apparently inoperable or is extensively damaged, to the extent that the cost of repairing the vehicle so that it is operational and safe as required by section 683, would exceed the fair market value of that vehicle.
 - (iv) Is not currently registered in this state and does not display current year registration plates from another state.
 - (v) Is not removed within 48 hours after a written notice as described in section 2.5a(2)(b) is affixed to the vehicle.
- (2) A police agency may have an unregistered abandoned scrap vehicle taken into custody, in which case the police agency shall do all of the following:
 - (a) Determine if the vehicle has been reported stolen.
 - (b) Take two photographs of the vehicle.
 - (c) Make a report to substantiate the vehicle as an unregistered abandoned scrap vehicle. The report shall contain the following information:
 - (i) The year, make, and vehicle identification number if available.
 - (ii) The date of abandonment.
 - (iii) The location of abandonment.
 - (iv) A detailed listing of the damage or the missing equipment.
 - (v) The reporting officer's name and title.
 - (vi) The location where the vehicle is being held.
 - (d) Within 24 hours after taking the vehicle into custody, enter the vehicle into the law enforcement information network.
- (3) Within 24 hours, excluding Saturday, Sunday, and legal holidays, after taking the vehicle into custody, the police agency shall complete a release form and release the vehicle to the towing service or a

used vehicle parts dealer or vehicle scrap metal processor, who shall then transmit that release form to the secretary of state and apply for a certificate of the title or a certificate of scrapping. Upon receipt of the release form and application, the secretary of state shall issue a certificate of title or a certificate of scrapping.

- (4) The release form described in subsection (3) shall be furnished by the secretary of state and shall include a certification executed by the applicable police agency when the abandoned scrap vehicle is released. The certification shall state that the police agency has complied with all the requirements of subsection (2)(b) and (c).
- (5) The secretary of state shall retain the records relating to an abandoned scrap vehicle for not less than two years. The two photographs taken pursuant to subsection (2)(b) shall be retained by the police agency for not less than two years. After the certificate of scrapping has been issued, a certificate of title for the vehicle shall not be issued again.
- (6) A police agency may have a registered abandoned scrap vehicle taken into custody, in which case the police agency shall do all of the following:
 - (a) Determine if the vehicle has been stolen.
 - (b) Take two photographs of the vehicle.
 - (c) Make a report to substantiate the vehicle as a registered abandoned scrap vehicle. The report shall contain the following information:
 - (i) The year, make, and vehicle identification number if available.
 - (ii) The date of abandonment.
 - (iii) The location of abandonment.
 - (iv) A detailed listing of the damage or the missing equipment.
 - (v) The reporting officer's name and title.
 - (vi) The location where the vehicle is being held.
 - (d) Within 24 hours after taking the vehicle into custody, enter the vehicle into the law enforcement information network.
 - (e) Within seven days after taking the vehicle into custody, send to the registered owner and secured party, as shown by the records of the secretary of state, by first class mail or personal service, notice that the vehicle has been deemed abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:
 - (i) The year, make, and vehicle identification number of the vehicle if available.
 - (ii) The location from which the vehicle was taken into custody.
 - (iii) The date on which the vehicle was taken into custody.
 - (iv) The name and address of the police agency which had the vehicle taken into custody.
 - (v) The business address of the custodian of the vehicle.
 - (vi) The procedure to redeem the vehicle.
 - (vii) The procedure to contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees.
 - (viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.
 - (ix) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the termination of all rights of the owner and the secured party to the vehicle.

- (7) The registered owner of a registered abandoned scrap vehicle may contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 2.5e and 2.5f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond with the court in an amount as determined by the court. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly deemed abandoned, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.
- (8) If the owner does not request a hearing, he may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.
- (9) If the owner does not redeem the vehicle or request a hearing within 20 days after the date of the notice, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.
- (10) Not less than 20 days after the disposition of the hearing described in subsection (7), or if a hearing is not requested, not less than 20 days after the date of the notice described in subsection (6)(e), the police agency shall follow the procedures established in subsections (3) to (5).

Sec. 2.5c. Vehicle removed from private property.

- (1) When a vehicle is removed from private property at the direction of a person other than the registered owner of the vehicle or a police agency, the custodian of the vehicle immediately shall notify the police agency from whose jurisdiction the vehicle was towed. The custodian shall supply that information which is necessary for the police agency to enter the vehicle into the law enforcement information network.
- (2) Upon receipt of the notification described in subsection (1), the police agency immediately shall do all of the following:
 - (a) Determine if the vehicle has been reported stolen.
 - (b) Enter the vehicle into the law enforcement information network.
- (3) The owner of the vehicle removed as described in subsection (1) may obtain release of the vehicle by paying the accrued towing and storage fees to the custodian of the vehicle. Upon release of the vehicle, the custodian shall notify the police agency of the disposition of the vehicle.
- (4) If the vehicle described in subsection (1) is not claimed by the owner within seven days after the police agency has been notified by the custodian that it has been taken into custody, the vehicle is deemed abandoned and the procedures prescribed in section 2.5a(4)(c) to (9) shall apply.

Sec. 2.5d. Vehicle removed by police.

- (1) A police agency or a governmental agency designated by the police agency may provide for the immediate removal of a vehicle from public or private property to a place of safekeeping at the expense of the registered owner of the vehicle in any of the following circumstances:
 - (a) If the vehicle is in such a condition that the continued operation of the vehicle upon the highway would constitute an immediate hazard to the public.
 - (b) If the vehicle is parked or standing upon the highway in such a manner as to create an immediate public hazard or an obstruction of traffic.
 - (c) If a vehicle is parked in a posted tow-away zone.
 - (d) If there is reasonable cause to believe that the vehicle or any part of the vehicle is stolen.
 - (e) If the vehicle must be seized to preserve evidence of a crime, or when there is reasonable cause to believe that the vehicle was used in the commission of a crime.

- (f) If removal is necessary in the interest of public safety because of fire, flood, storm, snow, natural or manmade disaster, or other emergency.
 - (g) If the vehicle is hampering the use of private property by the owner or person in charge of that property or is parked in a manner which impedes the movement of another vehicle.
 - (h) If the vehicle is stopped, standing, or parked in a space designated for handicapper parking and is not permitted by law to be stopped, standing, or parked in a space designated for handicapper parking.
- (2) A police agency which authorizes the removal of a vehicle under subsection (1) shall do all of the following:
- (a) Check to determine if the vehicle has been reported stolen.
 - (b) Within 24 hours after removing the vehicle, enter the vehicle into the law enforcement information network if the vehicle has not been redeemed. This subdivision does not apply to a vehicle that is removed from the scene of a motor vehicle traffic accident.
 - (c) If the vehicle has not been redeemed within ten days after moving the vehicle, send to the registered owner and the secured party as shown by the records of the secretary of state, by first class mail or personal service, a notice that the vehicle has been removed; however, if the police agency informs the owner or operator of the vehicle of the removal and the location of the vehicle within 24 hours after the removal, and if the vehicle has not been redeemed within 30 days and upon complaint from the towing service, the police agency shall send the notice within 30 days after the removal. The notice shall be by a form furnished by the secretary of state. The notice form shall contain the following information:
 - (i) The year, make, and vehicle identification number of the vehicle.
 - (ii) The location from which the vehicle was taken into custody.
 - (iii) The date on which the vehicle was taken into custody.
 - (iv) The name and address of the police agency which had the vehicle taken into custody.
 - (v) The location where the vehicle is being held.
 - (vi) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale or to both the vehicle and the proceeds.
- (3) The registered owner may contest the fact that the vehicle was properly removed or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 2.5e and 2.5f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond with the court in an amount equal to the accrued towing and storage fees. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly removed, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.
- (4) If the owner does not request a hearing, he may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.
- (5) If the owner does not redeem the vehicle or request a hearing within 20 days, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle prior to the date of the sale.
- (6) Not less than 20 days after the disposition of the hearing described in subsection (3), or if a hearing is not requested, not less than 20 days after the date of the notice described in subsection (2)(c), the

police agency shall offer the vehicle for sale at a public sale unless the vehicle is redeemed. The public sale shall be held pursuant to section 2.5g.

- (7) If the ownership of a vehicle which has been removed under this section cannot be determined either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state does not reveal ownership, the police agency may sell the vehicle at public sale pursuant to section 2.5g, not less than 30 days after public notice of the sale has been published.

Sec. 2.5e. Abandoned vehicle; jurisdiction of court.

- (1) The following courts shall have jurisdiction to determine if a police agency has acted properly in processing a vehicle under section 2.5a, 2.5b(6) to (10), 2.5c, or 2.5d:
 - (a) The district court.
 - (b) A municipal court.
 - (c) The common pleas court of the City of Detroit.
- (2) The court specified in the notice prescribed in section 2.5a(4)(c), 2.5b(6), 2.5c(4), or 2.5d(2)(c) shall be the court which has territorial jurisdiction at the location from where the vehicle was removed or deemed abandoned. Venue in the district court shall be governed by section 8312 of Act No. 236 of the Public Acts of Michigan of 1961 (MCL 600.8312, MSA 27.8312), as amended.
- (3) If the owner fails to pay the accrued towing and storage fees, the towing and storage bond posted with the court to secure release of the vehicle under section 2.5a, 2.5b, 2.5c, or 2.5d shall be used to pay the towing and storage fees.

Sec. 2.5f. Abandoned vehicle; duties of court.

- (1) Upon receipt of a petition prescribed in section 2.5a, 2.5b, 2.5c, or 2.5d, signed by the owner of the vehicle which has been taken into custody, the court shall do both of the following:
 - (a) Schedule a hearing within 30 days for the purpose of determining whether the police agency acted properly.
 - (b) Notify the owner and the police agency of the time and place of the hearing.
- (2) At the hearing specified in subsection (1) the police agency shall have the burden of showing by a preponderance of the evidence that it has complied with the requirements of this act in processing the abandoned vehicle or vehicle removed pursuant to section 2.5d.
- (3) After the hearing the court shall make a decision which shall include one or more of the following:
 - (a) A finding that the police agency complied with the procedures established for the processing of an abandoned vehicle or a vehicle removed under section 2.5d, and an order providing a period of 20 days after the decision for the owner to redeem the vehicle. If the owner does not redeem the vehicle within 20 days, the police agency shall dispose of the vehicle pursuant to section 2.5b or 2.5g.
 - (b) A finding that the police agency did not comply with the procedures established for the processing of an abandoned vehicle or a vehicle removed pursuant to section 2.5d. After making such a finding, the court shall issue an order directing that the vehicle immediately be released to the owner, and that the police agency is responsible for the accrued towing and storage charges.
 - (c) A finding that the towing and daily storage fees were reasonable.
 - (d) A finding that the towing and daily storage fees were unreasonable and issue an order directing an appropriate reduction.

Sec. 2.5g. Abandoned vehicle, public sale.

- (1) A public sale for a vehicle which has been deemed abandoned under section 2.5a or 2.5c or removed under section 2.5d shall be conducted in the following manner:

- (a) It shall be under the control of the police agency or agent of the police agency.
 - (b) It shall be open to the public and consist of open auction bidding or bidding by sealed bids. If sealed bids are received, the person submitting the bid shall receive a receipt for the bid from the police agency or agent of the police agency.
 - (c) Except as provided by sections 2.5a(9) and 2.5d(7), it shall be held not less than five days after public notice of the sale has been published.
 - (d) The public notice shall be published at least once in a newspaper having a general circulation within the county in which the vehicle was abandoned. The public notice shall give a description of the vehicle for sale and shall state the time, date and location of the sale.
- (2) The money received from the public sale of the vehicle shall be applied in the following order of priority:
- (a) Towing and storage charges.
 - (b) Expenses incurred by the police agency.
 - (c) To the secured party, if any, in the amount of the debt outstanding on the vehicle.
 - (d) Remainder to the owner. A reasonable attempt shall be made to mail the remainder to the registered owner. If delivery of the remainder cannot be accomplished, the remainder shall become the property of the unit of government that the police agency represents.
- (3) If there are no bidders on the vehicle, the police agency may do one of the following:
- (a) Turn the vehicle over to the towing firm to satisfy charges against the vehicle.
 - (b) Obtain title to the vehicle for the police agency or the unit of government the police agency represents, by doing the following:
 - (i) Paying the towing and storage charges.
 - (ii) Applying for title to the vehicle.
 - (c) Hold another public sale pursuant to subsection (1).
- (4) A person who acquires ownership of a vehicle under subsection (1) or (3), which vehicle has been designated as a distressed vehicle, shall make application for a salvage certificate of title within 15 days after obtaining the vehicle.
- (5) Upon disposition of the vehicle, the police agency shall cancel the entry into the law enforcement information network.

Sec. 5.15. Driving while under influence of intoxicating liquor or controlled substance or with certain blood alcohol percentage; accident; arrest without warrant.

- (1) *Person under the influence of alcoholic liquor or controlled substance not permitted to operate vehicle.* A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the village if either of the following applies:
- (a) The person is under the influence of intoxicating liquor or a controlled substance or a combination of intoxicating liquor and a controlled substance.
 - (b) The person has an alcohol content of 0.10 gram or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
- (2) *Prohibition against permitting intoxicated person to operate motor vehicle.* The owner of a vehicle or a person in charge or in control of a vehicle shall not authorize or knowingly permit the vehicle to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of motor vehicles, within the village by a person who is under the influence of intoxicating liquor or a controlled substance or a combination of

intoxicating liquor and a controlled substance or who has an alcohol content of 0.10 gram or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

- (3) *Operation while visibly impaired; finding of guilty.* A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles within the village, when, due to the consumption of an intoxicating liquor, a controlled substance or a combination of an intoxicating liquor and a controlled substance, the person's ability to operate the vehicle is visibly impaired. If a person is charged with violating subsection (1), a finding of guilty under this subsection may be rendered.
- (4) *Minors.* A person who is less than 21 years of age, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the village if the person has any bodily alcohol content. As used in this subsection, the expression "any bodily alcohol content" means either of the following:
 - (a) An alcohol content of not less than 0.02 gram or more than 0.07 gram per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
 - (b) Any presence of alcohol within a person's body resulting from the consumption of intoxicating liquor, other than consumption of intoxicating liquor as a part of a generally recognized religious service or ceremony.
- (5) *Subsection (1) violations; misdemeanor, penalty; community service supervision; costs.* If a person is convicted of violating subsection (1), all of the following apply:
 - (a) Except as otherwise provided in subdivision (b), the person is guilty of a misdemeanor punishable by one or more of the following:
 - (i) Community service for not more than 45 days.
 - (ii) Imprisonment for not more than 90 days.
 - (iii) A fine of not less than \$100.00 or more than \$500.00.
 - (b) If the violation occurs within seven years of a prior conviction, the person shall be sentenced to pay a fine of not less than \$200.00 or more than \$500.00 and either of the following:
 - (i) Community service for not less than ten days or more than 90 days and may be imprisoned for not more than 90 days.
 - (ii) Imprisonment for not less than 48 consecutive hours or more than 90 days and may be sentenced to community service for not more than 90 days.
 - (c) A term of imprisonment imposed under subdivision (b)(ii) shall not be suspended.
 - (d) As used in this subsection, "prior conviction" means a conviction for a violation or attempted violation of subsection (1), (4), or (5), of the act (MCL 257.625(1), (4) or (5), MSA 9.2325, (1), (4), or (5)) or former section 625(1) or (2), of the act (MCL 257.625(1) or (2), MSA 9.2325, (1) or (2)), a local ordinance substantially corresponding to subsection (1), (4) or (5), or former section 625(1) or (2) or a law of another state substantially corresponding to subsection (1), (4), or (5) or former section 625(1) or (2).
- (6) *Subsection (2) violations; misdemeanor, penalty.* A person who is convicted of violating subsection (2) is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not less than \$100.00 or more than \$500.00, or both.
- (7) *Subsection (3) violations; misdemeanor, penalty.* If a person is convicted of violating subsection (3), all of the following apply:
 - (a) Except as otherwise provided in subdivisions (b) and (c), the person is guilty of a misdemeanor punishable by one or more of the following:
 - (i) Community service for not more than 45 days.

- (ii) Imprisonment for not more than 90 days.
 - (iii) A fine of not more than \$300.00.
 - (b) If the violation occurs within seven years of one prior conviction, the person shall be sentenced to pay a fine of not less than \$200.00 or more than \$500.00 and either of the following:
 - (i) Community service for not less than ten days or more than 90 days and may be sentenced to imprisonment for not more than 90 days.
 - (ii) Imprisonment for not more than 90 days and may be sentenced to community service for not more than 90 days.
 - (c) If the violation occurs within ten years of two or more prior convictions, the person shall be sentenced to pay a fine of not less than \$200.00 or more than \$500.00 and either of the following:
 - (i) Community service for not less than ten days or more than 90 days and may be sentenced to imprisonment for not more than 90 days.
 - (ii) Imprisonment for not more than 90 days and may be sentenced to community service for not more than 90 days.
 - (d) As used in this subsection, "prior conviction" means a conviction for a violation or attempted violation of subsection (1), (3), (4), or (5), of the act (MCL 257.625(1), (3), (4), or (5), MSA 9.2325, (1), (3), (4), or (5)), or former section 625(1) or (2) of the act (MCL 257.625(1) or (2), MSA 9.2325, (1) or (2)), or former section 625b of the act (MCL 257.625b, MSA 9.2325(2)), or a local ordinance substantially corresponding to subsection (1) or (3) (MCL 257.625(1), (3), MSA 9.2325, (1), (3)) or former section 625(1) or (2) or former section 625b or a law of another state substantially corresponding to subsection (1), (3), (4), or (5), or former section 625(1) or (2) or former section 625b.
- (8) *Subsection (4) violations; misdemeanor, penalty.* If a person is convicted of violating subsection (4), the following shall apply:
 - (a) Except as otherwise provided in subdivision (b), the person is guilty of a misdemeanor punishable by one or both of the following:
 - (i) Community service for not more than 45 days.
 - (ii) A fine of not more than \$250.00.
 - (b) If the violation occurs within seven years of one or more prior convictions, the person may be sentenced to one or both of the following:
 - (i) Community service for not more than 60 days.
 - (ii) A fine of not more than \$500.00.
 - (c) As used in this subsection, "prior conviction" means a conviction for a violation or attempted violation of subsection (1), (3), (4), (5), or (6) of the act (MCL 257.625(1), (3), (4), (5) or (6), MSA 9.2325, (1), (3), (4), (5) or (6)), or former section 625(1) or (2) of the act (MCL 257.625(1) or (2), MSA 9.2325, (1) or (2)), or former section 625b of the act (MCL 257.625b, MSA 9.2325(2)), a local ordinance substantially corresponding to subsection (1), (3), or (6) (MCL 257.625(1), (3) or (6), MSA 9.2325, (1), (3) or (6)), former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to subsection (1), (3), (4), (5), or (6), former section 625(1) or (2), or former section 625b.
- (9) *Authority to charge costs.* In addition to imposing the sanctions prescribed under subsection (5), (7), or (8), the court may order the person to pay the costs of the prosecution, pursuant to the code of criminal procedure, Act No. 175 of the Public Acts of Michigan of 1927 (MCL 760.1 et seq., MSA 28.841 et seq.).
- (10) *License sanctions.* The court shall impose license sanctions pursuant to section 625b.

- (11) *Community service.* A person sentenced to perform community service under this section shall not receive compensation and shall reimburse the village for the cost of supervision incurred by the village as a result of the person's activities in that service.
- (12) *Statement listing prior convictions; requirement for enhanced sentence.* If the prosecuting attorney intends to seek an enhanced sentence under subsection 5(b) or subsection 7(b) or (c) or subsection 8(b) based upon the defendant having one or more prior convictions, the prosecuting attorney shall include on the complaint and information, or an amended complaint and information, filed in district court, circuit court or probate court a statement listing the defendant's prior convictions.
- (13) *Dismissal of charge.* If a person is charged with a violation of subsection (1) or (3), the court shall not permit the defendant to enter a plea of guilty or nolo contendere to a charge of violating subsection (4) in exchange for dismissal of the original charge. This subsection does not prohibit the court from dismissing the charge upon the motion of the prosecuting attorney.
- (14) *Establishment of prior conviction.* A prior conviction shall be established at sentencing by one or more of the following:
 - (a) An abstract of conviction.
 - (b) A copy of the defendant's driving record.
 - (c) An admission by the defendant.
- (15) *Attempt conviction; punishment.* A person who is convicted of an attempted violation of subsections (1), (3) or (4) shall be punished as if the offense had been completed.
- (16) *Attempt conviction; assessing points for licensing action.* When assessing points and taking licensing action under the act, the secretary of state and the court shall treat a conviction of an attempted violation of subsection (1), (3) or (4) or a law of another state substantially corresponding to subsection (1), (3) or (4) the same as if the offense had been completed.
- (17) *Burden of proof.* In a prosecution for a violation of subsection (4), the defendant shall bear the burden of proving that the consumption of intoxicating liquor was a part of a generally recognized religious service or ceremony by a preponderance of the evidence.

State Law reference— Similar provisions, MCL 257.625, MSA 9.2325.

Sec. 5.15a. Arrest; preliminary chemical breath analysis; chemical test.

- (1) *Arrest without warrant of intoxicated driver involved in accident.* A peace officer may arrest a person without a warrant when the peace officer has reasonable cause to believe that the person was, at the time of an accident in the village, the operator of a vehicle involved in the accident and was operating the vehicle in violation of section 5.15(1), (3) or (4).
- (2) *Requiring submission to preliminary chemical breath analysis; consequences.* A peace officer who has reasonable cause to believe that a person was operating a vehicle upon a public highway or other place open to the public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the village, and that the person by the consumption of intoxicating liquor may have affected his ability to operate a vehicle, or reasonable cause to believe that a person was operating a commercial motor vehicle within the village while the person's blood, breath or urine contained any measurable amount of alcohol or while the person had any detectable presence of intoxicating liquor, or reasonable cause to believe that a person who is less than 21 years of age was operating a vehicle upon a public highway or other place open to the public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this village, while the person had any bodily alcohol content as that term is defined in section 5.15(4), may require the person to submit to a preliminary chemical breath analysis. The following provisions shall apply with respect to a preliminary chemical breath analysis administered pursuant to this subsection:
 - (a) A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis.

- (b) The results of a preliminary chemical breath analysis are admissible in a criminal prosecution for a crime enumerated in section 5.15c(1) or in an administrative hearing for one or more of the following purposes:
 - (i) To assist the court or hearing officer in determining a challenge to the validity of an arrest. This subparagraph does not limit the introduction of other competent evidence offered to establish the validity of an arrest.
 - (ii) As evidence of the defendant's breath alcohol content, if offered by the defendant.
 - (iii) As evidence of the defendant's breath alcohol content, if offered by the prosecution to rebut testimony or other evidence, including but not limited to testimony elicited on cross-examination of a prosecution witness, that is offered or elicited to prove that the defendant's breath alcohol content was lower at the time of the charged offense than when a chemical test was administered pursuant to subsection (6).
- (c) A person who submits to a preliminary chemical breath analysis shall remain subject to the requirements of sections 5.15c, 5.15d, 5.15e and 5.15f for purposes of chemical tests described in those sections.
- (d) Except as provided in subsection (5), a person who refuses to submit to a preliminary chemical breath analysis upon a lawful request by a peace officer is responsible for a civil infraction.
- (3) *Allowed use of preliminary breath test.* A peace officer shall use the results of a preliminary chemical breath analysis conducted pursuant to this section to determine whether to order a person out-of-service under section 319d of the act (MCL 257.319d, MSA 9.2019(4)). A peace officer shall order out-of-service as required under section 319d of the act (MCL 257.319d, MSA 9.2019(4)) a person who was operating a commercial motor vehicle and who refuses to submit to a preliminary chemical breath analysis as provided in this section. This section does not limit use of other competent evidence by the peace officer to determine whether to order a person out-of-service under section 319d of the act (MCL 257.319d, MSA 9.2019(4)).
- (4) *Commercial vehicle driver to be informed of procedure if he refuses analysis.* A person who was operating a commercial motor vehicle and who is requested to submit to a preliminary chemical breath analysis under this section shall be advised that refusing a peace officer's request to take a test described in this section is a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$100.00, or both, and will result in the issuance of a 24-hour out-of-service order.
- (5) *Charges upon refusal of chemical breath analysis.* A person who was operating a commercial motor vehicle and who refuses to submit to a preliminary chemical breath analysis upon a peace officer's lawful request is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$100.00, or both.
- (6) *Tests of presence of alcohol or controlled substance in blood; admissibility into evidence; advisement of rights; collection of urine or breath samples; blood withdrawn for post-accident medical treatment, admissibility of test results; withdrawal of blood from deceased driver, results of test to law enforcement agency.* The following provisions apply with respect to chemical tests and analysis of a person's blood, urine or breath, other than preliminary chemical breath analysis:
 - (a) The amount of alcohol or presence of a controlled substance or both in a driver's blood or urine or the amount of alcohol in a person's breath at the time alleged as shown by chemical analysis of the person's blood, urine or breath is admissible into evidence in any civil or criminal proceeding.
 - (b) A person arrested for a crime described in section 5.15c(1) shall be advised of all of the following:
 - (i) If he takes a chemical test of his blood, urine or breath administered at the request of a peace officer, he has the right to demand that a person of his own choosing administer one of the chemical tests.

- (ii) The results of the test are admissible in a judicial proceeding as provided under the act and shall be considered with other competent evidence in determining the defendant's innocence or guilt.
 - (iii) He is responsible for obtaining a chemical analysis of a test sample obtained pursuant to his own request.
 - (iv) If he refuses the request of a peace officer to take a test described in subparagraph (i), a test shall not be given without a court order, but the peace officer may seek to obtain such a court order.
 - (v) Refusing a peace officer's request to take a test described in subparagraph (i) shall result in the suspension of his operator's or chauffeur's license and vehicle group designation or operating privilege and in the addition of six points to his driver record.
- (c) A sample or specimen of urine or breath shall be taken and collected in a reasonable manner. Only a licensed physician or an individual operating under the delegation of a licensed physician under section 16215 of the Public Health Code, Act No. 368 of the Public Acts of Michigan of 1978 (MCL 333.16215, MSA 14.15(16215)), as amended, qualified to withdraw blood and acting in a medical environment, may withdraw blood at a peace officer's request to determine the amount of alcohol or presence of a controlled substance or both in the person's blood, as provided in this subsection. Liability for a crime or civil damages predicated on the act of withdrawing or analyzing blood and related procedures shall not attach to a licensed physician or individual operating under the delegation of a licensed physician who withdraws or analyzes blood or assists in the withdrawal or analysis in accordance with this subsection, unless the withdrawal or analysis is performed in a negligent manner.
- (d) A chemical test described in this subsection shall be administered at the request of a peace officer having reasonable grounds to believe the person has committed a crime described in section 5.15c(1). A person who takes a chemical test administered at a peace officer's request, as provided in this section, shall be given a reasonable opportunity to have a person of his own choosing administer one of the chemical tests described in this subsection within a reasonable time after his detention. The test results are admissible and shall be considered with other competent evidence in determining the defendant's innocence or guilt. If the person charged is administered a chemical test by a person of his own choosing, the person charged is responsible for obtaining a chemical analysis of the test sample.
- (e) If, after an accident, the driver of a vehicle involved in the accident is transported to a medical facility and a sample of the driver's blood is withdrawn at that time for medical treatment, the results of a chemical analysis of that sample are admissible in any civil or criminal proceeding to show the amount of alcohol or presence of a controlled substance, or both, in the person's blood at the time alleged, regardless of whether the person had been offered or had refused a chemical test. The medical facility or person performing the chemical analysis shall disclose the results of the analysis to the prosecuting attorney who requests the results for use in a criminal prosecution as provided in this subdivision. A medical facility or person disclosing information in compliance with this subsection is not civilly or criminally liable for making the disclosure.
- (f) If, after an accident, the driver of a vehicle involved in the accident is deceased, a sample of the decedent's blood shall be withdrawn in a manner directed by the medical examiner to determine the amount of alcohol or the presence of a controlled substance or both in the decedent's blood. The medical examiner shall give the results of the chemical analysis of the sample to the law enforcement agency investigating the accident, and that agency shall forward the results to the department of state police.
- (g) The department of state police shall promulgate uniform rules under the administrative procedures act, Act No. 306 of the Public Acts of Michigan of 1969 (MCL 24.201 et seq., MSA 3.560(101) et seq.), as amended, for the administration of chemical tests for the purposes of this section. An instrument used for a preliminary chemical breath analysis may be used for a chemical test described in this subsection if approved pursuant to rules promulgated by the department of state police.

- (7) *Introduction of other competent evidence on issue of intoxication not precluded.* The provisions of subsection (6) relating to chemical testing do not limit the introduction of any other competent evidence bearing upon the question of whether or not a person was impaired by or under the influence of intoxicating liquor or a controlled substance or a combination of intoxicating liquor and a controlled substance or whether the person had an alcohol content of 0.10 gram or more per 100 milliliters of blood, per 210 milliliters of breath, or per 67 milliliters of urine or if the person is less than 21 years of age whether the person had any bodily alcohol content within his body. As used in this section, the expression "any bodily alcohol content" means either of the following:
- (a) An alcohol content of not less than 0.02 gram or more than 0.07 gram per 100 milliliters of blood, per 210 milliliters of breath, or per 67 milliliters of urine.
 - (b) Any presence of alcohol within a person's body resulting from the consumption of intoxicating liquor, other than consumption of intoxicating liquor as a part of a generally recognized religious service or ceremony.
- (8) *Offender entitled to copy of test results upon written request; failure of prosecution to furnish as bar to admissibility into evidence.* If a chemical test described in subsection (6) is administered, the test results shall be made available to the person charged or the person's attorney, upon written request to the prosecution, with a copy of the request filed with the court. The prosecution shall furnish the results at least two days before the day of the trial. The prosecution shall offer test results as evidence in that trial. Failure to fully comply with the request bars the admission of the results into evidence by the prosecution.
- (9) *Presumptions.* Except in a prosecution relating solely to a violation of section 5.15(1)(b) or (4) the amount of alcohol in the driver's blood, breath or urine at the time alleged as shown by chemical analysis of the person's blood, breath or urine gives rise to the following presumptions:
- (a) If there was at the time 0.07 gram or less of alcohol per 100 milliliters of the defendant's blood, per 210 milliliters of the defendant's breath or per 67 milliliters of the defendant's urine, it is presumed that the defendant's ability to operate a motor vehicle was not impaired due to the consumption of intoxicating liquor and that the defendant was not under the influence of intoxicating liquor.
 - (b) If there was at the time more than 0.07 gram but less than 0.10 gram of alcohol per 100 milliliters of the defendant's blood, per 210 milliliters of the defendant's breath or per 67 milliliters of the defendant's urine, it is presumed that the defendant's ability to operate a vehicle was impaired within the provisions of section 5.15(3) due to the consumption of intoxicating liquor.
 - (c) If there was at the time 0.10 gram or more of alcohol per 100 milliliters of the defendant's blood, per 210 milliliters of the defendant's breath or per 67 milliliters of the defendant's urine, it is presumed that the defendant was under the influence of intoxicating liquor.
- (10) *Jury instruction as to effect of refusal to take test.* A person's refusal to submit to a chemical test as provided in subsection (6) is admissible in a criminal prosecution for a crime described in section 5.15c(1) only to show that a test was offered to the defendant, but not as evidence in determining the defendant's innocence or guilt. The jury shall be instructed accordingly.

State Law reference— Similar provisions, MCL 257.625a, MSA 9.2325(1).

Sec. 5.15b. Arraignment; pretrial conference advising accused; licensing sanction.

- (1) *Arraignment.* A person arrested for a misdemeanor violation of section 5.15(1), (3) or (4) or 5.15m shall be arraigned on the citation, complaint or warrant not more than 14 days after the arrest for the violation or, if an arrest warrant is issued or reissued, not more than 14 days after the issued or reissued arrest warrant is served, whichever is later. The court shall not dismiss a case or impose any other sanction for a failure to comply with this time limit. The time limit does not apply to a violation of section 5.15(1), (3) or (4) or section 5.15m joined with a felony charge.

- (2) *Scheduling of pretrial conference; mandatory attendance by defendant; acceptance of plea; not more than one adjournment; final adjudication time limit.* The court shall schedule a pretrial conference between the prosecuting attorney, the defendant and the defendant's attorney in each case in which the defendant is charged with a misdemeanor violation of section 5.15(1), (3) or (4) or 5.15m. The pretrial conference shall be held not more than 35 days after the person's arrest for the violation or, if an arrest warrant is issued or reissued, not more than 35 days after the issued or reissued arrest warrant is served, whichever is later. If the court has only one judge who sits in more than one location in that district, the pretrial conference shall be held not more than 42 days after the person's arrest for the violation or, if an arrest warrant is issued or reissued, not more than 42 days after the date the issued or reissued arrest warrant is served, whichever is later. The court shall not dismiss a case or impose any other sanction for a failure to comply with the applicable time limit. The 35- and 42-day time limits do not apply to a violation of section 5.15(1), (3) or (4) or 5.15m joined with a felony charge. The court shall order the defendant to attend the pretrial conference and may accept a plea by the defendant at the conclusion of the pretrial conference. The court may adjourn the pretrial conference upon the motion of a party for good cause shown. Not more than one adjournment shall be granted to a party, and the length of an adjournment shall not exceed 14 days.
- (3) *Time limit for disposition.* Except for delay attributable to the unavailability of the defendant, a witness or material evidence or due to an interlocutory appeal or exceptional circumstances, but not a delay caused by docket congestion, the court shall finally adjudicate by a plea of guilty or nolo contendere, entry of a verdict or other final disposition, a case in which the defendant is charged with a misdemeanor violation of section 5.15(1), (3), or (4), or 5.15m, within 77 days after the person is arrested for the violation or, if an arrest warrant is issued or reissued, not more than 77 days after the date the issued or reissued arrest warrant is served, whichever is later. The court shall not dismiss a case or impose any other sanction for a failure to comply with this time limit. The 77-day time limit does not apply to a violation of section 5.15(1), (3), or (4) or section 5.15m joined with a felony charge.
- (4) *Advisement of maximum penalty prior to acceptance of plea.* Before accepting a plea of guilty or nolo contendere under section 5.15, the court shall advise the accused of the maximum possible term of imprisonment and the maximum possible fine that may be imposed for the violation and shall advise the defendant that the maximum possible license sanctions that may be imposed will be based upon the master driving record maintained by the secretary of state pursuant to section 204a of the act (MCL 257.204a, MSA 9.1904(1)), as amended.
- (5) *Screening and assessment as to alcohol or drug abuse; rehabilitative services.* Before imposing sentence, other than court-ordered license sanctions, for a violation of section 5.15(1), (3), or (4), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services, to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. As part of the sentence, the court may order the person to participate in and successfully complete one or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment and rehabilitative services.
- (6) *Consideration of prior convictions; imposition of licensing sanctions; restricted license.* Immediately upon acceptance by the court of a plea of guilty or nolo contendere or upon entry of a verdict of guilty for a violation of section 5.15(1), (3), or (4), whether or not the person is eligible to be sentenced as a multiple offender, the court shall consider all prior convictions currently entered upon the person's state driving record, except those convictions the court determines, upon the defendant's motion to be constitutionally invalid, and shall impose the following licensing sanctions:
 - (a) For a conviction under section 5.15(1):
 - (i) If the court finds that the person has no prior convictions within seven years for a violation of section 625(1), (3), (4) or (5) of the act (MCL 257.625(1), (3), (4), or (5), MSA 9.2325, (1), (3), (4), or (5)), or former section 625(1) or (2) of the act (MCL 257.625(1) or (2), MSA 9.2325, (1), or (2)), or former section 625b of the act (MCL 257.625b, MSA 9.2325(2)), a local ordinance substantially corresponding to section 625(1) or (3) (MCL 257.625(1) or (3), MSA 9.2325, (1), or (3)), former section 625(1) or (2) of the act or former section 625b of the act, or a law of another state substantially corresponding to section 625(1), (3), (4) or (5), former

section 625(1) or (2) of the act, or former section 625b of the act, the court shall order the secretary of state to suspend the person's operator's or chauffeur's license for not less than six months or more than two years if the court finds compelling circumstances under subsection (10) sufficient to warrant the issuance of a restricted license to a person, the court may order the secretary of state to issue to the person a restricted license during all or a specified portion of the suspension, except that a restricted license shall not be issued during the first 30 days of suspension.

- (ii) If the court finds that the person has one prior conviction within seven years for a violation of section 625(3) of the act (MCL 257.625(3), MSA 9.2325, (3)), or former section 625b of the act (MCL 257.625b, MSA 9.2325(2)), a local ordinance substantially corresponding to section 625(3) of the act, or former section 625b of the act, or a law of another state substantially corresponding to section 625(3) of the act, or former section 625b of the act, the court shall order the secretary of state to suspend the person's operator's or chauffeur's license for not less than six months or more than two years. If the court finds compelling circumstances under subsection (9) sufficient to warrant the issuance of a restricted license to a person, the court may order the secretary of state to issue to the person a restricted license during all or any portion of the suspension, except that a restricted license shall not be issued during the first 60 days of the suspension.
 - (iii) If the court finds that the person has one or more prior convictions within seven years for a violation of section 625(1), (4) or (5) of the act (MCL 257.625(1), (4) or (5), MSA 9.2325, (1), (4), or (5)), or former section 625(1) or (2) of the act (MCL 257.625(1) or (2), MSA 9.2325, (1), or (2)), a local ordinance substantially corresponding to section 625(1) of the act (MCL 257.625(1), MSA 9.2325, (1)), or former section 625(1) or (2) of the act, or a law of another state substantially corresponding to section 625(1), (4) or (5) of the act, or former section 625(1) or (2) of the act, or that the person has two or more prior convictions within ten years for a violation of section 625(1), (3), (4) or (5) of the act (MCL 257.625(1), (3), (4) or (5), MSA 9.2325, (1), (3), (4), or (5)), former section 625(1) or (2) of the act, or former section 625b of the act (MCL 257.625b, MSA 9.2325(2)), a local ordinance substantially corresponding to section 625(1) or (3) of the act (MCL 257.625(1) or (3), MSA 9.2325, (1), or (3)), former section 625(1) or (2) of the act, or former section 625b of the act, or a law of another state substantially corresponding to section 625(1), (3), (4) or (5) of the act, former section 625(1) or (2) of the act, or former section 625b of the act, the court shall order the secretary of state to revoke the person's operator's or chauffeur's license and shall not order the secretary of state to issue a restricted license to the person.
- (b) For a conviction under section 5.15(3):
- (i) If the court finds that the convicted person has no prior conviction within seven years for a violation of section 625(1), (3), (4), or (5) of the act (MCL 257.625(1), (3), (4) or (5), MSA 9.2325, (1), (3), (4) or (5)), former section 625(1) or (2) of the act (MCL 257.625(1) or (2), MSA 9.2325, (1) or (2)), or former section 625b of the act (MCL 257.625b, MSA 9.2325(2)), a local ordinance substantially corresponding to section 625(1) or (3) of the act (MCL 257.625(1) or (3), MSA 9.2325, (1) or (3)), former section 625(1) or (2) of the act, or former section 625b of the act, or a law of another state substantially corresponding to section 625(1), (3), (4), or (5) of the act, former section 625(1) or (2) of the act, or former section 625b of the act, the court shall order the secretary of state to suspend the person's operator's or chauffeur's license for not less than 90 days or more than one year. However, if the person is convicted of a violation of section 5.15(3) for operating a vehicle when, due to the consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance, the person's ability to operate the vehicle was visibly impaired, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for not less than six months or more than one year. If the court finds compelling circumstances under subsection (10) sufficient to warrant the issuance of a restricted license to a person, the court may order the secretary of state to issue to the person a restricted license during all or a specified portion of the suspension.

- (ii) If the court finds that the person has one prior conviction within seven years for a violation of section 625(1), (3), (4), or (5) of the act (MCL 257.625(1), (3), (4), or (5), MSA 9.2325, (1), (3), (4) or (5)), former section 625(1) or (2) of the act (MCL 257.625(1) or (2), MSA 9.2325, (1) or (2)) of the act or former section 625b of the act (MCL 257.625b, MSA 9.2325(2)), a local ordinance substantially corresponding to section 625(1) or (3) of the act (MCL 257.625(1) or (3), MSA 9.2325, (1) or (3)) of the act or former section 625(1) or (2) of the act, or former section 625b of the act, or a law of another state substantially corresponding to section 625(1), (3), (4), or (5) of the act, former section 625(1) or (2) of the act, or former section 625b of the act, the court shall order the secretary of state to suspend the person's operator's or chauffeur's license for not less than six months or more than two years. If the court finds compelling circumstances under subsection (10) sufficient to warrant the issuance of a restricted license to a person, the court may order the secretary of state to issue to the person a restricted license during all or any portion of the suspension, except that a restricted license shall not be issued during the first 60 days of the period of suspension.
 - (iii) If the court finds that the person has two or more prior convictions within ten years for a violation of section 625(1), (3), (4), or (5) of the act (MCL 257.625(1), (3), (4) or (5), MSA 9.2325, (1), (3), (4) or (5)), or former section 625(1) or (2) of the act (MCL 257.625(1) or (2), MSA 9.2325, (1) or (2)), or former section 625b of the act (MCL 257.625b, MSA 9.2325(2)), a local ordinance substantially corresponding to section 625(1) or (3) of the act (MCL 257.625(1) or (3), MSA 9.2325, (1) or (3)), or former section 625(1) or (2) of the act, or former section 625b of the act, or a law of another state substantially corresponding to section 625(1), (3), (4), or (5) of the act, or former section 625(1) or (2) of the act, or former section 625b of the act, the court shall order the secretary of state to revoke the person's operator's or chauffeur's license and shall not order the secretary of state to issue a restricted license to the person.
- (c) For a conviction under section 5.15(4):
- (i) If the court finds that the convicted person has no prior conviction within seven years for a violation of section 625(1), (3), (4), (5), or (6) of the act (MCL 257.625(1), (3), (4), (5), or (6), MSA 9.2325, (1), (3), (4), (5) or (6)), former section 625(1) or (2) of the act (MCL 257.625(1) or (2), MSA 9.2325, (1) or (2)), or former section 625b of the act (MCL 257.625b, MSA 9.2325(2)), a local ordinance substantially corresponding to section 625(1), (3), or (6) of the act (MCL 257.625(1), (3) or (6), MSA 9.2325, (1), (3) or (6)), former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), (5), or (6), former section 625(1) or (2), or former section 625b, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for not less than 30 days or more than 90 days. The court may order the secretary of state to issue to the person a restricted license during all or a specified portion of the suspension.
 - (ii) If the court finds that the person has one or more prior convictions within seven years for a violation of section 625(1), (3), (4), (5), or (6) of the act (MCL 257.625(1), (3), (4), (5) or (6), MSA 9.2325, (1), (3), (4), (5) or (6)), former section 625(1) or (2) of the act (MCL 257.625(1) or (2), MSA 9.2325, (1) or (2)), or former section 625b of the act (MCL 257.625b, MSA 9.2325(2)), a local ordinance substantially corresponding to section 625(1), (3), or (6) of the act (MCL 257.625(1), (3) or (6), MSA 9.2325, (1), (3) or (6)), former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), (5), or (6), former section 625(1) or (2), or former section 625b, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for not less than 90 days or more than one year. The court may order the secretary of state to issue to the person a restricted license during all or any portion of the suspension, except that a restricted license shall not be issued during the first 90 days of the suspension.
- (7) *Permitted uses under restricted license.* A restricted license issued pursuant to an order under subsection (6) shall permit the person to whom it is issued to drive under one or more of the following circumstances:

- (a) To and from the person's residence and work location.
 - (b) In the course of the person's employment or occupation.
 - (c) To and from the person's residence and an alcohol or drug education or treatment program as ordered by the court.
 - (d) To and from the person's residence and the court probation department or a court-ordered community service program, or both.
 - (e) To and from the person's residence and an educational institution at which the person is enrolled as a student.
 - (f) To and from the person's residence or work location and a place of regularly occurring medical treatment for a serious condition for the person or a member of the person's household or immediate family.
- (8) *Ignition interlock device requirement.* The court may order that the restricted license issued pursuant to subsection (6) include the requirement that the person shall not operate a motor vehicle unless the vehicle is equipped with a functioning ignition interlock device. The device shall be set to render the motor vehicle inoperable if the device detects an alcohol content of 0.02 gram or more per 210 liters of breath in the person who offers a breath sample. The court may order installation of an ignition interlock device on any motor vehicle that the person owns or operates, the costs of which the person whose license is restricted shall bear.
- (9) *Hauling of hazardous materials under restricted license prohibited.* The court shall not order the secretary of state under subsection (6) to issue a restricted license that would permit a person to operate a commercial motor vehicle that hauls hazardous materials.
- (10) *Transportation need requirement.* The court shall not order the secretary of state to issue a restricted license unless the person states under oath, and the court finds pursuant to testimony taken in open court or pursuant to statements contained in a sworn affidavit on a form prescribed by the state court administrator, that both of the following are true:
- (a) The person needs vehicular transportation to and from his work location, place of alcohol or drug education treatment, court probation department, court-ordered community service program, or educational institution, or a place of regularly occurring medical treatment for a serious condition or in the course of the person's employment or occupation.
 - (b) The person is unable to take public transportation and does not have any family members or other individuals able to provide transportation to a destination or for a purpose described in subdivision (a).
- (11) *Restricted license to indicate travel destination, route and time.* The court order issued under subsection (6) and the restricted license shall indicate the permitted destination of the person or the permitted purposes for which the person may operate a vehicle, the approved route if specified by the court, and permitted times of travel.
- (12) *Surrender of license on conviction; abstract forwarded to secretary; suspension or revocation; issuance of restricted license; stay pending appeal.* Immediately upon acceptance by the court of a plea of guilty or nolo contendere or upon entry of a verdict of guilty for a violation of section 5.15(1), (3) or (4) the person shall surrender to the court his operator's or chauffeur's license or permit. The court shall immediately destroy the license or permit and forward an abstract of conviction with court-ordered license sanctions to the secretary of state. Upon receipt of, and pursuant to, the abstract of conviction with court-ordered license sanctions, the secretary of state shall suspend or revoke the person's license and, if ordered by the court and the person is otherwise eligible for a license, issue to the person a restricted license stating the limited driving privileges indicated on the abstract. If the judgment and sentence is appealed to the circuit court, the court may, ex parte, order the secretary of state to stay the suspension, revocation, or restricted license issued pursuant to this section pending the outcome of the appeal.

- (13) *Vehicle group designation suspension; restricted license permitting commercial vehicle operation prohibited.* In addition to any other suspension or revocation ordered under this section and as part of the sentence imposed upon a person who violates section 5.15(1) or (3), while operating a commercial motor vehicle, the court shall order the secretary of state to suspend the vehicle group designations on the person's operator's or chauffeur's license in accordance with section 319b(1)(c) of the act (MCL 257.319b(1)(c), MSA 9.2019(2), (1)(c)), as amended. If the vehicle was transporting hazardous material required to have a placard pursuant to 49 CFR 100 to 199, the court shall order the secretary of state to suspend the vehicle group designations on the person's operator's or chauffeur's license in accordance with section 319b(1)(d) of the act (MCL 257.319b(1)(d), MSA 9.2019(2), (1)(d)), as amended. The court shall not order the secretary of state to issue a restricted license that would permit the person to operate a commercial motor vehicle.
- (14) *Vehicle group designation revocation; restricted license permitting commercial vehicle operation prohibited.* In addition to any other suspension or revocation ordered under this section and as part of the sentence imposed upon a person who is convicted of a violation of section 5.15(1) or (3), while operating a commercial motor vehicle within ten years of a prior conviction, the court shall order the secretary of state to revoke the vehicle group designations on the person's operator's or chauffeur's license in accordance with section 319b(1)(e) of the act (MCL 257.319b(1)(e), MSA 9.2019(2), (1)(e)), as amended. The court shall not order the secretary of state to issue a restricted license that would permit the person to operate a commercial motor vehicle. As used in this subsection, the term "prior conviction" means a conviction under section 625(1), (3), (4), or (5) of the act (MCL 257.625(1), (3), (4), or (5), MSA 9.2325, (1), (3), (4), or (5)), former section 625(1) or (2) of the act (MCL 257.625(1) or (2), MSA 9.2325, (1) or (2)), or former section 625b of the act (MCL 257.625b, MSA 9.2325(2)), a local ordinance substantially corresponding to section 625(1) or (3) of the act (MCL 257.625(1) or (3), MSA 9.2325, (1) or (3)), former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), or (5), former section 625(1) or (2), or former section 625b involving the operation of a commercial motor vehicle, or a conviction under section 625m of the act (MCL 257.625m, MSA 9.2325(13)), a local ordinance substantially corresponding to section 625m, or a law of another state substantially corresponding to section 625m.
- (15) *Work location.* As used in this section, the term "work location" means, as applicable, the specific place or places of employment or the territory or territories regularly visited by the person in pursuance of the person's occupation, or both.

State Law reference— Similar provisions, MCL 257.625b, MSA 9.2325(2).

Sec. 5.15c. Preliminary chemical breath analysis.

- (1) *Consent to chemical test.* A person who operates a vehicle upon a public highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles within the village, is considered to have given consent to chemical tests of his blood, breath or urine for the purpose of determining the amount of alcohol or presence of a controlled substance, or both, in his blood or urine or the amount of alcohol in his breath in all of the following circumstances:
- (a) If the person is arrested for a violation of section 5.15(1), (3), (4), 5.15a or 5.15m.
- (b) If the person is arrested for felonious driving, negligent homicide, manslaughter or murder resulting from the operation of a motor vehicle and the peace officer had reasonable grounds to believe the person was operating the vehicle while impaired by or under the influence of intoxicating liquor or a controlled substance or a combination of intoxicating liquor and a controlled substance or while having an alcohol content of 0.10 gram or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or if the person is less than 21 years of age while having any bodily alcohol content. As used in this subdivision, the expression "any bodily alcohol content" means either of the following:
- (i) An alcohol content of not less than 0.02 gram or more than 0.07 gram per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

- (ii) Any presence of alcohol within a person's body resulting from the consumption of intoxicating liquor, other than consumption of intoxicating liquor as a part of a generally recognized religious service or ceremony.
- (2) *Exceptions.* A person who is afflicted with hemophilia, diabetes or a condition requiring the use of an anticoagulant under the direction of a physician is not considered to have given consent to the withdrawal of blood.
- (3) *Administration.* The tests shall be administered as provided in section 5.15a(6).

State Law reference— Similar provisions, MCL 257.625c, MSA 9.2325(3).

Sec. 5.15d. Refusal to submit to chemical test.

- (1) *Necessity of court order upon refusal of accused to submit to chemical test.* If a person refuses the request of a peace officer to submit to a chemical test offered pursuant to section 5.15a(6), a test shall not be given without a court order, but the officer may seek to obtain the court order.
- (2) *Advisement of consequences of refusal; report to secretary of state.* A written report shall immediately be forwarded to the secretary of state by the peace officer. The report shall state that the officer had reasonable grounds to believe that the person had committed a crime described in section 5.15c(1), and that the person had refused to submit to the test upon the request of the peace officer and had been advised of the consequences of the refusal. The form of the report shall be prescribed and furnished by the secretary of state.

State Law reference— Similar provisions, MCL 257.625d, MSA 9.2325(4).

Sec. 5.15e. Notice of receipt of report; request for hearing.

- (1) *Written notice of consequences of refusal required.* If a person refuses to submit to a chemical test pursuant to section 5.15d, the peace officer shall immediately notify the person in writing, that within 14 days of the date of the notice the person may request a hearing as provided in section 5.15f. The form of the notice shall be prescribed and furnished by the secretary of state.
- (2) *Notice; contents; failure to request hearing, consequences; counsel.* The notice shall specifically state that failure to request a hearing within 14 days will result in the suspension of the person's license or permit to drive. The notice shall also state that there is not a requirement that the person retain counsel for the hearing, though counsel would be permitted to represent the person at the hearing.

State Law reference— Similar provisions, MCL 257.625c, MSA 9.2325(5).

Sec. 5.15f. Failure to request hearing; effect.

- (1) *Sanctions on failure to submit to chemical test.* If the person who refuses to submit to a chemical test pursuant to section 5.15d does not request a hearing within 14 days after the date of notice pursuant to section 5.15e, the secretary of state shall impose the following license sanctions:
 - (a) If the person was operating a vehicle other than a commercial motor vehicle, suspend or deny the person's operator's or chauffeur's license or permit to drive, or nonresident operating privilege, for six months, or for a second or subsequent refusal within seven years, for one year. If the person is a resident without a license or permit to operate a vehicle in the state, the secretary of state shall not issue the person a license or permit for six months, or for a second or subsequent refusal within seven years, for one year.
 - (b) If the person was operating a commercial motor vehicle, for the first refusal, suspend all vehicle group designations on the person's operator's or chauffeur's license or permit, or nonresident privilege to operate a commercial motor vehicle, or if the person is a resident without a license or

permit to operate a commercial motor vehicle in the state, not issue the person an operator's or chauffeur's license with vehicle group designations, for one year.

- (c) If the person was operating a commercial motor vehicle, for a second or subsequent refusal that occurred in a separate incident from, and within ten years of, a prior refusal, revoke all vehicle group designations on the person's operator's or chauffeur's license or permit, or nonresident privilege to operate a commercial motor vehicle, or if the person is a resident without a license or permit to operate a commercial motor vehicle in the state, not issue the person an operator's or chauffeur's license with vehicle group designations, for not less than ten years and until the person is approved for the issuance of a vehicle group designation.
 - (d) If the person was operating a commercial motor vehicle and was arrested for an offense enumerated in section 5.15c other than a violation of section 5.15a(5) or 5.15m, impose the license sanction described in subdivision (a) and the license sanction described in subdivision (b) or (c), as applicable.
- (2) *Hearing; time for holding; scope of inquiry.* If a hearing is requested, the secretary of state shall hold the hearing in the same manner and under the same conditions as provided in section 322 of the act (MCL 257.322, MSA 9.2022). Not less than five days' notice of the hearing shall be mailed to the person requesting the hearing, to the peace officer who filed the report under section 5.15d and, if the prosecuting attorney requests receipt of the notice, to the prosecuting attorney of the county where the arrest was made. The hearing officer may administer oaths, issue subpoenas for the attendance of necessary witnesses, and grant a reasonable request for an adjournment. Not more than one adjournment shall be granted to a party and the length of an adjournment shall not exceed 14 days. A hearing under this subsection shall be scheduled to be held within 45 days after the date of arrest for the violation. The hearing officer shall not impose any sanction for a failure to comply with these time limits.
- (3) *Delay allowed only for defendant's actions.* Except for delay attributable to the unavailability of the defendant, a witness or material evidence or due to an interlocutory appeal or exceptional circumstances, but not a delay caused by docket congestion, a hearing shall be finally adjudicated within 77 days after the date of arrest. The hearing officer shall not impose any sanction for failure to comply with this time limit.
- (4) *Topics at hearing.* The hearing shall cover only the following issues:
- (a) Whether the peace officer had reasonable grounds to believe that the person had committed a crime described in section 5.15c(1).
 - (b) Whether the person was placed under arrest for a crime described in section 5.15c(1).
 - (c) If the person refused to submit to the test upon the request of the officer, whether the refusal was reasonable.
 - (d) Whether the person was advised of the rights under section 5.15a(6).
- (5) *Hearing officer to be independent.* A person shall not order a hearing officer to make a particular finding on any issue enumerated in subsection (4)(a) to (d).
- (6) *Record of proceedings, preparation, transcription; transmittal to reviewing court; stipulation; corrections.* The hearing officer shall make a record of a hearing held pursuant to this section. The record shall be prepared and transcribed in accordance with section 86 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of Michigan of 1969 (MCL 24.201 et seq., MSA 3.560(101) et seq.), as amended. Upon notification of the filing of a petition for judicial review pursuant to section 323 of the state motor vehicle code (MCL 257.323, MSA 9.2023), and not less than ten days before the matter is set for review, the hearing officer shall transmit to the court in which the petition was filed, the original or a certified copy of the official record of the proceedings. Proceedings at which evidence was presented need not be transcribed and transmitted if the sole reason for review is to determine whether the court will order issuance of a restricted license. The parties to the proceedings for judicial review may stipulate that the record be shortened. A party unreasonably refusing to stipulate

to a shortened record may be taxed by the court in which the petition is filed for the additional costs. The court may permit subsequent corrections to the record.

- (7) *Failure of defendant to prevail; imposition of licensing sanctions.* If the person who requested a hearing does not prevail, the secretary of state shall impose the following license sanctions after the hearing:
- (a) If the person was operating a vehicle other than a commercial motor vehicle, suspend or deny issuance of a license or driving permit or a nonresident operating privilege of the person for six months, or for a second or subsequent refusal within seven years, for one year. If the person is a resident without a license or permit to operate a vehicle in the state, the secretary of state shall not issue the person a license or permit for six months, or for a second or subsequent refusal within seven years, for one year. The person may file a petition in the circuit court of the county in which the arrest was made to review the suspension or denial, as provided in section 323 of the act (MCL 257.323, MSA 9.2023), as amended.
 - (b) If the person was operating a commercial motor vehicle, impose the sanction prescribed under subsection (1)(b) or (1)(c), as applicable. The person may file a petition in the circuit court of the county in which the arrest was made to review the suspension or denial as provided in section 323 of the act (MCL 257.323, MSA 9.2023), as amended.
 - (c) If the person was operating a commercial motor vehicle and was arrested for an offense enumerated in section 5.15c, other than a violation of section 5.15a(5) or 5.15m, impose the license sanctions described in subdivisions (a) and (b).
- (8) *Peace officer may file for review.* If the person who requested the hearing prevails, the peace officer who filed the report under section 5.15d may, with the consent of the prosecuting attorney, file a petition in the circuit court of the county in which the arrest was made to review the determination of the hearing officer as provided in section 323 of the act (MCL 257.323, MSA 9.2023), as amended.
- (9) *Suspension or revocation of nonresident's license; procedure.* When it has been finally determined that a nonresident's privilege to operate a vehicle in the state has been suspended or denied, the department shall give notice in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of each state in which he has a license to operate a motor vehicle.

State Law reference— Similar provisions, MCL 257.625f, MSA 9.2325(6).

Sec. 5.15g. Duty of officer upon refusal.

- (1) *Confiscation by peace officer of accused's license upon refusal to take test or if test reveals impermissible blood alcohol content; issuance of temporary license; report to secretary of state; destruction of accused's license.* If a person refuses a chemical test offered pursuant to section 5.15a(6) or submits to the chemical test or a chemical test is performed pursuant to a court order and the test reveals an unlawful alcohol content, the peace officer who requested the person to submit to the test shall do all of the following:
- (a) On behalf of the secretary of state, immediately confiscate the person's license or permit to operate a motor vehicle and, if the person is otherwise eligible for a license or permit, issue a temporary license or permit to the person. The temporary license or permit shall be on a form provided by the secretary of state.
 - (b) Except as provided in subsection (2), immediately do all of the following:
 - (i) Forward a copy of the written report of the person's refusal to submit to a chemical test required under section 625d to the secretary of state.
 - (ii) Notify the secretary of state by means of the law enforcement information network that a temporary license or permit was issued to the person.
 - (iii) Destroy the person's driver's license or permit.

- (2) *Duty of peace officer when report of test results are not immediately available.* If a person submits to a chemical test offered pursuant to section 5.15a(6) that requires an analysis of blood or urine and a report of the results of that chemical test is not immediately available, the peace officer who requested the person to submit to the test shall comply with subsection (1)(a) pending receipt of the test report. If the report reveals an unlawful alcohol content, the peace officer who requested the person to submit to the test shall immediately comply with subsection (1)(b). If the report does not reveal an unlawful alcohol content, the peace officer who requested the person to submit to the test shall immediately notify the person of the test results and immediately return the person's license or permit by first class mail to the address given at the time of arrest.
- (3) *Validity of temporary license.* A temporary license or permit issued under this section is valid for one of the following time periods:
 - (a) If the case is not prosecuted, for 90 days after issuance or until the person's license or permit is suspended pursuant to section 5.15f, whichever occurs earlier. The prosecuting attorney shall notify the secretary of state if a case referred to the prosecuting attorney is not prosecuted. The arresting law enforcement agency shall notify the secretary of state if a case is not referred to the prosecuting attorney for prosecution.
 - (b) If the case is prosecuted, until the criminal charges against the person are dismissed, the person pleads guilty or nolo contendere to or is found guilty of or acquitted of those charges, or the person's license or permit is suspended pursuant to section 5.15f, whichever occurs earlier.
- (4) *Unlawful alcohol content defined.* As used in this section, "unlawful alcohol content" means any of the following, as applicable:
 - (a) If the person tested is less than 21 years of age, 0.02 gram or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
 - (b) If the person tested was operating a commercial motor vehicle within this state, 0.04 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
 - (c) If the person tested is not a person described in subdivision (a) or (b), 0.10 gram or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

State Law reference— Similar provisions, MCL 257.625g, MSA 9.2325(7).

Sec. 5.15m. Prohibition of operation of commercial motor vehicle with certain percentage of alcohol in blood.

- (1) *Operator restrictions.* A person, whether licensed or not, who has an alcohol content of 0.04 gram or more but not more than 0.07 gram per 100 milliliter of blood, per 210 liters of breath, or per 67 milliliters of urine shall not operate a commercial motor vehicle within this state.
- (2) *Arrest for violation.* A peace officer may arrest a person without a warrant if the peace officer has reasonable cause to believe that the person was, at the time of an accident, the driver of a commercial motor vehicle involved in the accident and was operating the vehicle in violation of this section or of a local ordinance substantially corresponding to this section.
- (3) *Violation as misdemeanor; penalty for conviction; suspension of vehicle group designations on license or hazardous material placard; prohibition against issuance of restricted license.* A person who is convicted of a violation of this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$300.00, or both, together with costs of the prosecution. As part of the sentence, the court shall order the secretary of state to suspend the vehicle group designations on the person's operator's or chauffeur's license pursuant to section 319b(1)(c) of the act (MCL 257.319b(1)(c), MSA 9.2019(2), (1)(c)), as amended, or, if the vehicle was carrying hazardous material required to have a placard pursuant to 49 CFR 100 to 199, in accordance with section 319b(1)(d) of the act (MCL 257.319b(1)(d), MSA 9.2019(2), (1)(d)), as amended. The court shall not order the secretary of state to issue a restricted license that would permit the person to operate a commercial motor vehicle.

- (4) *Enhancement of punishment for violation within ten years of prior conviction; revocation of vehicle group designations on license; issuance of restricted license.* A person who violates this section within ten years of a prior conviction may be sentenced to imprisonment for not more than 90 days or a fine of not more than \$500.00, or both. As part of the sentence, the court shall order the secretary of state to revoke the vehicle group designations on the person's operator's or chauffeur's license pursuant to section 319b(1)(c) of the act (MCL 257.319b(1)(c), MSA 9.2019(2), (1)(c)), as amended. The court shall not order the secretary of state to issue a restricted license that would permit the person to operate a commercial motor vehicle. As used in this subsection, "prior conviction" means a conviction for a violation of this section, section 625(1), (3), (4), or (5) of the act (MCL 257.625(1), (3), (4), or (5), MSA 9.2325, (1), (3)), former section 625(1) or (2) of the act (MCL 257.625(1) or (2), MSA 9.2325, (1) or (2)), or former section 625b of the act (MCL 257.625b, MSA 9.2325(2)); a local ordinance substantially corresponding to this section, section 625(1) or (3) of the act (MCL 257.625(1) or (3), MSA 9.2325, (1) or (3)), former section 625(1) or (2), or former section 625b; or a law of another state substantially corresponding to this section, section 625(1), (3), (4), or (5), former section 625(1) or (2), or former section 625b, while operating a commercial motor vehicle.
- (5) *Assessing points and taking license actions under the act.* When assessing points and taking license actions under the act, the secretary of state and the court shall treat a conviction for an attempted violation of subsection (1) the same as if the offense had been completed.

State Law reference— Similar provisions, MCL 257.625m, MSA 9.2325(13).

Sec. 5.82. Mandatory child restraints.

- A. Except as provided in this section, or as otherwise provided by law, a rule promulgated pursuant to Act No. 306 of the Public Acts of Michigan of 1969 (MCL 24.201 et seq., MSA 3.560(101) et seq.), as amended, or federal regulation, each driver transporting a child in a motor vehicle shall properly secure each child in a child restraint system as follows:
1. Any child less than one year of age in a child restraint system which meets the standards prescribed in 49 CFR 571.213, except as provided in subsection F.
 2. Any child one year of age or more but less than four years of age, when transported in the front seat, in a child restraint system which meets the standards prescribed in 49 CFR 571.213, except as provided in subsection F.
 3. Any child one year of age or more but less than four years of age, when transported in the rear seat, in a child restraint system which meets the standards prescribed in 49 CFR 571.213, unless the child is secured by a safety belt provided in the motor vehicle, except as provided in subsection F.
- B. This section does not apply to a nonresident driver transporting a child in this state or to any child being nursed.
- C. This section does not apply if the motor vehicle being driven is a bus, school bus, taxicab, moped, motorcycle, or other motor vehicle not required to be equipped with safety belts under section 210b of the state motor vehicle code or federal law or regulations.
- D. A person who violates this section is responsible for a civil infraction.
- E. Points shall not be assessed for a violation of this section.
- F. The secretary of state may exempt by rules promulgated pursuant to Act No. 306 of the Public Acts of Michigan of 1969 (MCL 24.201 et seq., MSA 3.560(101) et seq.), as amended, a class of children from the requirements of this section, if the secretary of state determines that the use of the child restraint system required under subsection A is impractical because of physical unfitness, a medical problem, or body size. The secretary of state may specify alternate means of protection for children exempted under this subsection.
- G. The maximum civil penalty for a violation of this section shall be \$250.00, plus court costs.

Sec. 5.83. Safety belt required; enforcement.

- A. This section shall not apply to a driver or passenger of:
 - 1. A motor vehicle manufactured before January 1, 1965.
 - 2. A bus.
 - 3. A motorcycle.
 - 4. A moped.
 - 5. A motor vehicle if the driver or passenger possesses a written verification from a physician that the driver or passenger is unable to wear a safety belt for physical or medical reasons.
 - 6. A motor vehicle which is not required to be equipped with safety belts under federal law.
 - 7. A commercial or United States postal service vehicle which makes frequent stops for the purpose of pickup or delivery of goods or services.
 - 8. A motor vehicle operated by a rural carrier of the United States postal service while serving his rural postal route.
- B. This section shall not apply to a passenger of a school bus.
- C. Each driver and front seat passenger of a motor vehicle operated on a street or highway in this state shall wear a properly adjusted and fastened safety belt, except that a child less than four years of age shall be protected as required in MCL 257.710d, MSA 9.2410(4). Each driver of a motor vehicle transporting a child four years of age or more but less than 16 years of age in the front seat of the motor vehicle shall secure the child in a properly adjusted and fastened safety belt. If the motor vehicle is transporting more children than there are safety belts available for use, all safety belts available in the motor vehicle are being utilized in compliance with this section, and the driver and all front seat passengers comply with subsection (3) of this section, then the driver of a motor vehicle transporting a child four years of age or more but less than 16 years of age for which there is not an available seat belt is in compliance with this subsection if that child is seated in other than the front seat of the motor vehicle. However, if that motor vehicle is a pickup truck without an extended cab or jump seats, and all safety belts in the front seat are being used, the driver may transport such a child in the front seat without a safety belt.
- D. Enforcement of this section by state or local law enforcement agencies shall be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of another ordinance.
- E. Failure to wear a safety belt in violation of this section may be considered evidence of negligence and may reduce the recovery for damages arising out of the ownership, maintenance, or operation of a motor vehicle. However, such negligence shall not reduce the recovery for damages by more than five percent.
- F. A person who violates this section is responsible for a civil infraction.
- G. Points shall not be assessed under MCL 257.320a, MSA 9.2020(1) for a violation of this section.
- H. This section shall not apply after April 1, 1989, if, on that date or at any time thereafter, the United States government requires the installation of passive passenger restraints in new automobiles, whether that requirement is by statute, administrative rule, court decision, or in any other way.
- I. The maximum civil penalty for a violation of this section shall be \$250.00, plus court costs.

Sec. 5.97. School bus; signs; overtaking, meeting and passing.

- A. *Driver's action upon meeting stopped school bus.* The driver of a vehicle overtaking or meeting a school bus which has stopped and is displaying two alternately flashing red lights located at the same level shall bring the vehicle to a full stop not less than 20 feet from the school bus and shall not proceed until the school bus resumes motion or the visual signals are no longer actuated. At an intersection

where traffic is controlled by an officer or a traffic stop-and-go signal a vehicle need not be brought to a full stop before passing a stopped school bus, but may proceed past the school bus at a speed not greater than is reasonable and proper but not greater than ten miles an hour and with due caution for the safety of passengers being received or discharged from the school bus. The driver of a vehicle who fails to stop for a school bus as required by this section, who passes a school bus in violation of this section, or who fails to stop for a school bus in violation of an ordinance that complies with this section, is responsible for a civil infraction.

- B. *Divided highways.* The driver of a vehicle upon a highway which has been divided into two roadways by leaving an intervening space, or by a physical barrier, or clearly indicated dividing sections so constructed as to impede vehicular traffic, need not stop upon meeting a school bus which has stopped across the dividing space, barrier, or section.
- C. *Presumption.* In a proceeding for a violation of subsection A of this section, proof that the particular vehicle described in the citation was in violation of subsection A of this section, together with proof that the defendant named in the citation was, at the time of the violation, the registered owner of the vehicle, shall constitute in evidence a presumption that the registered owner of the vehicle was the driver of the vehicle at the time of the violation.
- D. *Penalty for violation of section.* In addition to a civil fine not to exceed \$250.00 and costs, the judge, district court referee, or district court magistrate may order a person who violates this section to perform not to exceed 100 hours of community service at a school.

(Ord. No. 93-6, §§ 1—4, 6-7-93; Ord. No. 93-11, §§ 1, 2, 6-7-93; Ord. No. 93-12, §§ 1, 2, 6-7-93; Ord. No. 2 of 2001, §§ 1—3, 1-2-01)

Secs. 58-38—58-65. - Reserved.

ARTICLE III. - DISMANTLED, PARTIALLY DISMANTLED OR INOPERABLE MOTOR VEHICLES

Sec. 58-66. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dismantled vehicle or *partially dismantled motor vehicle* means any motor vehicle from which some parts which are ordinarily a component of such motor vehicle have been removed or are missing.

Inoperable motor vehicle means a motor vehicle which by reason of dismantling, lack of repair, or other cause is incapable of being propelled under its own power.

Motor vehicle means any wheeled vehicle which is self-propelled or intended to be self-propelled.

(Ord. No. 90-4, § 1, 8-6-90)

Cross reference— Definitions generally, § 1-2.

Sec. 58-67. - Storage.

It is hereby declared to be unlawful for any person to store, place or permit to be stored or placed, a dismantled, partially dismantled or inoperable motor vehicle or any parts of a motor vehicle, on any parcel of land in the village, platted or unplatted, or any street adjacent thereto, unless either the motor vehicle or parts shall be kept in a wholly enclosed garage or other wholly enclosed structure, or unless the owner or occupant of the parcel of land is otherwise licensed to store inoperable or dismantled motor vehicles as a properly licensed repair facility or junkyard; provided, however, that any bona fide owner or occupant of

any parcel of land may store on the parcel one such vehicle for a period of not to exceed 48 hours, if such vehicle is registered and licensed in his name.

(Ord. No. 90-4, § 2, 8-6-90)

Sec. 58-68. - Notice to remove.

The owner or occupant of any property upon which is stored or placed a dismantled, partially dismantled or inoperable motor vehicle, or any parts of a motor vehicle, shall be notified in writing by the village to remove the same from such property within seven days after service of notice. Such notice may be personally served or may be served by mailing the notice by certified mail, return receipt requested, to the last known address of the owner and, if the premises are occupied, to the premises, or by affixing a written notice to the motor vehicle or vehicle parts. A time extension not exceeding 14 additional days may be granted by the village upon the showing of a hardship, which hardship can be eliminated by the granting of such a time extension.

(Ord. No. 90-4, § 3, 8-6-90)

Sec. 58-69. - Declaration of nuisance.

The presence of a dismantled, partially dismantled, or inoperable motor vehicle or parts of a motor vehicle on any parcel of land in violation of the conditions of this article is hereby declared to be a public nuisance.

(Ord. No. 90-4, § 4, 8-6-90)

Sec. 58-70. - Penalty for violation of article.

- (a) Each violation of this article shall be a misdemeanor which shall be punishable, upon conviction, by a fine not exceeding \$500.00 or imprisonment for a period not exceeding 90 days, or both, in the discretion of the court, plus court costs.
- (b) Each day that a dismantled, partially dismantled, or inoperable motor vehicle, or parts of such vehicle, shall be stored or permitted to be stored contrary to the provisions of this article shall constitute a separate violation.

(Ord. No. 90-4, §§ 5, 6, 8-6-90)

Secs. 58-71—58-100. - Reserved.

ARTICLE IV. - INSURANCE

Sec. 58-101. - Motorcycle coverage; penalty for violation of section.

- (a) An owner or registrant of a motorcycle shall provide security against loss resulting from liability imposed by law for property damage, bodily injury, or death suffered by a person arising out of the ownership, maintenance or use of that motorcycle. The security shall conform with the requirements of MCL 500.3009(1).
- (b) Each insurer transaction insurance in this state which affords coverage for a motorcycle as described in subsection (a) of this section also shall offer, to an owner or registrant of a motorcycle, security for the payment of first party medical benefits only, in increments of \$5,000.00, payable in the event the owner or registrant is involved in a motorcycle accident. An insurer providing first party medical benefits

may offer, at appropriate premium rates, deductibles, provisions for the subtraction of other benefits provided or required to be provided under the laws of any state or the federal government, subject to the prior approval of the commissioner. These deductibles and provisions shall apply only to benefit payable to the person named in the policy, the spouse of the insured, and any relative of either domiciled in the same household.

- (c) A person who violates this section shall be guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$500.00, or both, plus court costs.

(Ord. No. 93-8, § 1, 6-7-93)

Sec. 58-102. - Motor vehicle coverage; penalty for violation of section.

- (a) The owner or registrant of a motor vehicle required to be registered in this state shall maintain security for payment of benefits under personal protection insurance, property protection insurance, and residual liability insurance. Security shall be in effect continuously during the period of registration of the motor vehicle. For the purpose of this section only, the term "motor vehicle" means a vehicle which has more than two wheels, including a trailer, operated or designed for operation upon a public highway by power other than muscular power. Motor vehicle does not include a motorcycle or a moped, as defined in section 32b of Act No. 300 of the Public Acts of Michigan of 1949 (MCL 257.32b, MSA 9.1832(2)). Motor vehicle does not include a farm tractor or other implement of husbandry which is not subject to the registration requirements of the state vehicle code pursuant to section 216 of the state vehicle code, Act No. 300 of the Public Acts of Michigan of 1949 (MCL 257.216, MSA 9.1916).
- (b) Security may be provided under a policy issued by an insurer duly authorized to transact business in this state which affords insurance for payment of benefits described in subsection (a) of this section. A policy of insurance represented or sold as providing security shall be deemed to provide insurance for the payment of the benefits.
- (c) Security required by subsection (a) of this section may be provided by any other method approved by the secretary of state as affording security equivalent to that afforded by a policy of insurance, if proof of the security is filed and continuously maintained with the secretary of state throughout the registration period. The person filing the security has all the obligations and rights of an insurer under this section. When the context permits, the word "insurer" as used in this section, includes any person filing the security as provided in this section.
- (d) A person who violates this section shall be guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$500.00, or both, plus court costs.

(Ord. No. 93-9, § 1, 6-7-93)

Sec. 58-103. - Proof.

- (a) The owner of a motor vehicle who operates or permits the operation of the motor vehicle upon the highways of this state or the operator of the motor vehicle shall produce, pursuant to subsection (b) of this section, upon the request of a police officer, evidence that the motor vehicle is insured under chapter 31 of Act No. 218 of the Public Acts of Michigan of 1956 (MCL 500.3101 et seq., MSA 24.13101 et seq.), as amended. An owner or operator of a motor vehicle who fails to produce evidence under this subsection when requested to produce that evidence is responsible for a civil infraction.
- (b) A certificate of insurance, if issued by an insurance company, which certificate states that security which meets the requirements of sections 3101 and 3102 of Act No. 218 of the Public Acts of Michigan of 1956 (MCL 500.3101, 500.3102, MSA 24.13101, 24.13102), as amended, is in force shall be accepted as prima facie evidence that insurance is in force for the motor vehicle described in the certificate of insurance until the expiration date shown on the certificate. The certificate, in addition to describing the motor vehicles for which insurance is in effect, shall state the name of each person

named on the policy, policy declaration, or a declaration certificate, whose operation of the vehicle would cause the liability coverage of that insurance to become void.

- (c) If an owner of a motor vehicle is determined to be responsible for a violation of subsection (a) of this section, the court in which the civil infraction determination is entered may require the person to surrender his operator's or chauffeur's license unless proof that the vehicle has insurance meeting the requirements of section 3102 of Act No. 218 of the Public Acts of Michigan of 1956 (MCL 500.3102, MSA 24.13102), as amended, is submitted to the court. If the court requires the license to be surrendered, the court shall order the secretary of state to suspend the person's license and shall forward the surrendered license and a certificate of civil infraction to the secretary of state. Upon receipt of the certificate of civil infraction and the surrendered license, the secretary of state shall suspend the person's license, beginning with the date on which a person is determined to be responsible for the civil infraction for a period of 30 days or until proof of insurance which meets the requirements of section 3102 of Act No. 218 of the Public Acts of Michigan of 1956 (MCL 500.3102, MSA 24.13102), as amended, is submitted to the secretary of state, whichever occurs later. If the license is not forwarded, an explanation of the reason why it is not forwarded shall be attached. A person who submits proof of insurance to the secretary of state under this subsection shall pay a service fee as set by resolution of the village council from time to time to the secretary of state. The person shall not be required to be examined.
- (d) An owner or operator of a motor vehicle who knowingly produces false evidence under this section is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$500.00, or both, plus court costs.
- (e) Points shall not be entered on a driver's record for a violation of this section.
- (f) This section does not apply to the owner or operator of a motor vehicle that is registered in a state other than this state or a foreign country or province.

(Ord. No. 93-10, § 1, 6-7-93)

Secs. 58-104—58-130. - Reserved.

ARTICLE V. - STOPPING, STANDING AND PARKING

DIVISION 1. - GENERALLY

Secs. 58-131—58-150. - Reserved.

DIVISION 2. - PARKING VIOLATIONS BUREAU

Sec. 58-151. - Establishment.

Pursuant to section 8395 of the Revised Judicature Act, as amended by Act No. 154 of the Public Acts of Michigan of 1968 (MCL 600.8101 et seq., MSA 27A.8101 et seq.), a parking violations bureau, for the purpose of handling alleged parking violations within the village, is hereby established.

(Ord. No. 71-1, § 1, 2-3-71)

Sec. 58-152. - Supervision and control; location.

The parking violations bureau shall be under the supervision and control of the village clerk and shall be located in the village office in the village.

(Ord. No. 71-1, § 2, 2-3-71)

Sec. 58-153. - Employees; rules and regulations.

The village clerk, subject to the approval of the village council, shall appoint qualified village employees to administer the bureau and shall adopt rules and regulations for the operation of the bureau.

(Ord. No. 71-1, § 3, 2-3-71)

Sec. 58-154. - Disposition of unscheduled and scheduled violations.

No violation not scheduled in section 58-157 shall be disposed of by the parking violations bureau. The scheduling of a particular violation in this chapter shall not entitle the violator to disposition of the violation at the bureau, and, in any event, the person in charge of such bureau may refuse to dispose of such violation in which case any person having knowledge of the facts may make a sworn complaint before any court having jurisdiction of the offense as provided by law.

(Ord. No. 71-1, § 4, 2-3-71)

Sec. 58-155. - Disposition of violations at bureau and court.

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

(Ord. No. 71-1, § 5, 2-3-71)

Sec. 58-156. - Traffic ticket; notice of violation.

The issuance of a traffic ticket or notice of violation by a police officer of the village shall be deemed an allegation of a parking violation. Such traffic ticket or notice of violation shall indicate the length of time in which the person to whom the same was issued must respond before the parking violations bureau. It shall also indicate the address of the bureau, the hours during which the bureau is open, the amount of the penalty scheduled for the offense for which the ticket or notice of violation was issued and advise that a warrant for the arrest of the person to whom the ticket was issued will be sought if such person fails to respond within the time limited.

(Ord. No. 71-1, § 6, 2-3-71)

Sec. 58-157. - Schedule of fines.

- (a) The schedule of fines is to be set by resolution of the village council from time to time.
- (b) If the fines are not paid within seven days of the date of issuance of the ticket, all fines shall be doubled.

(Ord. No. 71-1, § 7, 2-3-71)

Secs. 58-158—58-185. - Reserved.

ARTICLE VI. - BICYCLES

Sec. 58-186. - Riding on sidewalk—Northwest corner of Jackson Street and Michigan Avenue and west to Burton Street.

It shall be unlawful to ride a bicycle on the sidewalk commencing at the northwest corner of the intersection of Jackson Street and Michigan Avenue and running west to Burton Street.

(Ord. No. 86-2, § 1, 1-27-86)

Sec. 58-187. - Same—Southwest corner of Tecumseh-Clinton Road and Michigan Avenue and west to Division Street.

It shall be unlawful to ride a bicycle on the sidewalk commencing at the southwest corner of the intersection of Tecumseh-Clinton Road and Michigan Avenue and running thence west to Division Street.

(Ord. No. 86-2, § 2, 1-27-86)

Sec. 58-188. - Penalty for violation of article.

Any person who shall violate any provision of this article shall be guilty of a civil infraction and, upon conviction, shall be fined a sum not to exceed \$10.00 for a first offense and not to exceed \$25.00 for any subsequent offense in each calendar year. Conviction in a prior calendar year shall not be considered in determining the fine.

(Ord. No. 86-2, § 3, 1-27-86)

Secs. 58-189—58-205. - Reserved.

ARTICLE VII. - MICHIGAN VEHICLE CODE

Sec. 58-206. - Adopted.

The Michigan Vehicle Code, 1949 PA 300, MCL 257.1 to 257.923, and all future amendments and revisions to the Michigan Vehicle Code when they are effective in this state are incorporated and adopted by reference.

(Ord. No. 02-03, § 1, 3-3-03)

Sec. 58-207. - References in code.

References in the Michigan Vehicle Code to "local authorities" shall mean the Village of Clinton.

(Ord. No. 02-03, § 2, 3-3-03)

Sec. 58-208. - Notice to be published.

The village clerk shall publish this article in the manner required by law and shall publish, at the same time, a notice stating the purpose of the Michigan Vehicle Code and the fact that a complete copy of the code is available to the public at the office of the clerk for inspection.

(Ord. No. 02-03, § 3, 3-3-03)

Sec. 58-209. - Penalties.

The penalties provided by the Michigan Vehicle Code are adopted by reference, provided, however, that the village may not enforce any provision of the motor vehicle code for which the maximum period of imprisonment is greater than 93 days, except a violation of MCL 257.625(1)(c) is punishable by one or more of the following: community service for not more than 360 hours, imprisonment for not more than 180 days, any fine of not less than \$200.00 or more than \$700.00.

(Ord. No. 02-03, § 4, 3-3-03; Ord. No. 1 of 2013, § 1, 7-8-13)

Chapter 62 - UTILITIES^u

Footnotes:

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Cross reference— Administration, ch. 2; buildings and building regulations, ch. 10; subdivisions, ch. 54; zoning, ch. 66.

ARTICLE I. - IN GENERAL

Sec. 62-1. - Findings—Water.

- (a) *Necessity for potable water.* The village council has previously found, and currently reaffirms that the businesses, industries, governmental and charitable agencies and residents located in the village need to have potable and otherwise usable water.
- (b) *Availability of potable water.* The village council has previously found, and currently reaffirms, that the supply of potable water available from private wells within the village is insufficient to assure that all businesses, industries, governmental and charitable agencies, and residents will have sufficient potable water available for their use and other water necessary for industrial and fire prevention and control unless the village offers water to all properties located within the village.
- (c) *Method for measuring use—Water supply services.* Based on advice of its engineers and consultants, the village council has previously found, and currently reaffirms, that the most precise method, given available technology, of measuring the use of the water supply from the water system by any user is by a meter or meters installed and controlled by the village.
- (d) *Continuation of service.* The village council has previously found, and currently reaffirms that, in order to provide and continue to provide clean potable and other usable water to all customers of the water system, in quantities necessary for all varieties of use, it is necessary from time to time to install improvements, enlargements, extensions and repairs to the water system.
- (e) *Purpose of charges.* The charges and fees for the use of and connection to the water system are hereby established for the purpose of recovering the cost of acquisition, construction, reconstruction, maintenance, repair, and operation of the water system and to comply with federal and state safe drinking water acts and related regulations, to provide for the payment of principal of and interest on any bonds authorized to be issued as and when the same become due and payable, to create a bond and interest redemption fund therefor, to provide a fund for reasonable and necessary improvements to the water system, to provide a fund for equipment replacement and to provide for such other funds as are necessary to meet contractual obligations of the village. Such charges and fees shall be set by resolution of the council and made in accordance with the purposes herein described as well as the following:

- (1) All premises connected directly or indirectly to the water system, except as hereinafter provided, shall be charged and shall make payments to the village in amounts computed on the basis of this chapter.
 - (2) The charges, rates and fees for water service by the water system are established herein to adequately provide for bond requirements and to ensure that the water system does not operate at a deficit.
 - (3) The village shall periodically review the charges, rates, fees, rules and regulations of the water system, which review shall be completed not less than one time per fiscal year. Results of the review shall be reported to the village council with recommendations for any adjustments.
 - (4) The charges, rates and fees shall be set so as to recover costs from users in reasonable proportion to the cost of serving those users.
- (f) *Proportionality, fairness, and benefits of charges, rates and fees.* The village council has previously found and further currently reaffirms that the fairest and most reasonable method of providing for the operation, maintenance, repair, replacement and improvement of the water system is to charge each user, based in all cases on amount of use, for the costs of: (i) retiring debt secured by the net revenues of the water system issued to pay for improvements and replacements to the water system; (ii) ongoing repair, replacement and improvement and budgeted as part of the annual costs of the water system; and (iii) operation, administration and maintenance costs of the water system.

The village has investigated several methods of apportioning the costs of the water service provided by the water system. Based on its investigation and on the advice of its engineers and consultants, the village council has previously found, and currently reaffirms, that to ensure the stability and viability of the water system for the benefit of its users, the fairest and most accurate way to apportion the costs of operation, maintenance, replacement and improvement of the water system is to charge each user: (i) a connection fee for water service when such user's property is first connected to the water system; (ii) a commodity rate for the use of water; (iii) a monthly service charge; and (iv) other charges and costs for services which are equivalent to the cost of providing such services. The village council has previously found, and currently reaffirms that the rates and charges currently in effect accurately apportion the fixed and variable costs of the water system among the users of the water system and that the commodity rate and the monthly service charges each provide actual benefits to such users in the form of ready access to water service that would be unavailable if such charges were not charged.

In addition to the findings set forth above, the village council has previously found and currently reaffirms that the connection fee is a fair and proportionate charge for new users of the system and that the opportunity to connect to the water system provides actual benefits to each new user equal to or greater than the amount of such charges.

Furthermore, the village council has previously found and currently reaffirms that the charges imposed by the water system necessary are sufficient to meet the short-term and long-term capital improvement needs of the water system.

- (g) *Charges for nonresidents.* The village has previously found, and hereby ratifies and confirms, that the total direct and indirect costs of providing service to customers outside the village jurisdiction is greater than the rates and charges imposed for direct services and debt service cost to customers located in the village. Indirect costs include payment for capital improvements, extraordinary repairs and replacements for the water supply system benefiting all users of the system and paid for by customers served within the corporate limits of the village, funding depreciation of the improvements to the water supply system, and fire and police or other protection for the water supply system paid by village taxpayers.
- (h) *Connection to water system.* The village has determined that in order to provide more cost effective water services, all residential, commercial, industrial, and other structures must connect to the village water system when it is readily available to the property.

(Ord. No. 4 of 2002, § 1, 10-7-02; Ord. No. 1 of 2004, § 1, 6-7-04)

Sec. 62-2. - Establishment of the water distribution system.

Based on the findings and for the purposes set forth in section 62-1, the village has previously established and hereby reestablishes the water distribution system, consisting of all water mains, pumping and storage facilities, pressure systems, wells, connections, service pipes, meters, and all other appurtenances to the water system.

(Ord. No. 4 of 2002, § 1, 10-7-02)

Sec. 62-3. - Findings—Sewer.

- (a) *Necessity for sewage disposal.* The village council has previously found, and currently reaffirms, that the use of septic tanks, privies, privy vaults, cesspools, or similar private sewage disposal facilities, is deleterious to the health safety and welfare of the businesses, industries, governmental and charitable agencies, and residents of the village and that the health, safety and welfare of the businesses, industries, governmental and charitable agencies and residents is enhanced by the creation of a public sanitary sewer system and wastewater treatment plant, with regulation by the village of pollutants and other harmful materials according to state and federal standards.
- (b) *Method for measuring use—Sewage disposal services.* Based on advice of its engineers and consultants, the village council has previously found, and currently reaffirms, that the most practical, cost effective and accurate method, given available technology, of measuring the use of the sanitary sewer system's sewers by any user is by the meter or meters used to measure water usage.
- (c) *Continuation of service.* The village council has previously found, and further currently reaffirms that, in order to provide and continue to provide for the safe and uninterrupted removal and treatment of sewage, pollutants and other harmful materials, it is necessary from time to time to install improvements, enlargements, extensions and repairs to the sanitary sewer system's sewers and sewer service pipes.
- (d) *Purpose of charges.* The charges and fees for the use of and connection to the sanitary sewer system are hereby established for the purpose of recovering the cost of acquisition, construction, reconstruction, maintenance, repair, and operation of the sanitary sewer system and to comply with federal and state safe drinking water acts and related regulations, to provide for the payment of principal of and interest on any bonds authorized to be issued as and when the same become due and payable, to create a bond and interest redemption fund therefor, to provide a fund for reasonable and necessary improvements to the sanitary sewer system, to provide a fund for equipment replacement and to provide for such other funds as are necessary to meet contractual obligations of the village. Such charges and fees shall be set by resolution of the council and made in accordance with the purposes herein described as well as the following:
 - (1) All premises connected directly or indirectly to the sanitary sewer system, except as hereinafter provided, shall be charged and shall make payments to the village in amounts computed on the basis of this chapter.
 - (2) The charges, rates and fees for sewer service by the sanitary sewer system are established herein to adequately provide for bond requirements and to ensure that the sanitary sewer system does not operate at a deficit.
 - (3) The village shall periodically review the charges, rates, fees, rules and regulations of the sanitary sewer system, which review shall be completed not less than one time per fiscal year. Results of the review shall be reported to the village council with recommendations for any adjustments.
 - (4) The charges, rates and fees shall be set so as to recover costs from users in reasonable proportion to the cost of serving those users.
- (e) *Proportionality, fairness, and benefits of charges, rates and fees.* The village council has previously found and further currently reaffirms that the fairest and most reasonable method of providing for the operation, maintenance, repair, replacement and improvement of the sanitary sewer system is to

charge each user, based in all cases on amount of use, for the costs of: (i) retiring debt secured by the net revenues of the sanitary sewer system issued to pay for improvements and replacements to the sanitary sewer system; (ii) ongoing repair, replacement and improvement and budgeted as part of the annual costs of the sanitary sewer system; and (iii) operation, administration and maintenance costs of the sanitary sewer system.

The village has investigated several methods of apportioning the costs of the sewage disposal service provided by the sanitary sewer system. Based on its investigation and on the advice of its engineers and consultants, the village council has previously found, and currently reaffirms, that to ensure the stability and viability of the sanitary sewer system for the benefit of its users, that fairest and most accurate way to apportion the costs of operation, maintenance, replacement and improvement of the sanitary sewer system is to charge each user: (i) a connection fee for sewer service when such user's property is first connected to the sanitary sewer system; (ii) a commodity rate for the use of sewer services; (iii) a monthly service charge; and (iv) other charges and costs for services which are equivalent to the cost of providing such services. The village council has previously found, and currently reaffirms that the rates and charges currently in effect accurately apportion the fixed and variable costs of the sanitary sewer system among the users of the sanitary sewer system and that the commodity rate and the monthly service charges each provide actual benefits to such users in the form of ready access to sewer service that would be unavailable if such charges were not charged.

In addition to the findings set forth above, the village council has previously found and currently reaffirms that the connection fee is a fair and proportionate charge for new users of the system and that the opportunity to connect to the sanitary sewer system provides actual benefits to each new user equal to or greater than the amount of such charges.

Furthermore, the village council has previously found and currently reaffirms that the charges imposed by the sanitary sewer system are necessary and sufficient to meet the short-term and long-term capital improvement needs of the sanitary sewer system.

- (f) *Charges for nonresidents.* The village has previously found, and hereby ratifies and confirms, that the total direct and indirect costs of providing service to customers outside the village jurisdiction is greater than the rates and charges imposed for direct services and debt service cost to customers located in the village. Indirect costs include payment for capital improvements, extraordinary repairs and replacements for the sanitary sewer system benefiting all users of the system and paid for by customers served within the corporate limits of the village, funding depreciation of the improvements to the sanitary sewer system, and fire and police or other protection for the sanitary sewer system paid by village taxpayers.
- (g) *Connection to sewer system.* The village has determined that in order to provide more cost effective sanitary sewer services, all residential, commercial, industrial, and other structures must connect to the village sanitary sewer system when it is readily available to the property.

(Ord. No. 4 of 2002, § 1, 10-7-02; Ord. No. 1 of 2004, § 2, 6-7-04)

Sec. 62-4. - Establishment of the sewage disposal system.

Based on the findings and for the purposes set forth in section 62-3, the village has previously established and hereby reestablishes the sewage disposal system, consisting of all sewers, interceptors, lift stations, pipes, treatment facilities and all other appurtenances to the sanitary sewer system.

(Ord. No. 4 of 2002, § 1, 10-7-02)

Sec. 62-5. - Findings—Electric service.

- (a) *Necessity for municipal provided electric service.* The village council has previously found, and currently reaffirms that there is insufficient supply of reliable electric service from private electric to

meet the needs of the businesses, industries, governmental and charitable agencies, and residents of the village.

- (b) *Michigan South Central Power Agency.* To meet the need for electric service within the village, the village previously became a member municipality of the Michigan South Central Power Agency (the "agency") a body politic and corporate of the State of Michigan organized on March 21, 1978 under the authority of Act 448, Public Acts of Michigan, 1976, as amended ("Act 448") to supply electricity to member municipalities in South Central Michigan. Under Act 448, the village has entered into agreements with the agency (the "agency agreements") and other member municipalities pursuant to which the village has agreed to purchase, and the agency has agreed to provide, electric service to the village, which the village shall make available to the businesses, industries, governmental and charitable agencies, and residents of the village. Pursuant to such agreements, the village must pay for electric power purchased from the agency solely from the revenues derived from the village's ownership and operation of its electric system and the village's obligations shall not constitute a legal or equitable pledge, charge, lien, or encumbrance upon property of the village or upon the village's income, receipts, or revenues, except the revenues of its electric system. The village is further obligated under such agreements to fix, charge, and collect rents, rates, fees, and charges for electric power and energy and other services, facilities, and commodities, sold, furnished, or supplied through its electric systems sufficient to provide revenues adequate to meet its obligations under such agreements, and to pay other amounts payable from or constituting a charge and lien upon those revenues, including amounts sufficient to pay the principal of and interest on any general obligation bonds issued by the village for purposes related to its electric system.
- (c) *Purpose of charges.* The charges and fees for the use of and connection to the electric system are hereby established for the purpose of recovering the cost of acquisition, construction, reconstruction, maintenance, repair, and operation of the electric system, to regulate the safe and efficient use thereof, to provide for the payment of principal of and interest on any bonds authorized to be issued as and when the same become due and payable, to create a bond and interest redemption fund therefor, to provide a fund for reasonable and necessary improvements to the electric system, to provide a fund for equipment replacement and to provide for such other funds as are necessary to meet contractual obligations of the village. Such charges and fees shall be set by resolution of the council and made in accordance with the purposes herein described as well as the following:
- (1) All premises connected directly or indirectly to the electric system, except as hereinafter provided, shall be charged and shall make payments to the village in amounts computed on the basis of this chapter.
 - (2) The charges, rates and fees for electric service by the electric system are established herein to adequately provide for bond requirements and to ensure that the electric system does not operate at a deficit.
 - (3) The village shall periodically review the charges, rates, fees, rules and regulations of the electric system, which review shall be completed not less than one time per fiscal year. Results of the review shall be reported to the village council with recommendations for any adjustments.
 - (4) The charges, rates and fees shall be set so as to recover costs from users in reasonable proportion to the cost of serving those users.
- (d) *Method for measuring use—Electric service.* Based on advice of its engineers and consultants, the village council has previously found, and currently reaffirms, that the most precise method, given available technology, of measuring the use of the electricity from the electric system by any user is by a meter or meters installed and controlled by the village.
- (e) *Continuation of service.* The village council has previously found, and further currently reaffirms that, in order to provide and continue to provide a safe and efficient supply of electricity to all customers of the electric system, in amounts necessary for all varieties of use, it is necessary from time to time to install improvements, enlargements, extensions and repairs to the electric system.
- (f) *Proportionality, fairness, and benefits of charges, rates and fees.* The village council has previously found and further currently reaffirms that the fairest and most reasonable method of providing for the

operation, maintenance, repair, replacement and improvement of the electric system is to charge each user, based in all cases on amount of use, for the costs of: (i) retiring debt secured by the net revenues of the electric system issued to pay for improvements and replacements to the electric system; (ii) ongoing repair, replacement and improvement and budgeted as part of the annual costs of the electric system; and (iii) operation, administration and maintenance costs of the electric system.

The village has investigated several methods of apportioning the costs of the electricity provided by the electric system. Based on its investigation and on the advice of its engineers and consultants, the village council has previously found, and currently reaffirms, that to ensure the stability and viability of the electric system for the benefit of its users, the fairest and most accurate way to apportion the costs of operation, maintenance, replacement and improvement of the electric system is to group customers into classes, as indicated below, in proportion to the cost of providing service to such classes at the level of service typically demanded by users in such classes and to charge the kinds of fees indicated below, in amounts determined from time to time by resolution of the village council pursuant to this chapter:

Customer Class	Types of Fees	Description
Commercial	Commodity Rate	Amount/KWH
	Service Charge	Fixed Administrative
Rural Commercial	Commodity Rate	Amount/KWH
	Service Charge	Fixed Administrative
Large Commercial	Commodity Rate	Amount/KWH
	Demand Charge	Amount/KW
	Service Charge	Fixed Administrative
Industrial	Commodity Rate	Amount/KWH
	Service Charge	Fixed Administrative

Large Industrial	Commodity Rate	Amount/KWH
	Demand Charge	Amount/KW
	Service Charge	Fixed Administrative
Residential	Commodity Rate	Amount/KWH
	Service Charge	Fixed Administrative
Rural Residential	Commodity Rate	Amount/KWH
	Service Charge	Fixed Administrative

In addition to the foregoing rates and charges, the village council may impose additional charges as needed to meet the obligations of the village under agreements entered into from time to time between the village and the agency and to ensure that the electric system does not operate at a deficit. The village council by resolution may establish additional classes, eliminate classes or combine classes.

The village council has previously found, and currently reaffirms that the rates and charges currently in effect accurately apportion the fixed and variable costs of the electric system, including the costs of the village under the agency agreements (defined above), among the users and classes of users of the electric system and that the commodity rates, monthly service charges, and demand charges each provide actual benefits to such users in the form of ready access to electricity that would be unavailable if such charges were not charged.

Furthermore, the village council has previously found and currently reaffirms that the charges imposed by the electric system are necessary and sufficient to meet the short-term and long-term capital improvement needs of the electric system.

(g) *Charges for nonresidents.* The village has previously found, and hereby ratifies and confirms, that the total direct and indirect costs of providing service to customers outside the village jurisdiction is greater than the rates and charges imposed for direct services and debt service cost to customers located in the village. Indirect costs include payment for capital improvements, extraordinary repairs and replacements for the electric system benefiting all users of the system and paid for by customers served within the corporate limits of the village, funding depreciation of the improvements to the electric system, and fire and police or other protection for the electric system paid by village taxpayers.

(Ord. No. 5 of 2002, § 1, 10-7-02)

Sec. 62-6. - Establishment of the electric system.

Based on the findings and for the purposes set forth in section 62-5, the village has previously established and hereby re-establishes the electric system (the "electric system"), consisting of electric lines, poles, transformers, substations, power generation facilities, buildings, and all other appurtenances to the electric system.

(Ord. No. 5 of 2002, § 1, 10-7-02)

Secs. 62-7—62-20. - Reserved.

Sec. 62-21. - Lien for service provided by the water system, sanitary sewer system and electric system; shutoff policy and deposits for leased premises.

By section 21 of Act 94, Michigan Public Acts of 1933, as amended, the rates and charges for services furnished by the water system, sanitary sewer system, and electric system to residences or businesses located in the village shall be liens on the property served. The village shall certify those rates and charges delinquent for six months or more to the village tax assessing officer, who shall enter the amount of the delinquent rates and charges on the tax roll against the premises to which the service was rendered, and shall collect the rates and charges and enforce the lien in the same manner as provided for the collection of ad valorem property taxes assessed upon the same roll. The village council may, by resolution, establish policies regarding the shutoff of water, sewer and electric service and the payment of charges for costs therefor. Such resolution may also include policies regarding deposits for water, sewer and electric service.

(Ord. No. 4 of 2002, § 1, 10-7-02)

Sec. 62-22. - Aggregation of retail customer demand response.

The Village of Clinton may provide aggregation of retail customer demand response as follows:

- (1) The Village of Clinton public power system or its authorized designee is the sole entity permitted to bid demand response on behalf of retail customers served by the Village of Clinton public power system directly into any commission-approved independent system operator's or regional transmission organization's organized electric markets.
- (2) Retail customers served by the Village of Clinton public power system wishing to bid their demand response into a commission-approved independent system operator's or regional transmission organization's organized electric markets may do so by participating in the program established by the Village of Clinton public power system or its authorized designee. Retail customers are not permitted to participate in the demand response program of any other entity without the express prior authorization of the Village of Clinton public power system.

(Ord. No. 01 of 2009, § 2, 2-2-09)

Sec. 62-23. - Ancillary services.

The Village of Clinton may provide ancillary services provided by demand response resources as follows:

- (1) The Village of Clinton public power system or its authorized designee is the sole entity permitted to bid demand response on behalf of retail customers served by Village of Clinton public power system directly into any commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response

ancillary services (or its functional equivalent in the commission-approved independent system operator's or regional transmission organization's tariff).

- (2) Retail customers served by the Village of Clinton public power system wishing to bid their demand response into a commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the commission-approved independent system operator's or regional transmission organization's tariff) may do so by participating in the program established by the Village of Clinton public power system or its authorized designee. Retail customers are not permitted to participate in the demand response program of any other entity without the express prior authorization of the Village of Clinton public power system.

(Ord. No. 01 of 2009, § 3, 2-2-09)

Secs. 62-24—62-30. - Reserved.

ARTICLE II. - WATER

DIVISION 1. - GENERALLY

Sec. 62-31. - Fluoridation.

Fluoride shall not be added to the public drinking water of the village.

(Ord. No. 73-2, § 1, 4-7-73)

Secs. 62-32—62-50. - Reserved.

DIVISION 2. - CROSS CONNECTIONS^[2]

Footnotes:

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Editor's note— Ord. No. 2014-03, § 1, adopted April 7, 2014, repealed the former Div. 2, §§ 62-51—62-59, and enacted a new Div. 2, §§ 62-51—62-65, as set out herein. The former Div. 2 pertained to similar subject matter and derived from Ord. No. 02-2011, § 2, adopted March 7, 2011.

Cross reference— Civil fine for failure to comply with any of the provisions of this division, § 3-6.

Sec. 62-51. - Definitions.

For the purpose of this division the terms shall comply with generally accepted engineering practices and the Michigan Department of Environmental Quality's Cross Connection Control Rules. The following definitions shall also be used in this division:

Backflow means water of questionable quality, waste, or other contaminants entering a public water supply system due to a reversal of flow.

Cross connection is defined as a connection or arrangement of piping or appurtenances through which a backflow could occur.

(Ord. No. 2014-03, § 2, 4-7-14)

Sec. 62-52. - Adoption of state cross connection rules.

The Village of Clinton hereby adopts the Michigan Department of Environmental Quality's Cross Connection Control Rules and through this division is given the authority to carry out and enforce a local cross connection control program.

(Ord. No. 2014-03, § 3, 4-7-14)

Sec. 62-53. - Inspection required.

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

(Ord. No. 2014-03, § 4, 4-7-14)

Sec. 62-54. - Right to enter.

The village, or an authorized representative, shall have the right to enter at any reasonable time any property served by a connection to the public water supply system of the village for the purpose of inspecting the piping system or systems thereof for cross connections. On request, the owner, lessees, or occupants of any property so served shall furnish to village any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connection.

(Ord. No. 2014-03, § 5, 4-7-14)

Sec. 62-55. - Schedule of inspections.

The schedule for inspections shall be to first inspect the known or suspected secondary water supply cross connections (surface water, class III wells, recirculated water, etc.); then to inspect the known or suspected submerged inlet cross connections. In general, emphasis will be placed on making inspections of all industrial; where cross connections are known or suspected to exist; then commercial and residential establishments. A general review will follow in a logical sequence as time permits. In order to assure against the hazards of cross connections, it will be necessary to periodically and systematically reinspect for the presence of cross connections. Whenever it is suspected or known that modifications have taken place with piping systems serving a particular water customer, reinspections of the premises will be made.

(Ord. No. 2014-03, § 6, 4-7-14)

Sec. 62-56. - Testing intervals.

Based on the associated degree of hazard and probability of backflow, each assembly will be assigned a testing frequency. Assemblies in place on high hazard connections must be tested annually. All testable backflow prevention devices shall be tested at a minimum every five years with records of test results maintained by the village. Only a licensed plumber who has successfully passed an approved backflow testing class shall be qualified to perform such testing. That individual shall certify the results of the testing to the village on state approved forms. All testable backflow prevention assemblies shall be

tested at the time of installation or relocation and after any repair. Subsequent testing of devices shall be conducted at a time interval specified by the village and in accordance with Michigan Department of Environmental Quality's Cross Connection Control Rules.

(Ord. No. 2014-03, § 7, 4-7-14)

Sec. 62-57. - Testor qualifications.

Only individuals that hold a valid Michigan plumbing license and have successfully passed an approved backflow testing class shall perform such testing. The individual(s) performing assembly testing shall certify the results of his/her testing.

(Ord. No. 2014-03, § 8, 4-7-14)

Sec. 62-58. - State Plumbing Code.

This article does not supersede the State Plumbing Code and any applicable village plumbing ordinance.

(Ord. No. 2014-03, § 9, 4-7-14)

Sec. 62-59. - Protective devices.

The methods to protect against the hazards of cross connections as outlined in the Michigan Department of Environmental Quality's Cross Connection Rules Manual will be incorporated into the Village of Clinton's Cross Connection Control Program. Whenever any deviation from the recommended methods of protection is contemplated, approval from the Michigan Department of Environmental Quality shall first be obtained.

(Ord. No. 2014-03, § 10, 4-7-14)

Sec. 62-60. - Compliance time.

Cross connections which pose an eminent and extreme hazard shall be disconnected immediately and so maintained until necessary protective devices or modifications are made. Cross connections which do not pose an extreme hazard to the water supply system, but nevertheless constitute a cross connection, should be corrected within a reasonable period of time of 30 to 60 days. The length of time allowed for correction should be reasonable and may vary depending on the type of device necessary for protection.

(Ord. No. 2014-03, § 11, 4-7-14)

Sec. 62-61. - Records.

The village shall maintain records of its local cross connection control program so as to report annually on the status of the program to the Michigan Department of Environmental Quality.

(Ord. No. 2014-03, § 12, 4-7-14)

Sec. 62-62. - Discontinuance of water service.

The village is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this article exists and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross connection(s) has been eliminated in compliance with the provisions of this article. Cross connections which pose an eminent and extreme hazard shall be disconnected immediately and so maintained until necessary protective devices or modifications are made.

(Ord. No. 2014-03, § 13, 4-7-14)

Sec. 62-63. - Non-potable water posting.

The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified by this article and by the state and village plumbing code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner stating "Water Unsafe for Drinking".

(Ord. No. 2014-03, § 14, 4-7-14)

Sec. 62-64. - Sprinkler systems.

No person shall connect any device to or modify on-site piping that is connected to the public water supply system without first obtaining a permit from the village. Under no circumstances shall a device be installed that feeds fertilizer, pesticides, or other chemicals into a lawn irrigation system.

(Ord. No. 2014-03, § 15, 4-7-14)

Sec. 62-65. - Penalty.

Any person violating any of the provisions of this article shall be subject to the penalties as set forth in section 1-11 of this Code.

(Ord. No. 2014-03, § 16, 4-7-14)

Secs. 62-66—62-80. - Reserved.

DIVISION 3. - PUBLIC WATER SYSTEM

Sec. 62-81. - Definitions.

For the purpose of this division the terms shall comply with generally accepted engineering practices and the Michigan Department of Environmental Quality's Cross Connection Control Rules. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Backflow means water of questionable quality, waste, or other contaminants entering a public water supply system due to a reversal of flow.

Connection charge means a charge to the consumer to reimburse the village for costs incurred by the village or others in bringing water service to and across a parcel on which no previous connection or assessment has been made.

Consumer means the person who occupies the property to which a water connection is made. The consumer may be either an owner or tenant.

Cross connection means a connection or arrangement of piping or appurtenances through which water of questionable quality, wastes or other contaminants could enter the water distribution system.

Village means the Village of Clinton.

Meter means any measuring device by which the amount of water used by a consumer is measured.

Meter pit means a box or vault constructed underground, in which a meter and appurtenances can be installed.

Owner means the person owning the property to which a water connection is made.

Parcel means a lot or other single piece of land described so as to be conveyed by deed.

Service line means the part of the distribution system between the water connection and the premises served.

Tapping fee means the fee charged by the village for making the water connection.

Water connection means the part of the water distribution system connecting the water main and the service line. The water connection shall terminate between the curb line and the property line at a curb box or a meter pit.

Water distribution system means all mains, pipes, connections, meters, hydrants and appurtenances served by, or connected to, the water main which is used to distribute water by the village.

Water main means the part of the water distribution system located within street rights-of-way or easements and designed to serve more than one water connection.

(Ord. No. 2014-04, § 1, 4-7-14)

Sec. 62-82. - Supplemental to State Plumbing Code.

This article does not supersede the State Plumbing Code and any applicable village plumbing ordinance.

(Ord. No. 2014-04, § 2, 4-7-14)

Sec. 62-83. - Additional rules or policies.

- (a) The village may make and issue additional rules and regulations concerning the water distribution system, connections to such system, meter installations and maintenance, hydrants and water mains, and appurtenances thereto, not inconsistent with this article. Such rules and regulations shall be effective upon approval of the village council.
- (b) The village may establish policies to govern village operations that shall be consistent with this article and any rules and regulations.
- (c) The village shall annually review rates and charges, and shall adjust such rates and charges as necessary to achieve, at a minimum, a balanced budget.

(Ord. No. 2014-04, § 3, 4-7-14)

Sec. 62-84. - Enforcement orders generally; shutting off water.

- (a) The village may shutoff the water service and issue penalties for violations of this article. Administrative fines shall not exceed the statutory limit for municipal fines. Each day shall be deemed a separate violation where continuing violations occur.
- (b) The village will process utility payments and shut offs in accordance with the village utility shutoff policy.

(Ord. No. 2014-04, § 4, 4-7-14)

Sec. 62-85. - Continuous service not guaranteed.

The village will endeavor to furnish continuous water service to all consumers, but does not guarantee uninterrupted service, pressure or water quality. The village shall not be liable for any damage that a consumer or owner may sustain by reason of failure to provide continuous water service or pressure, whether caused by accident, repairs, shut off for cause or otherwise, nor will the village be liable for damages to persons or property arising, accruing or resulting from failure of the supply of water pressure or from any apparatus or appurtenance of the water system.

(Ord. No. 2014-04, § 5, 4-7-14)

Sec. 62-86. - Water conservation orders.

The village may issue a water conservation order during times of high usage, system failure or drought, where the continued use of water at the consumers' discretion may endanger the water available to all users. The conservation order shall include steps ordered to reduce usage, time limit for the order and a statement of fines or penalties for disregarding the order. Such water conservation orders shall be deemed necessary to protect the public water supply as required for the health and safety of the citizens of the village. The village will try to provide a two day advanced notice of the order if reasonably possible. Such order may be published in a newspaper of general circulation in the village, on radio or television, through automatic phone dialer systems, posted on the affected property, through personal contact or with other permissible notification systems. If there is a system failure or emergency which endangers the water availability the village can impose immediate emergency orders to reduce water consumption or can immediately terminate water usage to individual customers or blocks of customers.

(Ord. No. 2014-04, § 6, 4-7-14)

Sec. 62-87. - Furnishing water outside village limits.

The village may furnish water outside the village limits in limited situations pursuant to policy set forth from time to time by the village council.

(Ord. No. 2014-04, § 7, 4-7-14)

Sec. 62-88. - Water connections.

- (a) An application for each tap made to a water main shall be completed by the owner of a premises for which water service is desired.
- (b) No tap to a water main or the water connection shall be smaller than one inch.
- (c) The village shall not allow a water connection to any parcel unless the water main extends across the total frontage of the parcel for which application for a tap is made, or across the total frontage of the parcel facing one street in the case of a corner parcel. The village council may make exception to this

requirement in limited situations where it is deemed by the council to not be in the village's best interest to extend utilities across the entire parcel at the time.

- (d) One water connection shall be made for each parcel and shall be installed between the parcel lines as extended into the street right-of-way. The water connection shall not cross one parcel, or a part thereof, to serve another parcel or premises unless the village agrees to accept a valid easement for installing, operating, maintaining or removing and replacing such water connection.
- (e) The property owner is responsible for all of the water service from the shutoff valve in the street right-of-way to the structure or building.
- (f) All water connections shall be made by village personnel, its authorized agents, or contractors approved by the village.

(Ord. No. 2014-04, § 8, 4-7-14)

Sec. 62-89. - Meters.

- (a) All premises shall be metered with a meter furnished by the village. The ownership of the meter remains with the village. Meter size shall be determined by the owner at the time an application for a tap is made.
- (b) Each water meter shall be served by its own water connection and service line. In general the meter shall be in an inside location, such as a basement or cellar. Meters shall not be installed in crawl spaces or other places of difficult access. The meter setting shall be near the front wall of the structure. Where two or more structures are situated on a single parcel, each structure shall have its own water connection, service line and meter. The village may give permission, in writing, for additional structures to be served by a single connection and meter in cases of a detached garage or an industrial site where no single structure can be sold separately.
- (c) In the case of a single structure with multiple residential units, such as an apartment building, a single meter may serve the entire building. In no case shall a single meter serve a multi-unit building in which two or more owners maintain separate units in each name, such as a condominium. Where separate ownership of units is contemplated or a conversion of an apartment house to a condominium occurs, each separate unit shall be served by a single water connection, service line and meter.
- (d) Where a premises contains no suitable inside location for a water meter, the meter shall be installed outside in a village approved meter pit in a location near the street right-of-way line.
- (e) The village shall have the right to terminate the water service to any premises where the village is unable to obtain access to the meter. Any qualified employee or agent of the village shall have the right to enter the premises where such meters are installed at reasonable hours for the purpose of reading, testing, removing, replacing, or inspecting the meters, and no person shall hinder, obstruct or interfere with such employee in the lawful discharge of such employee's duties in relation to the care and maintenance of the water meter.
- (f) A consumer or owner of a premises may request that the water meter be tested. If the meter is found to be accurate (within a three percent), the cost of all labor, materials and transportation incurred during the removal and testing of the meter shall be charged to the consumer or owner. If the meter is found to be inaccurate or defective, it shall be repaired or replaced at no cost to the owner or consumer. The village may order any meter removed for testing and shall not charge the owner or consumer for any costs incurred.

(Ord. No. 2014-04, § 9, 4-7-14)

Sec. 62-90. - Service lines.

- (a) Service lines from the building to the water shutoff in the street right-of-way shall be the property and responsibility of the owner. When a new service line is installed it is the responsibility of the owner to install the new service line and shutoff from the village water main to the building. All such work requires a village permit.
- (b) The service line shall be constructed of materials that are compatible with the village's approved materials and shall be impervious to the passage of contaminants into the water system. The village shall not allow connection of the water service if there is any question that the materials used will not prevent contamination from entering the water system or do not meet the current state, health, plumbing or village codes.
- (c) The owner shall be responsible for any leakage resulting from damage, defective workmanship or deterioration of the service line. Whenever the village discovers leakage on any service line, the village shall notify the owner, in person or in writing, that the leak shall be repaired or the water service shall be terminated and the service shall not be restored until the repair has been completed and inspected, and payment made for the loss of water and of the reconnection fee. Repairs to major leaks must be made immediately or as otherwise ordered by the village, and minor leaks must be repaired within three days or as otherwise ordered by the village.

(Ord. No. 2014-04, § 10, 4-7-14)

Sec. 62-91. - Fire hydrants.

- (a) No person, except an authorized employee of the village or Clinton Fire Department in the performance of his or her duties, or an approved contractor, shall open or use any fire hydrant belonging to the village.
- (b) A contractor, in the process of installing water mains and hydrants, is authorized to operate hydrants until the main or hydrant is accepted by the village.
- (c) All other use of a fire hydrant shall be by permit only.
- (d) A hydrant wrench conforming to the village standard nut shall be the only tool permitted to operate a fire hydrant. Persons who use other instruments to operate a hydrant shall be liable to a fine, and for all damages incurred as a result of the use of any unauthorized tool.

(Ord. No. 2014-04, § 11, 4-7-14)

Sec. 62-92. - Turn on of water service.

- (a) No person, other than an authorized employee of the village, shall turn on any water service, except as set forth in this section.
- (b) Upon written notification of the village, a licensed plumber may turn water service on for testing the plumber's work, whereupon it shall be immediately turned off.
- (c) No water shall be turned on to any premises until all fees and charges are paid in full.

(Ord. No. 2014-04, § 12, 4-7-14)

Sec. 62-93. - Violations.

- (a) It shall be unlawful for any person, except authorized employees of the village acting in their official capacity, or contractors pre-approved by the village, to tap, change, remove, disconnect, repair, install, break a seal, turn on, turn off or in any way operate or disturb any water main, water connection, meter, valve, hydrant, fitting or other appurtenance of the water distribution system.

- (b) It shall be unlawful to operate any valve, hydrant or other appurtenance of the water system with any tool or device other than an approved wrench or key.
- (c) When a fire service line is installed on a premises or parcel of land, it shall be unlawful to use water through such line for any purpose other than extinguishing fires or for testing or filling the private fire system and its appurtenances. Such prohibition shall be in effect regardless of whether the fire line is metered or not. Tests of private fire systems shall be made at such times as authorized by the village in order to protect the village water system.
- (d) It shall be unlawful for any person, other than a licensed village employee acting in the course of his duties, to operate or change the setting of any valve, device or appurtenance to the water treatment plant or water distribution system, except in an emergency and then only at the direction of the village.
- (e) It shall be unlawful to cover up or obstruct in any way free access to any curb box, street valve, meter, remote reading unit, or other appurtenance of the water system. A flooded vault or meter pit shall be deemed an obstruction. In case of a violation of this subsection, the costs of removing the obstruction and restoring the appurtenance to its proper accessible position, plus a surcharge of 25 percent, shall be charged to the owner in addition to any penalty issued by the village.
- (f) It shall be unlawful to permit a leak on a service line to continue beyond three days or as otherwise ordered by the village. If the village gives notice to an owner or consumer that a leak exists on a private service line or a fire line and the leak is not repaired within three days, or as otherwise ordered by the village, the estimated volume of water lost shall be billed to the owner. The village's estimate shall be reasonable and binding. Repairs to major leaks must be made immediately, or as otherwise ordered by the village, if the leak is adversely impacting the village's water distribution system.
- (g) It shall be unlawful for any person to ground or electrically connect any radio, television, telephone or other electrical system to any pipe or appurtenance connected to the discharge side of the water meter unless:
 - (1) A shunt is placed around the water meter so as to shunt or bypass any electrical current that might otherwise flow through the water meter; or
 - (2) Ten feet or more of the water pipe connected to the discharge side of the water meter is buried in moist earth.
 - (3) Any shunt placed around the water meter shall be placed so that the meter may be removed without disabling it and no electrical connection whatsoever shall be made to the meter itself, the meter union or the meter tail piece. For the purposes of this subsection, the term "tail piece" means a short piece of pipe which is immediately adjacent to the meter and connected thereto by the meter union.
 - (4) All connections must be made in full compliance with the state building, electrical and plumbing codes, as amended.
- (h) It shall be unlawful for any person to open any valve or make any connection which makes possible the use of water which has not passed through a meter properly installed and recorded by the village, nor shall a person disable a meter in any way, or in any way cause a meter to register less water than actually is used in or on a premises.
- (i) It shall be unlawful for any person to break, damage, destroy, deface, tamper with or disturb any structure, appurtenance or equipment which is a part of the village water system without the approval of the village.
- (j) It shall be unlawful to use water for purposes banned during a water conservation order or a water emergency order. Such use shall be prima facie evidence that such use was consented to, approved by or directed by the consumer who is the recorded customer, according to village records, at the time of violation.
- (k) It shall be unlawful for any person to make, permit to be made or permit to exist, any cross connection on any parcel of land or premises owned or occupied by such person.

(Ord. No. 2014-04, § 13, 4-7-14)

Secs. 62-94—62-96. - Reserved.

DIVISION 4. - ABANDONED WATER WELLS³

Footnotes:

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Editor's note— Ord. No. 2018-02, adopted May 7, 2018, adopted provisions pertaining to abandoned wells, but did not specify a Code section. Its inclusion herein was at the discretion of the editor.

Sec. 62-97. - Definitions.

As used in this division, the following shall apply:

Village means the Village of Clinton, Michigan.

Village water system means that system of the village within and outside the village limits by which water is supplied to water users.

Well means an opening in the surface of the earth for the purpose of removing water underneath the earth's surface by both mechanical and nonmechanical means.

(Ord. No. 2018-02, § 1, 5-7-18)

Sec. 62-98. - Prohibition of water wells.

No person, firm, association, corporation, or any other entity shall install, construct, maintain, or use a water well within the village for any purpose whatsoever, except for the following:

- (1) Wells installed and maintained for the purpose of groundwater monitoring and/or remediation as part of a response activity approved or required by the Michigan Department of Environmental Quality;
- (2) Wells installed for construction dewatering, provided the water generated by that activity is handled and disposed of in accordance with all applicable laws and regulations, and as may be approved on a case-by-case basis by the village, Lenawee County and/or Michigan Department of Environmental Quality. Exacerbation, as defined in MCL 324.20101, caused by the use of wells under this exception shall be the responsibility of the person operating the dewatering well, as provided in Part 201 of 1994 PA 45 1, the Natural Resources and Environmental Protection Act (NREPA);
- (3) The Type II municipal wells operated by the village, provided that these wells are subject to groundwater monitoring under the oversight of the Michigan Department of Environmental Quality (MDEQ) Water Division, in accordance with Act 399 of 1976, the Michigan Safe Drinking Water Act, being MCL 325.1001—325.1023 et seq., and the applicable Part 7 Administrative Rules promulgated thereunder;
- (4) Wells installed and maintained to supply industrial cooling water or for large-scale irrigation purposes, as may be approved on a case-by-case basis by the village and MDEQ;
- (5) Nonconforming private wells that service any property or structure:
 - a. Within the village on the effective date of [the ordinance from which this division derives], or

- b. Annexed into the village after the effective date of [the ordinance from which this division derives]. Private owners and operators may continue to use such nonconforming wells subject to all applicable state and local laws; provided, however, that any nonconforming well that fails to produce adequate water for the intended use or is not actively used shall be properly abandoned in accordance with Lenawee County and Michigan Department of Environmental Quality standards. Exceptions to this subsection may be approved on a case-by-case basis by the village; or
- (6) In exceptional cases outside of the restricted zone, the village may approve a new private well within the village if municipal water is not reasonably accessible. such requests must be approved by the village.

(Ord. No. 2018-02, § 2, 5-7-18)

Sec. 62-99. - Closing off abandoned wells.

Wells that are abandoned or are not allowed in the village must be properly abandoned, filled and closed off pursuant to village, Lenawee County and Michigan Department of Environmental Quality standards.

(Ord. No. 2018-02, § 1, 5-7-18)

Sec. 62-100. - Violations.

A person or corporation that violates any provision of this division is responsible for a municipal civil infraction and shall be subject to such civil infraction fines and costs as provided in municipality's ordinances or municipal code. Nothing in this section shall be construed to limit the remedies available to municipality in the event of a violation by a person or corporation.

(Ord. No. 2018-02, § 1, 5-7-18)

ARTICLE III. - RESERVED⁽⁴⁾

Footnotes:

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Editor's note— Ord. No. 4 of 2002, § 2, adopted Oct. 7, 2002, repealed §§ 62-81—62-84, which pertained to electric service and derived from Ord. No. 86-3, §§ 1—4, adopted Jan. 17, 1986. For similar provisions see §§ 62-5 and 62-6.

Secs. 62-101—62-110. - Reserved.

ARTICLE IV. - SEWERS

DIVISION 1. - GENERALLY

Sec. 62-111. - Definitions.

Unless the context specifically indicates otherwise, the meanings of terms used in this division shall be as defined in the Sewer Use Ordinance.

(Ord. No. 80-1, § 1, 1-16-80)

Cross reference— Definitions generally, § 1-2.

Secs. 62-112—62-135. - Reserved.

DIVISION 2. - RATES

Sec. 62-136. - Basis.

Charges for sewage disposal services shall be levied on a monthly basis upon all premises having any sewer connection with the public sewers for the village. The sewer rates will be based on a rate per 1,000 gallons of water metered and will be set and amended by village council resolution. Sewer rates will be set to generate enough revenue to meet annual operation and maintenance costs, debt service and anticipated future maintenance costs.

(Ord. No. 91-4, § 2, 4-20-91)

Sec. 62-137. - Service charge.

There will be a monthly service charge per meter hookup. The charge will be in addition to the sewer rates assessed for usage. The monthly service charge will be set and amended by village council resolution.

(Ord. No. 91-4, § 3, 4-20-91)

Sec. 62-138. - Extra strength surcharges.

When approved by the village for discharge and after completion of a control manhole, users shall be charged on the basis of quarterly strength determinations. Strength determination shall be computed from concentrations determined by 24-hour composite samples. The extra strength surcharges will be set and amended by village council resolution.

(Ord. No. 91-4, § 4, 4-20-91)

Sec. 62-139. - Industrial cost recovery.

As set forth in the sewer use division, industrial users subject to industrial cost recovery charges will be charged a rate per 1,000 gallons of metered water in excess of 22 gallons per employee per day (gped). In lieu of the flow charge, industrial users shall pay a surcharge where strength and flow data is available. Charges will be set and amended by council resolution.

(Ord. No. 91-4, § 5, 4-20-91)

Sec. 62-140. - Outside corporate limits.

Whenever the system is supplying sewage disposal service to premises located outside the corporate limits of the village, the rates for this service shall be fixed by the village council. The operation, maintenance and replacement (OM&R) portion of the rate charges shall be proportional to the village rates for operation, maintenance and replacement.

(Ord. No. 80-1, § 6, 1-16-80)

Sec. 62-141. - Billing.

All meters shall be read monthly. Bills for sewage disposal services shall be rendered monthly under the supervision of the village, and such bills shall be due and payable on the date specified in the bill. For bills not paid within 15 days thereafter, a penalty of ten percent of the amount of the bill shall be charged.

(Ord. No. 80-1, § 7, 1-16-80)

Sec. 62-142. - Collection.

The village is hereby authorized to enforce the payment of charges for sewage disposal service to any premises by discontinuing either the water service or the sewage disposal service to such premises, or both, and an action of assumpsit may be instituted by the village against the customer. The charges for sewage disposal service, which, under the provisions of Act No. 94 of the Public Acts of Michigan of 1933 (MCL 141.101 et seq., MSA 5.2731 et seq.), as amended, are made a lien on the premises to which furnished, are hereby recognized to constitute such lien. The village shall annually, on December 31, certify all unpaid charges for such services furnished to any premises which have remained unpaid for a period of six months, to the assessor who shall place the unpaid charges on the next tax roll of the village. Such charges so assessed shall be collected in the same manner as general village taxes. In cases where the village is properly notified in accordance with Act No. 94 of the Public Acts of Michigan of 1933 (MCL 141.101 et seq., MSA 5.2731 et seq.), as amended, that a tenant is responsible for sewage disposal service charges, no such service shall be commenced or continued to such premises until there has been deposited with the village, a sum sufficient to cover two times the average monthly bill for such premises as estimated by the village. Where the water service to any premises is turned off to enforce the payment of sewage disposal service charges, the water service shall not be recommenced until all delinquent charges have been paid and a deposit as in the case of tenants is made, and there shall be a water turn-on charge of \$10.00. In any other case where, in the discretion of the village, the collection of charges for sewage disposal service may be difficult or uncertain, the village may require a similar deposit. Such deposits may be applied against any delinquent sewage disposal service charges and the application thereof shall not affect the right of the village to turn off the water service and/or sewer service, to any premises for any delinquency thereby satisfied. No such deposit shall bear interest and such deposit, or any remaining balance thereof, shall be returned to the customer making the same when he shall discontinue receiving sewage disposal service or except as to tenants as to whom notice of responsibility for such charges has been filed with the village, when any 12 successive monthly bills have been paid by the customer with no delinquency.

(Ord. No. 80-1, § 8, 1-16-80)

Secs. 62-143—62-165. - Reserved.

DIVISION 3. - USE

Subdivision I. - In General

Sec. 62-166. - Purpose, objectives and scope of division.

- (a) This division sets forth uniform requirements for users of the wastewater collection and treatment system or the village and enables the village to comply with all applicable state and federal laws.
- (b) The objectives of this division are to:

- (1) Prevent the introduction of pollutants into the village wastewater system that will interfere with its operation;
 - (2) Prevent the introduction of pollutants into the wastewater collection system that will pass through the wastewater treatment system, inadequately treated, into receiving waters, or otherwise be incompatible with the wastewater treatment system;
 - (3) Protect both village wastewater collection and treatment system personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
 - (4) Promote reuse and recycling of industrial wastewater and sludge from the village wastewater system;
 - (5) Provide for fees for the equitable distribution of the cost of operation and maintenance, and improvement of the village wastewater system; and
 - (6) Enable the village to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the wastewater system is subject.
- (c) This division shall apply to all users of the wastewater collection and treatment system. This division authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established in this division.

(Ord. No. 95-04, § 25.001, 8-7-95)

Sec. 62-167. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act and *the act* mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

Approval authority means the director of the state department of natural resources, or other duly authorized official of such agency.

Authorized representative of the user means:

- (1) If the user is a corporation:
 - a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making function for the corporation; or
 - b. The manager of one or more manufacturing, production or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000.00 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the user is a partnership or sole proprietorship, a general partner or proprietor, respectively.
- (3) If the user is a federal, state or local governmental facility, a director or the highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

The individuals described in subsections (1) through (3) of this definition may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having

overall responsibility for environmental matters of the company, and the written authorization is submitted to the village.

BOD (biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five days at 20 degrees Celsius, expressed in parts per million by weight.

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

Building sewer means the extension from the building drain to the public sewer or other place of disposal.

Bypass means the intentional diversion of waste streams from any portion of a user's treatment facility.

Categorical pretreatment standard and categorical standard mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with sections 307(b) and (c) of the act (33 USC 1317) which apply to a specific category of users and which appear in 40 CFR chapter I, subchapter N, parts 405 to 471.

Combined sewer means a sewer receiving both surface runoff and sewage.

Debt service charge. The charges levied to customers of the wastewater system that are used to pay principal, interest, and administrative costs of retiring the debt incurred for construction of the system. The debt service charge may be higher for property outside the village.

Environmental protection agency and EPA mean the U.S. Environmental Protection Agency or, where appropriate, the regional water management division director, or other duly authorized official of such agency.

Existing source means any source of discharge, the construction or operation of which commenced prior to the publication by the EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307 of the act.

Garbage means solid wastes from the preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

Grab sample means a sample which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.

Indirect discharge and discharge mean the introduction of pollutants into the POTW from any nondomestic source regulated under section 307(b), (c) or (d) of the act.

Interference means a discharge which, alone or in conjunction with discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal, and therefore is a cause of a violation of the village's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory or regulatory provisions or permits issued thereunder, or any more stringent state or local regulations: section 405 of the act; the Solid Waste Disposal Act, including title II, commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

Natural outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

New source.

- (1) New source means any building, structure, facility or installation from which there is, or may be, a discharge of pollutants, the construction of which commenced after the publication of proposed

pretreatment standards under section 307(c) of the act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

- a. The building, structure, facility or installation is constructed at a site at which no other source is located;
 - b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - c. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection (1)b or c of this section but otherwise alters, replaces or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this subsection has commenced if the owner or operator has:
- a. Begun, or caused to begin, as part of a continuous on-site construction program:
 1. Any placement, assembly or installation of facilities or equipment;
 2. Significant site preparation work including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or
 - b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies, do not constitute a contractual obligation under this subsection.

Normal strength. Sewage or wastes, the concentration of which do not exceed BOD of 250 mg/l, SS of 275 mg/l, phosphorus of 13 mg/l, ammonia 40 mg/l, fats, oils, and grease of 100 mg/l, a PH between 6.0 and 8.5, and which do not contain a concentration of other constituents which will interfere with the normal sewage treatment process.

Operation and maintenance (O&M) means all costs, direct and indirect, not including debt service, but inclusive of expenditures attributable to administration, equipment replacement and treatment and collection of wastewater necessary to ensure adequate treatment and collection on a continuing basis in conformance with applicable regulations.

Operation and maintenance charge. All costs attributable to sewage collection, treatment, replacement, and administration necessary to ensure adequate collection and treatment of Sewage on a continuing basis in conformance with the NPDES permit, and other applicable regulations. Operation and maintenance charges may be higher for certain properties that have greater costs attributable to providing sanitary sewer services and for property located outside the village.

Pass-through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with discharges from other sources, is a cause of a violation of any requirement of the village's NPDES permit, including an increase in the magnitude or duration of a violation.

Penalties and late fees. The village will charge penalties and late fees as set by village policy, as amended from time to time.

Person means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal

representative, agents or assigns. This definition includes all federal, state and local governmental entities.

pH means a measure of the acidity or alkalinity of a solution, expressed in standard units.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity or odor).

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical or biological processes; by process changes; or by other means except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

Pretreatment standard means any federal, state or local requirement, including but not limited to discharge limits, reporting requirements and permit conditions.

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

Publicly owned treatment works and POTW mean a treatment works, as defined by section 212 of the act (33 USC 1292), which is owned by the village. This definition includes any devices or systems used in the collection, storage, treatment or recycling and reclamation of sewage or industrial wastes of liquid nature and any conveyances which convey wastewater to a treatment plant.

Replacement. Expenditures and costs for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the system to maintain the capacity and performance for which the system was designed and constructed.

Residential user includes all dwelling units used as detached, semidetached and row houses, garden and standard apartments, and permanent multifamily dwellings.

Service charge. All costs attributable to meter reading, billing, and a portion of the administration costs of the system. The service charge may be higher for property outside the village.

Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

Sewage means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such groundwater, surface water and stormwater as may be present.

Sewer service charge means the rate charged for providing wastewater collection and treatment service.

Significant industrial user means:

- (1) A user subject to categorical pretreatment standards; or
- (2) A user that:
 - a. Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
 - b. Contributes a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

- c. Is designated as such by the village on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

Upon finding that a user meeting the criteria in subsection (2) of this section has no reasonable potential for adversely affecting the POTW's operation or violating any pretreatment standard or requirement, the village may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

Slug discharge means any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge.

Standard Industrial Classification (SIC) Code means a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

Stormwater means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Suspended solids means solids that either float on the surface of or are in suspension in water, sewage or other liquids, and which are removable by the wastewater treatment process.

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with any pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

Usage charge. A charge per 1,000 gallons of water metered for operation and maintenance, and replacement of the system.

Usage surcharge. A charge imposed on a user of the system who discharges sewage in excess of normal strength.

User and industrial user mean a source of indirect discharge.

Wastewater means liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities and institutions, whether treated or untreated, which are contributed to the POTW.

Wastewater treatment plant and treatment plant mean that portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

(Ord. No. 95-04, § 25.010, 8-7-95; Ord. No. 1 of 2004, § 3, 6-7-04; Ord. No. 2015-01, § 1, 5-4-15)

Cross reference— Definitions generally, § 1-2.

Sec. 62-168. - Abbreviations.

The following abbreviations, when used in this division, shall have the meanings designated in this section:

BOD	Biochemical oxygen demand
CFR	Code of Federal Regulations

COD	Chemical oxygen demand
EPA	U.S. Environmental Protection Agency
gpd	Gallons per day
mg/l	Milligrams per liter
NPDES	National Pollutant Discharge Elimination System
POTW	Publicly owned treatment works
RCRA	Resource Conservation and Recovery Act
SIC	Standard Industrial Classification
TSS	Total suspended solids
USC	United States Code

(Ord. No. 95-04, § 25.012, 8-7-95)

Sec. 62-169. - Use of public sewers required.

- (a) *Depositing objectionable wastes upon public or private property.* It shall be unlawful for any person to place, deposit or permit to be deposited in an unsanitary manner upon public or private property within the village, or in any area under the jurisdiction of the village, any human or animal excrement, garbage or other objectionable waste.
- (b) *Polluted discharges.* It shall be unlawful to discharge or cause to be discharged into any storm sewer, natural watercourse, artificial watercourse or natural outlet any sewage, wastewater or other polluted waters.
- (c) *Privies, septic tanks and cesspools.* Except as otherwise provided in this division, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.
- (d) *Toilet facilities required; connection to public sewer.* The owner of any house, building or property used for human occupancy, employment, recreation or other purpose, situated within the village and abutting on any street, alley or right-of-way in the village where there is now located or may in the future be located a public sanitary sewer of the village, is hereby required at the owner's expense to install suitable toilet facilities and connect such facilities directly with the proper public street sewer in accordance with the provisions of this division. The village may require any such owner, pursuant to the authority conferred upon it by law or ordinance, to make such installations or connections.

(Ord. No. 95-04, §§ 25.021—25.024, 8-7-95)

Sec. 62-170. - Private sewage disposal systems.

- (a) *Use generally.* Where a public sanitary sewer is not available under the provisions of section 62-169(d), the building sewer shall be connected to a private sewage disposal system constructed in compliance with state and local laws.
- (b) *Discontinuance of use when public sewer becomes available.* At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in section 62-169(d), a direct connection shall be made to the public sewer in compliance with this division, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable materials. All filling and demolition shall be subject to approval of the village.
- (c) *Maintenance.* The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the village.
- (d) *Additional requirements.* No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the village or other regulatory agencies with respect to private sewage disposal.

(Ord. No. 95-04, §§ 25.031—25.034, 8-7-95)

Sec. 62-171. - Building sewers and connections.

- (a) *Permit required.* No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the village.
- (b) *Prerequisites for connection.* All connections with any sewer of the village shall be made only by written authorization and permits issued by the village, and on such forms and on payment of such fees as shall be established from time to time by the village.
- (c) *Payment of costs; indemnification of village.* All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner of the property. The owner shall indemnify the village from all loss or damage that may directly be occasioned by the installation of the building sewer.
- (d) *Approval of plans and specifications.* All applicants for sewer connection permits shall submit plans and specifications of all plumbing construction within such building or premises and such plans and specifications shall meet the requirements of the plumbing code of the state, and all orders, rules and regulations of the department of health. The approval of a connection permit shall also be contingent upon the availability of capacity in all downstream sewers, lift stations and force mains, and the wastewater treatment plant, including BOD and suspended solids capacity. When such plans and specifications have been approved by the village or by such officials as they may designate, a sewer or plumbing permit shall be issued, subject to final inspection and approval when construction is completed. Final approval will be subject to compliance with the plumbing code of the state, and all orders, rules and regulations of local and state regulatory agencies.
- (e) *Inspection of building sewer; connection approval.* The applicant for a building sewer permit shall notify the village when the building sewer is ready for inspection. The village shall then inspect the building and plumbing construction therein and, if such construction meets the previous requirements as so approved in the construction permit, a sewer connection approval shall be issued, subject to the applicable provisions of other sections of this division. Upon final approval of any sewer connection, all sewer supports, testing of sewer, and backfilling of sewer, including materials and other elements contingent on completion of installation, shall comply with state plumbing and village building codes.

- (f) *Responsibility for repairs and maintenance.* The cost of all repairs, maintenance and replacements of existing building sewers and their connection to public sewers shall be borne by the property owner. Such owner shall make application for permit to perform such work to the village through the designated representative.
- (g) *Connection of building sewer into public sewer.* The connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location.
- (h) *Notification of readiness for inspection.* The applicant for the building sewer permit will notify the village when the building sewer is ready for inspection and connection to the public sewer.
- (i) *Excavations.* All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard.

(Ord. No. 95-04, §§ 25.041—25.049, 8-7-95)

Sec. 62-172. - Grease traps.

- (a) *Installation; construction.* Grease, oil and sand interceptors, and conventional grease traps, shall be provided when, in the opinion of the village, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients; except that such grease traps shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the village, and shall be located as to be readily and easily accessible for cleaning and inspection.
- (b) *Maintenance.* Where installed, all grease, oil and sand interceptors and grease traps shall be maintained by the owner, at his expense, in continuously efficient operation at all times.

(Ord. No. 95-04, §§ 25.050, 25.051, 8-7-95)

Sec. 62-173. - Discharge of unpolluted water.

- (a) *Discharge to sanitary sewer prohibited.* No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff or subsurface drainage to any sanitary sewer without prior written approval of the village.
- (b) *Permitted discharge.* Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the village, and in compliance with rules and procedures of various agencies of the state. Industrial cooling water or unpolluted process waters may be discharged, upon approval of the village and the state department of natural resources, to a storm sewer or natural outlet. The village has the right to exclude industrial or commercial waste, in whole or in part, for any reason.

(Ord. No. 95-04, §§ 25.061, 25.062, 8-7-95)

Sec. 62-174. - Prohibited discharges.

- (a) *General prohibitions.* No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass-through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirements. User discharges shall not exceed any applicable federal categorical pretreatment standards or state requirements in addition to the local limits specified in this section.
- (b) *Specific prohibitions.* No user shall introduce or cause to be introduced into the POTW the following pollutants, substances or wastewater:

- (1) Pollutants which create a fire or explosive hazard in the POTW, including but not limited to wastes streams with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR 261.21.
- (2) Wastewater having a pH of less than 6.0 or more than 8.5, or otherwise causing corrosive structural damage to the POTW or equipment, or negatively impacting the biological activity of the POTW.
- (3) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works.
- (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW.
- (5) Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius).
- (6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral origin, in amounts that will cause interference or pass-through.
- (7) Pollutants which will result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (8) Trucked or hauled pollutants, except at discharge points designated by the village.
- (9) Any noxious or malodorous gas or substance capable of creating a public nuisance.
- (10) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
- (11) Any garbage that has not been properly shredded.
- (12) Any waters or waste containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, fish or aquatic life, or create any hazard in the receiving waters or in the wastewater treatment plant.
- (13) Any wastewater having effluent characteristics in excess of discharge limits as fixed by the village by resolution.
- (14) Sewage or wastes, the concentration of which exceeds BOD of 250 mg/l, SS of 275 mg/l, phosphorus of 13 mg/l, fats, oils, and grease of 100 mg/l, ammonia 40 mg/l, PH between 6.0 and 8.5, and which contain a concentration of other constituents which will interfere with the normal sewage treatment process.

(Ord. No. 95-04, § 25.063, 8-7-95; Ord. No. 2015-01, §§ 2, 3, 5-4-15)

Sec. 62-175. - Dilution of discharge.

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation, unless expressly authorized by an applicable pretreatment standard or requirement. The village may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

(Ord. No. 95-04, § 25.080, 8-7-95)

Sec. 62-176. - Accidental discharge and slug control.

At least once every two years, the village shall evaluate whether each significant industrial user needs an accidental discharge and slug control plan. The village may require any user to develop, submit for approval, and implement such a plan. Alternatively, the village may develop such a plan for any user. An accidental discharge and slug control plan shall address, at a minimum, the following:

- (1) Description of discharge practices, including nonroutine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the village of any accidental or slug discharge, as required by this division; and
- (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include but are not limited to inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and measures and equipment for emergency response.

(Ord. No. 95-04, § 25.090, 8-7-95)

Secs. 62-177—62-190. - Reserved.

Subdivision II. - Administration and Enforcement

Sec. 62-191. - Submission of wastewater analysis data.

When requested by the village, a user must submit information on the nature and characteristics of its wastewater within 60 days of the request. The village is authorized to prepare a form for this purpose and may periodically require users to update this information.

(Ord. No. 95-04, § 25.101, 8-7-95)

Sec. 62-192. - Wastewater discharge permit.

(a) *Required.*

(1) *Generally.*

- a. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the village, except that a significant industrial user that has filed a timely application pursuant to subsection (a)(2) of this section may continue to discharge for the time period specified therein.
- b. The village may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this division.

(2) *Existing connections.* Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to September 6, 1995, and who wishes to continue such discharges in the future, shall apply to the village for a wastewater discharge permit in accordance with subsection (b) of this section, and shall not cause or allow discharges to the POTW to continue after 90 days of September 6, 1995, except in accordance with a wastewater discharge permit issued by the village. Existing connections subject to federal categorical standards must meet the compliance deadlines contained in 40 CFR 403.6(b), or any locally established compliance deadline, whichever is the more stringent.

(3) *New connections.* Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in

accordance with subsection (b) of this section, must be filed at least 90 days prior to the date on which any discharge will begin or recommence. New sources shall install, have in operating condition, and start up all pollution control equipment before beginning to discharge. Within the shortest feasible time, not to exceed 90 days, new sources must meet all applicable pretreatment standards.

- (b) *Contents of application; granting or denial.* All users required to obtain a wastewater discharge permit must submit a permit application. The village may require all users to submit as part of an application the following information:
- (1) *Identifying information.* The name and address of the facility, including the name of the operator and owner.
 - (2) *Description of operations.* Number and type of employees, hours of operation, and proposed or actual hours of operation. Each product produced shall be identified by type, amount, processes and rate of production. A brief description of the nature, average rate of production and standard industrial classifications of the operations carried out by such user shall be included. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
 - (3) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other waste streams. Time and duration of discharges shall be included.
 - (4) *Description of facilities.* Description of activities, facilities and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be discharged to the POTW. Site plans, floor plans, mechanical and plumbing plans and details shall be included to show all sewers, floor drains and appurtenances by size, location and elevation, and all points of discharge.
 - (5) *Measurement of pollutants.* For categorical users, identification of the pretreatment standards applicable to each regulated process and the results of sampling and analysis identifying the nature and concentration, or mass, where required by the standard or by the village, of regulated pollutants in the discharge from each regulated process. For other users, the results of sampling and analysis identifying the nature and concentration, or mass, where required by the standard or by the village, of pollutants for which there is a local, state or federal discharge limit, shall be included. Instantaneous, daily maximum, and longterm average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 62-193(h).
 - (6) *Environmental permits.* A list of any environmental control permits held by or for the facility.
 - (7) *Certification.* A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance or additional pretreatment is required to meet the pretreatment standards and requirements.
 - (8) *Compliance schedule.* If additional pretreatment or operation and maintenance will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment or operation and maintenance. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in section 62-193(a)(2)i.
 - (9) *Signature and certification.* All reports must be signed and certified in accordance with subsection (g) of this section. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

The village will evaluate the data furnished by the user and may require additional information. After evaluation of a complete wastewater discharge permit application, the village will determine whether or

not to issue a wastewater discharge permit. The village may deny any application for a wastewater discharge permit.

(c) *Contents; conditions.*

(1) Permits shall contain the following:

- a. A statement that indicates the permit duration, which in no event shall exceed five years;
- b. A statement that the wastewater discharge permit is nontransferable without prior notification to the village in accordance with subsection (f) of this section, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- c. Effluent limits based on applicable pretreatment standards;
- d. Self-monitoring, sampling, reporting, notification and recordkeeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state and local law; and
- e. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state or local law.

(2) Permits may contain, as appropriate, the following conditions:

- a. Limits on the average or maximum rate of discharge, time of discharge, and requirements for flow regulation and equalization;
- b. Requirements for the installation of pretreatment technology, pollution control devices, or construction of appropriate containment devices, designed to reduce, eliminate or prevent the introduction of pollutants into the treatment works. Pretreatment and pollution control devices shall be installed and maintained at the owner's expense;
- c. Requirements for the development and implementation of spill control plans or other special conditions, including management practices necessary to adequately prevent accidental, unanticipated or nonroutine discharges;
- d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
- e. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
- f. Requirements for installation and maintenance of inspection, sampling or flow metering facilities and equipment;
- g. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
- h. Other conditions as deemed appropriate by the village to ensure compliance with this division and state and federal laws, rules and regulations.

(d) *Duration.* A wastewater discharge permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five years, at the discretion of the village. Each wastewater discharge permit will indicate a specific date upon which it will expire. A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with subsection (b) of this section, a minimum of 180 days prior to the expiration of the user's existing wastewater discharge permit.

(e) *Modifications.* The village may modify a wastewater discharge permit for good cause, including but not limited to the following reasons:

- (1) To incorporate any new or revised federal, state or local pretreatment standards or requirements;
 - (2) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
 - (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
 - (4) Information indicating that the permitted discharge poses a threat to the village's POTW, village personnel or the receiving waters;
 - (5) Violation of any terms or conditions of the wastewater discharge permit;
 - (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
 - (7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
 - (8) To correct typographical or other errors in the wastewater discharge permit; or
 - (9) To reflect a transfer of the facility ownership or operation to a new owner or operator.
- (f) *Transfer.* Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least 90 days advance notice to the village and the village approves the wastewater discharge permit transfer. The notice to the village must include a written certification by the new owner or operator which:
- (1) States that the new owner or operator has no immediate intent to change the facility's operations and processes;
 - (2) Identifies the specific date on which the transfer is to occur; and
 - (3) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

- (g) *Application signatures and certification.* All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(Ord. No. 95-04, §§ 25.102—25.108, 8-7-95)

Sec. 62-193. - Reporting requirements.

- (a) *Baseline monitoring reports.*

- (1) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the village a report which contains the information listed in subsection (a)(2) of this section. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical

standard, shall submit to the village a report which contains the information listed in subsection (a)(2) of this section. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

- (2) Users described in subsection (a)(1) of this section shall submit the following information:
- a. *Identifying information.* The name and address of the facility, including the name of the operator and owner.
 - b. *Environmental permits.* A list of any environmental control permits held by or for the facility.
 - c. *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operations carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
 - d. *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
 - e. *Measurement of pollutants.*
 1. The categorical pretreatment standards applicable to each regulated process.
 2. The results of sampling and analysis identifying the nature and concentration, or mass, where required by the standard or by the village, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and longterm average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in subsection (h) of this section.
 - f. *Certification.* A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance or additional pretreatment is required to meet the pretreatment standards and requirements.
 - g. *Compliance schedule.* If additional pretreatment or operation and maintenance will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment or operation and maintenance. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this subsection must meet the requirements set out in subsection (a)(2)i of this section.
 - h. *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with section 62-192(g).
 - i. *Progress increments.* The following conditions shall apply to any schedule submitted in response to subsection (a)(2)g of this section:
 1. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. Such events include but are not limited to hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation;
 2. No increment referred to in subsection 1 of this subsection shall exceed nine months;
 3. The user shall submit a progress report to the village no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and,

if appropriate, the steps being taken by the user to return to the established schedule;
and

4. In no event shall more than nine months elapse between such progress reports to the village.

(b) *Ninety-day compliance report.* Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the village a report containing the information described in subsections (a)(2)d through f of this section. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's longterm production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 62-192(g).

(c) *Periodic compliance reports.*

- (1) All significant industrial users shall, at a frequency determined by the village but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with section 62-192(g).
- (2) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- (3) If a user subject to the reporting requirement in this subsection monitors any pollutant more frequently than required by the village, the results of this monitoring shall be included in the report.

(d) *Reporting of changed conditions.* Each user must notify the village of any planned significant changes to the user's operations or system which might alter the nature, quality or volume of its wastewater at least 30 days before the change.

- (1) The village may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 62-192(b).
- (2) The village may issue a wastewater discharge permit under section 62-192(a) or modify an existing wastewater discharge permit under section 62-192(e) in response to changed conditions or anticipated changed conditions.
- (3) For purposes of this subsection, significant changes include but are not limited to flow increases of 20 percent or greater, and the discharge of any previously unreported pollutants.

(e) *Reports of potential problems.*

- (1) In the case of any discharge, including but not limited to accidental discharges, discharges of a nonroutine, episodic nature, noncustomary batch discharges, or a slug load that may cause potential problems for the POTW, the user shall immediately telephone and notify the superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user. The notification shall also be made in writing to the village within five days of the occurrence of the incident.
- (2) Significant industrial users shall prominently post on their bulletin board or other prominent place a notice advising employees whom to call in the event of a discharge described in subsection

(e)(1) of this section. Employers shall ensure that all employees who may cause such a discharge to occur are advised of the emergency notification procedure.

- (f) *Reports from unpermitted users.* All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the village as the village may require.
- (g) *Notification of violation; repeat sampling and reporting.* If sampling performed by a user indicates a violation, the user must notify the village within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the village within 21 days after becoming aware of the violation. The user is not required to resample if the village monitors at the user's facility at least once a month, or if the village samples between the user's initial sampling and when the user receives the results of this sampling.
- (h) *Analytical requirements.* All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.
- (i) *Notification of discharge of hazardous waste.* Any user who commences the discharge of hazardous waste shall notify the village, the EPA regional waste management division director and state hazardous waste authorities, in writing, of any discharge into the sewer system of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261, as required in 40 CFR 403.12(p).

(Ord. No. 95-04, §§ 25.111—25.119, 8-7-95)

Sec. 62-194. - Recordkeeping.

Users subject to the reporting requirements of this division shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this division, and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method and time of sampling, and the name of the person taking the samples, the dates analyses were performed, who performed the analyses, the analytical techniques or methods used, and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the village or where the user has been specifically notified of a longer retention period.

(Ord. No. 95-04, § 25.120, 8-7-95)

Sec. 62-195. - Right of entry; inspections; sampling.

- (a) The village shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this division and any wastewater discharge permit or order issued under this division. Users shall allow the village ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.
- (b) The village shall have the right to set up on the user's property or require installation of such devices as are necessary to conduct sampling or metering of the user's operations.
- (c) Unreasonable delays in allowing the village access to the user's premises shall be a violation of this division.

(Ord. No. 95-04, § 25.130, 8-7-95)

Sec. 62-196. - Confidential information.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits and monitoring programs, and from the village's inspection and sampling activities, shall be available to the public without any restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the village, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public. They shall be available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(Ord. No. 95-04, § 25.140, 8-7-95)

Sec. 62-197. - User rates, charges and surcharges.

- (a) *Payment and review of rates and charges.* The sanitary sewer system of the village shall be operated and maintained on a public utility basis as authorized by law. Each premises within the village connected to and using facilities of the system shall pay user rates and charges as fixed and established from time to time by the village.
- (b) *User charge system.* Rates and charges for the use of the wastewater system will based on methodology approved by the Michigan Department of Environmental Quality. The usage charge shall be the same for each class of customer regardless of geographical boundaries. The Clinton Village Council will set rates and charges from time to time by resolution based on a charge per 1,000 gallons of water metered for the debt service charge, usage charge, a monthly service charge, and penalties and late fees. User charges shall be subject to an annual review.
- (c) *Special rates.* Where wastewater disposal service is furnished to users not connected to the water system or in cases where users make use of large quantities of water which may be discharged into storm sewers or approved outlets other than the sanitary sewer system, or for other miscellaneous users of water for which special consideration should be given, special rates may be fixed by the village. The village may require certain users to install metering equipment to actually determine the flow. Residential users shall be charged on the basis of the average residential metered charges on the system or required to install a meter on their water supply.
- (d) *Surcharges; sampling fees.* All industrial users of the village POTW shall pay a surcharge for effluent containing compatible pollutants in excess of baseline concentrations established by the village. For suspended solids, BOD, COD, phosphorus, grease and oil, or other specific compatible pollutants, the village may accept payment in lieu of the user meeting wastewater contribution permits, subject to discharge limits established by the village. At no time shall the village accept discharges into the POTW when the acceptance would cause interference. Industrial users may be required to take samples of effluent if deemed necessary by the village, and shall submit a report of such samples and their analysis to the village. Surcharge calculations may be based upon information provided to the village by its engineer and superintendent. The surcharge calculations will be as established from time to time by resolution of the village council. The village may conduct sampling at the industrial user's expense. Industrial users will be billed at a rate as established from time to time by resolution. For industries with multiple sewer outfalls, each individual outfall tested will be billed separately. Sampling fees will be billed at such times as established by resolution of the village.
- (e) *Delinquent charges; lien; tenant responsibility.* The charges and rates for sewer services provided in this section which are under the provisions of section 21 of Act No. 94 of the Public Acts of Michigan of 1933 (MCL 141.101 et seq.), as amended, made a lien on all premises served thereby, unless notice

is given that a tenant is responsible, are hereby recognized to constitute such lien, whenever any such charge against any piece or property shall be delinquent for six months. The village official in charge of the collection thereof shall certify annually, on December 31 of each year, to the tax-assessing officer of the village, the fact of such delinquency, whereupon such charge shall be by him entered upon the next tax roll as a charge against such premises and shall be collected, and the lien thereof enforced. Where notice is given that a tenant is responsible for such charges and service as provided by section 21 of Act No. 94 of the Public Acts of Michigan of 1933 (MCL 141.101 et seq., as amended, no further service shall be rendered such premises until a cash deposit in a sum as set by resolution shall have been made as security for payment of such charges and service.

- (f) *Authority to discontinue water service.* In addition to other remedies provided, the village shall have the right to shut off and discontinue the supply of water to any premises for the nonpayment of sewer rates when due. If such charges are not paid within 30 days after the due date thereof, then water services to such premises may be discontinued. Water services so discontinued shall not be restored until such time as all charges and penalties are paid.

(Ord. No. 95-04, §§ 25.151—25.156, 8-7-95; Ord. No. 1 of 2004, § 4, 6-7-04)

Sec. 62-198. - Publication of names of users in significant noncompliance.

The village shall publish annually, in a newspaper of general circulation in the village, a list of the users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. For purposes of this section, the term "significant noncompliance" shall mean:

- (1) Chronic violations of wastewater discharge limits, defined for purposes of this section as those in which 66 percent or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
- (2) Technical review criteria (TRC) violations, defined for purposes of this section as those in which 33 percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- (3) Any other discharge violation that the village believes has caused, alone or in combination with other discharges, interference or pass-through, including endangering the health of POTW personnel or the general public;
- (4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the village's exercise of its emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within 90 days of the scheduled date, a compliance scheduled milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction or attaining final compliance;
- (6) Failure to provide within 30 days after the due date any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation which the village determines will adversely affect the operation or implementation of the local pretreatment program.

(Ord. No. 95-04, § 25.160, 8-7-95)

Sec. 62-199. - Administrative enforcement remedies.

- (a) *Notice of violation.* When the village finds that a user has violated, or continues to violate any provision of this division, a wastewater discharge permit or order issued under this division, or any other pretreatment standard or requirement, the village may serve upon that user a written notice of violation. Within 15 days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the village. Submission of this plan in no way relieves the user of liability for any violations occurring before or after the receipt of the notice of violation. Nothing in this subsection shall limit the authority of the village to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.
- (b) *Consent orders.* The village manager may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to subsections (d) and (e) of this section and shall be judicially enforceable.
- (c) *Show cause hearing.* The village manager may order a user which has violated, or continues to violate, any provision of this division, a wastewater discharge permit or order issued under this division, or any other pretreatment standard or requirement to appear before the village manager and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, and the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail, return receipt requested, at least five days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.
- (d) *Compliance orders.* When the village finds that a user has violated or continues to violate any provision of this division, a wastewater discharge permit or order issued under this division or any other pretreatment standard or requirement, the village may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices or other requirements are provided to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not exceed the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.
- (e) *Cease and desist orders.* When the village finds that a user has violated or continues to violate any provision of this division, a wastewater discharge permit or order issued under this division or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the village manager may issue an order to the user directing it to cease and desist all such violations and directing the user to:
- (1) Immediately comply with all requirements; and
 - (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for taking any other action against the user.

- (f) *Emergency suspensions.* The village manager may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The village manager may also immediately suspend a user's discharge that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

- (1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the superintendent may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW or its receiving stream, or endangerment to any individuals. The superintendent may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the superintendent that the period of endangerment has passed, unless the termination proceedings in subsection (h) of this section are initiated against the user.
 - (2) A user that is responsible in whole or in part for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the village manager prior to the date of any show cause or termination hearing.
- (g) *Termination of discharge.* Any user who violates the following conditions is subject to discharge termination:
- (1) Violation of wastewater discharge permit conditions;
 - (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
 - (3) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
 - (4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or
 - (5) Violation of the pretreatment standards in section 62-174.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under subsection (c) of this section why the proposed action should not be taken. Exercise of this option by the village manager shall not be a bar to, or a prerequisite for, taking any other action against the user.

- (h) *Revocation of wastewater discharge permit.* The village manager may revoke a wastewater discharge permit for good cause, including but not limited to the following reasons:
- (1) Failure to notify the village of significant changes to the wastewater prior to the changed discharge;
 - (2) Failure to provide prior notification to the superintendent of changed conditions pursuant to section 62-193(d);
 - (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
 - (4) Falsifying self-monitoring reports;
 - (5) Tampering with monitoring equipment;
 - (6) Refusing to allow the superintendent timely access to the facility premises and records;
 - (7) Failure to meet effluent limitations;
 - (8) Failure to pay fines;
 - (9) Failure to pay sewer charges;
 - (10) Failure to meet compliance schedules;
 - (11) Failure to complete a wastewater survey or the wastewater discharge permit application;
 - (12) Failure to provide advance notice of the transfer of business ownership of a permitted facility;
- or

- (13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this division.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

(Ord. No. 95-04, §§ 25.171—25.179, 8-7-95; Ord. No. 97-03, § 21, 7-7-97)

Sec. 62-200. - Additional enforcement remedies.

- (a) *Judicial relief.* The village manager may, through the village attorney, institute legal proceedings in a court of competent jurisdiction to seek all appropriate relief for violations of this division, any pretreatment standard or requirement, or any permit, order, notice or agreement issued or entered into under this division. The action may seek temporary or permanent injunctive relief, damages, penalties, costs, and any other relief, at law or equity, that a court may order. The WWTP Superintendent may also seek collection of surcharges, fines, penalties and any other amounts due to the village that a user has not paid.
- (b) *Municipal civil infractions.*
- (1) Except as provided by section 62-200(c), a person who violates any provision of this division (including, without limitation, any notice, order, permit, decision or determination promulgated, issued or made by the village under this division) is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$1,000.00 per day for each violation and not more than \$10,000.00 per day for each violation, plus costs and other sanctions.
- (2) Increased fines for repeat offenses. Increased fines may be imposed for repeat offenses. As used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this division (i) committed by a person within any 90-day period and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this chapter shall be as follows:
- a. The fine for any offense that is a first repeat offense shall be not less than \$2,500.00, plus costs.
- b. The fine for any offense that is a second repeat offense or any subsequent repeat offense shall be not less than \$5,000.00, plus costs.
- (3) Amount of fines.
- a. *Municipal civil infraction citations.* Subject to the minimum fine amounts specified in sections 62-200(b)(1) and (2), the following factors shall be considered by a court in determining the amount of a municipal civil infraction fine following the issuance of a municipal civil infraction citation for a violation of this chapter: the type, nature, severity, frequency, duration, preventability, potential and actual effect, and economic benefit to the violator (such as delayed or avoided costs or competitive advantage) of a violation; the violator's recalcitrance or efforts to comply; the economic impacts of the fine on the violator; and such other matters as justice may require. A violator shall bear the burden of demonstrating the presence and degree of any mitigating factors to be considered in determining the amount of a fine. However, mitigating factors shall not be considered unless it is determined that the violator has made all good faith efforts to correct and terminate all violations.
- b. *Municipal civil infraction notices; schedule of fines.* Notwithstanding any provision of this Code to the contrary, the amount of a municipal civil infraction fine due in response to the issuance of a municipal civil infraction notice for a violation as provided by section 62-200(b) shall be according to the schedule of civil fines as established by section 3-6 of this Code.
- (4) Authorized village official. Any authorized village official as designated by this Code or by the village manager may issue municipal civil infraction citations (directing alleged violators to appear

in court) or municipal civil infraction violation notices (directing alleged violators to appear at the village municipal ordinance violations bureau) for violations under this division.

(c) *Criminal misdemeanor penalties; imprisonment.* Any person who:

- (1) At the time of a violation knew or should have known that a pollutant or substance was discharged contrary to any provision of this chapter, or contrary to any notice, order, permit, decision or determination promulgated, issued or made by the village under this division; or
- (2) Intentionally makes a false statement, representation, or certification in an application for, or form pertaining to a permit, or in a notice, report, or record required by this division, or in any other correspondence or communication, written or oral, with the village regarding matters regulated by this division; or
- (3) Intentionally falsifies, tampers with, or renders inaccurate any sampling or monitoring device or record required to be maintained by this division; or
- (4) Commits any other act with regard to use of the POTW that is punishable under applicable state law by imprisonment for more than 90 days;

shall, upon conviction, be guilty of a misdemeanor punishable by a fine of \$500.00 per violation, per day, or imprisonment for up to 90 days, or both in the discretion of the court.

(d) *Remedies cumulative and nonexclusive.* The remedies provided by this division are cumulative and not exclusive:

- (1) The village may take any, all, or any combination of remedies and actions against a noncompliant user.
- (2) Enforcement of pretreatment violations will generally be in accordance with the village's enforcement response plan. However, the village may take other action against any user when the circumstances warrant. Further, the village is empowered to take more than one enforcement action against any noncompliant user.
- (3) The imposition of a single penalty, fine, order, damage, or surcharge upon any person for a violation of this division, or of any permit, order, notice or agreement issued or entered into under this division, shall not preclude the imposition by the village or a court of competent jurisdiction of a combination of any or all of those sanctions and remedies or additional sanctions and remedies with respect to the same violation, consistent with applicable limitations on penalty amounts under state or federal laws or regulations.
- (4) A criminal citation and prosecution of a criminal action against a person shall not be dependent upon and need not be held in abeyance during any civil, judicial, or village administrative proceeding, conference, or hearing regarding the person.

(Ord. No. 95-04, §§ 25.181—25.184, 8-7-95; Ord. No. 97-03, § 22, 7-7-97)

Sec. 62-201. - Affirmative defenses to discharge violations.

(a) *Upsets.*

- (1) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (a)(2) of this section are met.
- (2) A user who wishes to establish the affirmative defense of upset shall demonstrate, through a properly signed contemporaneous operating log or other relevant evidence, that:
 - a. An upset occurred and the user can identify the cause of the upset;
 - b. The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures; and

- c. The user has submitted the following information to the superintendent within 24 hours of becoming aware of the upset; if this information is provided orally, a written submission must be provided within five days:
 1. A description of the indirect discharge and cause of noncompliance;
 2. The period of noncompliance, including exact dates and times, or if not corrected, the anticipated time the noncompliance is expected to continue; and
 3. Steps being taken or planned to reduce, eliminate and prevent recurrence of the noncompliance.
- (3) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- (4) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- (5) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, is lost, or fails.
- (b) *Compliance with discharge standards.* A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in section 62-174(a) or the specific prohibitions in section 62-174(b)(3) through (13) if it can prove that it did not know or have reason to know that its discharge, alone or in conjunction with discharges from other sources, would cause pass-through or interference and that either:
 - (1) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass-through or interference; or
 - (2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the village was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.
- (c) *Bypasses.*
 - (1) *Generally.* A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provision of subsections (2) and (3) of this subsection.
 - (2) *Notification of superintendent.*
 - a. If a user knows in advance of the need for a bypass, it shall submit prior notice to the superintendent at least ten days before the date of the bypass, if possible.
 - b. A user shall submit oral notice to the superintendent of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. The superintendent may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
 - (3) *Conditions.*
 - a. Bypass is prohibited, and the superintendent may take an enforcement action against a user for a bypass, unless:

1. Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;
 2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 3. The user submitted notices as required under subsection (2) of this subsection.
- b. The superintendent may approve an anticipated bypass after considering its adverse effects, if the superintendent determines that it will meet the three conditions listed in subsection (3)a of this subsection.

(Ord. No. 95-04, §§ 25.191—25.193, 8-7-95)

Sec. 62-202. - Continuing violation.

Each act of violation, and each day or portion of a day that a violation of this division, or of any permit, order, notice or agreement issued or entered into under this division is permitted to exist or occur, constitutes a separate violation and shall be subject to fines, penalties and other sanctions as provided by this division.

(Ord. No. 97-03, § 23, 7-7-97)

Sec. 62-203. - Number of violations.

The number of violations resulting from a user's noncompliance with applicable discharge prohibitions or effluent limitations shall be determined as follows:

- (1) Applicable concentration limitations and mass (or loading) limitations shall be treated as separate limitations, and a user may be liable and penalized separately for exceeding any of those limitations for a single pollutant or sampling parameter.
- (2) Each violation of a daily maximum limit for a single pollutant or sampling parameter shall constitute a single violation for each day on which the violation occurs or continues.
- (3) Each violation of an instantaneous maximum limit for a single pollutant or sampling parameter shall constitute a single violation for each such exceedance, and there may be multiple violations for each day on which such a violation occurs or continues.
- (4) Each violation of a monthly average limit for a single pollutant or sampling parameter shall constitute a violation for each day of the month during which the violation occurred, regardless of the number of days on which samples were actually taken. (For example, in a month with 31 days, a violation of the monthly average limit for that month constitutes 31 violations for each pollutant parameter for which the monthly average limit was exceeded during the month.)
- (5) If a wastewater discharge permit regulates more than one outfall, each outfall shall be considered separately in computing the number of violations as provided by this section.

(Ord. No. 97-03, § 23, 7-7-97)

Sec. 62-204. - Nuisance.

A violation of this division, or of any permit, order, notice or agreement issued or entered into under this division, is deemed to be a public nuisance.

(Ord. No. 97-03, § 23, 7-7-97)

Sec. 62-205. - Reimbursement of village.

- (a) Any person who violates any provision of this division, or who discharges or causes a discharge that produces a deposit or obstruction or otherwise damages or impairs the POTW, or causes or contributes to a violation of any federal, state or local law governing the POTW, shall be liable to and shall fully reimburse the village for all expenses, costs, losses or damages (direct or indirect) payable or incurred by the village as a result of any such discharge, violation, exceedance or noncompliance. The costs that must be reimbursed to the village shall include, without limitation, all of the following:
- (1) All costs incurred by the POTW and the village in responding to the violation or discharge, including, expenses for any cleaning, repair or replacement work, and the costs of sampling, monitoring, and treatment, as a result of the discharge, violation, exceedance or noncompliance.
 - (2) All costs to the POTW and the village of monitoring, surveillance, and enforcement in connection with investigating, verifying, and prosecuting any discharge, violation, exceedance or noncompliance.
 - (3) The full amount of any fines, assessments, penalties, and claims, including natural resource damages, levied against the POTW or the village by any governmental agency or third party as a result of a violation of the POTW's NPDES permit (or other applicable law or regulation) that is caused by or contributed to by any discharge, violation, exceedance or noncompliance.
 - (4) The full value of any village staff time (including any required overtime), consultant and engineering fees, and actual attorney fees and defense costs (including the village attorney and any special legal counsel), associated with responding to, investigating, verifying, and prosecuting any discharge, violation, exceedance or noncompliance or otherwise enforcing the requirements of this division.

Further, the village is authorized to correct any violation of this division or damage or impairment to the POTW caused by a discharge and to bill the person causing the violation or discharge for the amounts to be reimbursed to the village. The costs reimbursable under this section shall be in addition to fees, amounts or other costs and expenses required to be paid by users under other sections of this division.

- (b) In determining the amounts to be reimbursed to the village, the village may consider factors such as, but not limited to, the following:
- (1) The volume of the discharge.
 - (2) The length of time the discharge occurred.
 - (3) The composition of the discharge.
 - (4) The nature, extent, and degree of success the POTW may achieve in minimizing or mitigating the effect of the discharge.
 - (5) The toxicity, degradability, treatability and dispersal characteristics of the discharges.
 - (6) The direct and indirect costs incurred by the village, or imposed upon the village to treat the discharges, including sludge handling and disposal costs.
 - (7) Fines, assessments, levies, charges, expenses and penalties imposed upon and/or incurred by the village, including the village's costs of defense of actions, or suits brought or threatened against the village by governmental agencies or third parties.

- (8) Such other factors, including the amount of any attorney's fees, consultant and expert fees, expenses, costs, sampling and analytical fees, repairs, etc., as the village deems appropriate under the circumstances.
- (c) The failure by any person to pay any amounts required to be reimbursed to the village as provided by this section shall constitute an additional violation of this division.

(Ord. No. 97-03, § 23, 7-7-97)

Secs. 62-206—62-225. - Reserved.

ARTICLE V. - TELECOMMUNICATIONS⁵¹

Footnotes:

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Cross reference— Cable communications, ch. 14; streets, sidewalks and other public places, ch. 50.
Sec. 62-226. - Purpose.

The purposes of this article are to regulate access to and ongoing use of public rights-of-way by telecommunications providers for their telecommunications Facilities while protecting the public health, safety, and welfare and exercising reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act Number 48 of the Public Acts of 2002) ("act") and other applicable law, and to ensure that the village qualifies for distributions under the act by modifying the fees charged to providers and complying with the act.

(Ord. No. 6 of 2002, § 1, 10-7-02)

Sec. 62-227. - Conflict.

Nothing in this article shall be construed in such a manner as to conflict with the act or other applicable law.

(Ord. No. 6 of 2002, § 2, 10-7-02)

Sec. 62-228. - Terms defined.

The terms used in this article shall have the following meanings:

Act means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002), as amended from time to time.

Village means the Village of Clinton.

Village council means the Village Council of the Village of Clinton or its designee. This section does not authorize delegation of any decision or function that is required by law to be made by the village council.

Village manager means the village manager or his or her designee.

Permit means a nonexclusive permit issued pursuant to the act and this article to a telecommunications provider to use the public rights-of-way in the village for its telecommunications facilities.

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

Authority means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to section 3 of the act.

MPSC means the Michigan Public Service Commission in the Department of Consumer and Industry Services, and shall have the same meaning as the term "commission" in the act.

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

Public right-of-way means the area on, below, or above a public roadway, highway, street, alley, easement or waterway. Public right-of-way does not include a federal, state, or private right-of-way.

Telecommunication facilities or facilities means the equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunication services or signals. Telecommunication facilities or facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in section 332(d) of part I of title III of the communications act of 1934, chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communication device.

Telecommunications provider, provider and telecommunications services mean those terms as defined in Section 102 of the Michigan telecommunications Act, 1991 PA 179, MCL 484.2102. Telecommunication provider does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in section 332(d) of part I of the communications act of 1934, chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the act and this article only, a provider also includes all of the following:

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

(Ord. No. 6 of 2002, § 3, 10-7-02)

Sec. 62-229. - Permit required.

- (a) *Permit required.* Except as otherwise provided in the act, a telecommunications provider using or seeking to use public rights-of-way in the village for its telecommunications facilities shall apply for and obtain a permit pursuant to this article.
- (b) *Application.* Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with section 6(1) of the act. A telecommunications provider shall file one copy of the application with the village clerk, one copy with the village manager, and one copy with the village attorney. Upon receipt, the village clerk shall forward copies of the application to the village council. Applications shall be complete and include all information required by the act, including without limitation a route map showing the location of the provider's existing and proposed facilities in accordance with section 6(5) of the act.

- (c) *Confidential information.* If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary, or confidential information, which is exempt from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, pursuant to section 6(5) of the act, the telecommunications provider shall prominently so indicate on the face of each map.
- (d) *Application fee.* Except as otherwise provided by the act, the application shall be accompanied by a one-time nonrefundable application fee in the amount of \$500.00.
- (e) *Additional information.* The village manager may request an applicant to submit such additional information, which the village manager deems reasonably necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the village manager. If the village and the applicant cannot agree on the requirement of additional information requested by the village, the village or the applicant shall notify the MPSC as provided in section 6(2) of the act.
- (f) *Previously issued permits.* Pursuant to section 5(1) of the act, authorizations or permits previously issued by the village under Section 251 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2251 and authorizations or permits issued by the village to telecommunications providers prior to the 1995 enactment of Section 251 of the Michigan Telecommunications Act but after 1985 shall satisfy the permit requirements of this article.
- (g) *Existing providers.* Pursuant to section 5(3) of the act, within 180 days from November 1, 2002, the effective date of the act, a telecommunications provider with facilities located in a public right-of-way in the village as of such date, that has not previously obtained authorization or a permit under Section 251 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2251, shall submit to the village an application for a permit in accordance with the requirements of this article. Pursuant to section 5(3) of the act, a telecommunications provider submitting an application under this subsection is not required to pay the \$500.00 application fee required under subsection (c) above. A provider under this subsection shall be given up to an additional 180 days to submit the permit application if allowed by the authority, as provided in section 5(4) of the act.

(Ord. No. 6 of 2002, § 4, 10-7-02)

Sec. 62-230. - Issuance of permit.

- (a) *Approval or denial.* The authority to approve or deny an application for a permit is hereby delegated to the village manager. Pursuant to section 15(3) of the act, the village manager shall approve or deny an application for a permit within 45 days from the date a telecommunications provider files an application for a permit under section 62-229(b) of this article for access to a public right-of-way within the village. Pursuant to section 6(6) of the act, the village manager shall notify the MPSC when the village manager has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied. The village manager shall not unreasonably deny an application for a permit.
- (b) *Form of permit.* If an application for permit is approved, the village manager shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with sections 6(1), 6(2) and 15 of the act.
- (c) *Conditions.* Pursuant to section 15(4) of the act, the village manager may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the public right-of-way.
- (d) *Bond requirement.* Pursuant to section 15(3) of the act, and without limitation on subsection (c) above, the village manager may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use.

(Ord. No. 6 of 2002, § 5, 10-7-02)

Sec. 62-231. - Construction/engineering permit.

A telecommunications provider shall not commence construction upon, over, across, or under the public rights-of-way in the village without first obtaining a construction or engineering permit for construction within the public rights-of-way. No fee shall be charged for such a construction or engineering permit.

(Ord. No. 6 of 2002, § 6, 10-7-02)

Sec. 62-232. - Conduit or utility poles.

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

(Ord. No. 6 of 2002, § 7, 10-7-02)

Sec. 62-233. - Route maps.

Pursuant to section 6(7) of the act, a telecommunications provider shall, within 90 days after the substantial completion of construction of new telecommunications facilities in the village, submit route maps showing the location of the telecommunications facilities to both the MPSC and to the village. The route maps should be in paper format unless and until the commission determines otherwise, in accordance with section 6(8) of the act.

(Ord. No. 6 of 2002, § 8, 10-7-02)

Sec. 62-234. - Repair of damage.

Pursuant to section 15(5) of the act, a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in the village, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below, or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition.

(Ord. No. 6 of 2002, § 9, 10-7-02)

Sec. 62-235. - Establishment and payment of maintenance fee.

In addition to the nonrefundable application fee paid to the village set forth in subsection 62-229(d) above, a telecommunications provider with telecommunications facilities in the village's public rights-of-way shall pay an annual maintenance fee to the authority pursuant to section 8 of the act.

(Ord. No. 6 of 2002, § 10, 10-7-02)

Sec. 62-236. - Modification of existing fees.

In compliance with the requirements of section 13(1) of the act, the village hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the act, relating to access and usage of the public rights-of-way, to an amount not

exceeding the amounts of fees and charges required under the act, which shall be paid to the authority. In compliance with the requirements of section 13(4) of the act, the village also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of-way within the village's boundaries, so that those providers pay only those fees required under section 8 of the act. The village shall provide each telecommunications provider affected by the fee with a copy of this article, in compliance with the requirement of section 13(4) of the act. To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the act, or which are otherwise inconsistent with the act, such imposition is hereby declared to be contrary to the village's policy and intent, and upon application by a provider or discovery by the village, shall be promptly refunded as having been charged in error.

(Ord. No. 6 of 2002, § 11, 10-7-02)

Sec. 62-237. - Savings clause.

Pursuant to section 13(5) of the act, if section 8 of the act is found to be invalid or unconstitutional, the modification of fees under section 62-236 above shall be void from the date the modification was made.

(Ord. No. 6 of 2002, § 12, 10-7-02)

Sec. 62-238. - Use of funds.

Pursuant section 10(4) of the act, all amounts received by the village from the authority shall be used by the village solely for rights-of-way related purposes. In conformance with that requirement, all funds received by the village from the authority shall be deposited into the major street fund and/or the local street fund maintained by the village under Act Number 51 of the Public Acts of 1951.

(Ord. No. 6 of 2002, § 13, 10-7-02)

Sec. 62-239. - Annual report.

Pursuant to section 10(5) of the act, the village manager shall file an annual report with the authority on the use and disposition of funds annually distributed by the authority.

(Ord. No. 6 of 2002, § 14, 10-7-02)

Sec. 62-240. - Cable television operators.

Pursuant to section 13(6) of the act, the village shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of this act, a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services.

(Ord. No. 6 of 2002, § 15, 10-7-02)

Sec. 62-241. - Existing rights.

Pursuant to section 4(2) of the act, except as expressly provided herein with respect to fees, this article shall not affect any existing rights that a telecommunications provider or the village may have

under a permit issued by the village or under a contract between the village and a telecommunications provider related to the use of the public rights-of-way.

(Ord. No. 6 of 2002, § 16, 10-7-02)

Sec. 62-242. - Compliance.

The village hereby declares that its policy and intent in adopting this article is to fully comply with the requirements of the act, and the provisions hereof should be construed in such a manner as to achieve that purpose. The village shall comply in all respects with the requirements of the act, including but not limited to the following:

- (1) Exempting certain route maps from the Freedom of Information Act, 1976 PA 442, MCL 15.231, 15.246, as provided in section 62-229(c) of this article;
- (2) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with section 62-229(f) of this article;
- (3) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the five hundred dollar-application fee, in accordance with section 62-229(g) of this article;
- (4) Approving or denying an application for a permit within 45 days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the village, in accordance with section 62-230(a) of this article;
- (5) Notifying the MPSC when the village has granted or denied a permit, in accordance with section 62-230(a) of this article;
- (6) Not unreasonably denying an application for a permit, in accordance with section 62-230(a) of this article;
- (7) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in section 62-230(b) of this article;
- (8) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider's access and usage of the public right-of-way, in accordance with section 2-230(c) of this article;
- (9) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider's access and use, in accordance with section 62-230(d) of this article;
- (10) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with section 62-231 of this article;
- (11) Providing each telecommunications provider affected by the village's right-of-way fees with a copy of this article, in accordance with section 62-236 of this article;
- (12) Submitting an annual report to the authority, in accordance with section 2-239 of this article; and
- (13) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with section 62-240 of this article.

(Ord. No. 6 of 2002, § 17, 10-7-02)

Sec. 62-243. - Reservation of police powers.

Pursuant to section 15(2) of the act, this article shall not limit the village's right to review and approve a telecommunication provider's access to and ongoing use of a public right-of-way or limit the village's authority to ensure and protect the health, safety, and welfare of the public.

(Ord. No. 6 of 2002, § 18, 10-7-02)

Sec. 62-244. - Severability.

The various parts, sentences, paragraphs, sections, and clauses of this article are hereby declared to be severable. If any part, sentence, paragraph, section, or clause of this article is adjudged unconstitutional or invalid by a court or administrative agency of competent jurisdiction, the unconstitutionality or invalidity shall not affect the constitutionality or validity of any remaining provisions of this article.

(Ord. No. 6 of 2002, § 19, 10-7-02)

Sec. 62-245. - Authorized village officials.

The village manager or his or her designee is hereby designated as the authorized village official to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the municipal chapter violations bureau) for violations under this article as provided by the Village Code.

(Ord. No. 6 of 2002, § 20, 10-7-02)

Sec. 62-246. - Municipal civil infraction.

A person who violates any provision of this article is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50.00 nor more than \$500.00, plus costs and other sanctions, for each violation. Repeat offenses shall be subject to increased fines as provided by section 1-11(c)(2) of this Code. Any authorized village official as designated by this Code or by the village manager may issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the village municipal ordinance violations bureau) for violations under this article.

(Ord. No. 6 of 2002, § 21, 10-7-02)

Chapter 66 - ZONING⁽¹⁾

Footnotes:

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Cross reference— Administration, ch. 2; buildings and building regulations, ch. 10; community development, ch. 18; streets, sidewalks and other public places, ch. 50; subdivisions, ch. 54; utilities, ch. 62.

ARTICLE I. - IN GENERAL

Sec. 66-1. - Statutory authority; intent of chapter.

This chapter was adopted under authority of and in accordance with the provisions of the Michigan Zoning Enabling Act of the Public Acts of Michigan of 2006 (MCL 125.3101 et seq.), as amended. Its intent is to establish comprehensive zoning regulations for the village. It also provides for the administration, enforcement and amendment of this chapter and it repeals all conflicting ordinances.

(Ord. No. 94-04, § 1.10, 9-7-94; Ord. No. 6 of 2007, § 1, 11-5-07)

Sec. 66-2. - Title of chapter; title of zoning map.

This chapter shall be known and may be cited as "The Zoning Ordinance of the Village of Clinton." The zoning map referred to in the chapter is entitled "Zoning Map, Village of Clinton."

(Ord. No. 94-04, § 1.20, 9-7-94)

Sec. 66-3. - Purpose of chapter.

The purpose of this chapter is to:

- (1) Promote and protect the public health, safety and general welfare, and to protect natural resources.
- (2) Preserve the character and stability of the agricultural, recreational, residential, commercial and industrial areas, and to promote the orderly and beneficial development of these areas.
- (3) Prevent the overcrowding of land and the undue concentration of population by regulating the intensity of land use and the area of open spaces surrounding buildings and structures necessary to provide adequate light, air and privacy.
- (4) Lessen and avoid congestion on public highways and streets.
- (5) Provide for the future needs of agriculture, recreation, residence, commerce and industry according to the most advantageous uses of land, resources and properties. Reasonable consideration will also be given to the general and appropriate trend and characters of land, building and population development as studied and recommended by the village planning commission and approved by the village council.
- (6) Encourage the most appropriate use of lands according to their character and adaptability, and to prohibit uses that are incompatible with the character of the other uses permitted within a zoning district.
- (7) Conserve the taxable value of land and structures.
- (8) Conserve the expenditure of funds for public improvements and services.
- (9) Protect against fire, explosion, noxious fumes and odors, heat, dust, smoke, glare, noise, vibration, radioactivity and other nuisances and hazards.
- (10) Provide for the correction of nonconforming uses through completion, restoration, reconstruction, extension or substitution.

(Ord. No. 94-04, § 1.30, 9-7-94)

Sec. 66-4. - Scope of chapter.

Any of the following that occur after October 14, 1994, are subject to all applicable regulations in the chapter:

- (1) The erection of any new building or structure.

- (2) A change in the use of any lot, building or structure.
- (3) Alteration of any building or structure.
- (4) Subdivision of any real estate, or splitting of any existing lot or other parcel of real estate. Yards or lots created after October 14, 1994, shall meet the minimum requirements established in this chapter.
- (5) The regulations established by this chapter shall be the minimum regulations for promoting and protecting the public health, safety and general welfare in the village.

(Ord. No. 94-04, § 2.10, 9-7-94)

Sec. 66-5. - Application of zoning regulations.

- (a) The regulations established by this chapter are the minimum regulations, and, therefore, will not preclude the establishment of more restrictive regulations for the authorization of any conditional use permit as found necessary by recommendation of the planning commission and approved by the village council to attain the purposes of this chapter.
- (b) To prevent undue hardship, any amendments made to this chapter do not apply to the plans, construction or designated use of any building or structure lawfully begun or in existence before the amendment was enacted, as long as construction is completed within 365 days of the effective date of the amendment. Thereafter, any nonconforming use shall be subject to the provisions of section 66-308.

(Ord. No. 94-04, § 2.20, 9-7-94)

Sec. 66-6. - Definitions and rules of construction.

- (a) When it is consistent with the context, the following use of words applies for purposes of this chapter:
 - (1) The present tense shall refer also to the future.
 - (2) The singular shall also refer to the plural, and vice versa.
 - (3) The word "shall" is used to indicate a mandatory requirement, and not a suggestion.
 - (4) Requirements that apply to a "person" and are defined as such also apply to a firm, association, organization, partnership, trust, company, corporation or governmental body.
- (b) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory structure, building or use means a detached structure, building or use on the same lot with the principal structure, building or use, but of a customarily subordinate or incidental nature.

Alley means a public or private thoroughfare not more than 33 feet wide that affords only a secondary means of access to abutting property.

Apartment means a dwelling unit in a multiple-family building or in any other building where such use is incidental to the primary use of the building (e.g., above a store).

Automobile service station means a structure and premises used or designed to be used primarily for the retail sale of fuels, lubricants and other commodities for motor vehicles, including space and facilities for the installation of such commodities, or servicing, such as polishing, washing, cleaning or greasing. Bumping, painting or refinishing are specifically excluded.

Automobile wrecking means the dismantling or disassembling of used motor vehicles or trailers, or storage or sale of dismantled, obsolete or wrecked vehicles, or their parts.

Automotive repair garage means a structure and premises used or designed to be used primarily for the repair of automotive vehicles. This includes bumping, painting and refinishing of vehicles.

Basement means a portion of a building partly underground, but having less than half its clear height below the average grade of the adjoining ground. See *Cellar* .

Bed and breakfast establishment means a single-family residence that is used to rent bedrooms to tourists on a nightly basis.

Boardinghouse and *roominghouse* means a dwelling where meals or lodging are provided for compensation.

Building means an enclosed structure having a roof supported by walls, columns or other devices and used for the housing, shelter, enclosure and support of individuals, animals or property of any kind. See *Structure* .

Building height means the vertical distance measured from grade to the highest point of the roof for flat or shed roofs, to the deck line of mansard roofs, and to the average height between eaves and ridges for gable, hip or gambrel roofs.

Cellar means a portion of a building partly underground, having half or more than half of its clear height below the average grade of the adjoining ground. See *Basement* .

Central sanitary sewerage system means the sanitary sewerage system which terminates at the treatment plant operated by the village. Septic tank systems are specifically excluded from this definition.

Central water system means the potable water supply system which is supplied by the village wells.

Child care facility . The following definitions shall apply in the application of [Ordinance 2016-02]:

- (1) *Day care center* : A facility, other than a private residence, receiving more than one or more children for care and supervision for periods less than 24 hours, and where the parents or guardians are not immediately available to the child.
- (2) *Family day care home* : A private home in which one but fewer than seven minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. The term "family day care home" includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.
- (3) *Group day care home* : A private home in which more than six but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption.
 - a. Frontage on an arterial or collector street as defined by the village shall be required.
 - b. A drop-off and pickup area shall be of sufficient size so as to not create congestion on the site or within a public roadway.
 - c. There shall be a fenced outdoor play area of at least 1,000 square feet provided on the premises. Said play area shall not be located within the front setback.
 - d. Maintenance of the property should be consistent with the visible characteristics of the neighborhood.
 - e. A group day care home and day care center shall not be located closer than 500 feet to any of the following:
 1. Another licensed group day care home.
 2. An adult foster care small group home or large group home licensed under the Adult Foster Care Facility Licensing Act, Act No. 218 of the Public Acts of 1979, being MCL §§ 400.701 to 400.737.

- f. Appropriate licenses with the state shall be obtained prior to certificate of occupancy, shall be maintained as required by the state, and shall be visible within the premises.
- g. The hours of operation will be set to not disrupt the neighborhood.

Common property means a parcel or parcels of land, or a privately owned road or roads, including any and all improvements, the use and enjoyment of which is shared by the owners and occupants of the dwelling units of a planned unit residential development.

Conditional use means special land uses as specified in each zoning district.

District means a defined area of the village within which certain regulations apply under the provisions of this chapter.

Drive-in establishment means a business establishment that is primarily dependent on serving patrons while in their motor vehicles by providing convenient driveway approaches or parking spaces for motor vehicles.

Dwelling, multiple-family means a detached building with four or more dwelling units and conforming in all respects to the standards set forth in section 66-303.

Dwelling, single-family means a detached building containing not more than one dwelling unit designed for one family. See the standards as set forth in section 66-303.

Dwelling, two-family means a detached building with two dwelling units and conforming in all respects to the standards set forth in section 66-303.

Dwelling, three-family means a detached building with three dwelling units and conforming in all respects to the standards set forth in section 66-303.

Dwelling unit means one or more rooms with independent kitchen and bathroom facilities designed as a unit for residence by one family.

Easement means any private or dedicated public way, other than a street or alley, which allows legal access to a property and having a total width of not less than 12 feet. Easements may straddle property lines. See *Right-of-way*.

Essential services means the erection, construction, alteration or maintenance of underground, surface or overhead utility systems, including but not necessarily limited to the following: natural gas, electrical power, steam, telephone, central sewerage or central water systems. All system components and hardware are included in this definition. Buildings and maintenance depots are excluded from this definition.

Essential service structure means a building or structure designed to accommodate an essential service.

Family means one or more persons related by blood, marriage, adoption or close association, and living together in rooms comprising a single dwelling unit.

Handicraft industry means a wholesale manufacturing or assembly activity that produces a product by hand that is decorative or artistic in nature. Examples of handcrafted products are paintings, pottery, quilts and other hand-sewn articles, and so forth.

Home occupation means a small business that is conducted within a dwelling unit, and is secondary to the residential use of the structure. See section 66-306(j)(1) for regulations pertaining to home occupations.

Hospital means institutional buildings in which sick or injured persons are given medical, surgical or psychological treatment.

Hotel means a building containing guestrooms in which lodging is for compensation for either transient or permanent residence.

Industrial building means a building designed to house operations for the manufacture or assembly of goods or products. Related office buildings are included in this definition.

Junkyard means a structure or parcel of land where discarded materials, used appliances or used machines are stored, processed, bought, sold or exchanged. Continuous activity in any of such uses for any 30 days will cause this definition to apply to the structure or parcel of land involved with the activity. Food wastes, liquid wastes, hazardous wastes and toxic wastes are specifically excluded from this definition.

kennel means any lot or premises on which three or more dogs, or three or more cats, four months old or more, are confined either permanently or temporarily.

Lot means a parcel of land which consists of a single lot of record, a portion of a lot of record, a combination of contiguous lots of record, or contiguous portions of lots of record; or a parcel of land described by metes and bounds.

Lot area means the area within the lot lines, but excluding that portion in a road or street right-of-way.

Lot, corner means a parcel of land at the junction of and fronting or abutting on two or more intersecting streets.

Lot coverage means the area, expressed as a percent of the total lot area, occupied by buildings or structures, including accessory buildings and structures.

Lot depth means the average distance between the front and rear line of a lot measured in the general direction of its side lot lines.

Lot line, front means that part of the lot that coincides with the street right-of-way.

Lot of record means a parcel of land that is part of a subdivision and is shown on a plat map that has been recorded in the office of the register of deeds of the county. A lot can be a lot of record or a parcel of land described by metes and bounds with a recorded deed.

Lot, through (double-coverage) means a lot having frontage on two parallel, or approximately parallel, streets.

Lot width means the width of the lot measured at the required front building setback line depth.

Mobile home means a structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained in the structure. A mobile home shall meet all requirements of the U.S. Department of Housing and Urban Development Mobile Home Construction and Safety Standards (24 CFR 3280), as amended. The foundation wall and add-on structures not covered by mobile home standards are required to meet the village's building code.

Motel. See Hotel.

Motor home means a self-propelled vehicle designed to be used as a temporary dwelling unit.

Museum means a building or area used for exhibiting interesting objects connected with literature, art, science, history or nature.

Nursing home means a building used as a convalescence hospital.

Planned unit residential development means buildings and property planned and built as a unit to encourage flexibility in site design.

Riding academy means an establishment where horses are kept for riding, driving or stabling for compensation or incidental to the operation of any club, association, ranch or similar establishments.

Right-of-way means a legal thoroughfare which provides primary access to a property, such as a road or street. The right-of-way usually is wider than the paved or improved portion of the existing road or street.

Roadside stand means a structure temporarily used for the selling of vegetables, fruits or plants which were raised or primarily raised on the immediate premises.

School means a building or area where the primary purpose is instruction.

Service structure. See *Essential service structure* .

Shopping center means a group of retail stores and service establishments with a shared parking lot.

Sign. See section 66-302.

Site plan review means a review by the village planning commission and the village council of proposed buildings and structures that can be expected to have a significant impact on natural resources, traffic patterns and adjacent land usage. See section 66-307 for requirements pertaining to site plan review.

Story means that part of a building between a floor and the floor or roof next above.

Street means a public or private thoroughfare that provides the principal means of access to abutting property.

Structure means an assembly of materials forming a construction for occupancy or use, including, among others, buildings, stadiums, tents, reviewing stands, platforms, observation towers, radio towers, water tanks, trestles, open sheds, fences and signs.

Transition strip means an area designed to reduce the visual, odiferous or noise impact of one use upon another.

Yard, front means an open, unoccupied space extending the full width of the lot between the front lot line and the nearest line of the principal building on the lot.

Yard, rear means an open, unoccupied space extending the full width of the lot between the rear lot line and the nearest line of the principal building on the lot.

Yard, side means an open, unoccupied space on the same lot with the principal building and between the side line of the principal building and the adjacent side lot line and extending from the rear line of the front yard to the front line of the rear yard.

Undeveloped state means a natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. Land in an undeveloped state does not include a golf course or storm water retention/detention areas but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to use to the public.

(c) Any term not defined in this chapter shall have the meaning of common or standard use.

(Ord. No. 94-04, §§ 2.30, 2.40, 9-7-94; Ord. No. 95-06, §§ 1, 2, 11-7-95; Ord. No. 3 of 2005, § 2, 4-4-05; Ord. No. 2016-02, § 1, 10-3-16)

Cross reference— Definitions generally, § 1-2.

Sec. 66-7. - Conflict with other laws; easements, covenants and similar agreements.

- (a) Conflicting laws of a more restrictive nature are not affected or repealed by this chapter. The provisions of this chapter shall be considered as minimum requirements.
- (b) This chapter is not intended to abrogate or annul any easement, covenant or other private agreement, provided that where any provision of this chapter is more restrictive or imposes a higher standard or requirement than such easement, covenant or other private agreement, the provisions of this chapter shall govern.

(Ord. No. 94-04, § 9.10, 9-7-94)

Sec. 66-8. - Validity and severability.

If any court of competent jurisdiction shall declare any part of this chapter to be invalid, such ruling shall not affect any other provisions of this chapter not included in such ruling. If any court of competent jurisdiction shall declare invalid the application of any provision of this chapter to a particular land, parcel, lot, district, use, building or structure, such ruling shall not affect any other land, parcel, lot, district, use, building or structure not specifically included in such ruling.

(Ord. No. 94-04, § 9.20, 9-7-94)

Secs. 66-9—66-30. - Reserved.

ARTICLE II. - ADMINISTRATION

DIVISION 1. - GENERALLY

Sec. 66-31. - Purpose of division.

The purpose of this division is to provide the procedures for the administration of this chapter. Included are the procedures for the issuance of permits, inspection of properties, collection of fees, handling of noncompliance and enforcement of the provisions of this chapter.

(Ord. No. 94-04, § 6.10, 9-7-94)

Sec. 66-32. - Administrative officer.

Except where otherwise stated, the provisions of this chapter shall be administered by the zoning inspector. The zoning inspector may also perform the duties of a building inspector.

(Ord. No. 94-04, § 6.20, 9-7-94)

Sec. 66-33. - Powers and duties of zoning inspector.

- (a) The zoning inspector shall have the power to grant zoning compliance permits and certificates of occupancy and issue zoning noncompliance notices. The zoning inspector will also make inspections of buildings or premises necessary to enforce this chapter and will issue noncompliance notices for building or premises. It shall be unlawful for the zoning inspector to approve plans or issue any permits or certificates of occupancy for any excavation or construction until he has inspected such plans in detail and found them to conform with this chapter. The zoning inspector shall not vary or change any terms of this chapter.
- (b) If the zoning inspector finds that any of the provisions of this chapter are being violated, he shall notify the property owner by certified letter of the violation. The letter will include but shall not be limited to the following:
 - (1) The name of the property owner.
 - (2) The sections of this chapter with which such person is in noncompliance.
 - (3) Methods or procedures to be followed to correct the noncompliance.
 - (4) A limit of 21 days from the date of receipt of the certified letter to comply with this chapter before additional penalties may be assessed.

Copies of the letter will be forwarded to the village attorney, the chairman of the village council and the chairman of the village planning commission.

- (c) The zoning inspector shall maintain records fully explaining the type and nature of uses permitted by right, and the nature and extent of violations of this chapter. The zoning inspector shall maintain a record of all zoning compliance permits and certificates of occupancy and notices of noncompliance.

(Ord. No. 94-04, § 6.30, 9-7-94)

Sec. 66-34. - Zoning compliance permit.

(a) *Required; application; issuance.*

- (1) A zoning compliance permit is required before any building, structure, parking lot or sign can be located, erected, constructed, altered, converted, enlarged or moved. A zoning compliance permit is also required before any change is made in the use of any building, structure or land. Building permits cannot be issued before a zoning compliance permit is issued. A zoning compliance permit signifies that the intended use, building, structure or lot complies with all applicable provisions of this chapter.
- (2) All applications for zoning compliance permits shall include an original drawing and one print of a plan depicting the proposed use. The drawing shall be drawn to scale and include the following information:
 - a. The actual dimensions and shape of the lot to be built on showing all easements and right-of-way lines.
 - b. The size and location of any existing structures on the lot.
 - c. The location and dimensions of the proposed structure, alteration or sign.
- (3) The copy of the plan shall be returned to the applicant once the application has been approved or denied. The zoning inspector shall retain the original drawing. The zoning inspector will sign and date both the drawing and the application form.
- (4) Within ten working days after filing an application, the zoning inspector shall issue a zoning compliance permit if the buildings, structures or signs described in the application are in conformity with this chapter.
- (5) Where action of the village council, planning commission or board of appeals is required, the zoning inspector shall issue a zoning compliance permit five working days following approval by the appropriate body.

- (b) *Time limit for completing construction; renewal.* A zoning compliance permit granted under this chapter shall become null and void, and the fees forfeited, unless construction or use is completed within 545 days from the date the permit was issued. The permit can be renewed if a new application is filed, the appropriate fee is paid and all provisions of all effective ordinances are met.

(Ord. No. 94-04, § 6.40, 9-7-94)

Sec. 66-35. - Certificate of occupancy.

(a) *Required; issuance.*

- (1) Before a building or structure is used, a certificate of occupancy, as provided in the village's building code, must be issued. The holder of a zoning compliance permit shall request a final inspection, in writing, from the zoning inspector.

- (2) Within five days after the written request is received, the zoning inspector shall make a final inspection. If the building or structure meets the provisions of this chapter, a certificate of occupancy will be issued within five working days after the final inspection.
- (b) *Voiding of certificate of occupancy.* A certificate of occupancy shall become null and void if, at any time, the zoning inspector finds the building or structure to be in violation of any provision of this chapter.

(Ord. No. 94-04, § 6.50, 9-7-94)

Sec. 66-36. - Fees and charges.

The village council shall establish a schedule of fees, charges and expenses, and a collection procedure for fees for zoning compliance permits, certificates of occupancy, appeals and other matters pertaining to this chapter. The schedule of fees shall be posted in the village office and may be altered or amended only by the village council. No permit, certificate or variance shall be issued unless such costs, charges, fees or expenses have been paid in full. No action shall be taken on proceedings before the board of appeals unless preliminary charges and fees have been paid in full.

(Ord. No. 94-04, § 6.60, 9-7-94)

Sec. 66-37. - Violations; nuisance per se; municipal civil infractions.

- (a) Land, dwellings, buildings, structures (including tents and trailers), historic districts and signs that are used, erected, altered, razed or converted in violation of any provision of this chapter are declared to be a nuisance per se. The court shall order a nuisance abated and the owner or agent shall be adjudged guilty of maintaining a nuisance per se.
- (b) A person who violates any provision of this chapter is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$100.00 nor more than \$500.00, plus costs and other sanctions, for each violation. Repeat offenses shall be subject to increased fines as provided by subsection 1-11(c)(2) of this Code. Any authorized village official as designated by this Code or by the village manager may issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the village municipal ordinance violations bureau) for violations under this chapter.

(Ord. No. 94-04, § 6.70, 9-7-94; Ord. No. 97-03, § 24, 7-7-97)

Secs. 66-38—66-60. - Reserved.

DIVISION 2. - BOARD OF APPEALS

Sec. 66-61. - Established.

- (a) *Established.* There is hereby established a board of appeals, which shall perform its duties and exercise its powers as provided in Act No. 110 of the Public Acts of Michigan of 2006 (MCL 125.3101 et seq.), as amended, in such a way that the objectives of this chapter shall be observed, the public health and safety secured, and substantial justice done.
- (b) *Members; terms.* The board of appeals shall consist of five members appointed by the village president with the approval of the village council for three-year terms, except for members serving because of their membership on the planning commission or village council, whose terms shall be limited to the time they are members of those bodies. One of the regular members of the board of appeals shall be a member of the planning commission. Remaining regular members, and any

alternate members, shall be selected from residents of the village. One regular member may be a member of the village council but shall not serve as chairperson of the board of appeals. The village council may appoint not more than two alternate members for the same term as regular members. An alternate member may also be called as specified to serve as a member of the board of appeals in the absence of a regular member if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. Vacancies shall be filled in the same manner for the unexpired term. No contractor or employee of the village council may be appointed to the board of appeals.

- (c) *Removal from office.* Members of the board shall be removable upon a finding of nonperformance of duty, misconduct in office, or misfeasance. Such findings may occur only after specific written charges have been filed with the village council and after the accused member has been afforded a hearing regarding such charges. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes misconduct in office.

(Ord. No. 94-04, § 7.10, 9-7-94; Ord. No. 04-03, §§ 1, 2, 7-7-03; Ord. No. 6 of 2007, § 2, 11-5-07)

Sec. 66-62. - Powers and duties.

The board of appeals shall hear and decide such matters as described in this section. The board of appeals shall not have the power to alter or change the zoning district classification of any property, or to make any changes in the terms of this chapter. The powers of the board of appeals are described as follows:

- (1) *Interpretation of zoning map.* When there is a question as to the location of any boundary line between zoning districts, the board shall interpret the map. The interpretation of the map shall carry out the intent and purpose of this chapter.
- (2) *Administrative review.* The board shall hear and decide appeals where it is alleged by the applicant that an error was made by an administrative order, requirement, decision, or determination made by an administrative official or body charged with enforcement of the zoning ordinance.
- (3) *Variances.* The board shall have the power to approve variances from the provisions of this chapter where, because of special conditions, a literal enforcement of this chapter would result in practical difficulties or unnecessary hardship.
 - a. A variance shall not be granted unless the board finds that all the following conditions exist:
 1. Special conditions exist that are peculiar to the land, building or structure involved and do not exist for other land, buildings or structures in the same district.
 2. Literal application of this chapter to the property involved would deprive the appellant of rights commonly enjoyed by other properties in the same district.
 3. The special conditions do not result from actions of the appellant.
 4. No nonconforming use of neighboring lands, buildings or structures shall be grounds for issuance of a variance.
 5. The authorizing of such variance will not confer upon the applicant any special privilege that is denied by this chapter to other lands, structures or buildings in the same district.
 6. The authorizing of such variance will not be of substantial detriment to adjacent property, and will not impair the purposes of this chapter or the public interest.
 7. The variance is the minimum variance possible for reasonable use of the property.

- b. The board may require that the variance be contingent on appropriate conditions. Failure to comply with any such condition shall be considered a violation of this chapter.
 - c. Each variance granted under the provisions of this chapter shall become null and void unless:
 - 1. The construction authorized by the variance has been commenced within 180 days after the variance was granted and pursued diligently to completion; or
 - 2. The occupancy of land or buildings authorized by such variance has taken place within 180 days after the granting of the variance.
 - d. No application for a variance which has been denied wholly or in part by the board of appeals shall be resubmitted for a period of 365 days from the denial, except on grounds of new evidence or proof of changed conditions found by the board of appeals to be valid.
- (4) *Recordkeeping.* The board must maintain a written record of meetings and actions taken. The written record must state the grounds for each decision and it must identify the facts which support its conclusions. The board shall keep a copy and a copy shall be given to the applicant.

(Ord. No. 94-04, § 7.20, 9-7-94; Ord. No. 6 of 2007, § 3, 11-5-07)

Sec. 66-63. - Appeals.

- (a) *Applicability.* This section applies to all actions of the board of appeals, including variances, zoning map interpretation, expansion of nonconforming structures, etc.
- (b) *Appeal procedure.* Anyone may file a notice of appeal with the village clerk on an administrative order, requirement, decision, or determination made by an administrative official or body charged with the enforcement of the provisions of this chapter within 30 days of the date of the decision.
- (c) *Fee for appeals.* A fee, set by the village council, shall be paid at the time the notice of appeal is filed.
- (d) *Effect of appeal.* An appeal stays all proceedings against the action appealed.
- (e) *Notice of hearing.* Once a notice of appeal for an interpretation of the zoning ordinance or an appeal of an administrative decision has been filed, the clerk shall publish a notice stating the time, date, and place of a public hearing in a newspaper of general circulation within the village and shall be sent to the person appealing an interpretation of the zoning ordinance or administrative order not less than 15 days before the public hearing before the board. If the appeal for an interpretation of the zoning ordinance or an administrative decision involves a specific parcel, or if the appeal is for a variance, written notice stating the nature of the appeal and the time, date, and place of the public hearing shall be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet of the boundary of the property in question regardless of whether the property or occupant is located in the village. If a tenant's name is not known, the term "occupant" may be used. Notices for variance requests shall also identify the property that is the subject of the request and include a listing of all existing street addresses within the property. If there are no street addresses, other means of identification may be used. In addition, the notice shall indicate when and where written comments will be received concerning the variance request. The clerk shall certify the mailing. Notice shall also be given to the zoning inspector and chairperson of the planning commission.
- (f) *Representation at hearing.* At the hearing, any party may appear in person or by agent or by attorney.

(Ord. No. 94-04, § 7.30, 9-7-94; Ord. No. 6 of 2007, § 4, 11-5-07)

Secs. 66-64—66-90. - Reserved.

DIVISION 3. - AMENDMENTS

Sec. 66-91. - Initiation of amendments; fee.

- (a) This chapter, including zoning district boundaries, may be amended as provided in this division. The amendment can be initiated by resolution of the village council or by the planning commission, or when a request for amendment is filed with the village clerk by the property owner to be affected by an amendment.
- (b) Requests filed by property owners must be accompanied by the payment of a fee as established by the village council.
- (c) No proposed request for rezoning which has been denied by the village council shall be resubmitted for a period of 365 days from such denial.

(Ord. No. 94-04, § 8.10, 9-7-94)

Sec. 66-92. - Procedure.

- (a) *Generally; prerequisites for action by council.* The procedure for making amendments to this chapter shall be in accordance with Act No. 110 of the Public Acts of Michigan of 2006 (MCL 125.3101). The village council shall not take action on any amendment to this chapter until all of the following actions occur:
 - (1) The proposed amendment has been submitted to the planning commission.
 - (2) The planning commission has held at least one public hearing.
 - (3) The planning commission has submitted a report to the village council on the proposed amendment.
- (b) *Public hearing.*
 - (1) Notice of the hearing shall be published in a newspaper of general circulation in the village not less than 15 days before the hearing. For any proposed rezoning, a notice shall also be delivered by mail, or personally to:
 - a. Each electric, gas, pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the planning commission for the purpose of receiving the notice.
 - b. All persons to whom real property is assessed within 300 feet of the boundary of the property proposed to be rezoned and to the occupants of all structures within 300 feet of the property proposed to be rezoned regardless of whether the property or occupant is located in the village. If a tenant's name is not known, the term "occupant" may be used.
 - c. The applicant and owner(s) of the property proposed for rezoning.
 - d. If an individual property or ten or fewer adjacent properties are proposed for rezoning, notice shall be given of the proposed rezoning in the same manner as required under subsection 66-306(e) herein.
 - e. If 11 or more adjacent properties are proposed for rezoning, the planning commission shall give a notice of the proposed rezoning in the same manner as required under subsection 66-306(e) herein, except that notice is not required for all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet of the boundary of the property in question, and except that no individual addresses of properties are required to be listed as provided under subsection 66-306(e)2.
 - (2) A list of all those notified by mail shall be presented to the planning commission by the clerk prior to the public hearing. An affidavit of mailing shall also be maintained.

- (3) The public hearing shall be held by the planning commission.
- (4) Notice of public hearing shall do all of the following:
 - a. Describe the nature of the request.
 - b. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
 - c. State when and where the public hearing will be considered.
 - d. Indicate when and where written comments will be received concerning the request.
 - e. Indicate the places and times at which the proposed amendment may be examined.
- (c) *Planning commission report.* After the hearing, the planning commission shall make a written report and recommendation to the village council. The report shall include a summary of the public hearing comments and minutes of the hearing.
- (d) *Action on amendment.*
 - (1) After receiving and considering the planning commission's report, the village council may take one of the following actions: conduct additional public hearings, adopt the proposed amendment, or deny the proposed amendment.
 - (2) If the owners of at least 20 percent of the area of land included in the proposed amendment protest the adoption or denial of the amendment, a three-fourths vote of the village council shall be necessary to adopt an amendment. A protest petition shall be presented to the village council before final action on the amendment.
- (e) *Notice of adoption.* Within 15 days following adoption of an amendment to this chapter by the village council, one notice of adoption shall be published in a newspaper circulated within the village. A copy of the notice shall also be mailed to the airport manager of any airport that received a notice as described herein.
- (f) *Certification.* The adopted amendment shall be filed in the official ordinance book of the village with a certification by the village clerk stating the number of votes for and those against the amendment, the name of the newspaper and the publication date of the notice of adoption, and the date the amendment was filed.

(Ord. No. 94-04, § 8.20, 9-7-94; Ord. No. 6 of 2007, § 5, 11-5-07)

Sec. 66-93. - Adoption of amendments for purpose of conformance to court decree.

Any amendment for the purpose of conforming a provision of this chapter to the decree of a court of competent jurisdiction shall be adopted by the village and the amendments published without referring them to any other board or agency.

(Ord. No. 94-04, § 8.30, 9-7-94)

Secs. 66-94—66-130. - Reserved.

ARTICLE III. - ESTABLISHMENT OF ZONING DISTRICTS

Sec. 66-131. - Zoning districts enumerated; official zoning map.

- (a) The village is divided into the following zoning districts:

RO	Recreation Open Space
R-1	Low Density Residential
R-2	Medium Density Residential
R-3	High Density Residential
R-4	Planned Unit Residential
MH-1	Mobile Home Residential
C-1	General Commercial
C-2	Highway Service Commercial
C-3	Central Business
I	Light Industrial
PMU	Planned Mixed Use

These districts are shown on the official zoning map of the village, which is an integral part of this chapter.

(b) While there may be any number of copies, there is only one "Official Zoning Map, Village of Clinton, Lenawee County, Michigan," and it is signed by the village president and the village clerk. The official zoning map shall be kept in the village office. This copy shall reflect any changes in the districts as soon as they are approved. Upon request, the official zoning map is available, for examination only, in the village office.

(Ord. No. 94-04, § 3.10, 9-7-94; Ord. No. 97-05, 6-2-97)

Sec. 66-132. - Interpretation of district boundaries.

- (a) The zoning district boundary lines usually follow:
- (1) Lot lines.
 - (2) Actual and projected centerlines of streets and alleys.
 - (3) Centerlines of creeks, streams or rivers.
 - (4) Centerlines of railroad rights-of-way.
 - (5) Section lines.

- (6) One-quarter section lines.
 - (7) One-eighth section lines.
 - (8) Village limit lines.
- (b) Where a district boundary line does not coincide with any of the lines described in subsection (a) of this section, the district boundary line involved shall be dimensioned on the zoning map. In those cases where the location is in dispute, the zoning board of appeals shall interpret the exact location of the district boundary.

(Ord. No. 94-04, § 3.20, 9-7-94)

Secs. 66-133—66-150. - Reserved.

ARTICLE IV. - DISTRICT REGULATIONS

DIVISION 1. - GENERALLY

Sec. 66-151. - Scope of article.

This article describes the intent of each district, the permitted and conditional uses, and the height and area, density and regulations of each district.

(Ord. No. 94-04, art. IV, 9-7-94)

Secs. 66-152—66-170. - Reserved.

DIVISION 2. - OPEN SPACE DISTRICTS

Sec. 66-171. - Generally.

Open space districts are established to protect land that is best suited for recreation and open space use from incompatible land uses. These districts also protect land with special natural features such as rivers, creeks and woodlots.

(Ord. No. 94-04, § 4.10, 9-7-94)

Sec. 66-172. - Recreation open space district (RO).

- (a) *Purpose and general description.* The purpose of the RO district is to set aside lands that are suitable for recreation and open space use because of their natural features and their proximity to potential users.
- (b) *Permitted uses.* Permitted uses are as follows:
 - (1) Raising or growing of plants, trees, shrubs, fruits, vegetables, and nursery stock, but not for sale on the premises.
 - (2) Essential services, and related structures, only in accordance with the regulations specified in section 66-317.
 - (3) Accessory uses and structures.
- (c) *Conditional uses.* Conditional uses are as follows. See section 66-306 for requirements and procedures.

- (1) Private parks and country clubs, and roadside stands, principally for the marketing of agricultural products produced on the premises.
 - (2) Country clubs, public or private forest preserve, golf course, recreation centers, public swimming pools, parks, playgrounds and playfields.
 - (3) Government or community-owned facilities.
- (d) *Area, yard, height and bulk regulations.* See the district area yard, height, and bulk regulations.
- (e) *Supplemental regulations.* See article V of this chapter.

(Ord. No. 94-04, § 4.10.10, 9-7-94; Ord. No. 2015-02, § 2, 12-7-15)

Secs. 66-173—66-190. - Reserved.

DIVISION 3. - RESIDENTIAL DISTRICTS

Sec. 66-191. - Generally.

- (a) Residential districts are designed to encourage, stabilize and protect an environment suitable for residences. Uses are limited to housing and uses normally associated with residential neighborhoods such as schools and churches.
- (b) The districts regulate the location of residential uses based on a well-considered plan. The plan describes the different densities of population and the intensity of land use desired, and the relationship of residential uses to other areas devoted to open space, commercial and industrial use.
- (c) The purpose of each residential district is further stated in this division.

(Ord. No. 94-04, § 4.20, 9-7-94)

Sec. 66-192. - Low density residential district (R-1).

- (a) *Purpose and general description.* The R-1 district is designed to provide residential areas at suburban densities where necessary urban services and facilities, including central sewerage and water supply systems can be provided.
- (b) *Permitted uses.* Permitted uses are as follows:
 - (1) Single-family detached dwelling units.
 - (2) Essential services, and related structures, only in accordance with the regulations specified in section 66-317.
 - (3) Accessory uses and structures
 - (4) Family day care, one to six minor children, as defined by Act No. 116 of the Public Acts of Michigan of 2006 (MCL 722.111 et seq).
 - (5) Adult foster care family home.
- (c) *Conditional uses.* Conditional uses are as follows. See section 66-306 for requirements and procedures.
 - (1) Country clubs, public or private forest preserve, golf course, recreation centers, public swimming pools, parks, playgrounds and playfields.
 - (2) Home occupations, subject to the provisions of subsection 66-306(j)(1).
 - (3) Bed and breakfast.

- (d) *Area, yard, height and bulk regulations.* See the district area yard, height, and bulk regulations in division 6.
- (e) *Supplemental regulations.* See article V of this chapter.

(Ord. No. 94-04, § 4.20.10, 9-7-94; Ord. No. 6 of 2007, § 6, 11-5-07; Ord. No. 2015-02, § 3, 12-7-15; Ord. No. 2015-04, § 6, 12-7-15; Ord. No. 2015-06, § 3, 12-7-15)

Sec. 66-193. - Medium density residential district (R-2).

- (a) *Purpose and general description.* The R-2 district is designed to provide residential areas at suburban densities where necessary urban services and facilities, including central sewerage and water supply systems, can be provided.
- (b) *Permitted uses.* Permitted uses are as follows:
 - (1) Single-family detached dwelling units.
 - (2) Accessory uses and structures.
 - (3) Family day care, one to six minor children, as defined by Act No. 116 of the Public Acts of Michigan of 2006 (MCL 722.111 et seq.).
 - (4) Adult foster care family home.
- (c) *Conditional uses.* Conditional uses are as follows. See section 66-306 for requirements and procedures.
 - (1) Two- and three-family dwelling units.
 - (2) Country clubs, public or private forest preserve, golf course, recreation centers, public swimming pools, parks, playgrounds and playfields.
 - (3) Home occupations, subject to the provisions of subsection 66-306(j)(1).
 - (4) Government or community owned facilities.
 - (5) Public, primary, secondary, parochial, or other private elementary, intermediate schools and/or high schools offering courses in general education not operated for profit.
 - (6) Public service buildings.
 - (7) Group day care home, seven to 12 minor children, as defined by Act No. 116 of the Public Acts of Michigan of 2006 (MCL 722.111 et seq.).
 - (8) Churches and other buildings for religious worship.
 - (9) Public libraries, museums, and community centers.
 - (10) Essential services, and related structures, only in accordance with the regulations specified in section 66-317.
 - (11) Bed and breakfast.
 - (12) Group day care home.
 - (13) Day care center.
- (d) *Area, yard, height and bulk regulations.* See the district area yard, height, and bulk regulations in division 6.
- (e) *Supplemental regulations.* See Article V of this chapter.

(Ord. No. 94-04, § 4.20.20, 9-7-94; Ord. No. 95-05, § 4, 9-5-95; Ord. No. 6 of 2007, § 7, 11-5-07; Ord. No. 2015-02, § 4, 12-7-15; Ord. No. 2015-04, § 6, 12-7-15; Ord. No. 2015-06, § 3, 12-7-15; Ord. No. 2016-02, § 2a, 10-3-16)

Sec. 66-194. - High density residential district (R-3).

- (a) *Purpose and general description.* The R-3 district is designed to permit a high density of population and a high intensity of land use in those areas which are served by a central sewerage and water supply systems, and that are adjacent to such other uses or amenities which support, complement or serve such a density and intensity.
- (b) *Permitted uses.* Permitted uses are as follows:
 - (1) Single-family detached dwelling units.
 - (2) Two- and three-family dwelling units.
 - (3) Multiple-family dwelling units.
 - (4) Family day care, one to six minor children, as defined by Act No. 116 of th Public Acts of Michigan of 2006 (MCL 722.111 et seq.).
 - (5) Essential services, and related structures, only in accordance with the regulations specified in section 66-317.
 - (6) Adult foster care family home.
- (c) *Conditional uses.* Conditional uses are as follows: See section 66-306 for requirements and procedures.
 - (1) Rooming houses and boardinghouses.
 - (2) Bed and breakfast section 66-327 to be exempt from subsection 66-222(b)(1).
 - (3) Country clubs, public or private forest preserve, golf course, recreation centers, public swimming pools, parks, playgrounds and playfields.
 - (4) Home occupations, subject to the provisions of subsection 66-306(j)(1).
 - (5) Government or community owned facilities.
 - (6) Public, primary, secondary, parochial, or other private elementary, intermediate schools and/or high schools offering courses in general education and not operated for profit.
 - (7) Public service buildings.
 - (8) Group day care home, seven to 12 minor children, as defined by Act No. 116 of the Public Acts of Michigan of MCL 722.111 et seq.).
 - (9) Churches and other buildings for religious worship
 - (10) Public libraries, museums and community centers.
 - (11) Adult foster care group home, adult foster care congregate care facility, and adult day care.
 - (12) Independent living and assisted living and convalescent home.
 - (13) Group day care home.
 - (14) Day care center.
- (d) *Area, yard, height and bulk regulations.* See the district area yard, height, and bulk regulations in division 6.
- (e) *Supplemental regulations.* See article V of this chapter.

(Ord. No. 94-04, § 4.20.30, 9-7-94; Ord. No. 6 of 2007, § 8, 11-5-07; Ord. No. 2015-02, § 5, 12-7-15; Ord. No. 2015-04, § 6, 12-7-15; Ord. No. 2015-05, § 4, 12-7-15; Ord. No. 2015-06, § 3, 12-7-15; Ord. No. 2016-02, § 2b, 10-3-16)

Sec. 66-195. - Mobile home residential district (MH-1).

- (a) *Purpose and general description.* The MH-1 district is composed of those areas of the village where the principal use is mobile home dwellings. A site plan must be submitted to the planning commission for recommendation and to council for approval in conformance with section 66-307. The regulations of this district are designed to permit an appropriate density of population and intensity of land use in those areas which are served by a central sewerage and water supply systems, and which abut or are adjacent to such other uses, buildings, structures or amenities which support, complement or serve such a density and intensity. Mobile home commission rules (MHCR) are incorporated into this chapter as noted.
- (b) *Permitted uses.* Permitted uses are as follows:
 - (1) Mobile home parks
 - (2) Essential services, and related structures, only in accordance with regulation specified in section 66-317.
 - (3) Accessory uses and structures.
- (c) *Conditional uses.* Conditional uses are as follows: See section 66-306 for requirements and procedures.
 - (1) Public, primary, secondary, parochial, or other private elementary, intermediate schools and/or high schools offering courses in general education and not operated for profit.
 - (2) Home occupations, subject to the provisions of subsection 66-306(j)(1).
- (d) *Area, yard, height and bulk regulations.* See the district area yard, height, and bulk regulations in division 6.
- (e) *Mobile home park regulations.*
 - (1) *Compliance with state law.* All mobile home parks shall comply with sections 35 through 43 of Act No. 243 of the Public Acts of Michigan of 1959 (MCL 125.1001 et seq.), and Act No. 419 of the Public Acts of Michigan of 1976 (MCL 125.1101 et seq.), as amended by Act No. 96 of the Public Acts of Michigan of 1987 (MCL 125.1301 et seq.)
 - (2) *Fire hydrants and water mains.* All mobile home park shall comply with the village subdivision regulations for fire hydrants and water mains.
 - (3) *Total land area.* The land area of a mobile home park shall not be less than ten acres.
 - (4) *Area of mobile home sites.* The mobile home park shall be developed with sites averaging 5,500 square feet per mobile home unit. This 5,500 square feet for any one site may be reduced by 20 percent provided that the individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of a site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space, but in no case shall the open space and distance requirements be less than that required under R125.1946, rule 946, and R125.1941 and R125.1944, rules 941 and 944, of the Michigan Administrative Code.
 - (5) *Minimum facilities for mobile homes.* Each mobile home within such park shall contain a flush toilet, sleeping accommodations, a tub or shower bath, kitchen facilities, and plumbing and electrical connections designed for attachments to appropriate external systems.
 - (6) *Distance requirements and site dimensions for mobile homes.*
 - a. A mobile home shall be in compliance with the following minimum distances:

1. Twenty feet from any part or attached structure of another mobile home which is used for living purposes.
 2. Ten feet from either of the following:
 - i. An on-site parking space of an adjacent mobile home site.
 - ii. An attached or detached structure or accessory structure which is not used for living purposes.
 3. Fifty feet from a permanent park-owned structure such as those listed under R125.1941, rule 941C, of the Michigan Administrative Code.
 4. One hundred feet from a baseball or softball field.
- b. Any part or structure that belongs to a mobile home shall be set back the following minimum distances:
1. Ten feet from the edge of an internal road and 7.5 feet from a parking bay.
 2. Seven feet from a common pedestrian walkway.
 3. Twenty-five feet from a natural or manmade lake, object or waterway.
- c. A mobile home site length may vary depending on park design and layout and the mobile home to be installed; however, the minimum standards pertaining to distance between mobile homes shall be complied with.
- d. Site dimensions may be computed to include the space requirements for mobile homes which may contain expando rooms, or in anticipation of the attachment of expansions such as add-a-rooms.
- (7) *Setbacks at park boundaries.*
- a. Mobile homes, permanent park buildings and facilities, and other structures shall not be located closer than ten feet to the property boundary line of the park.
 - b. If mobile homes, permanent park buildings and facilities, and other structures abut a public right-of-way, they shall not be located closer than 25 feet to the park boundary line. This subsection does not apply to internal park roads if dedicated for public use, providing the roads do not present a nuisance or safety hazard to the park tenants.
- (8) *Layout of park.* Layout of a mobile home park and other facilities intended for tenant use shall be in accordance with acceptable architectural and engineering practices and shall provide for the convenience, health, safety and welfare of the tenants.
- (9) *Size of mobile homes.* A mobile home shall not be permitted to occupy single or multiple sites if either its length or width would cause it to occupy any minimum yard area or minimum distance prescribed in this section.
- (10) *Foundation and pad; car stops; multiple-family use of mobile home.*
- a. A mobile home site shall have installed a means by which the mobile home shall be supported on a permanent foundation.
 - b. The location of the pedestal may vary according to park design and layout, and for ease of mobile home installation and utility hookups.
 - c. Pads shall be constructed to achieve adequate surface drainage.
 - d. On-site parking spaces may be provided with car stops.
 - e. A mobile home site shall be designed for the exclusive use of one mobile home family. If a mobile home on a site is to be used as a multiple dwelling, the site shall be constructed to accommodate each family pursuant to this section.
- (11) *Installation of mobile homes.*

- a. For all new mobile homes sold in the state, the manufacturer shall provide express written instructions for the installation specifying the location and required minimum imposed load capacity of pillars and the location and the required minimum imposed load capacity of any other recommended stabilizing devices.
- b. The installation of mobile homes shall, at a minimum, comply with the following specifications:
 1. Pillars shall be installed directly under each main frame beam. If the distance between the main frame beams does not conform to the pad or pillars that are permanently installed on the mobile home site, cross beams shall be used. These cross beams may be of steel, or pressure-treated wood which resists decay, and which has an imposed load capacity of 3,000 pounds per square foot. The cross beams shall extend a minimum of six inches beyond each main frame beam, but shall not extend beyond the sides of the mobile home. A wood beam shall not rest on the ground, but shall rest on the cap. If the cross beam interferes with a utility to the mobile home, the cross beam placement may be between blocks. If a cross beam is used between blocks, it shall be a minimum of six inches by eight inches.
 2. Pillars shall be placed on ten-foot centers along the length of each main frame beam, but may be placed at less than ten-foot centers. If the pillars interfere with the axle area, they may be placed to a maximum of 13-foot centers, but the pillar placement shall not be less in number than if placed on ten-foot centers.
 3. The pillars nearest each end of the mobile home shall be within three feet of either end.
 4. All grass and organic material shall be removed and the pillar or platform shall be placed on stable soil.
 5. Pillars shall be constructed of solid concrete, cored concrete blocks unless other cored concrete blocks are supplied by the consumer, or a heavy metal screw column which bears on both frame and foundation, or other acceptable design and construction meeting mobile home industry standards.
 6. Concrete block pillars shall be constructed of regular eight-inch by eight-inch by 16-inch block and placed on the pillar platform. The block shall be placed with the open cells vertical and the blocking of the pillar shall be single tiered. A cap shall be placed on top of the pillar. A wood plate one inch by eight inches by 16 inches, or two inches by eight inches by 16 inches, may be placed on top of the cap for leveling. Shims may be fitted and driven tight between the wood plate or cap and the mainframe and shall not take up more than one inch of vertical height.
 7. Pillars shall be installed perpendicular to the mainframe of the mobile home.
- c. Solid concrete pillars may be of a cone or pyramid design with a minimum 16-inch base tapered to a minimum nine-inch top. Shimming shall be the same as for the concrete block pillar.
- d. All pillars shall have a minimum imposed load capacity of 3,000 pounds.
- e. If the manufacturer's recommended installation specifications exceed the minimum specifications stated in this section, the manufacturer's specifications shall in all cases be complied with.
- f. Mobile homes may be installed on a basement or crawl space type foundation, provided the foundation complies with local building codes and ordinances, and meets the manufacturer's specifications for pillar placement and imposed load capacity.

All components used in the installation of a mobile home, such as platforms and pillars, shall be uniform in construction and shall be compatible with any existing system that may be installed on the mobile home site.

- (12) *Utility connections.* All mobile homes within such park shall be suitably connected to sewer and water services provided at each mobile home site, and shall meet the requirements of the state department of public health and be approved through the county health department. Utility hookups must comply with rule 603A and C of the Mobile Home Commission Rules.
- (13) *Disposal of garbage and trash.* Any method used for disposal of garbage and trash shall be approved by the state and inspected periodically by the county health department and pursuant to part 5 of the state department of public health standards.
- (14) *Electric lines, telephone lines and other supply lines.* All electric, telephone and other lines from supply poles or other sources to each mobile home site shall be underground and in compliance with rule 603D of the Mobile Home Commission Rules and rules 932 and 933 of the Michigan Administrative Code. When separate meters are installed, they shall be located in a uniform manner.
- (15) *Fuel supply systems.* Mobile home fuel supply systems shall be as follows:
- a. Furnaces, hot water heaters, appliances or any other item of equipment which uses gas shall be fully compatible with the type of gas used. An easily accessible, approved hand shutoff valve controlling the flow of gas to the entire gas piping system shall be installed as close as possible to the service meter or supply connection of the liquified petroleum gas container. Approved piping with a minimum one-half-inch inside diameter or five-eighths-inch outside diameter shall be used for any gas line. After appliances are connected, the piping system shall be tested to not less than ten inches and not more than 14 inches of water column (one-half psi), and the appliance connections shall be tested for leakage with soapy water or a bubble solution.
 - b. A mobile home fuel supply system other than gas shall comply with state and local codes and ordinances, but, at a minimum, shall comply with the standards contained in paragraphs 4.3.1 to 4.3.4, National Fire Protection Association standard no. 501B, 1974. The fuel oil tank must comply with state law. When a heating system other than natural gas, liquified petroleum gas or fuel oil is used, the system shall comply with state or local codes and ordinances.
- (16) *Buffer at park boundaries.* A buffer of trees, shrubs or fencing not less than ten feet in depth shall be located and maintained along all boundaries of such park on a "last comer provides buffer" policy, except at established entrances and exits serving such park. When necessary for health, safety and welfare, a fence shall be required. No fence shall be higher than six feet in height to separate a park from an adjacent property.
- (17) *Open space.*
- a. A mobile home park that contains 50 or more mobile home sites shall have at least one easily accessible open space area containing not less than 25,000 square feet.
 - b. The total of the land dedicated for open space shall not be less than two percent of the park's gross acreage that is approved for construction pursuant to a permit to construct, but not less than 25,000 square feet.
- (18) *Optional improvements.*
- a. Optional improvements such as swimming pools, recreational buildings, children's playgrounds, picnic areas, game fields and courts or similar areas or facilities shall be considered as fulfilling part or all of the total open space requirement.
 - b. Optional improvements such as laundries, swimming pools, buildings and other structures, service facilities, and areas for recreational or service use shall comply with current state building codes pertinent to construction.
 - c. If optional improvements are provided, they may be consolidated into a single facility.

(19) *Surfacing, drainage and lighting of driveways, parking spaces and walkways.* All driveways, motor vehicle parking spaces and walkways within such park shall be hard-surfaced and adequately drained and lighted for safety and ease of movement.

(20) *Minimum width of roadways.* Minimum widths of roadways within a park shall be as follows:

Motor Vehicle Parking	Traffic Use	Minimum Pavement Width
Parking prohibited	2-way road	21 feet
	1-way road	13 feet
Parallel parking, 1 side only	2-way road	31 feet
	1-way road	23 feet
Parallel parking, 2 sides	1-way road	33 feet
Parallel parking, 2 sides	2-way road	41 feet

(21) *Walkways required; standards.* Walkways shall be required and not be less than three feet in width, and constructed to the standards of Ordinance No. 4 of 1951 of the village.

(22) *Number of parking spaces.* Two automobile parking spaces shall be provided on each mobile home site. The mobile home park shall provide one additional automobile parking space for every three mobile home sites, convenient to the area served.

(23) *Occupation of recreational vehicles.* No recreational vehicles designed for temporary or seasonal living shall be permanently occupied in a mobile home park.

(Ord. No. 94-04, § 4.20.40, 9-7-94; Ord. No. 2015-02, § 6, 12-7-15)

Sec. 66-196. - Planned unit residential district (R-4).

(a) *Purpose and general description.* The R-4 district is intended to conserve and protect open space, sensitive land resources and the natural environment while providing an opportunity for clustering of buildings and open spaces. However, such a development may be expected to have a significant impact on natural resources, public utilities, traffic patterns and adjacent land usage. Therefore, special criteria, regulations, requirements and conditions must be met before approval of a planned unit residential development. The regulations in section 66-307 provide an opportunity for the optimum design and arrangement of open spaces and retention of natural features such as floodplains or steep slopes by allowing buildings to be clustered, mixtures of housing types (such as detached houses, townhouses or garden apartments), and combined housing and other ancillary uses.

(b) *Permitted uses.* Permitted uses are as follows:

- (1) Single-family detached dwelling units.
- (2) Two- and three-family dwelling units.
- (3) Multiple-family dwelling units.

- (4) Family daycare, one to six minor children, as defined by Act No. 116 of the Public Acts of Michigan of 2006 (MCL 722.111 et seq.).
- (5) Essential services, and related structures, only in accordance with the regulations specified in section 66-317.
- (6) Accessory uses and structures.
- (c) *Conditional uses.* Conditional uses are as follows: See section 66-306 for requirements and procedures.
 - (1) Country clubs, public or private forest preserve, golf course, recreation centers, public swimming pools, parks, playgrounds and playfields.
 - (2) Group daycare home, seven to 12 minor children, as defined by Act No. 116 of the Public Acts of Michigan of 2006 (MCL 722.111 et seq.).
 - (3) Public libraries, museums, and community centers.
- (d) *Area, yard, height and bulk regulations.* See the district area yard, height, and bulk regulations in division 6.
- (e) *Supplemental regulations.* See article V of this chapter.
- (f) *Other regulations.* See section 66-307.

(Ord. No. 94-04, § 4.20.50, 9-7-94; Ord. No. 6 of 2007, § 9, 11-5-07; Ord. No. 2015-02, § 7, 12-7-15)

Sec. 66-197. - Setback averaging.

In all residential zoning districts, where an existing structure has a front, rear or side yard less than that required, the structure may be altered, repaired, or expanded, provided the front, rear and side yard setbacks are not less than the average setback for structures on the same side of the street in that block. The applicant is responsible for obtaining the setback information and may have to use reasonable judgment in determining some of the setbacks. The zoning administrator will make the final decision on whether the proposed alteration, repair or expansion complies with the average setback.

(Ord. No. 1 of 2003, § 1, 3-3-03)

Secs. 66-198—66-220. - Reserved.

DIVISION 4. - COMMERCIAL DISTRICTS

Sec. 66-221. - Generally.

- (a) The commercial districts regulate the location of compatible commercial enterprises according to a well-considered plan. The districts are designed according to type of use, intensity of land, street and highway use, and potential nuisances and hazards.
- (b) Also considered is the relationship between the location of commercial uses and the location of other uses, adjacent residential or industrial districts and streets, highways and other means of transportation.
- (c) Uses that are not compatible with commercial activities have been excluded from these districts. The purpose of each district is further stated in this division.

(Ord. No. 94-04, § 4.30, 9-7-94)

Sec. 66-222. - General commercial district (C-1).

- (a) *Purpose and general description.* The C-1 district is intended to encourage planned and integrated groupings of retail, service and administrative establishments that will provide merchandise, personal services and professional services for the entire area. Some uses may require site plan review. See section 66-307.
- (b) *Permitted uses.* Permitted uses are as follows:
- (1) Dwelling units, not to be located below the second floor, and subject to the provisions of subsection 66-306(j)(2).
 - (2) Funeral establishments.
 - (3) Medical and dental clinics.
 - (4) Business schools, dance schools, music schools, art schools, and technical schools.
 - (5) General office, administrative or professional nature.
 - (6) Business services, including banks, loan offices, real estate offices and insurance offices, but not including drive-thru services.
 - (7) Printing and photocopy establishments.
 - (8) Retail sale of foods, drugs, hardware, notions, books, and similar convenience goods.
 - (9) Eating and drinking establishments, but not including drive-thru types.
 - (10) Indoor commercial amusements and recreation services, including theaters, bowling alleys, roller and ice skating rinks, and video arcades.
 - (11) Personal services, including barbershops and beauty salons, medical and dental clinics, self-service laundromats, and sale, repair, and rental shops for watches, shoes, radios, televisions and video equipment.
 - (12) Any other retail business or service establishment which is determined by the planning commission to be of the same general character as uses permitted in this section.
 - (13) Essential services, and related structures, only in accordance with the regulations specified in section 66-317.
 - (14) Accessory uses and structures.
- (c) *Conditional uses.* Conditional uses are as follows: See section 66-306 for requirements and procedures.
- (1) Bed and breakfast section 66-327 to be exempt from subsection 66-222(b)(1).
 - (2) Government or community-owned facilities.
 - (3) Public service buildings.
 - (4) Churches and other buildings used for religious worship.
 - (5) Public libraries, museums, and community centers.
 - (6) Small animal clinics.
 - (7) Clubs and lodges.
 - (8) Shopping centers.
 - (9) Hotels or motels.
 - (10) Automobile service stations.
 - (11) Carwashes

- (12) Automobile repair garages.
- (13) Drive-thru business establishments.
- (14) Parking lots, as defined in section 66-304(c).
- (d) *Area, yard, height and bulk regulations.* See the district area yard, height, and bulk regulations in division 6.
- (e) *Supplemental regulations.* See article V of this chapter.

(Ord. No. 94-04, § 4.30.10, 9-7-94; Ord. No. 98-03, § 1, 3-2-98; Ord. No. 2015-02, § 8, 12-7-15)

Sec. 66-223. - Highway service commercial district (C-2).

- (a) *Purpose and general description.* The C-2 highway service commercial district is intended to provide and allow for planned and coordinated development uses that complement adjoining uses and harmonize with the surrounding area in terms of the physical site layout, access, building design, pedestrian facilities, landscaping, parking arrangements, and lighting, in accordance with provisions of the village zoning ordinance. The districts should be provided at locations along major thoroughfares and should encourage grouping of various facilities. The dispersion of these uses should be discouraged.
- (b) *Permitted uses.* Permitted uses are as follows:
 - (1) General office, administrative or professional in nature.
 - (2) Business services, including banks, loan offices, real estate offices and insurance offices, but not including drive-thru services.
 - (3) Retail sale of foods, drugs, hardware, notions, books, and similar convenience goods.
 - (4) Eating and drinking establishments, but not including the drive-thru types.
 - (5) Indoor commercial amusements and recreation services, including theaters, bowling alleys, roller and ice skating rinks, and video arcades.
 - (6) Personal services, including barbershops and beauty salons, medical and dental clinics, self-service laundromats, and sale, repair and rental shops for watches, shoes, radios, television and video equipment.
 - (7) Any other retail business or service establishment which is determined by the planning commission to be of the same general character as uses permitted by this section.
 - (8) Carwashes
 - (9) Sales, rental and service of motor vehicles, trailers, boats and mobile homes.
 - (10) Essential services, and related structures, only in accordance with the regulations specified in section 66-317.
 - (11) Accessory uses and structures.
- (c) *Conditional uses.* Conditional uses are as follows: See section 66-306 for requirements and procedures.
 - (1) Government or community-owned facilities
 - (2) Public service buildings.
 - (3) Hotels or motels.
 - (4) Automobile repair garages and service stations.
 - (5) Drive-thru business establishments.

- (6) Retail sale of landscaping, gardening, and nursery goods. Provided there is only limited outside storage of bulk materials and supplies in a properly fenced portion of the rear yard.
- (7) Sales, rental and service of motor vehicles, trailers, boats and mobile homes.
- (8) Wireless communication facility.
- (d) *Area, yard, height and bulk regulations.* See the district area yard, height, and bulk regulations in division 6.
- (e) *Supplemental regulations.* See article V of this chapter.
- (f) *Access management.* All developments in the highway service commercial district are required to meet access management standards and requirements of the Michigan Department of Transportation (MDOT) and any other provision of the Village of Clinton Zoning Ordinance, as applicable.
- (g) *Pedestrian pathways and sidewalks.* Pedestrian access and circulation shall be accomplished through a four-foot wide sidewalk parallel to the roadway. Development in the highway service commercial district shall be planned to ensure safe pedestrian movement within the development. Pedestrian pathway connections to parking areas, buildings, site amenities and between on-site and perimeter pedestrian pathways and sidewalks shall be planned and installed where the village deems appropriate.

(Ord. No. 3 of 2012, § 2—6, 1-4-12; Ord. No. 2015-02, § 9, 12-7-15)

Editor's note— Ord. No. 3 of 2012, § 1, adopted Jan. 4, 2012, repealed the former § 66-223. Sections 2—6, of said ordinance, enacted a new § 66-223 as set out herein. The former section pertained to similar subject matter and derived from Ord. No. 94-04, § 4.30.20, adopted Sept. 7, 1994 and Ord. No. 96-04, §§ 1, 2, adopted June 3, 1996.

Sec. 66-224. - Central business district (C-3).

- (a) *Purpose and general description.* The C-3 district is designated as the principal commercial center of the village. Permitted are a variety of retail, service, administrative, financial, civic, cultural and entertainment uses that will provide a harmonious mix of activities for the entire village.
- (b) *Permitted uses.* Permitted uses are as follows:
 - (1) Dwelling units, not to be located below the second floor, and subject to the provisions of subsection 66-306(j)(2).
 - (2) Medical and dental clinics.
 - (3) Business schools, dance schools, music schools, art schools, and technical schools.
 - (4) General office, administrative or professional nature.
 - (5) Business services, including banks, loan offices, real estate offices and insurance offices, but not including the drive-thru services.
 - (6) Printing and photocopy establishments.
 - (7) Retail sale of foods, drugs, hardware, notions, books, and similar convenience goods.
 - (8) Eating and drinking establishments, but not including the drive-thru types.
 - (9) Indoor commercial amusements and recreation services, including theaters, bowling alleys, roller and ice skating rinks, and video arcades.
 - (10) Personal services, including barbershops and beauty salons, medical and dental clinics, self-service laundromats, and sale, repair and rental shops for watches, shoes, radios, televisions and video equipment.

- (11) Indoor retail sales establishments.
 - (12) Any other retail business or service establishment which is determined by the planning commission to be of the same general character as uses permitted by this section.
 - (13) Essential services, and related structures, only in accordance with the regulations specified in section 66-317.
 - (14) Accessory uses and structures.
- (c) *Conditional uses.* Conditional uses are as follows: See section 66-306 for requirements and procedures.
- (1) Government or community-owned facilities.
 - (2) Public service buildings.
 - (3) Public libraries, museums and community centers.
 - (4) Small animal clinics.
 - (5) Clubs and lodges.
 - (6) Hotels or motels.
 - (7) Drive-thru business establishments.
 - (8) Parking lots, as defined in section 66-304(c).
- (d) *Area, yard, height and bulk regulations.* See the district area yard, height, and bulk regulations in division 6.
- (e) *Supplemental regulations.* See article V of this chapter.

(Ord. No. 94-04, § 4.30.30, 9-7-94; Ord. No. 2015-02, § 10, 12-7-15)

Sec. 66-225. - Local service commercial district (C-4).

- (a) *Purpose and general description.* The C-4 district is to provide for planned and coordinated development intended to allow uses that complement adjoining uses and the Village of Clinton central business district, harmonize with the surrounding area in terms of the physical site layout, access, building design, pedestrian facilities, landscaping, parking, arrangements, and lighting in accordance with provisions of the village zoning ordinance. Developments in the C-4 district shall not adversely affect existing residential areas. The standards of the C-4 district shall apply to any use or structure requiring submittal of a site plan to the village for review, pursuant to sections 66-307 and 66-514 of the Village of Clinton Zoning Ordinance.
- (b) *Permitted uses.* Permitted uses are as follows:
- (1) Funeral establishments.
 - (2) Medical and dental clinics.
 - (3) General office, administrative or professional nature.
 - (4) Business services, including banks, loan offices, real estate offices and insurance offices, but not including drive-thru services.
 - (5) Printing and photocopy establishments.
 - (6) Retail sale of foods, drugs, hardware, notions, books, and similar convenience goods.
 - (7) Eating and drinking establishments, but not including the drive-thru types.

- (8) Personal services, including barbershops and beauty salons, medical and dental clinics, self-service laundromats, and sale, repair and rental shops for watches, shoes, radios, televisions and video equipment.
- (9) Indoor retail sales.
- (10) Any other retail business or service establishment which is determined by the planning commission to be of the same general character as uses permitted by this section.
- (11) Essential services, and related structures, only in accordance with the regulations specified in section 66-317.
- (12) Accessory uses and structures.
- (c) *Conditional uses.* Conditional uses are as follows: See section 66-306 for requirements and procedures.
 - (1) Government or community-owned facilities.
 - (2) Public service buildings.
 - (3) Public libraries, museums and community centers.
 - (4) Small animal clinics.
- (d) *Area, yard, height and bulk regulations.* See the district area yard, height, and bulk regulations in division 6.
- (e) *Supplemental regulations.* See article V of this chapter.
- (f) All uses within the C-4 district shall be restricted to those land uses that complement adjoining uses and are consistent with the type, intensity, and scale of businesses in the central business district. To that end, land that generates more activity in terms of traffic, noise, and lighting are prohibited.
- (g) *Access management.* All developments in the C-4 district are required to meet access management standards and requirements of the Michigan Department of Transportation (MDOT) and any other provision of the Village of Clinton Zoning Ordinance, as applicable.
- (h) *Pedestrian pathways and sidewalks.* Pedestrian access and circulation shall be accomplished through a four-foot wide sidewalk parallel to the roadway. Development in the C-4 district shall be planned to ensure safe pedestrian movement within the development. Pedestrian pathway connections to parking areas, building, site amenities and between on-site and perimeter pedestrian pathways and sidewalks shall be planned and installed where the village deems appropriate.

(Ord. No. 5 of 2007, §§ 1—6, 8-6-07; Ord. No. 2015-02, §§ 11, 15, 12-7-15)

Secs. 66-226—66-240. - Reserved.

DIVISION 5. - INDUSTRIAL DISTRICTS

Sec. 66-241. - Generally.

- (a) Industry provides jobs and other economic benefits to the village. Therefore, light industrial uses are permitted within industrial zoning districts.
- (b) Industrial districts are planned with consideration for type of use, intensity of land, street and highway use, and potential nuisances and hazards.
- (c) Also considered is the relationship between the location of industrial uses and the location of other uses, adjacent commercial or residential districts, and streets, highways and other means of transportation.
- (d) Uses that are not compatible with industrial activities have been excluded from this district.

- (e) Both permitted and conditional uses shall meet all applicable state and federal standards regulating public health, safety and the environment.
- (f) In addition, any use established in the industrial district shall not be permitted to carry on any activity, operation, use of land, building or equipment that produces irritants to the sensory perceptions greater than those allowed in the performance standards in section 66-309.

(Ord. No. 94-04, § 4.40, 9-7-94)

Sec. 66-242. - Light industrial district (I).

- (a) *Purpose and general description.* The industrial districts are designed to provide land for light industrial use only. The districts will require buffering from adjoining nonindustrial zoning districts to minimize external effects such as, but not limited to, noise, smoke, dust, odor and impact on the environment on neighboring property.
- (b) *Permitted uses.* Permitted uses are as follows:
 - (1) Automobile repair garages.
 - (2) Assembly (from prefabricated parts).
 - (3) Contractor's yards (properly screened).
 - (4) Farm machinery and equipment sales and repair.
 - (5) General service and repair establishments.
 - (6) Industrial office buildings.
 - (7) Printing shops.
 - (8) Warehouse storage.
 - (9) Any other use which is determined by the planning commission to be of the same general character as other uses permitted by this section.
 - (10) Essential services, and related structures, only in accordance with the regulations specified in section 66-317.
 - (11) Accessory uses and structures.
- (c) *Conditional uses.* Conditional uses are as follows: See section 66-306 for requirements and procedures.
 - (1) Business schools, dance schools, music schools, art schools, and technical schools.
 - (2) General office, administrative or professional nature.
 - (3) Business services, including banks, loan offices, real estate offices and insurance offices, but no including drive-thru services.
 - (4) Government or community owned facilities.
 - (5) Public service buildings.
 - (6) Automobile service stations.
 - (7) Carwashes.
 - (8) Sales, rental and service of motor vehicles, trailers, boats and mobile homes.
 - (9) Research and testing laboratories.
 - (10) Wireless communication facility.

- (d) *Area, yard, height and bulk regulations.* See the district area yard, height, and bulk regulations in division 6.
- (e) *Supplemental regulations.* See article V of this chapter.
- (f) Permitted and conditional light industrial uses must have an approved site plan pursuant to section 66-307, and a zoning compliance permit. Signs are regulated according to section 66-302.

(Ord. No. 94-04, § 4.40.10, 9-7-94; Ord. No. 96-04, § 3, 6-3-96; Ord. No. 4 of 2007, §§ 1—5, 6-4-07; Ord. No. 2015-02, § 12, 12-7-15)

Secs. 66-243—66-249. - Reserved.

DIVISION 5.5. - MIXED USE DISTRICTS

Sec. 66-250. - Planned mixed use district (PMU).

- (a) *Purpose and general description.* The purpose and intent of the PMU district is to permit a compatible mixture of uses in a planned environment; to utilize larger buildings in the village that were designed and constructed for uses that are not economically viable (which can reasonably be converted to several contemporary uses); to preserve buildings with historical or architectural values; to permit a mixed use development on undeveloped land on which a mixture of compatible uses would be consistent with land use policies of the village; and to select uses that will be compatible with each other and with existing and future uses in the neighborhood in which the mixed use development is proposed. The district is intended to be used in areas that are designated in the village's adopted master land use plan as appropriate for such uses, and in other areas deemed appropriate by the village council. A site plan review is required to help assure the mixed use development will be compatible with existing and future uses in the neighborhood; that the development will be adequately served by public facilities; that it will be consistent with zoning regulations and the village's adopted policies; that it will preserve existing trees and other natural features; and that it will provide adequate vehicular and pedestrian circulation.
- (b) *Permitted uses.* Permitted uses are as follows:
 - (1) Single-family detached dwelling units.
 - (2) Two- and three-family dwelling units.
 - (3) Multiple-family dwelling units.
 - (4) Rooming houses and boardinghouses
 - (5) Family day care, one to six minor children, as defined by Act No. 116 of the Public Acts of Michigan 2006 (MCL 722.111 et seq.).
 - (6) Funeral establishments.
 - (7) Medical and dental clinics.
 - (8) Business schools, dance schools, music schools, art schools, and technical schools.
 - (9) General office, administrative or professional nature.
 - (10) Business services, including banks, loan offices, real estate offices and insurance offices, but not including drive-thru services.
 - (11) Printing and photocopy establishments.
 - (12) Retail sale of foods, drugs, hardware, notions, books, and similar convenience goods.
 - (13) Eating and drinking establishments, but not including the drive-thru types.

- (14) Indoor commercial amusements and recreation services, including theaters, bowling alleys, roller and ice skating rinks, and video arcades.
 - (15) Personal services, including barbershops and beauty salons, medical and dental clinics, self-service laundromats, and sale, repair and rental shops for watches, shoes, radios, televisions and video equipment.
 - (16) Any other retail business or service establishment which is determined by the planning commission to be of the same general character as uses permitted by this section.
 - (17) Assembly (from prefabricated parts).
 - (18) Contractor's yards.
 - (19) Farm machinery and equipment sales and repair.
 - (20) General service and repair establishments.
 - (21) Industrial office buildings.
 - (22) Printing shops.
 - (23) Warehouse storage.
 - (24) Any other use which is determined by the planning commission to be of the same general character as other uses permitted by this section.
 - (25) Essential services, and related structures, only in accordance with the regulations specified in section 66-317.
 - (26) Accessory uses and structures.
 - (27) Adult foster care family home.
- (c) *Conditional uses.* Conditional uses are as follows: See section 66-306 for requirements and procedures.
- (1) Bed and breakfast section 66-327 to be exempt from subsection 66-222(b)(1).
 - (2) Country clubs, public or private forest preserve, golf course, recreation centers, public swimming pools, parks, playgrounds and playfields.
 - (3) Home occupations, subject to the provisions of subsection 66-306(j)(1).
 - (4) Government or community-owned facilities.
 - (5) Public service buildings.
 - (6) Group day care home, seven to 12 minor children, as defined by Act No. 116 of the Public Acts of Michigan of 2006 (MCL 722.111 et seq.).
 - (7) Churches and other buildings for religious worship.
 - (8) Public libraries, museums and community centers.
 - (9) Small animal clinics.
 - (10) Clubs and lodges.
 - (11) Shopping centers.
 - (12) Hotels or motels.
 - (13) Automobile service stations.
 - (14) Carwashes.
 - (15) Automobile repair garages.
 - (16) Drive-thru business establishments.

- (17) Parking lots, as defined in section 66-304(c).
 - (18) Sales, rental and service of motor vehicles, trailers, boats and mobile homes.
 - (19) Research and testing laboratories.
 - (20) Wireless communication facility.
 - (21) Adult foster care group home, adult foster care congregate care facility, and adult day care.
 - (22) Independent living and assisted living and convalescent home.
 - (23) Bed and breakfast.
 - (24) Group day care home.
 - (25) Day care center.
- (d) The minimum regulation in the district area, yard, height and bulk regulations table may be reduced or waived by the village council. Any such reduction or waiver shall be made at the time the council approves a PMU district, and shall be based on the necessity to save an existing building. The planning commission shall advise the village council on such reduction or waiver in its report on the rezoning petition.
- (e) *Outdoor display or storage.* Outdoor display or sale of merchandise, equipment, or materials shall not be permitted in this district.
- (f) *Standards, regulations, and procedures.* A planned mixed use district shall comply with article VI herein.
- (g) *Area, yard, height and bulk regulations.* See the district area yard, height, and bulk regulations in division 6.
- (h) *Supplemental regulations.* See article V of this chapter.

(Ord. No. 97-05, § 1, 6-2-97; Ord. No. 6 of 2007, § 10, 11-5-07; Ord. No. 2015-02, § 14, 12-7-15; Ord. No. 2015-04, § 6, 12-7-15; Ord. No. 2015-05, § 4, 12-7-15; Ord. No. 2016-02, § 2c, 10-3-16)

Secs. 66-251—66-260. - Reserved.

DIVISION 6. - AREA, YARD, HEIGHT, BULK AND USE REGULATIONS

Sec. 66-261. - Compliance with division.

Buildings and structures erected after October 14, 1994, shall comply with the requirements described in this division.

(Ord. No. 94-04, § 4.50.10, 9-7-94)

Sec. 66-262. - Yards.

- (a) Lots which abut on more than one street shall provide the required front yards along every street.
- (b) All front, side and rear yards shall be the minimum perpendicular distance measured from the principal structure. This distance excludes all projections from the structure wall that are three feet or less in length.
- (c) Required yards and open space cannot be shared by more than one lot.

(Ord. No. 94-04, § 4.50.20, 9-7-94)

Sec. 66-263. - Height exceptions.

Height limitations for structures shall not apply to the following appendages and structures, provided they comply with all other provisions of this chapter or any other applicable ordinances: parapet walls, chimneys, smokestacks, church spires, flagpoles, radio and television towers, penthouses for mechanical equipment and water tanks.

(Ord. No. 94-04, § 4.50.30, 9-7-94)

Sec. 66-264. - Accessory structures.

- (a) No detached accessory building or structure shall be located closer than ten feet to the principal building or structure on the lot.
- (b) All detached accessory structures in residential districts may be placed not less than three feet from any rear lot line or the rear yard portion of any side lot lines, and shall not exceed 12 feet in height. All other dimensional requirements for principal structures apply.
- (c) All accessory structures in nonresidential districts shall be subject to the same standards and requirements as are required for all principal structures within that district.

(Ord. No. 94-04, § 4.60.00, 9-7-94)

Sec. 66-265. - Distance between grouped dwelling unit buildings.

In addition to the required setback lines, grouped dwelling unit buildings are required to meet the following minimum distances between buildings:

- (1) Where buildings are front to front or front to rear, three times the height of the taller building, but not less than 70 feet.
- (2) Where buildings are side to side, a distance equal to the height of the taller building, but not less than 20 feet.
- (3) Where buildings are front to side, rear to side, or rear to rear, a distance equal to twice the height of the taller building, but not less than 45 feet.

(Ord. No. 94-04, § 4.60.10, 9-7-94)

Sec. 66-266. - Number of buildings allowed on lot.

Excluding planned unit residential developments and multiple-family dwelling units, there shall be no more than one principal structure and its permitted accessory structures on any lot in a residential district.

(Ord. No. 94-04, § 4.60.20, 9-7-94)

Sec. 66-267. - Use regulations.

- (a) No structure shall be constructed, erected, placed or maintained and no use shall be commenced or continued within the village except as specifically, or by necessary implication, authorized by this chapter.

- (b) A conditional use shall be permitted only if listed as a conditional use, either specifically or by necessary implication, in the zoning district in which the use is to be located, and only after a conditional use permit has been approved by the village council as provided in this chapter. Continuation of a conditional use existing prior to October 14, 1994, or prior to the date of adoption of an amendment of this chapter, or expansion of one conditional use to another conditional use, shall be permitted in accordance with section 66-306.
- (c) Where a lot is devoted to a principal use, either permitted by right or as a conditional use, customary accessory uses and structures are authorized except as prohibited specifically or by necessary implication.
- (d) An existing use permitted by right that becomes a conditional use under amendment of this chapter shall be permitted to continue without a permit being required. A permit will be required to expand any conditional use.

(Ord. No. 94-04, § 4.60.30, 9-7-94)

DISTRICT AREA, YARD, HEIGHT AND BULK REGULATIONS

Zoning District	Zoning Symbol	Minimum Lot Area	Minimum Lot Width	Maximum Lot Coverage	Minimum Front Setback	Minimum Side Setback	Minimum Rear Setback	Maximum Building Height Principal	Maximum Building Height Accessory	Minimum Transition Strip	Remarks
Recreation Open Space	RO	2 acres	300 feet	N/A	50 feet	50 feet	50 feet	2 stories or 30 feet	25 feet		Parks (public or private).
Low Density Residential	R-1	9,600 sf	75 feet	30%	25 feet	10 feet	25 feet	2.5 stories or 35 feet	25 feet		Single-family detached dwelling units with public water and sewer.
		1 acre	120 feet	30%	25 feet	20 feet	25 feet	2.5 stories or	25 feet		No public water and sewer.

		2.5 acres	150 feet		35 feet plus 10 feet per story	20 feet	50 feet	2.5 stories or 35 feet	25 feet		All other uses.
Planned Unit Residential District	R-4	10 acres	55 feet	40%	25 feet. There shall be at least 25 feet between the garage door and the closest edge of the sidewalk to allow for an automobile to be parked in the driveway without obstructing the sidewalk	7 feet. For detached units with "rear-to-side" relationship, the required setback shall be 15 feet for each unit, for a total of 30 feet	25 feet	2.5 stories or 35 feet	15 feet	The perimeter setback for principal structures from all of the borders of the development shall be equal to the rear yard setback requirement for the underlying zoning district of the property directly adjacent to each border	The Village Council, based upon a recommendation from the Planning Commission, may waive the front, side, rear and perimeter setback provisions, lot coverage requirements, and density requirements, provided the applicant has demonstrated innovative and creative site and building designs

											<p>and solutions, which would otherwise be unfeasible or unlikely to be achieved absent this provision.</p> <p>The maximum permitted residential density for a Planned Unit Development shall be consistent with the average residential density for the area included in the Planned Unit Residential District as shown on the Village's Master Plan. The PURD allows for higher</p>
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											density residential development with smaller lots provided there is a minimum of 20% for the preservation of open space and natural features.
Mobile Home Residential	MH-1	10 acres	35 feet	35%	10 feet	10 feet	10 feet	1 story or 15 feet	15 feet	See MH-1 district	Mobile home park.
		4,400 sf single wide;									Mobile home site within a mobile home park.
		5,500 sf avg per site.									
General Commercial	C-1	10,000 sf	80 feet	25%	35 feet	15 feet	20 feet	35 feet	--	If abutting a residential district, the transition strip	Retail service and administrative establishments. Grandfathered single-family

										shall be a min of 15 feet wide with a fence, wall or hedge 4 feet to 8 feet high.	residential uses must comply with the R-1 setback requirements.
Highway Service Commercial	C-2	15,000 sf	100 feet	25%	35 feet	20 feet	20 feet	35 feet	---	If abutting a residential district, the transition strip shall be a min of 15 feet wide with a fence, wall or hedge 4 feet to 8 feet high.	Establishments offering accommodations, supplies and services to automobile and truck traffic.
Central Businesses	C-3	7,500 sf	50 feet	100%	Must be consistent with adjacent	None	20 feet	45 feet	---	---	Principal commercial center of the village with retail, service, administrative,

					buildings						financial, civic, cultural and entertainment uses.
Local Service Commercial	C-4	10,000 sf	100 feet	25%	35 feet	35 feet	20 feet	2.5 stories or 35 feet	---	---	
Light Industrial	1	20,000 sf	80 feet	30%	35 feet	20 feet	35 feet	50 feet		<p>If abutting a residential or commercial district, the transition strip shall be a min of 25 feet wide with a fence, wall or hedge 4 feet to 8 feet high.</p>	Limited to those industries having no objectionable external effects and minimal impact on the environment.
Planned Mixed Use	PMU	20,000 sf	80 feet	25%	35 feet	20 feet	35 feet	2.5 stories or	25 feet	25 feet subject to plan review.	

								35 feet			
Agriculture	AG	10 acres	400 feet	25%	35 feet	35 feet	35 feet	2.5 stories or 35 feet	25 feet	The transition strip shall be a min of 25 feet wide	

(Ord. No. 97-05, § 1, 6-2-97; Ord. No. 98-04, §§ 1, 2, 12-7-98; Ord. No. 2 of 2004, § 1, 10-4-04; Ord. No. 2015-02, § 15, 12-7-15; Ord. No. 2017-02, §§ 2, 3(attch.), 9-6-17)

Secs. 66-268—66-280. - Reserved.

DIVISION 7. - AGRICULTURAL DISTRICTS

Sec. 66-281. - Agricultural district (AG-1).

(a) *Definitions.* When it is consistent with the context, the following use of words applies for purposes of this chapter:

Farm means land, plants, animals, buildings, structures, including ponds used for agricultural or aqua-cultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products.

Livestock production facility means a facility where farm animals, such as dairy cattle, poultry, beef cattle, sheep, swine, horses, etc. are confined and include associated manure storage facilities. Pasture systems are excluded.

(b) *Purpose.* The AG-1 district is intended to allow continued agricultural for the following purposes:

- (1) Land containing agricultural value should be preserved, as it is a vital resource.
- (2) Agriculturally zoned parcels should be systematically phased into urban purposes to minimize the expense of public utilities.
- (3) Indiscriminate urbanizing of agricultural lands adversely affects the remaining owners of land pursuing agricultural endeavors by creating urban land values.
- (4) Promotion of open space.
- (5) The regulation of livestock production facilities is necessary to ensure protection of public health, safety, and welfare, specifically preserving ground water quality, protecting River Raisin, minimizing odor, recognizing future land development patterns, maintaining esthetic character, and minimizing conflicts with adjacent land uses.

(c) *Permitted uses.* Permitted uses are as follows:

- (1) Single-family detached dwelling, both farm and non-farm related.

- (2) Farms.
 - (3) Roadside stands principally for the marketing of agricultural products produced on the premises.
 - (4) Home occupations.
 - (5) Accessory uses and structures.
- (d) *Conditional uses.* Conditional uses are as follows. See section 66-306 for requirements and procedures.
- (1) Cemeteries provided the perimeter of the site shall be fenced.
 - (2) Temporary building for use incidental to construction work for a period not to exceed one year.
 - (3) Stables, with a minimum site size of ten acres.
 - (4) Riding academies with a minimum site size of ten acres.
 - (5) Conservation areas.
 - (6) Public, parochial, or other private elementary, intermediate schools and/or high schools offering courses in general education and not operated for profit.
 - (7) Bed and breakfast establishments.
 - (8) Livestock production facility.
- (e) *Horses.* Must have a minimum of three acres for the first horse and one acre per each additional horse.
- (f) *Category 3.* As set forth the January 2015, Generally Accepted Agricultural and Management Practices for Site Selection and Odor Control for New and Expanding Livestock Production Facilities, the area within Village of Clinton can be categorized as Category 3 and as such, any livestock production facility with greater than 50 animal units shall be considered "intensive livestock operations" and is not permitted.
- (g) *Set back requirements.* All structures and confined lots designed to house or contain livestock or animal waste shall be set back at least 250 feet from the property line that abuts any road and 500 feet from other abutting property lines.

All structures and confined lots designed to house or contain livestock or animal waste shall be set back 750 feet from any existing family residence, except that of the intensive animal feeding operator; 1,500 feet from any existing church, business, school, recreational area (public or private) or any public building; and 2,000 feet from any recorded residential plat.

- (h) *Environmental impact.* The need for the preparation of an environmental impact statement (EIS) and/or a hydrological study shall be determined by the village or the regulating county, state or federal agency. A copy of any EIS or hydrological study prepared shall be provided to the village.

The design and construction of all equipment, facilities and structures to be used for disposal of animal waste, including animal waste lagoons, shall be approved by, and meet the then current requirements and standards defined by the Lenawee County Natural Resource Conservation Service, and/or the regulating state or federal agency. Evidence that these requirements have been met and the required approvals from these agencies obtained shall be provided to the village prior to the start of operation of the waste disposal equipment, facilities and structures.

The design, installation and operation of all facilities and equipment required to monitor groundwater, soil and air contamination, including monitoring and test wells, shall meet the then current requirement specified by the regulating county, state or federal agency.

Proven methods shall be used to minimize odor, smoke, fumes, dust, insects or rodents generated as a result of the facility operation.

A copy of all reports and results of groundwater, soils and/or air quality tests required by the regulating county, state or federal agency's monitoring program shall be provided to the village.

- (i) *District area, yard, height and bulk regulations.* See the district area, yard height and bulk regulations section.
- (j) *Supplemental regulations.* See article V of this chapter.

(Ord No. 00-02, §§ 1—5, 4-3-00; Ord. No. 01 of 2011, §§ 1, 2, 3-7-11; Ord. No. 2015-03, §§ 1—11, 12-7-15)

Secs. 66-282—66-300. - Reserved.

ARTICLE V. - SUPPLEMENTAL REGULATIONS

Sec. 66-301. - Purpose and applicability of article.

This article provides regulations that supplement the provisions of article IV of this chapter. They may or may not apply in all zoning districts.

(Ord. No. 94-04, § 5.10, 9-7-94)

Sec. 66-302. - Signs.

- (a) *Purpose and intent* . The purpose of this section is to harmonize the identification and informational needs of all land uses with the health, safety and welfare of the general public. The regulations and standards of this chapter are considered the minimum amount of regulation necessary to achieve a substantial government interest for public safety, traffic safety, aesthetics, protection of property values, and are intended to be content neutral. These objectives are accomplished by establishing the minimum amount of regulations necessary concerning the size, placement, construction, illumination, and other aspects of signs in the village so as to:

- (1) Protect the public right to express and receive messages protected by the First Amendment of the U.S. Constitution.
- (2) Recognize that the proliferation of signs is unduly distracting to motorists and nonmotorized travelers, reduces the effectiveness of signs directing and warning the public, causes confusion, reduces desired uniform traffic flow, creates potential for accidents, and may result in visual clutter.
- (3) Recognize that the principal intent of commercial signs, to meet the purpose of these standards and serve the public interest, should be for identification of an establishment on the premises.
- (4) Recognize that different areas of the village require different sign regulations due to factors such as their intended audience (pedestrians, drivers, etc.) and their ability to help promote the character of an area.
- (5) Enable the public to locate goods, services, and facilities without excessive difficulty and confusion by restricting the number and placement of signs.
- (6) Prevent off-premise signs from conflicting with land uses.
- (7) Preserve and improve the appearance of the village and road corridors through the village.

While the legitimate interests of business and industry are recognized, it is also recognized that unrestricted signs do not benefit private enterprise or the community at large. This section is specifically intended to prevent unnecessary competition and clutter of advertising signs in their demand for public attention. Therefore, the definitions and regulations set out in this article apply.

- (b) *Definitions* .

For purposes of this section the following terms shall have the meanings designated in this subsection:

A-Frame Sign means a moveable sign designed to stand on its own that is usually placed along public sidewalks to attract pedestrians to adjacent businesses.

Animated sign means any sign which uses movement, action, color, or change of lighting to depict continuous action or to create a continuous special effect or scene.

Awning means a retractable or fixed shelter projecting from and supported by the exterior wall of a building constructed of non-rigid materials on a supporting framework.

Awning sign means a sign painted on, printed on or attached flat against the surface of an awning.

Billboard means a sign which advertises a message, goods, products or services unrelated to the premises on which the sign is located and is a freestanding structure or wall-mounted structure on which lettered, figured, painted or pictorial matter is displayed for advertising purposes, and is regulated in accordance with the regulations governed by the Highway Advertising Act, Public Act No.106 of 1972 (MCL 252.301 et seq).

Blade sign means same as "Projecting Sign".

Canopy means a permanent roof like shelter extending from part or all of a building façade, usually over an entrance, and constructed of a durable material.

Construction sign means a temporary sign identifying an architect, contractor, subcontractor, owner, project or material supplier associated with on-going construction on the property on which the sign is located.

Directional/informational sign means on-premises sign giving directions, instructions or facility information and which may contain the name or logo of an establishment but no advertising copy, e.g., parking or exit and entrance signs.

Double-faced sign means a sign with two parallel faces which can be read only from opposite directions. Areas of the faces shall not be cumulative when calculating the areas of the sign.

Electronic message sign means a sign with the capability of a variable message that utilizes computer generated messages or some other electronic or mechanical means of changing copy. These signs include displays using incandescent lamps, LEDs, LCDs, or a flipper matrix.

Erect means to build, construct, attach, hang, place, suspend or affix, and shall also include the painting of wall signs.

Facade means the entire building wall, including the parapet.

Feather flag sign means a sign with or without characters, letters, illustrations, or ornamentations applied to cloth, paper, flexible plastic, or fabric of any kind with only such material for backing. Feather flags are generally a single sign attached to a support post. The feather flag typically has a dimensional ratio of four high to one wide. The flag feather sign may also be referred to as a flag tear drop or flag wind feather.

Flashing sign means a sign which contains an intermittent or sequential flashing light source used primarily to attract attention. The term does not include electric or electronic message signs, animated signs, or signs which, through reflection or other means, create an illusion of flashing intermittent light.

Freestanding sign means any sign supported by uprights, braces or a solid base placed and anchored into the ground and not attached to any building. It shall not include portable signs.

Frontage means the length of the property line of any one premises along a public right-of-way on which it borders.

Government sign means any temporary or permanent sign erected and maintained by the city, county, state or federal government for traffic direction or for designation of or direction to any school, hospital, historical site or public service, property or facility:

Height (of a sign) means the vertical distance measured from the highest point of the sign, including decorative, embellishments, to the grade of the adjacent street or the surface grade beneath the sign, whichever is less.

Identifying sign means a sign which displays the name and/or address of a person or business.

Illuminated sign means any sign which has characters, letters, figures, designs or an outline illuminated by electric lights or luminous tubes as a part of the sign proper. See *limited illumination*.

Incidental sign means a small sign, emblem or decal informing the general public of goods, facilities or services available on the premises (e.g., a credit card sign or a sign indicating the hours of business).

Legal nonconforming sign means any sign which before the effective date of the ordinance from which this section derives was lawful, but which would be prohibited, regulated or restricted under the terms of this chapter or a future amendment.

Limited illumination means lighting of a sign to identify certain evening activities for a time period commencing not earlier than two hours before the scheduled activity, and ending at the conclusion of the activity.

Maintenance means the cleaning, painting, repair or replacement of defective parts of a sign in a manner that does not alter the basic copy, design or structure of the sign.

Marquee means a roof like structure, often bearing a signboard, projecting over an entrance, as to a theater or hotel.

Marquee, or *canopy sign* means a sign attached to or on a marquee, or canopy.

Monument ground sign means a freestanding sign supported by a pedestal or base with permanent attachment to the ground.

Nameplate means a nonelectric on-site identification sign giving only the name, address and occupation of an occupant or group of occupants.

Non-commercial sign means a sign that announces the candidacy of persons running for public office, addresses issues to be voted upon at an election, or otherwise expresses an opinion or point of view, but does not advertise any products, goods, services or businesses.

Off-site sign meaning a sign that is not related to the use of the property, a product sold, or the sale or lease of the property on which it is displayed, does not identify the place of business as seller of the merchandise, services, etc, advertised upon the sign. A sign that disseminates information that does not directly relate to the use of the property on which the sign is located.

On-site sign means any sign identifying or advertising a business, person, activity, goods, products or services located on the premises where the sign is installed and maintained.

Parapet means the extension of a false front or wall above a roofline.

Pole sign means a free standing sign with visible support structure in the form of a pole or poles that is elevated off the ground. Does not include monument signs or billboard signs.

Portable sign means a sign designed to be moved from place to place and not permanently anchored to the ground or to a structure or building.

Projecting sign means a sign which is attached directly to the building wall, and which extends more than 15 inches from the face of the wall.

Roof sign means any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure and extending vertically above the highest portion of the roof.

Real estate sign means any sign advertising the rental, sale or lease of the property upon which it is located.

Sight clearance triangle means the part of a property on a corner lot on which no sign or other object shall intrude upon the airspace greater than three feet in height. The triangle shall be formed as follows: beginning at the corner of the property where the property lines intersect, a distance of 30 feet shall be measured along each property line. From the end of those lines, another line shall be made connecting the two ends. The triangle thus formed shall be known as the sight clearance triangle.

Sign means every sign, billboard, ground sign, wall sign, roof sign, illuminated sign, projecting sign, temporary sign, marquee, awning, canopy and street clock, and shall include any announcement, declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any person when such announcement, declaration, demonstration, display, illustration or insignia is placed in view for the general public.

Size means the size of the sign shall be its surface area including any borders.

Subdivision entranceway sign means a permanent sign located at the entrance to a residential subdivision.

Surface area means the entire area within a regular geometric form or combination of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames shall be included in computation of surface-area. Double-faced signs, where one face is superimposed on the other, shall be calculated on the basis of one side only.

Temporary sign includes any sign, banner, pennant, feather flag or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard or other light materials, with or without frames which advertises a private or public seasonal or special event, function, or sale. A temporary sign may be displayed for a maximum of seven days each month.

Under-canopy sign, *under-marquee sign* and *under-awning sign* mean a sign suspended beneath a canopy, marquee or awning.

Wall sign means a sign which is painted on or attached directly to a fence or on the surface of masonry, concrete, frame or other approved building walls, where the horizontal sign surface is parallel to the wall and which extends not more than 15 inches from the face of the fence or wall.

Window sign means any sign that is placed inside a window or door window or upon the window panes or glass and is visible from the exterior of the window or door.

(c) *General regulations* .

- (1) A zoning compliance permit is required for the erection, construction, relocation or alteration of any sign, except as noted in subsection d.
- (2) All signs shall be designed, constructed and maintained so as to be appropriate in appearance with the existing or intended character of their vicinity so as not to change the aesthetic character of such area.
- (3) The provisions of the Michigan Building Code shall apply.
- (4) No sign shall be erected at any location where, by reason of its position, size, shape, color, animation or illumination, it may interfere with or obstruct the view of traffic, nor shall any sign be permitted which may be confused with any authorized traffic sign, signal or device. No sign may be placed within the sight clearance triangle.
- (5) No person shall erect, display or maintain any sign which obstructs any fire escape, building entrance or public passage or which is at a horizontal distance less than ten feet from any fire hydrant or traffic light.
- (6) All signs must comply with the site clearance triangle regulations.

- (d) *Regulations and standards for signs exempt from permit requirements.* The following signs are permitted in all zoning districts and do not require a zoning compliance permit; however are subject to the following regulations and standards:
- (1) One nameplate of not more than two square feet in surface area per business, residence or building.
 - (2) Incidental signs except in areas zoned residential.
 - (3) Non-Commercial signs means signs of not more than six square feet in area which pertain to an election; such signs are exempt for a period of 60 days prior to and five days after the election. Signs shall be located on private property outside of any street right-of-way or sight clearance triangle. Such signs shall be back a minimum of 100 feet from any polling place entrance on an election day.
 - (4) "For sale" signs of less than six square feet in area and attached to vehicles, personal possessions and articles of a noncommercial nature; such signs are exempt for a period of ten days.
 - (5) "Garage sale," and "yard sale" signs when less than two square feet in area and displayed on the owner's property or on other property with the owner's permission for seven days with village approved garage sale permit. These signs cannot be attached to public utility poles.
 - (6) One nonilluminated real estate sign not to exceed six square feet in surface area per parcel or 12 square feet in surface area if the parcel is zoned other than R-1, R-2 or R-3. Such sign shall not project higher than seven feet above grade. Such signs shall be removed within 30 days after the sale or rental of the property.
 - (7) Trespassing, safety or caution signs not exceeding two square feet in area.
 - (8) Public signs of a noncommercial nature erected by or on the order of a public officer or building official in the performance of public duty, and or required to insure public safety.
 - (9) Flags indicating the insignia of any nation, state, municipal, college, or university.
 - (10) Warning signs, such as no trespassing, warning of electrical currents or animals, provided that such signs do not exceed six square feet in area.
- (e) *Signs permitted in all districts.* The following signs are permitted in all zoning districts:
- (1) Temporary signs except as elsewhere exempted.
 - (2) One construction sign per right-of-way frontage per parcel, subject to the following:
 - a. Total surface area per sign shall not exceed 32 square feet.
 - b. Sign height shall not exceed eight feet.
 - c. Placement shall be no closer to the property line than one-half the required setback for the district.
 - d. The sign shall not be erected prior to the issuance of a building permit for the proposed construction. The sign shall be removed upon substantial completion of construction or within 12 months of erection, whichever is less.
- (f) *Signs prohibited in all districts .* Unless otherwise permitted by this section the following signs are prohibited in all districts:
- (1) Animated signs.
 - (2) Balloon signs.
 - (3) Electronic messaging signs.
 - (4) Flashing signs, except for flashing signs of two square feet or less where permitted.
 - (5) Off-premise signs, except as allowed in this section.

- (6) Pole signs, excluding billboards.
- (7) Roof signs.
- (8) Signs that emit audible sound, odor or visible matter.
- (9) Signs which hide from view all or any part of any traffic sign, street sign, or traffic signal.
- (10) Signs which are pasted or attached to utility poles or placed upon trees, fences, rocks, or in an unauthorized manner to walls or other signs.
- (11) Signs located in, or which project into, or overhang any public right-of-way except as allowed by local, state, or federal law or regulation.
- (12) Signs which are of a size, location, movement, content, coloring, or manner of illumination which may cause any unsafe distraction for motor vehicle operators.

(g) *Signage table* . The text shall supersede if there is a conflict between the table and text requirements.

Zoning District	Sign	Size	Height	Setback
Agriculture (AG)	Billboard	300 sf	22 feet	50 feet
	On-site for farm product	12	4 feet	one half setback
	On-site	24 or 12 sf	6 feet	one half setback
	Wall identifying	60 sf		one half setback
	Home Occupation	2 sf		
Recreation (RO)	On-site for use	32 sf	6 feet	one half setback
	On-site for farm product	12 sf	4 feet	one half setback
Residential	On-site	24 or 12 sf	6 feet	one half setback
	Wall	25 sf	15 feet	one half setback
	Wall identifying	2 sf		one half setback
	Home Occupation	2 sf		
	Subdivision Entrance Sign	24 sq/ft	6 feet	3 feet from curb within easement.

Residential (R-3)	Directional	2 sf	3 feet	one half setback
	Identifying	12 or 32 sf	6 feet	one half setback
C-1, C-2, and I	Directional	2 sf	3 feet	one half setback
	Wall informational	6 sf		one half setback
	Monument	32 or 48 sf	16 feet	one half setback
	Wall	60 sf		
	Window	15 %	1st floor	
	Flashing	2 sf	1st floor	
C-3	Projecting	12 sf		
	Awning / Canopy	25% of the total area of awning / canopy		
	Wall	60 sf		
	Marquee	One and one-half sq/ft per lineal foot of street frontage, not to exceed 60 sq/ft		
	Window	15 %	1st floor	
	Flashing	2 sf	1st floor	
	A-frame	6 sf		Adjacent to sidewalk

(h) *Signs in agriculture district .*

- (1) Off-site signs or billboards are permitted only on undeveloped and vacant unimproved lots along Michigan Avenue that are at least ten acres and shall be considered the principal use of such lots. Such signs shall not be placed on a lot with any other building thereon, and no structure shall be placed on a lot on which such sign is located.
 - a. One billboard sign shall be permitted per lot.
 - b. No such sign shall have a total area in excess of 300 square feet per sign face.
 - c. It shall have a minimum clearance of seven feet and a maximum clearance height of 22 feet, from average grade as calculated within a 60 foot radius from the base of the sign. The top of any outdoor advertising sign shall not be higher than 22 feet, from average grade as calculated within a 60 foot radius from the base of the sign.
 - d. It shall not be closer than 1,000 feet to any other billboard signs on the same side of the right-of-way.
 - e. The setback of the billboard sign shall be 50 feet from the edge of the right-of-way. It shall not be located closer than 25 feet to a non-right-of-way property line.
 - f. Any billboard sign shall be situated on the property so as to:
 1. Not interfere with motor vehicle sight distance, clear view, and traffic safety in general, in relation to other vehicles, pedestrians, and to other signage which is, or is anticipated to be, nearby; and
 2. Minimize the destruction of trees, the visibility of the billboard and illuminations thereof by and from residences, and any dangerous distraction and thus, hazard, of and to motorists, as determined by the discretion of the village.
 - g. Illumination
 1. A billboard sign may be illuminated if it is located at least 500 feet from any residential zoning district or residential use. The illumination shall be directed away from all residential uses.
 2. No internal illumination shall be permitted for billboards.
 - h. Billboard signs shall be constructed of steel. No wood or other combustible materials shall be used.
 1. An irrevocable, automatically renewing letter of credit from a bank chartered and located in the United States of America in an amount established by the village shall be required for continued maintenance. In the event that a billboard is vacated, the cost of removal, if that burden is placed on the village, shall be assessed to the property owner.
 2. One on-site sign advertising the type of farm products grown on the farmstead, not to exceed 12 square feet in surface area and four feet in height.
 3. Limited illumination is permitted for institutional or governmental signage for example, schools and churches.
 4. One on-site wall sign is permitted for each wall facing a public street or public alleyway. The total area of each wall sign may equal one square foot per lineal foot of building frontage, but not exceed 60 square feet of sign area.
 5. One sign identifying an on-site home occupation is permitted provided such sign is a wall sign not exceeding two square feet in surface area.
 6. No sign shall be placed closer to the street right-of-way line than one-half of the required minimum front yard depth.

7. All signs, except off-premise or billboard signs, shall be related to the use of the property on which displayed.
- (i) *On-site signs in recreation open space districts (RO)* . The following on-site signs are permitted on any one lot in the recreation open space district:
- (1) One on-site sign identifying a park, school building or other authorized use, not to exceed 32 square feet in surface area or six feet in height.
 - (2) One on-site sign advertising the type of farm products grown on the farmstead, not to exceed 12 square feet in surface area and four feet in height.
- (j) *On-site signs in residential districts (R-1, R-2, R-3, R-4 and MH-L)* .
- (1) One on-site sign shall not exceed 24 square feet in surface area for nonresidential permitted or conditional uses. One on-site sign identifying a nonresidential nonconforming use is permitted provided such sign does not exceed 12 square feet in surface area. Signs shall not exceed six feet in height.
 - (2) Subdivision entrance sign may be located at entrances to the subdivision and shall be within a sign easement, common area, or private property. The developer or property owners association is responsible for the maintenance and upkeep of the subdivision identification signs. Such sign shall not exceed 24 square feet in surface area and six feet in height and be located at least three feet from any curb.
 - (3) Wall signs shall not be mounted more than 15 feet high. The total area shall not exceed one-half of a square foot per lineal foot of the building street frontage, but in no case shall the sign exceed 25 square feet in area. Wall signs are only allowed for conditional uses other than residential.
 - (4) Limited illumination is permitted for institutional or governmental signage for example, schools and churches.
 - (5) One sign identifying an on-site home occupation is permitted provided such sign is a wall sign not exceeding two square feet in surface area.
 - (6) No sign shall be placed closer to the street right-of-way line than one-half of the required minimum front yard depth.
 - (7) All signs shall be related to the use of the property on which displayed.
- (k) *Additional regulations for on-site signs in high density residential district (R-3)* .
- (1) Illumination in the high density residential (R-3) district shall be allowed based on illumination regulations provided for in this Code.
 - (2) Directional signs of not more than two square feet in surface area per sign and not more than three feet in height are permitted. Such signs shall be placed no closer to the street right-of-way line or property line than three feet but not within the street clearance triangle.
 - (3) One on-site sign identifying a multiple-family dwelling unit complex is permitted provided such sign does not exceed 12 square feet in surface area and six feet in height.
 - (4) One on-site sign identifying a bank, financial institution, church, hospital, medical or dental clinic, library, government, or public school is permitted provided such sign does not exceed 32 square feet in surface area and six feet in height.
- (l) *On-site signs in general commercial (C-1), highway service commercial (C-2), local service commercial (C-4) and light industrial (I) districts* .
- (1) Signs shall not be placed closer to the street right-of-way line than one-half of the required minimum front yard depth.
 - (2) Signs may be illuminated internally or by reflected light provided the source of light is so arranged as to reflect light away from surrounding properties.

- (3) All signs shall be related to the use of the property on which displayed.
 - (4) Where permitted, projecting, awning, marquee and canopy signs may extend over property lines and over the public right-of-way.
 - (5) Freestanding directional/informational signs are permitted provided that they shall not exceed a surface area of two square feet per sign and shall not be more than three feet in height and shall be placed no closer to the street right-of-way or property line than three feet, but not within the street clearance triangle.
 - (6) Wall directional/informational signs are permitted provided that they shall not exceed a surface area of six square feet per sign and shall be located below the top of the building facade or eave line.
 - (7) One monument sign not exceeding 32 square feet in surface area is permitted for each commercial building that is not a part of a shopping center or an integrated group of stores. In C-2 and I districts the surface area may be increased not to exceed 48 square feet. Monument signs shall not exceed a height of 16 feet.
 - (8) One on-site wall sign. There may be one wall sign for each wall facing a public street or public alleyway. The total area of each wall sign may equal one square foot per lineal foot of building frontage, but not exceed 60 square feet of sign area.
 - (9) *Window sign* . Temporary or permanent window signs shall be limited to street level windows. The total areas of all window signs shall not exceed 15 percent of the total surface area of the street level façade windows, and a window sign may not occupy more than 25 percent of the area of any individual window. An individual window shall be determined by framing or other structural elements, divided light window panes or other glazing methods within a window frame are not considered individual windows.
 - (10) *Flashing sign* . A flashing sign of less than two square feet is allowed in a window if the sign has only incidental moving background lights, with prior approval of village.
 - (11) *Feather flag sign* . A feather flag sign not in excess of 16 square feet in area (cumulative). The maximum height shall not exceed eight feet. There shall be no more than one flag for every 100 feet of street frontage, with a maximum of four per business. The signs must be located out of the street right-of-way or at least ten feet from the back of the curb of the street, whichever is greater. Feather flags shall be a temporary sign which is displayed no more than a maximum of seven days per month.
- (m) *On-site signs in central business (C-3) district*. Signs in this district shall be designed to maintain the historic character of the village.
- (1) Projecting signs shall not extend more than five feet from the building wall or exceed 12 square feet of surface area. Such signs shall not extend beyond a vertical plane two feet inside the curb line.
 - (2) Awning, marquee or canopy signs are permitted. Sign copy for such signs shall be limited to the name of the owner or to the business or activity conducted within the premises. Such signs may extend the full length of the awning, marquee or canopy, but shall not project beyond the perimeter of the awning, marquee or canopy, and shall not project above or below the face dimensions of the awning, marquee or canopy. Awning/canopy signs shall not exceed 25 percent of the total area of awning/canopy. Marquee signs may be sized to one and one-half square foot per lineal foot of street frontage, not to exceed 60 square feet.
 - (3) One on-site wall sign is permitted for each wall facing a public street or public alleyway. The total area of each wall sign may equal one square foot per lineal foot of building frontage, but not exceed 60 square feet of sign area.
 - (4) Under-awning, under-marquee or under-canopy signs are permitted, but shall provide a clear space of not less than eight feet below all parts of the sign and shall not project beyond the perimeter edge of the supporting structure from which the sign is suspended.

- (5) *Window sign* . Temporary or permanent window signs shall be limited to street level windows. The total areas of all window signs shall not exceed 15 percent of the total surface area of the street level façade windows, and a window sign may not occupy more than 25 percent of the area of any individual window. An individual window shall be determined by framing or other structural elements, divided light window panes or other glazing methods within a window frame are not considered individual windows.
- (6) *Flashing sign* . A flashing sign of less than two square feet is allowed in a window if the sign has only incidental moving background lights, with prior approval of the village.
- (7) *Feather flag sign* . A feather flag sign not in excess of 16 square feet in area (cumulative). The maximum height shall not exceed eight feet. There shall be no more than one flag for every 100 feet of street frontage, with a maximum of two per business. The signs must be located out of the street right-of-way or at least ten feet from the back of the curb of the street, whichever is greater. Feather flags shall only be allowed for governmental purposes on the day of the event.
- (8) A-frame signs are permitted subject to the following requirements:
 - a. A-frame signs may have a maximum area of six square feet per side and shall not exceed 40 inches in height.
 - b. A-frame signs may be located adjacent to the sidewalk adjacent to the business to which they are pertinent. A-frame signs shall be located such that they will not impede pedestrian traffic on the sidewalk and such that they will not present a hazard to vehicular traffic or be an impediment to opening car doors.
 - c. A-frame signs may not be permanently affixed to any object, structure, or the ground.
 - d. A-frame signs may only be displayed during business hours.
 - e. Each business may only have a maximum of one A-frame sign.
 - f. A-frame signs shall not have illumination or have reflective features.
- (n) *Illumination* . If illumination is permitted in the district which the sign is proposed, the following regulations shall apply:
 - (1) Illuminated only by steady, stationary, shielded light sources directed solely at the sign or by illumination internal to the sign.
 - (2) *Nonglare, shielded lighting* . Use of glaring, undiffused lights or bulbs of any type shall be prohibited. Lights shall be shaded so as not to project onto adjoining properties or thoroughfares.
 - (3) *Traffic hazards* . Sign illumination color and/or brightness that will create a traffic hazard shall be prohibited.
 - (4) Illumination by bare bulbs or flames is prohibited.
 - (5) Sign illumination brightness shall not exceed ten foot-candles measured at four feet in perpendicular to any surface of sign.
- (o) *Authority to remove prohibited signs*. The village building official or designee shall have the authority to enter upon property and to remove and discard any sign determined to be in violation of this section and any private or commercial signs located upon public property or public right-of-way. Such authority shall be in addition to the authority conferred upon the zoning administrator of this chapter or by general law.

(Ord. No. 2014-01, §§ 2—16, 3-3-14; Ord. No. 2019-06, § 1, 7-1-19)

Editor's note— Ord. No. 2014-01, § 1, adopted March 3, 2014, repealed the former § 66-302. Sections 2—16, of said ordinance, enacted a new section, as set out herein. The former § 66-302

pertained to similar subject matter and derived from Ord. No. 94-04, § 5.20, adopted Sept. 7, 1994.

Sec. 66-303. - Single-family and multiple-family dwellings.

General regulations for dwellings are as follows:

- (1) Minimum living area shall be 750 feet for a one- or two-bedroom dwelling, with 150 square feet of additional living area for each additional bedroom, and a minimum floor-to-ceiling height of 7.5 feet.
- (2) Minimum exterior width shall be 20 feet along side elevations, exclusive of porches that are not a part of the main living area.
- (3) The dwelling shall be firmly attached to a permanent foundation constructed on the site, which shall be coextensive with the perimeter of the structure in compliance with the village building code.
- (4) No exposed wheels, towing mechanisms, undercarriage or chassis shall be permitted.
- (5) The dwelling shall be connected to a public sewer and water supply or to private supply facilities approved by the county health department before issuance of a certificate of occupancy.
- (6) The dwelling shall contain storage areas in the basement, attic or closets, or in an area designed for the storage of personal property, exclusive of an attached or detached garage designed for the storage of automobiles, and exclusive of the crawl space of a dwelling not possessing a basement. Such storage areas within the dwelling unit shall in the aggregate be equal to at least ten percent of the minimum square foot living area requirements of this chapter, with a minimum of 100 square feet of storage.
- (7) The dwelling shall in all respects comply with the village building code and all applicable federal and state laws, regulations, standards and codes, including but not limited to electrical, plumbing, energy, fire and safety laws, regulations, standards and codes.
- (8) The standards set out in subsections (1) through (7) of this section shall not apply to a mobile home located in a licensed mobile home park except to the extent required by local, state or federal laws and regulations.
- (9) Every dwelling shall be constructed with the following: roof overhangs of not less than six inches on all sides of the structure, roof drainage systems, and not less than two exterior doors with attached steps or other means of safe ingress and egress where required by a difference in elevation between the ground level and floor level of such dwelling.
- (10) Every dwelling shall be aesthetically compatible with other residences in the vicinity as determined by the zoning inspector.
- (11) All additions to the original dwelling shall have a similar appearance and quality of workmanship and construction materials as the original dwelling, including an appropriate foundation and permanent attachment to the principal structure.
- (12) The following additional regulations shall apply to mobile homes not in a mobile home park:
 - a. The mobile home, prior to any additions or expansions, shall have a minimum exterior nominal width of 20 feet for at least one side. For purposes of this subsection, the term "side" shall be defined as one of the faces perpendicular to the front, long face of the mobile home. Expando and similar rooms are considered to be additions or expansions for the purposes of this section.
 - b. In addition to the requirements of subsection a of this subsection, mobile homes shall in all respects comply with the standards for mobile home construction and safety as contained in the United States Department of Housing and Urban Development (HUD) regulations in

effect as adopted pursuant to the provisions of Public Law 93-383, as amended (except for connections to the electrical service and site-built additions to the structure).

- c. Exterior walls shall be finished with materials common to single-family dwellings, such as but not limited to beveled siding, vertical siding, board and batten siding, or brick. The mobile home shall have front and rear or front and side exterior doors.
- d. A mobile home shall not be used as an accessory building in any agricultural or residential district.
- e. A building permit shall be required for construction of the foundation wall, for placement of the mobile home on the lot, and for any addition to the mobile home. A building permit shall not be issued until a health permit has been issued by the county health department, where applicable, and until a certificate of zoning compliance has been issued and is in effect. The mobile home shall not be occupied until a certificate of occupancy has been issued and is in effect. Any addition to a mobile home shall be permanently attached to the mobile home and shall meet all requirements of the Michigan State Construction Code if the addition is of conventional, on-site construction, unless the addition is constructed by a mobile home manufacturer, in which case the addition shall meet the mobile home construction safety standards cited in this section.
- f. A mobile home shall not be removed from a foundation until a permit therefor has been issued by the building official, in accordance with the Michigan State Construction Code.

(Ord. No. 94-04, § 5.25, 9-7-94)

Sec. 66-304. - Off-street parking requirements.

- (a) *Applicability of requirements.* In all districts, off-street parking spaces for motor vehicles must be provided according to the requirements of this section.
- (b) *Drawing of proposed parking facilities.*
 - (1) When a building is erected or enlarged, a drawing showing the required off-street parking spaces must be submitted to the zoning inspector as a part of the zoning compliance permit procedure. See section 66-34.
 - (2) The drawing shall show entrances, exits, internal circulation, the number and size of parking spaces, and that the requirements of this chapter have been met.
 - (3) If a site plan is required for the development a separate parking lot sketch is not required. See section 66-307 for site plan requirements.
- (c) *Location of off-street parking areas.* Off-street parking lots shall be located on the same lot as the principal building. If this is not possible, they may be located on another lot within 150 feet for single-family and two-family dwellings and 300 feet for all other uses if the applicant can demonstrate that the parking lots are under the same ownership or lease as the principal use.
- (d) *Parking in residential districts.*
 - (1) Overnight parking in residential districts is limited to passenger and recreational vehicles. These vehicles shall not be parked in any required front or side yard space except on properly installed driveways or in approved off-street parking lots. One commercial vehicle per dwelling unit may park overnight in a residential district if the vehicle does not exceed three-quarters of a ton in weight.
 - (2) Any other type of vehicle is prohibited from overnight parking in a residential district.
- (e) *Parking area design.* Each off-street parking space for automobiles shall meet the following minimum standards:
 - (1) Area: 200 square feet.

- (2) Width: Ten feet.
- (3) Access drive:
 - a. Ten feet wide for one-way traffic flow.
 - b. Twenty-two feet wide for two-way traffic flow.
- (4) Parking aisle widths:
 - a. Ninety-degree parking: 22 feet (perpendicular).
 - b. Sixty-degree parking: 18 feet.
 - c. Forty-five degree parking: 13 feet.
 - d. Parallel parking: Ten feet.
- (5) No off-street parking space shall be closer than five feet to any property line or to a public street right-of-way line, except where a wall, fence or compact planting strip exists as a parking barrier along the property line.
- (6) All off-street parking lots shall be properly drained to prevent water runoff onto adjacent property. The lots shall be constructed of materials that will have a dustfree surface resistant to erosion.
- (7) Lighting shall be arranged to reflect the light away from any adjoining residential lot or institutional premises and not interfere with traffic.
- (8) Off-street parking lots for five or more vehicles shall be effectively screened on each side that adjoins or faces property in a residential district. This screen shall be a wall, fence or compact planting not less than four feet in height. Plantings shall be maintained in good condition and not encroach on adjoining property.
- (9) All off-street parking areas that make it necessary for vehicles to back out directly into a public road are prohibited. This does not apply to the driveways of one- or two-family dwellings.
- (f) *Collective parking.* Two or more property uses may share off-street parking lots if the permanent allocation of the required number of spaces designated to each use is not less than the sum of individual requirements.
- (g) *Determination of requirements.* For the purpose of determining off-street parking requirements, the following units of measurement shall apply:
 - (1) *Floor area.* In the case where floor area is the unit for determining the required number of off-street parking spaces, the unit shall mean the gross floor area. This calculation shall not include areas used for parking within the principal building and any area used for incidental use, service use, storage use, installations of mechanical equipment, penthouse ventilators and heating systems, and similar uses.
 - (2) *Places of assembly.* In stadiums, sports arenas, churches and other places of assembly in which those in attendance occupy benches, pews or other similar seating facilities, each 18 inches of such seating facilities shall be counted as one seat. In cases where a place of assembly has both fixed seats and open assembly areas, requirements shall be computed separately for each type and added together.
 - (3) *Fractions.* When units of measurement determining the number of required parking spaces result in a requirement of a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one parking space.
- (h) *Schedule of required parking spaces.* The minimum number of required off-street parking spaces is as follows. Where a use is not specifically mentioned, the parking requirements of a similar or related use shall apply.

Use	Parking Space Requirements
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Automobile or machinery sales and repair garages	1 per 300 square feet
	2 per bay
	1 per 3 employees
Automobile service station	2 per service bay, plus 1 per 300 square feet of office and customer service/waiting area
	1 per 3 employees
Bank, business, professional and administrative offices	1 per 300 square feet
	1 per 3 employees
Barber shops and beauty parlors	1 per chair
	1 per 2 employees
Bowling alleys	5 per alley
Car washes	1 per service bay or 1 per employee
Churches, auditoriums, stadiums, sports arenas, theaters, dance halls, assembly halls other than schools	1 per 4 seats
Clubs and lodges	1 per 4 persons
Contractors yards	1 per employee, plus 1 per vehicle stored on premises
Convalescent or nursing homes, sanitarium or orphanages	1 per 4 beds, plus 1 per 2 employees
Drive through restaurants	1 per 2 seats
	1 per 3 employees

Dwelling units	2 per family or dwelling
Dwelling units, high density	1 space per efficiency unit
	1.25 spaces per 1-bedroom unit
	2 spaces per 2-bedroom unit
	2.25 spaces per 3 or greater unit
Dwellings, mobile home parks	2 per dwelling unit
Elementary and junior high schools, private or public	1 per employee, plus 1 per 30 students
Funeral homes or mortuaries	4 per parlor or 1 for each 50 square feet of floor area, whichever is greater, plus 1 for every fleet vehicle
Furniture and appliance stores, household equipment and furniture repair shops	1 per 400 square feet of floor area
General retail sales and establishments not classified elsewhere	1 per 300 square feet
	1 per 3 employees
Golf courses	6 per hole
	1 per 3 employees
Hospitals	1 per 2 beds
	1 per 3 employees
Hotels, motels, lodging houses, boarding homes, and bed and breakfasts	1 per living unit, plus 1 for each 3 employees
Indoor/outdoor commercial amusements	1 per 3 persons
	1 per 300 square feet

Library, museum, art gallery and community center	1 per 5 seats
Manufacturing and other industrial	1 per employee on maximum shift
Medical and dental offices	1 per 200 square feet of floor area
Mini storage units	1 per 10 units
Mobile home sales	2 per home and display
Public and private nursery schools and day care centers	1 per employee, plus 1 per each 10 children
Public swimming pools, recreation centers, parks, playgrounds and play fields	1 per 200 square feet of area within an enclosed building, plus per 3 persons of max. utilization
Restaurants, beer parlors, taverns and night clubs	1 per 2 patrons of max. seating, plus 1 per 2 employees
Laundromat	1 per 3 washing machines
Senior high schools and institutions of higher learning, and business, dance, music and technical schools, private or public	1 per employee, plus 1 per 4 students
Shopping centers	4.0 per 1,000 square feet GFA
Supermarkets and self service food and discount stores	1 per 300 square feet
	1 per 3 employees
Veterinary offices and clinics	1 per 300 square feet
	1 per 3 employees
Warehousing or storage	1 per 2,000 square feet

Wholesale establishments	1 per 400 square feet floor area, not including retail sales floor area
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- (i) *Exception for shared parking spaces.* When more than one use shares a parking lot, each use must be provided with the number of parking spaces required for that use. However, if it can be demonstrated that each use needs parking spaces at different times of day (e.g., a church and a bank) the total number of spaces required can be reduced by the zoning administrator.
- (j) *Exception for C-3 district.* The C-3 district shall be exempt from the off-street parking requirements of this section.

(Ord. No. 94-04, § 5.30, 9-7-94; Ord. No. 5 of 2001, §§ 1, 2, 3-5-01)

Sec. 66-305. - Off-street loading and unloading requirements.

- (a) *Loading space required for certain uses.* Every building, structure or use that customarily receives or distributes material or merchandise by vehicle shall be provided with off-street loading and unloading space.
- (b) *Drawing of proposed loading facilities.* A drawing showing required loading and unloading spaces shall be submitted to the zoning inspector for review at the time of application for a zoning compliance permit. The drawing will show that the requirements of this chapter have been met.
- (c) *Loading area design.*
 - (1) The minimum size of each off-street loading and unloading space shall be 12 feet in width, 55 feet in length, and 15 feet in height clearance.
 - (2) Any loading/unloading space shall not be closer than 50 feet to any other lot located in any residential district, unless wholly within a completely enclosed building, or unless enclosed on all sides by a wall, fence or compact planting not less than six feet in height.
 - (3) Any off-street loading and unloading facilities that make it necessary to back out directly into a public road are prohibited.
 - (4) Loading areas are prohibited in any required yard that abuts a public street.
- (d) *Number of off-street loading spaces.*
 - (1) In the case of mixed uses on one lot or parcel, the total requirements for off-street loading/unloading facilities shall be the sum of the various uses computed separately.
 - (2) All retail sales facilities having over 5,000 square feet of gross floor area shall be provided with at least one off-street loading/unloading space, and, for every additional 20,000 square feet of gross floorspace or fraction thereof, one additional loading/unloading space.
 - (3) All industrial and wholesale commercial land uses shall provide one loading space for each 10,000 square feet of floorspace, with a minimum of not less than two loading spaces.
- (e) *Exemption for C-3 district.* The C-3 district shall be exempt from the off-street loading requirements of this section.

(Ord. No. 94-04, § 5.40, 9-7-94)

Sec. 66-306. - Conditional uses.

- (a) *Generally.* In addition to the permitted uses in each of the zoning districts, there are certain other compatible uses, as listed in zoning district regulations, that are conditional uses. Because of their actual or potential impact on natural resources, public utilities, traffic patterns or adjacent land use, there is a need to carefully regulate these uses. In these cases, a zoning compliance permit will not be issued until a conditional use permit is approved by the village council. All conditional use permits are granted for a particular site and may not be transferred to a different location. A conditional use permit runs with the land, not with the applicant.
- (b) *Authority to grant permits.* The village council has the authority to grant conditional use permits. The planning commission shall review requests for conditional uses based on the conditions of design, operation and safeguards and make a recommendation to the village council. Decisions on conditional use permits shall not be appealed to the zoning board of appeals.
- (c) *Submission of permit application; fee.* Application for a conditional use permit shall be made to the village clerk. After the required fee is paid to the village clerk, a date for a public hearing will be set with the planning commission. No part of the fee shall be returned to the applicant. The village may charge the applicants for costs it incurs in excess of the normal application fee.
- (d) *Data, exhibits and information required in permit application.* An application for a conditional use permit shall contain the applicant's name and address in full; a statement that the applicant is the owner involved or is acting on the owner's behalf; the address of the property involved; an accurate drawing of the property showing the existing and proposed location of all structures to scale, the types of structures, and their uses; and a statement of supporting data, exhibits, information and evidence regarding the required standards set forth in this chapter.
- (e) *Public hearings on permit application.* The planning commission and council will each set a public hearing date after a complete application is received. The planning commission hearing will be scheduled within 60 days of the application. Notice of the hearing shall be published in a newspaper of general circulation in the village not less than 15 days before the hearing. The notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered, to all person to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet of the property in question regardless of whether the property or occupant is located within the village.

If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

The notice shall:

- (1) Describe the nature of the request.
 - (2) Indicate the property which is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
 - (3) State when and where the request will be considered.
 - (4) Indicate when and where written comments will be received concerning the request.
 - (5) Indicate that a public hearing on the request may be requested by a property owner or the occupant of a structure located within three hundred (300) feet of the boundary of the property being considered regardless of whether the property or occupant is located in the village.
- (f) *Required standards for granting of permit.* The planning commission shall review the particular circumstances and facts of each proposed use in terms of the following standards. A record shall be made of the information and evidence showing that such a use on the proposed site, lot or parcel:

- (1) Will be harmonious with and in accordance with the general objectives, intent and purposes of this chapter.
 - (2) Will be designed, constructed, operated, maintained and managed so as to be harmonious and appropriate in appearance with existing or intended character of the general vicinity.
 - (3) Can be served adequately by essential public facilities and services, such as streets, police and fire protection, drainage structures and refuse disposal. The persons or agencies responsible for the establishment of the proposed use shall be able to adequately provide any such service.
 - (4) Will not be hazardous or disturbing to existing or future neighboring uses.
 - (5) Will not create excessive additional requirements at public costs for public facilities and services.
 - (6) Will not create greater vehicle or pedestrian traffic than is normal for the neighborhood.
- (g) *Permit conditions.* If the facts in the case establish that the standards of this chapter will apply to the proposed conditional use, the planning commission shall recommend approval of the permit to the village council. In that recommendation, the planning commission shall include conditions to be imposed. These conditions will include but are not limited to those that protect the natural environment, conserve energy, protect the best interest of the village, and achieve the objectives of this chapter.
- (h) *Issuance or denial of permit.*
- (1) Within 35 days after the public hearing, the planning commission shall make a recommendation to the village council. If the council approves, a conditional use permit shall be issued to the applicant. A copy of the permit shall be sent to the village clerk, the zoning inspector and the planning commission. The zoning inspector must receive a copy of the permit before a zoning compliance permit can be issued.
 - (2) Whenever an application for a conditional use has been denied, the application cannot be resubmitted for at least one year (365 days) from the date of denial.
- (i) *Voiding of permit.*
- (1) Any conditional use permit granted under this chapter shall become null and void and fees forfeited unless construction or use is commenced within 210 days and completed within 575 days of the date of issuance.
 - (2) A violation of any requirement, condition or safeguard established in the conditional use permit shall be considered a violation of this chapter and grounds for the zoning administrator or planning commission to recommend to the village council that the conditional use permit be revoked.
 - (3) The permit holder shall be entitled to notice, a public hearing, and the right to be heard on such revocation before the village council at a regularly or specially scheduled meeting.
- (j) *Additional development requirements for certain uses.* A conditional use permit shall not be issued for the uses specified in this subsection unless the necessary requirements are met as specified. The planning commission may recommend to the village council that additional conditions and safeguards be required when deemed necessary by that body.
- (1) *Home occupations.*
- a. *Intent.* A home occupation is an incidental and secondary use of a dwelling unit for business purposes. The intent of this subsection is to ensure compatibility of such business uses with other permitted uses of the residential districts and with the residential character of the neighborhoods involved.
 - b. *Conditions.* Home occupations are permitted in R-1 districts and all residential districts only as long as all the following necessary conditions are observed:
 1. A home occupation must be conducted in its entirety within a dwelling unit that is the bona fide residence of the practitioner of the occupation.
 2. Home occupations shall be conducted solely by persons residing at the residence.

3. All business activity and storage must take place within the interior of the dwelling.
4. No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible.
5. The home occupation shall not generate pedestrian or vehicular traffic beyond that normally generated by homes in the residential neighborhood.
6. Only off-street parking facilities normal for residential use and located on the premises may be used.
7. No vehicles used in the conduct of the occupation may be parked or kept, or otherwise be present at the premises, other than such as are normally suitable for use for domestic or household purposes.
8. One nonilluminated nameplate no larger than 100 square inches is permitted to identify the home occupation. No other identification is permitted.
9. No sale or rental of goods shall be allowed on the premises except as secondary and incidental to the furnishing of a service.
10. No highly explosive or combustible material shall be used or stored on the premises. No activity shall be allowed that interferes with radio or television reception in the area, nor shall there be any offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line.
11. Not more than 20 percent of the gross floor area, or 500 square feet, whichever is less, may be used for a home occupation.
12. The conduct of the home occupation shall not violate any of the village's ordinances concerning nuisances, fire or health, or any other city, county, state or other applicable public laws or regulations.
13. No conflict shall be created with already permitted uses in the zoning district.

(2) *Dwellings in commercial buildings.*

- a. *Intent.* The intent of this subsection is to provide for the conversion of the upper floors of existing commercial buildings and to extend their economic life by permitting construction of one-family, two-family and multiple-family residential dwelling units. Single-family, two-family or multiple-family dwellings, with a maximum of three dwelling units in a structure, may be located within an existing commercial building, subject to the conditions listed in subsection b of this subsection.
- b. *Conditions.*
 1. The building must be in the C-1 general business district or the C-3 central business district.
 2. Dwelling units shall not be located below the second floor.
 3. Dwelling units shall be secondary to the primary use permitted in the district.
 4. Dwelling units shall be contained in the same structure as the primary use.
 5. The minimum size of the dwelling units shall be 400 square feet, with an additional 150 square feet for each additional bedroom beginning with the second bedroom.
 6. The owner will make available off-street parking provisions for apartment dwellers. These arrangements will not place any additional burden on the public (see subsection 66-34(h)).

(3) *Group day care home and day care center.*

- a. Frontage on an arterial or collector street as defined by the village shall be required.

- b. A drop-off and pickup area shall be of sufficient size so as to not create congestion on the site or within a public roadway.
- c. There shall be a fenced outdoor play area of at least 1,000 square feet provided on the premises. Said play area shall not be located within the front setback.
- d. Maintenance of the property should be consistent with the visible characteristics of the neighborhood.
- e. A group day care home and day care center shall not be located closer than 500 feet to any of the following:
 - 1. Another licensed group day care home.
 - 2. An adult foster care small group home or large group home licensed under the Adult Foster Care Facility Licensing Act, Act No. 218 of the Public Acts of 1979, being sections 400.701 to 400.737 of the Michigan Compiled Laws.
- f. Appropriate licenses with the state shall be obtained prior to certificate of occupancy, shall be maintained as required by the state, and shall be visible within the premises.
- g. The hours of operation will be set to not disrupt the neighborhood.

(Ord. No. 94-04, § 5.50, 9-7-94; Ord. No. 6 of 2007, § 11, 11-5-07; Ord. No. 2016-02, § 3, 10-3-16)

Sec. 66-307. - Site plan review and approval.

- (a) *Generally.* Certain permitted and conditional uses, buildings and structures may reasonably be expected to have a significant impact on natural resources, public utilities, traffic patterns and adjacent land usage. In these cases, a zoning compliance permit will not be issued until final site plans are reviewed by the planning commission and approved by the village council.
- (b) *Right to waive site plan requirements.* The planning commission and/or village council reserves the right to waive any of the site plan requirements in subsection (c).
- (c) *Buildings, structures and uses requiring site plan.* A site plan shall be required for the following buildings, structures and uses:
 - (1) A multiple-family development containing four or more dwelling units.
 - (2) One or more multiple-family building(s) on a lot, parcel or tract of land, or on a combination of lots under one ownership.
 - (3) A mobile home park (MH-1 district).
 - (4) All commercial endeavors and offices.
 - (5) Any automobile service station or automotive repair garage, or any other place where gasoline or petroleum products are sold or stored.
 - (6) Any industrial use.
 - (7) Shopping centers.
 - (8) Any other development that requires more than 25 parking spaces.
 - (9) Parking lots.
 - (10) Any use in a planned unit residential development district (R-4 district).
 - (11) Site condominium developments.
 - (12) Any reuse or redevelopment of an existing building, structure or use that normally requires a site plan pursuant to subsections (1) through (9) of this subsection.

(d) *Application for site plan review.* To request a site plan review; the owner must submit a completed application form with required filing fee to the village. Applicant must submit up to 22 copies of the site plan and supporting documentation shall be presented to the village. The site plan shall provide the following information:

- (1) Name of proposed development (if appropriate).
- (2) Legal description, including any restrictions.
- (3) A vicinity map, which shall show the location of the site in relation to the surrounding street system.
- (4) Zoning district of the parcel included.
- (5) Name, address and telephone number of the proprietor, owners of record, planner, engineer, surveyor or other designer who prepared the site plan.
- (6) A site survey drawn to scale correlated with the legal description including the items listed in subsections g through w of this subsection.
- (7) Date, north point and scale. The scale of the site plan shall not be greater than one inch equals 20 feet, or less than one inch equals 200 feet.
- (8) Details of adjacent parcels, including subdivision names; layout and names of streets; right-of-way widths; connections with adjoining streets; location and width of alleys, easements and public walkways; layout and dimensions of adjacent lots; names and addresses of owners of record and zoning.
- (9) Existing development on the site, such as building, drives, parking lots and utilities.
- (10) Existing topography at one-foot contour intervals, and proposed grading plan at one-foot contour intervals.
- (11) Proposed streets, including location, right-of-way, surface type and width; designation of whether public or private; typical cross-section; names and curve radii.
- (12) Proposed layout, including dimensions, area in square feet, and setback requirements.
- (13) Proposed landscape plan.
- (14) Outside lighting, if applicable.
- (15) Location and description of uses.
- (16) Proposed easements, including location, dimension and purpose.
- (17) Natural features, such as individual trees, wooded areas, wet soils, wetlands, water bodies and watercourses.
- (18) Parcels to be dedicated or reserved for public or common use.
- (19) Utilities, including location and size of existing and proposed water, sanitary sewer and storm sewer lines; points of connection to existing lines; location of existing natural gas lines and utility poles; and location of storm water retention facilities.
- (20) Calculations showing storm water retention volume required and provide.
- (21) Estimated floodplain.
- (22) Phases of development.
- (23) Any other information required to check zoning compliance.

(e) *Review procedure.*

- (1) Once all the required information is received, the village shall, if necessary, transmit copies of the plan to the village's engineer, fire chief, police chief and village manager for their review and

recommendation. The site plan shall be placed upon the agenda of the next regular meeting of the planning commission.

- (2) The planning commission shall review the submitted preliminary and final site plans and the recommendations of the consulting engineer, fire chief, police chief and village manager and make a recommendation to council to approve, conditionally approve, or deny the site plan within 60 days of the first meeting.
 - (3) The village council shall review all reports and the planning commission's recommendation and shall approve, conditionally approve, or deny the site plan. The council shall notify the applicant in writing of its action
 - (4) A zoning compliance permit and a building permit shall not be issued until the site plan has been approved by the village council.
 - (5) Once the site plan has been approved, the applicant shall submit the site plan, amended as necessary, to the zoning inspector. The zoning inspector will certify that the plan meets the conditions established by the village council. A zoning compliance permit shall not be issued unless the site plan has been approved.
- (f) *Standards for review.*
- (1) *Preliminary site plan.* In reviewing a preliminary site plan the village planning commission and council shall determine whether the plan meets the following standards.
 - a. All required information has been provided.
 - b. The proposed development conforms to all applicable regulations of this chapter.
 - c. Vehicular and pedestrian traffic within the site and in relation to access streets will be safe and convenient.
 - d. The proposed development will be harmonious with, and not harmful, injurious or objectionable to, existing and future uses in the immediate area.
 - e. Natural resources will be protected and preserved to the maximum feasible extent.
 - f. The proposed development is adequately coordinated with improvements serving the subject property and with other developments in the general vicinity.
 - g. The proposed development respects natural topography to the maximum feasible extent and minimizes the amount and extent of grading required.
 - h. Organic, wet or other soils that are not suitable for development will be undisturbed or will be modified in an acceptable manner.
 - i. The phases of development are in logical sequence so that any phase will not depend upon a subsequent phase for adequate access, public utility service, and drainage or erosion control.
 - (2) *Final site plan.* In reviewing a final site plan, the village planning commission and council shall determine whether the plan meets the following standards:
 - a. The final site plan conforms to the approved preliminary site plan.
 - b. The plan meets the village's standards for fire and police protection, water supply, sewage disposal or treatment, storm drainage, and other public facilities and services.
 - c. The proposed development will not cause soil erosion or sedimentation problems.
 - d. The drainage plan for the proposed development is adequate to handle anticipated storm water runoff and will not cause undue runoff onto neighboring property or overloading of watercourses in the area.
 - e. The proposed development is coordinated with improvements serving the subject property and with the other developments in the general vicinity.

- f. Outside lighting will not adversely affect adjacent or neighboring properties, or traffic on adjacent streets.
 - g. Outdoor storage of garbage and refuse is contained, screened from view, and located so as not to be a nuisance to the subject property or neighboring properties.
 - h. Grading or filling will not destroy the character of the property or the surrounding area and will not adversely affect the adjacent or neighboring properties and drainage patterns.
 - i. The circulation and parking layout will not adversely affect the flow of traffic within the site or to and from the adjacent streets.
 - j. The plan meets the standards of other government agencies, where applicable, and that approval of these agencies has been obtained or is assured.
 - k. The plan provides for the proper expansion of existing public streets serving the site where applicable.
 - l. The plan properly respects natural features and flood hazard areas.
- (g) *Performance guarantees.*
- (1) The village council may require a performance bond, irrevocable bank letters of credit, cash deposits or other acceptable forms of security to be filed with and acceptable to the village council. The guarantee, if required, shall be filed after a final site plan is approved but prior to issuance of a zoning compliance permit for the property involved. The guarantee shall cover site improvements as shown on the approved final site plan that will not be completed prior to issuance of the zoning compliance permit. Site improvements shall mean streets and drives, parking lots, sidewalks, grading, required landscaping, required screens, storm drainage, exterior lighting, utilities and traffic control signs and pavement markings.
 - (2) The applicant shall provide a cost estimate of improvements to be covered by the guarantee, and the estimate shall be verified by the village. The amount shall be sufficient to cover all expenses of completing the site improvements, including administrative and contingency expenses. The form of the guarantee shall be reviewed by the village attorney.
 - (3) If the applicant fails to provide any site improvement according to the approved plans within the time period specified in the guarantee, the village council shall be entitled to enter upon the site and complete the improvements. The village council may defray the cost thereof from the deposited security or may require performance by the bonding company.
 - (4) The guarantee shall be promptly released upon inspection and approval of site improvements in compliance with the approved final site plan.
 - (5) If a cash deposit or irrevocable bank letter of credit is used, rebate to the applicant shall be made in reasonable proportion of the work completed to the entire project as determined by the village council. All required inspections for improvements for which the deposit is to be rebated shall have been completed before funds are rebated.
 - (6) The building inspector and zoning inspector may refuse to issue zoning, building and occupancy permits as a method of enforcing compliance with the approved site plan or until adequate security is deposited as provided in this subsection.
- (h) *Expiration of approval.* Approval of the site plan shall expire 365 days after the date it was approved unless a building permit has been issued for the proposed development or council has approved an extension.
- (i) *Amendments.* A site plan may be amended by approval of the village council at the request of the applicant. The procedure for an amendment shall be the same as followed for a site plan review as outlined in subsection

(Ord. No. 94-04, § 5.60, 9-7-94; Ord. No. 96-02, §§ 1, 2, 4-1-96; Ord. No.3 of 2002, § 1, 9-4-02)

Sec. 66-308. - Nonconformities.

- (a) *Generally.* The adoption of this chapter may create lots, structures and uses of land and structures which were lawful before adoption of the ordinance from which this chapter is derived or before this chapter was amended and which would be prohibited, regulated or restricted under the terms of this chapter or future amendments. It is the intent of this chapter to permit these nonconformities to continue until they are discontinued, damaged or removed, but not to encourage their survival. These nonconformities are declared by this chapter to be incompatible with the lots, structures and uses permitted by this chapter in certain districts. It is further the intent of this chapter that such nonconformities shall not be enlarged, expanded or extended except as provided by this section.
- (b) *Nonconforming uses of land.* Where, on October 14, 1994, or the date of adoption of an amendment of this chapter, a lawful use of land exists that is no longer permissible under the provisions of this chapter, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:
 - (1) No such nonconforming use of land shall be enlarged, expanded or extended to occupy a greater area of land than was occupied on October 14, 1994, or the date of adoption of an amendment of this chapter, and no accessory use or structure shall be established.
 - (2) No such nonconforming use of land shall be moved in whole or in part to any other portion of such land not occupied on October 14, 1994, or the date of adoption of an amendment of this chapter.
 - (3) If such nonconforming use of land ceases for any reason for a period of more than 180 consecutive days, the subsequent use of such land shall conform to the regulations and provisions set by this chapter for the district in which such land is located.
- (c) *Nonconforming structures.* Where, on October 14, 1994, or the date of adoption of an amendment of this chapter, a lawful structure exists that could not be built under the regulations of this chapter by reason of restrictions upon lot area, lot width, lot coverage, height, open spaces or other characteristics, the structure may remain, subject to the following provisions:
 - (1) No such structure shall be enlarged, expanded, extended or altered in a way which increases its nonconformity.
 - (2) Should any such structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.
 - (3) Should any such structure be moved for any reason, for any distance, it shall thereafter conform to the regulations of the district in which it is located after it is moved.
- (d) *Nonconforming uses of structures.* Where, on October 14, 1994, or the date of adoption of an amendment of this chapter, a lawful use of a structure exists that is no longer permissible under the regulations of this chapter, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:
 - (1) No nonconforming use of a structure shall be enlarged, expanded, extended or altered except in changing the use of the structure to a use permitted in the district in which it is located.
 - (2) When a nonconforming use of a structure is discontinued or abandoned for more than 180 consecutive days, the structure shall not be used again except in conformance with the regulations of the district in which it is located.
 - (3) For any structure devoted to any nonconforming use, work may be done in a period of 12 consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not to exceed ten percent of the then-current replacement value of the structure. However, the cubic volume of such structure or the number of families housed shall not be increased. Nothing in this chapter shall be deemed to prevent the strengthening of a structure declared to be unsafe by any official charged with protecting the public safety.

- (4) Should any structure containing a nonconforming use be moved for any reason, it shall conform to the regulations of the district in which it is located after it is moved.
 - (5) Should any structure devoted in whole or in part to any nonconforming use be destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, it shall not be reconstructed and again be devoted to any use except in conformity with the regulations of the district in which it is located.
- (e) *Change of tenancy, use or ownership.* There may be a change of tenancy, ownership or management of an existing nonconforming use, building or structure; provided there is no change in the nature or character of such nonconforming use, building or structure, unless the proposed nonconforming use would be more compatible with the neighborhood. The zoning board of appeals may authorize a continuing nonconforming use or an alternative nonconforming use if the change is deemed compatible with the zoning district.
- (f) *Nonconforming lots.*
- (1) A principal structure and accessory structures for a permitted use may be erected on a nonconforming lot of record that does not meet the minimum lot area and lot width requirements of the district in which it is located, provided that other area, yard, height and bulk regulations of the district are met, and provided a variance is approved by the zoning board of appeals. The lot shall be in separate ownership and not on continuous frontage with other lots in the same ownership even though the lot fails to meet the regulations for minimum lot area or width or both that may apply in the district in which the lot is located.
 - (2) If two or more lots or combinations of lots or portions of lots with continuous frontage in single ownership are of record on October 14, 1994, or the date of adoption of an amendment of this chapter, and if all or part of the lots do not meet the requirements for lot area or width established by this chapter, the lands involved shall be considered an undivided lot for the purposes of this chapter. In such case, no part of the lot shall be used which does not meet the minimum lot area or width regulations, nor shall any division of the lot be made that leaves any part of the lot with an area or width less than the minimums required by this chapter.

(Ord. No. 94-04, § 5.70, 9-7-94)

Sec. 66-309. - Performance standards.

- (a) *Requirements.* No lot, building or structure in any district shall be used in any manner to create any dangerous, injurious, noxious or otherwise objectionable element or condition that adversely affects the surrounding area or adjoining premises. Uses in all districts, where permitted, shall comply with the following performance requirements:
- (1) *Noise.* Noise which is objectionable due to volume, frequency or beat shall be muffled or otherwise controlled so there is no production of sound discernible at lot lines in excess of the average intensity of street and traffic noise at the lot lines. Air raid sirens and related apparatus used solely for public purposes are exempt from this subsection.
 - (2) *Vibration.* No vibration shall be permitted which is discernible without instruments on any adjoining lot or property.
 - (3) *Gases, smoke, dust, dirt and fly ash.* The emission of gases, smoke, dust, dirt and fly ash shall in no manner be unclean, destructive, unhealthful, hazardous or deleterious to the general welfare. Such emission shall be in strict conformance with all applicable state and county health laws as pertaining to air pollution and smoke abatement.
 - (4) *Odor.* No malodorous gas or matter shall be permitted which is offensive or produces a public nuisance or hazard on any adjoining lot or property.

- (5) *Air pollution.* No pollution of air by fly ash, dust, vapors or other substances shall be permitted which is harmful to health, animals, vegetation or other property, or which can cause excessive soiling.
 - (6) *Glare.* No direct or reflected glare shall be permitted which is visible from any other property or from any public street, road or highway.
 - (7) *Erosion.* No erosion by either wind or water shall be permitted which will carry objectionable substances onto neighboring properties, lakes, ponds, rivers or streams. Provisions of the Soil Erosion and Sedimentation Control Act (MCL 282.101 et seq., MSA 13.1820(1)) will apply where required.
- (b) *Required information.* The application for a zoning compliance permit for a use subject to performance requirements shall be accompanied by a description of the machinery, process and products; and specifications for the mechanisms and techniques to be used in meeting the performance standards.
 - (c) *Review of information by outside consultants.* The zoning inspector may, with the advice and consent of the village council, refer the application to one or more expert consultants qualified to advise as to whether a proposed use will conform to the performance standards. The costs of such services shall be borne equally by the applicant and the village.
 - (d) *Monitoring of users by outside consultants.* The zoning inspector may, with advice and consent of the village council, refer the user to one or more expert consultants qualified to advise as to whether a use will conform to the performance standards. The costs of such services and subsequent monitoring shall be paid by the user. If the use is in compliance with the performance standards, costs of the consultant's services shall be split equally between the user and the village.

(Ord. No. 94-04, § 5.100, 9-7-94)

Sec. 66-310. - Storage of discarded or inoperative materials.

The location or storage of abandoned, discarded, unused, unusable or inoperative vehicles, appliances, furniture, equipment or material shall be regulated as follows:

- (1) *Residential and commercial districts.* On any lot in any residential district or commercial district, the owner or tenant shall locate and store such materials within a completely enclosed building.
- (2) *Industrial districts.* On any lot in any industrial district, the owner or tenant shall locate and store such materials within a completely enclosed building or within an area surrounded by a solid, visibly impervious fence or wall at least seven feet in height and not less in height than the materials located or stored therein, and not closer to the lot lines than the minimum yard requirements for buildings permitted in such districts.

(Ord. No. 94-04, § 5.110, 9-7-94)

Sec. 66-311. - Occupancy of mobile homes.

No mobile home shall be used other than as a single-family dwelling, except that a mobile home may be used as a temporary field office provided it is certified as such by the zoning inspector.

(Ord. No. 94-04, § 5.120, 9-7-94)

Sec. 66-312. - Visibility at intersections.

On any corner lot in any zoning district requiring front and side yards, no fence, wall, hedge, screen, sign, structure, vegetation or planting shall be allowed to impede vision between a height of three feet and eight feet above the centerline grades within the triangular area formed by the intersecting street right-of-

way lines and a straight line joining the two street lines at points which are 30 feet distant from the point of intersection, measured along the street right-of-way line. (See the definition of the term "sight clearance triangle" in section 66-302(b).)

(Ord. No. 94-04, § 5.130, 9-7-94)

Sec. 66-313. - Access to public streets.

- (a) In any residential district, commercial district or industrial district, every use, building or structure established after October 14, 1994, shall be on a lot or parcel which adjoins a public street.
- (b) In any recreation open space district every use, building or structure established after October 14, 1994, shall be on a lot or parcel which adjoins a public or private easement of access to a public street.

(Ord. No. 94-04, § 5.140, 9-7-94)

Sec. 66-314. - Floodplain regulations.

- (a) *Purpose.* The Federal Emergency Management Agency has identified flood hazard areas in the village. It is the purpose of this section to reduce hazards to persons and damage to property in such areas and to comply with the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, and subsequent regulations enacted by the Federal Emergency Management Agency. This section is designed to achieve the following purposes:
 - (1) Protect human life, prevent or minimize property losses, and reduce public costs of rescue and relief efforts from the effects of flood conditions.
 - (2) Restrict or prohibit uses which, when located in designated flood hazard areas, are dangerous to health, safety and property in times of flooding, or cause excessive increases in flood heights or velocities.
 - (3) Require that uses and structures which are vulnerable to floods, including public facilities, in designated flood hazard areas be protected against flood damage at the time of construction.
 - (4) Alert the public to lands which are unsuitable for certain uses and structures because of potential flood hazards.
 - (5) Permit reasonable use of property located within designated flood hazard areas.
- (b) *Definitions.* The following definitions shall be used to interpret the provisions of this section:

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Flood and flooding mean a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- (3) The collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

Flood hazard area means land which, on the basis of available floodplain information, is subject to a one percent or greater chance of flooding in any given year.

Flood insurance rate map (FIRM) means the official map of the village prepared by the Federal Emergency Management Agency, delineating both the areas of special flood hazards and the risk premium zones applicable to the village.

Flood insurance study means the official report provided by FEMA. The report contains flood profiles and the water surface elevation of the base flood, and may contain a flood boundary-floodway map.

Floodplain means any land area susceptible to being inundated by water from any source (see *Base flood*).

Floodway means the channel of a river or other watercourse and the adjacent land areas which must be reserved in order to discharge the base flood.

New construction means structures for which start of construction commenced on or after the effective date of the ordinance from which this section is derived.

NGVD means National Geodetic Vertical Datum.

Structure means, for floodplain management purposes, a walled and roofed building that is principally above ground, or a gas or liquid storage facility, as well as a mobile home or manufactured unit.

Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started, or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- (1) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to ensure safe living conditions; or
- (2) Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

(c) *Application of regulations.*

- (1) All designated flood hazard areas shall be subject to the provisions of this section. The flood boundary-floodway map and the flood profiles which are contained in the flood insurance study and the flood insurance rate maps, dated May 24, 1982 are hereby made a part of this section.
- (2) The general location of the designated flood hazard areas is shown in detail on the floodway map. It is generally located in low areas of the River Raisin. The precise location of the floodway and flood hazard areas shall be determined from information as particularly specified on the flood boundary and floodway map, together with the flood profiles contained in the flood insurance study, and by site surveys, and from other base flood elevation data available from a federal, state or other source, where applicable.
- (3) The requirements of this section overlay existing zoning districts. Compliance with the provisions of this section shall be in addition to compliance with the provisions of this chapter. Conflicts among provisions of this chapter or with provisions of any other ordinance shall be resolved in favor of the more stringent requirement.
- (4) No certificate of zoning compliance and no building permit shall be issued for any lot, use or structure subject, in whole or in part, to the provisions of this section, until the requirements of this section, the requirements for the underlying zoning district, and other applicable provisions of this chapter have been met. The zoning administrator shall have the authority to determine whether a lot, use or structure is subject to this section.

(d) *Information required.* The following information shall be provided with an application for a certificate of zoning compliance for any lot, use or structure located in whole or in part in a designated flood hazard area:

- (1) Elevation of the lowest habitable floor, including basement, of all structures. The elevation shall be referenced to National Geodetic Vertical Datum (NGVD) data.
 - (2) If a structure is to be floodproofed, the elevation to which floodproofing will be utilized. The elevation shall be referenced to NGVD data. In such case, a certificate of a professional engineer or architect registered in the state shall be submitted indicating therein that the floodproofing criteria of this section will be met.
 - (3) A description of alteration or relocation of any watercourse.
 - (4) Proof of floodplain permit approval or letter of no authority from the state department of natural resources, under authority of Public Act No. 245 of the Public Acts of Michigan of 1929 (MCL 328.1 et seq., MSA 3.521 et seq.), as amended.
 - (5) Base flood elevation data for any lot subject to the Subdivision Control Act, Act No. 288 of the Public Acts of Michigan of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.).
 - (6) Additional information reasonably necessary to determine compliance with this section.
- (e) *General standards for flood hazard areas.* The following standards, and all applicable provisions of the currently adopted version of the state construction code as amended, shall apply to all land within a designated flood hazard area:
- (1) All new construction and substantial improvements, including the placement of, or addition to or expansion of, prefabricated structures and mobile homes, shall be designed and anchored to prevent flotation, collapse or lateral movement of the structure; shall be constructed with materials and utility equipment resistant to flood damage; and shall be constructed by methods and practices that minimize flood damage to the smallest reasonable extent.
 - (2) New and replacement water supply systems shall reduce to the smallest reasonable extent infiltration of floodwaters into the systems.
 - (3) New and replacement sanitary sewage systems shall reduce to the smallest reasonable extent infiltration of floodwaters into the system, and discharges from the system into floodwaters. On-site disposal systems shall be located to avoid impairment to the system or contamination from the system during flooding.
 - (4) Public utilities and facilities shall be designed, constructed and located to reduce flood damage to such utilities and facilities to the smallest reasonable extent.
 - (5) Adequate drainage shall be provided to reduce exposure to flood hazards. Positive drainage away from all structures shall be provided.
 - (6) A watercourse within a designated flood hazard area shall not be relocated until approval has been obtained from the state department of natural resources and the county drain commissioner, whichever has jurisdiction. Evidence of the approval and as-built drawings shall be submitted by the person relocating the watercourse to the Federal Emergency Management Agency.
- (f) *Specific standards for flood hazard areas, excluding floodways.* The following standards shall apply to all land located within a designated flood hazard area but outside a floodway:
- (1) All buildings or structures that are erected within a flood hazard zone shall be elevated so that the lowest portion of all horizontal structural members that support floors, excluding footings, pile caps, pilings, nonstructural slabs, girders and grade beams, are located at or above the base flood elevation. All basement floor surfaces shall be located at or above the base flood elevation.
 - (2) Exceptions shall be permitted in accordance with applicable provisions of the currently adopted version of the state construction code, as amended.
- (g) *Specific standards for floodways.* The following standards shall apply to land located within the floodway portion of a designated flood hazard area:
- (1) Encroachments, including fill, new construction, substantial improvements and other development shall be prohibited in a floodway. Exceptions to this standard shall be made only

upon certification by a professional engineer registered in the state, or by the state department of natural resources in cases in which that department has jurisdiction, that the encroachment or other development will not result in any increase in flood levels during the discharge of base flood, and that the encroachment or other discharge complies with Act No. 245 of the Public Acts of Michigan of 1929 (MCL 313.1 et seq., MSA 3.521 et seq.), as amended.

- (2) The uses and structures permitted in an underlying district shall not be permitted within a floodway, unless an exception is obtained as provided in subsection (g)(1) of this section.

(Ord. No. 94-04, § 5.150, 9-7-94)

Sec. 66-315. - Fences and screening.

- (a) *Permit required.* Any person desiring to build or cause to be built a fence upon property within the Village of Clinton shall first apply to the zoning administrator for a permit. Application for the permit shall contain any and all information required and necessary for the determination of whether the erection of the fence would be consistent to the provisions of this chapter.
- (b) *Fences, walls, and screens.* Except as otherwise required by this chapter, the following regulations shall apply:
 - (1) In a residential district, fences shall not exceed six feet in height. However, fences in the required front yard shall not exceed three feet in height and 50 percent opacity. Opacity is the degree to which a fence is impervious to rays of light. This condition shall be measured by the observation of any two square yard area of fence between one foot above the ground level and the top of the fence. The observation shall be from a direction perpendicular to the place of the fence.
 - (2) In commercial and industrial districts, no fence, wall, or other screening structure shall exceed six feet in height except in certain situations where greater height may be necessary to screen adjacent uses in the opinion of village.
 - (3) The use of barbed wire, spikes, nails, or any other sharp point or instrument of any kind on top or on the sides of any fence is prohibited. Barbed wire cradles may be placed on top of fences enclosing public utility buildings or wherever the village deems necessary in the interests of public safety.
 - (4) No fence shall be constructed or maintained which is charged or connected with an electrical current. Underground electrified fences used to contain household pets such as dogs shall be exempt from this provision.
 - (5) Retaining walls shall be designed and constructed in accordance with applicable building code requirements.
 - (6) Temporary construction fences and fences required for protection around excavations shall comply with the State Building Code. The fences shall remain in place for the minimum time required during construction but not to exceed one year.
 - (7) Intersection visibility. No fence, wall, shrubbery, or other obstruction to vision (excluding buildings as permitted) shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between such right-of-way lines at a distance along each line of 30 feet. Walls, fences, berms, shrubs, hedges or other plantings (excluding trees) and signs in this area shall not exceed 30 inches in height above the average gutter grade adjacent to this area. Trees planted within this same area shall not have branches lower than eight feet above the average gutter grade. Similar restrictions as above shall be required in a 15-foot corner triangle formed at the intersection of any driveway and alley or any driveway and street right-of-way line.
 - (8) *Fence setback.* Regardless of property lines, a fence cannot encroach more than five feet to a principal or accessory structure on an adjacent property.

(Ord. No. 94-04, § 5.160, 9-7-94; Ord. No. 1 of 2006, 4-3-06; Ord No. 2 of 2008, §§ 1—3, 3-3-08; Ord. No. 2016-01, § 2, 6-6-16)

Sec. 66-316. - Temporary uses.

Circuses, carnivals or other transient enterprises may be permitted in any district, upon approval by the village council based upon a finding that the location of such an activity will not adversely affect adjoining properties, and not adversely affect public health, safety and the general welfare.

(Ord. No. 94-04, § 5.170, 9-7-94)

Sec. 66-317. - Essential services.

- (a) Nothing in this chapter shall prohibit the provision of essential services, provided the installation of such service does not violate any other applicable provision of this chapter.
- (b) Nothing in this section shall be construed to permit the erection, construction or enlargement of any building, tower or maintenance depot for provision of an essential service except as otherwise permitted in this chapter.

(Ord. No. 94-04, § 5.180, 9-7-94)

Sec. 66-318. - Curb cuts and driveways.

Curb cuts and driveways may be located only upon approval by the zoning inspector and such other county and state authorities as required by law; provided, however, such approval shall not be given where such curb cuts and driveways shall unnecessarily increase traffic hazards.

(Ord. No. 94-04, § 5.190, 9-7-94)

Sec. 66-319. - Swimming pools.

- (a) *Definitions.*

Swimming pool means a pool capable of holding over 24 inches of water.

Children's play pool means a pool capable of holding 24 inches or less of water.

- (b) *Building permit.* All swimming pools capable of holding over 24 inches of water must pull a building permit.
- (c) *Setbacks.* Swimming pools and children's play pools must be ten feet from any side or rear lot line and shall be erected only in a rear yard. Children's play pools of 12 inches or less may be allowed temporarily in the front or side yard for less than one week at a time.
- (d) *Dwelling unit wall as a barrier.* Where a wall of a dwelling unit serves as part of the barrier, one of the following shall apply:
 - (1) Doors with direct access to the pool through that wall shall be equipped with an alarm, which produces an audible warning when the door and its screen are opened. The alarm shall sound continuously for a minimum of 30 seconds immediately after the door is opened and be capable of being heard throughout the household activities. The alarm shall automatically reset under all conditions. The alarm shall be equipped with a manual means to temporarily deactivate the alarm for a single opening. Such deactivation shall last no more than 15 seconds. The deactivation switch shall be located at least 54 inches above the threshold of the door.

- (2) The pool shall be equipped with a power safety cover, which complies with ASTM F 1346, or other means of protection, such as self-closing doors with self-latching devices so long as the degree of protection afforded is not less than the protection afforded by a power safety cover.
- (e) *Barrier height and clearances.* The top of the barrier shall be at least 48 inches above the grade measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be two inches.
- (f) *Pool structure as a barrier.* Where an above ground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps, then:
 - (1) The ladder or steps shall be secured, locked or removed immediately after each use to prevent access; when the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a four-inch diameter (102) sphere.
 - (2) The ladder or steps shall be surrounded by a barrier, which meets the requirements of the building code.
- (g) *Chain link dimensions.* Chain link fencing shall not exceed a dimension of 1¼ inches square or 1¾ inches if decorative slats are installed.
- (h) *Access gates.* Access gates shall be equipped to accommodate a locking device. Pedestrian access gates shall open outward away from the pool and shall be self-closing and have a self-latching device. Where the release mechanism of the self-latching device is located less than 54 inches from the bottom of the gate, the release mechanism shall be located on the pool side of the gate at least three inches below the top of the gate, and the gate and barrier shall have no opening greater than 0.5 inch within 18 inches of the release mechanism.

(Ord. No. 94-04, § 5.200, 9-7-94; Ord. No. 2 of 2007, §§ 1—9, 1-3-07)

Sec. 66-320. - Adult entertainment businesses.

- (a) *Definitions.* The following words and phrases shall have the following definitions when used in this section:

Adult bookstore means an establishment having as a principal activity the sale of books, magazines, newspapers, videotapes, video discs and motion picture films which are characterized by their emphasis on portrayals of human genitals and pubic regions or acts of human masturbation, sexual intercourse or sodomy.

Adult entertainment business means one or a combination of more than one of the following types of businesses: adult bookstore, adult motion picture theater, adult mini-motion picture theater, adult personal service business or adult novelty business.

Adult mini-motion picture theater means an enclosed building having as a principal activity the presentation of material characterized by emphasis of portrayals of human genitals and pubic regions or actions of human masturbation, sexual intercourse or sodomy for observations by patrons therein in individual viewing booths.

Adult motion picture theater means an enclosed building with a capacity of 50 or more persons having as a principal activity displaying motion pictures characterized by their emphasis on portrayals of human genitals and pubic regions or acts of human masturbation, sexual intercourse or sodomy for observations by patrons therein.

Adult novelty business means a business which has as a principal activity the sale of devices of simulated human genitals or devices designed for sexual stimulation.

Adult personal service business means a business having as a principal activity a person, while nude or partially nude, providing personal services for another person on an individual basis in a closed room. It includes but is not limited to the following activities and services: massage parlors, exotic rubs, modeling studios, body painting studios, wrestling studios and individual theatrical performances. It does

not include activities performed by persons pursuant to, and in accordance with, licenses issued to such persons by the state.

Partially nude means having any or all of the following bodily parts exposed: buttocks, genitals, pubic area or female breasts.

Principal activity means a use accounting for more than 20 percent of a business's stock in trade, display space, floorspace or movie display time per month.

Public display, in the context of films, video or motion pictures, means the projection of such films, video or motion pictures on any viewing screen other than in a private dwelling. In visual representations, the term "public display" shall mean the placing of materials or engaging in activities on or in a newsstand, display rack, window, showcase, display case or similar place so that the material or activity is easily visible from a public thoroughfare, from the adjacent property of others, from a common walk or mall, or in any other manner generally visible to the public from the exterior of the adult entertainment center.

Sexually explicit material means any picture, photograph, drawing, sculpture, video or motion picture, film, activity or other visual representation or image which depicts uncovered or less than opaquely covered human or animal genitals or pubic areas, human sexual intercourse, human or animal masturbation, oral or anal intercourse, human-animal intercourse, excretory functions, physical stimulation or touching of genitals or pubic areas, or flagellation or torture by or upon a person who is nude or clad in revealing costumes in the context of sexual stimulation. The materials shall be judged without regard to any covering which may be affixed or printed over the material or activity in order to obscure genital areas in a depiction which otherwise would fall within the definitions of this section. Works of artistic, anthropological, scientific, literary or medical significance, which taken as a whole have serious literary, artistic, political or scientific value, are not intended to be included within the definitions of this subsection.

(b) *Location.* An adult entertainment business may be located in the village only in accordance with the following restrictions:

- (1) No adult entertainment facility shall be permitted within 1,000 feet of a church, public or private school property, a district zoned for residential use, or another adult entertainment center.
- (2) Distances provided in this section shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the entertainment facility is to be located, or the zoning district boundary line from the proposed parcel use, to that property from which it is to be separated.

(c) *Use regulations.*

- (1) No person shall reside in or permit any person to reside in the premises of an adult entertainment business.
- (2) No person shall operate an adult personal service business unless there is conspicuously posted in each room where such business is carried on a notice indicting the prices for all services performed by such business. No person operating or working at such a place of business shall solicit or accept any fees except those indicated on any such notice.
- (3) No person operating an adult entertainment business shall permit it to be used for acts of prostitution or to be frequented by known prostitutes who have been convicted of the act of prostitution within the last 24 months and any customers convicted of being customers of prostitutes within the last 24 months.
- (4) No person shall operate an adult personal service business without obtaining an approved compliance permit. Such permit shall be issued by the zoning inspector following an inspection to determine compliance with this chapter.
- (5) No person operating an adult entertainment business shall permit any person under the age of 18 to be on the premises of the business either as an employee or customer.

- (6) No person shall become the lessee or sublessee of any property for the purpose of using the property for an adult entertainment business without the express written permission of the owner of the property for such use.
- (7) No lessee or sublessee of any property shall convert that property from any other use to an adult entertainment business without the express written permission of the owner of the property for such use.
- (8) Sexually explicit materials are expressly prohibited from public display.

(Ord. No. 94-04, § 5.210, 9-7-94)

Sec. 66-321. - Lighting standards.

The purpose of this section is to regulate the placement, orientation, distribution patterns, and fixture types of outdoor lighting, to encourage lighting that provides safety and security; also to prevent glare on public roadways, protect the privacy of residents; and reduce atmospheric light pollution and light trespassing. These requirements shall apply to all uses for which site plan review is required under section 66-307. No site plan shall be approved unless it shows that the following design standards are met:

- (1) The design and/or screening of the development shall insure that glare from automobile and commercial or industrial vehicle headlights shall not be directed into any adjacent property, particularly residential property.
- (2) Exterior lighting shall be located and maintained to prevent the reflection and glare of light in a manner, which creates a nuisance or safety hazard to operators of motor vehicles, pedestrians, and neighboring land uses. This provision is not intended to apply to public street lighting.
- (3) Any operation, which produces intense glare or heat, shall be conducted within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot lines. If heat is a result of an industrial operation, it shall be so insulated as to not raise the temperature at any property line at any time.
- (4) Exterior doors shall be located, operated, and maintained so as to prevent any glare and light from creating a nuisance or safety hazard to operators of motor vehicles, pedestrians, and neighboring land uses.
- (5) On-site lighting, i.e. parking, building lights, etc. shall conform to the following regulations:
 - a. It is the goal of the village to minimize lighting levels to reduce off-site impacts, prevent the reflection and glare of light in a manner, which creates a nuisance or safety hazard to operators of motor vehicles, pedestrians, and neighboring land uses to protect the character of the village.
 - b. When site plan review is required, all lighting, including signage and ornamental lighting, shall be shown on site plans in sufficient detail with appropriate photometric studies to allow determination of the effects of such lighting upon adjacent properties, traffic safety, and overhead sky glow. The objectives of these specific actions are to minimize undesirable off-site effects.
 - c. Only non-glare, color-corrected lighting shall be permitted. For all nonresidential uses, full cutoff shades are required for light sources so as to direct the light onto the site and away from adjoining properties. The light source shall be recessed into the fixture so as not to be visible from off site. Building and pole mounted fixtures shall be parallel to the ground. Wallpak type lighting shall be prohibited.
 - d. Lighting for uses adjacent to residentially zoned or used property shall be designed and maintained such that illumination levels do not exceed 0.5 foot-candles along property lines. Lighting for uses adjacent to nonresidential properties shall be designed and maintained

such that illumination levels do not exceed 1.0 foot-candle along property lines. Where lighting is required, maximum light levels shall not exceed 25 foot-candles directly beneath a light fixture. Lighting levels shall not exceed three foot-candles as measured directly between two fixtures. The village council, after receiving a recommendation from the planning commission, may allow for an increased level of lighting above maximum permissible levels when the Council determines that the applicant has demonstrated that such lighting is necessary for safety and security purposes. For the purposes of this ordinance, all lighting measurements shall be taken at ground level.

- e. For parking lots of less than 100 parking spaces, lighting fixtures shall not exceed a height of 16 feet measured from the ground level to the centerline of the light source. For parking lots of more than 100 spaces, lighting fixtures shall not exceed a height of 18 feet measured from the ground level to the centerline of the light source.
- f. Signs shall be illuminated only in accordance with the regulations set forth in the zoning ordinance. In addition, signs within residential districts shall not be illuminated unless recommended by the Planning Commission and approved by the village council.
- g. Building or roof-mounted lighting intended to attract attention to the building and/or use and not strictly designed for security purposes shall not be permitted.

(Ord. No. 3 of 2008, § 1, 3-3-08)

Sec. 66-322. - Development standards.

- (a) *[Generally.]* The development standards contained in this section shall apply to all uses for which site plan review is required under section 66-307. These standards are established to emphasize the importance of the design of the building and other objects observed by the public. Development including new buildings, additions, and renovations, shall be designed to preserve or complement the character of the village, provide visual harmony between old and new buildings, and protect the investment of adjacent landowners. Development within the central business district zoning district and manufactured home developments shall be exempt from architectural standards in this section. All other structures shall be reviewed by the village under this section.
- (b) *Building orientation.* The intent of this section is to contribute to the desirability of pedestrian activity and to encourage connectivity to the streetscape. Entranceway orientation and proposed flow of pedestrians will contribute towards the desired pedestrian activity and scale described in this section. The following shall be considered:
 - (1) Buildings shall front towards and have their primary pedestrian entrance facing onto the public street. The village may permit buildings, which face towards a side yard, provided that defined pedestrian access routes are provided to the public street and features such as those described above are provided along walls that face the public street.
 - (2) Blank walls may not face a public street and buildings must have windows and architectural features commonly associated with the front facade of a building, such as awnings, cornice work, edge detailing or other decorative finish materials, on walls that face the public street.
- (c) *Building scale.* The intent is to create a streetscape that is compatible with the older buildings in the village by encouraging narrow facades, and discouraging single, large-scale buildings.
 - (1) Building facades shall be subdivided, through the location of architectural treatments and the arrangement of openings (doors and windows) that are compatible in size and scale to the surrounding buildings.
 - (2) The height to width ratio of these subdivided facades of single story buildings shall not exceed 1:2. The height to width ratio of these subdivided facades of two story buildings shall not exceed 1:1.

- (d) *Defined streetscape.* Buildings shall be located to create a defined streetscape along the corridor utilizing the following guidelines. The village may require a perspective drawing or a scale model of the proposed structure.
- (1) Proper relationship to existing structures in the area shall be maintained through building mass, proportion, scale, roofline shapes, windows and doors.
 - (2) The location, size and number of windows shall be oriented towards the main public or private road that is adjacent to the development and maintain similar proportions with existing buildings.
 - (3) All new development, additions, or renovations shall provide sidewalk connections to adjacent properties.
- (e) *Building materials and design.* The applicant must demonstrate the proposed buildings possess architectural quality and variety that create a distinct and harmonious character for the corridor. This shall be accomplished by the following:
- (1) Variety in building design shall be provided by architectural features, details and ornaments such as archways, colonnades, towers, cornices or peaked rooflines.
 - (2) Building entrances shall utilize windows, canopies and awnings; provide unity of scale, texture, and color; and provide a sense of place.
 - (3) Roof shape and materials shall be architecturally compatible and enhance the predominant streetscape. Gable, hip and gambrel roofs are encouraged as the predominant shapes along the corridor.
 - (4) The predominating surface plane of all building walls over 40 feet in length shall be varied through the use of architectural treatments, such as varying building lines, entrance accents, and windows.
 - (5) Where the side or rear facade(s) of a building will be visible from a residential zoning district or public land, or the rear or side of the site will be used for public access or parking, such facade(s) shall be constructed to a finished quality comparable to the front facade.
 - (6) Buildings located on corner lots shall provide distinct and prominent architectural features or site elements that reflect the importance of the building's corner location and creates a positive visual landmark. An entry feature or site landmark shall be required at the discretion of the village.
 - (7) All mechanical equipment shall be shielded from public view.
 - (8) Exterior building materials and treatment shall maintain a consistent overall appearance. Any side of a principal building, at least 50 percent of the facade shall be constructed of, or covered with, one or more of the following materials:
 - a. Brick: smooth, hard, inform, red, dark-red, or brown brick.
 - b. Cut stone: carved and smooth finish limestone.
 - c. Siding: wood clapboard or single siding, or high quality vinyl.
 - d. Glass windows and/or doors: non-reflective, clear or slightly tinted; and other materials similar to the above as determined by the village.
 - e. The first floor of front facade(s) for nonresidential structures shall include at least 30 percent non-reflective windows (clear or slightly tinted). The approximate size, shape, orientation, and spacing shall match that of non-residential buildings on adjacent lots. The remainder of the structure shall meet the above standards in subsections (a) and (e), in addition to the 30 percent window on the front facade(s).
 - f. Any concrete block that may be utilized for the remainder of the building facades shall be a decorative block such as split faced or single scored and shall contain an integral color. Painted block is prohibited.

- (f) *Other site elements.* Signs, landscaping, walls, lighting and other site elements shall be coordinated and compatible with the building design, as well as harmonious with the character of the surrounding land uses.

(Ord. No. 1 of 2008, §§ 1—5, 3-3-08)

Sec. 66-323. - Open space preservation.

In order to comply with section 4(f), as added to the City and Village Zoning Act by Public Act 179 of 2001, notwithstanding the generally applicable minimum lot frontage, lot width, and minimum lot area per dwelling unit requirements of this section, land zoned for residential development may be developed, at the option of the landowner, with the same number of dwelling units that could otherwise be developed on the land under existing ordinances, laws and rules, on not more than 80 percent of the land, if all of the following apply:

- (1) The land is zoned at a density equivalent to two or few dwelling units per acre; or, if the land is served by a public sewer system, three or fewer dwelling units per acre.
- (2) Not less than 20 percent of the land area will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land.
- (3) The development does not depend on the extension of a public sewer or water lines, unless development also could not occur without the exercise of the open space preservation option.
- (4) The use of the open space preservation option has not been already exercised on the property.
- (5) The development of land under this section is subject to all other applicable state, county and local ordinances, laws and rules.

(Ord. No. 3 of 2005, § 1, 4-4-05)

Sec. 66-324. - Ramps.

- (a) *Accessibility ramps.* Landings to which ramps are attached for disabled access may be permitted to project into a required front yard, not to exceed ten feet, in residential districts by special permit issued by the zoning administrator subject to the following:
- (1) Building inspector determines that no other location in a side or rear yard is available for access to the dwelling;
 - (2) Documentation from a physician is provided explaining the need for either permanent or temporary ramp access;
 - (3) Removal of access ramps shall be required within 12 months upon termination of the need for such ramps;
 - (4) Such landings and ramps shall comply with all barrier-free rules and regulations;
 - (5) Landscaping may be required to reduce the impact on other properties.
- (b) *Integrated ramp.* Ramps for disabled access may be permitted in residential districts when incorporated into the design of the structure so as not to encroach on a required front yard and shall comply with all barrier free rules and regulations and the Fair Housing Act as applicable.
- (c) *Commercial/industrial ramps.* Accessibility in all office, business and industrial districts shall comply with all state and federal guidelines as outlined in the Americans with Disabilities Act (ADA).

(Ord. No. 2 of 2010, §§ 1—3, 8-2-10)

Sec. 66-325. - Adult foster care facilities.

- (a) *Definitions.* When it is consistent with the context, the following use of words applies for purposes of this chapter:

Adult day care. A nonresidential facility in which custodial care is provided for not more than six adults, related or unrelated, who are in need of supervision and/or assistance with routine daily functions but who are not in need of regular medical attention, where the adults are receiving said care on a regular and recurring basis during the day for less than a 24-hour basis.

Adult foster care facility. A state-licensed governmental or nongovernmental establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An adult foster care facility does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation center, residential centers for persons released from or assigned to a correctional facility, or any other facilities which have been exempted from the definition of adult foster care facility by the Adult Foster Care Facility Licensing Act, MCL 400.701 et seq., as amended.

- (1) *Adult foster care family home.* A private residence with the approved capacity to receive six or fewer adults to be provided with foster care for five or more days a week and for two or more consecutive weeks. The adult foster care family home licensee must be a member of the household and an occupant of the residence.
 - (2) *Adult foster care group home.* A facility with approved capacity to receive at least seven but not more than 20 adults to be provided supervision and personal care, in addition to room and board, 24 hours a day, five or more days a week, and for two or more consecutive weeks.
 - (3) *Adult foster care congregate facility.* An adult foster care facility with the approved capacity to receive more than 20 adults to be provided with foster care.
- (b) *Purpose.* It is the intent of this section to establish standards for adult foster care facilities which will ensure compatibility with adjacent land uses and maintain the character of the neighborhood.
- (c) *Standards for adult foster care family home.* Must be state licensed and shall be considered a residential use of property and a permitted use in all residential districts.
- (d) *Standards for adult foster care group homes.* Such homes shall be considered as conditional land use subject to the requirements and the following additional standards:
- (1) A site plan shall be required to be submitted.
 - (2) The subject parcel shall meet the minimum width and set back area, requirements for the zoning district in which it is located, provided there is a minimum site area of 2,000 square feet per adult, excluding employees and/or care givers.
 - (3) The property is maintained in a manner that is consistent with the character of the neighborhood.
 - (4) One off-street parking space per employee and/or caregiver shall be provided.
 - (5) In its sole discretion, the village may determine that landscape screening is required.
 - (6) Appropriate licenses with the state shall be maintained.
 - (7) Be so constructed, arranged, and maintained as to provide adequately for the health and safety and welfare of all occupants.
 - (8) The atmosphere and routine shall be that a resident may spend the majority of his nonsleeping hours outside his bedroom.
A toilet, lavatory and bathing or showering facility shall be provided for each six persons. At least one toilet and lavatory shall be provided on each floor having resident bedrooms.
 - (9) Provide distinct living and sleeping areas. All areas shall be well lighted, heated and ventilated.

- (10) Provide a living or day room area which affords privacy for use by a resident and his visitors.
 - (11) The living and sleeping areas for each resident shall not be in noncontiguous wings, units or buildings.
 - (12) A living room, dining room or other room not designed nor ordinarily used for sleeping shall not be used for sleeping purposes.
 - (13) A room shall not be used as a bedroom where more than one-half of the room height is below grade except where the ceiling of such portion of a building is located five feet or more above grade for more than 25 percent of the perimeter measurement of the room.
 - (14) Bedrooms shall have at least one window with a minimum sash area of eight square feet.
 - (15) A single-occupancy bedroom shall have at least 80 square feet of usable floor area.
 - (16) A multiple-occupancy bedroom shall have at least 70 square feet of usable floor area per person with a maximum of four beds and persons per bedroom.
 - (17) A group foster care home shall be inspected and approved for fire safety prior to the issuance of an occupancy permit and shall be inspected at least annually.
 - (18) The property is maintained in a manner that is consistent with the character of the neighborhood and complies with village regulations.
- (e) *Standards for adult foster care congregate facility.* Such facility shall be considered as conditional land use subject to the requirements and the following additional standards:
- (1) A site plan shall be required to be submitted.
 - (2) The subject parcel shall meet the minimum width and set back area requirements for the zoning district in which it is located, provided there is a minimum site area of 2,000 square feet per adult, excluding employees and/or care givers.
 - (3) The property is maintained in a manner that is consistent with the character of the neighborhood and complies with village regulations.
 - (4) Parking requirements as required for convalescent homes and similar facilities shall be met.
 - (5) All landscape requirements shall be met.
 - (6) The drop-off/pick-up of residents shall be provided at the front entrance of the building with a covered canopy.
 - (7) The minimum lot area shall be three acres.
 - (8) A 50-foot greenbelt buffer shall be provided adjacent to any land zoned or used for residential purposes. Such greenbelt shall be maintained as landscaped open space and shall not include any buildings, parking, or drive-aisles.
 - (9) Appropriate licenses with the state shall be maintained.

(Ord. No. 2015-04, §§ 1—5, 12-7-15)

Sec. 66-326. - Assisted living and independent living facilities for seniors.

- (a) *Definitions.* When it is consistent with the context, the following use of words applies for purposes of this chapter:
- Senior housing.* An institution other than a hospital or hotel, which provides housing or room and board to non-transient persons primarily 60 years of age or older.
- (1) *Independent living.* A multiple-family housing form with full facilities for self-sufficiency in each individual dwelling unit.

- (2) *Assisted living.* A state licensed, dependent housing facility without cooking facilities in individual rooms with a central dining service.
 - (3) *Convalescent home.* A state licensed medical establishment providing accommodation and care for aged or infirmed persons, or for those who are bedfast or need considerable nursing care, but not including facilities for the treatment of sickness or injuries or facilities for surgical care. Commonly referred to as "nursing home."
- (b) *Purpose.* It is the intent of this section to establish standards for senior housing facilities while ensuring compatibility with adjacent land uses and maintaining the character of the neighborhood.
- (c) *General standards.* Independent living, assisted living, or convalescent homes shall be permitted after conditional land use approval upon a finding that the following minimum standards are met:
- (1) *General standards.*
 - a. All such facilities shall be developed on sites having a minimum area of three acres.
 - b. The proposed use will not produce adverse effects on the use or development of the surrounding area because of noise, traffic, type of physical activity, or any other reason.
 - c. Adequate accessibility is provided for transportation to medical services, shopping areas, recreational and other community services.
 - d. The site is reasonably well protected from excessive noise, air pollution, and other harmful physical influences and provides for a safe and secure environment for residents of the proposed development.
 - (2) *Minimum floor area per dwelling unit.* Each dwelling unit shall comply with the following minimum floor area requirements, excluding basements
 - a. Efficiency unit: 450 square feet.
 - b. One bedroom unit: 600 square feet.
 - c. Two-bedroom units: 750 square feet.
 - d. Each additional bedroom: 150 square feet.
 - (3) *Maximum density.* The maximum permitted density of dwelling units per acre shall be as follows:
 - a. Efficiency units and one-bedroom units: 12 units per acre.
 - b. Two-bedroom units: Ten units per acre.
 - c. Three- and four-bedroom units: Nine units per acre.
 - (4) *[Screening of delivery loading and service areas.]* Delivery loading and service areas and parking areas shall be screened from view of residentially zoned or used property.
 - (5) *Parking.* Parking requirements shall be as follows:
 - a. Senior assisted or independent living one space for each 0.65 dwelling units plus one space for each employee on the largest typical shift.
 - b. Convalescent facilities one space per each three beds or two rooms, whichever is less, plus one space for each employee on the largest typical shift.
 - c. Additional parking may be required by the planning commission when ancillary meeting and activity facilities are provided which generates a demand for parking beyond that which is normally required under subsection a.

(Ord. No. 2015-05, §§ 1—3, 12-7-15)

Sec. 66-327. - Bed and breakfast establishments.

- (a) *Definitions.* When it is consistent with the context, the following use of words applies for purposes of this chapter:

Bed and breakfast establishment is defined as a private residence that offers sleeping accommodations to lodgers in the innkeeper's principal residence and serves breakfast at no extra cost. The rented rooms do not contain cooking facilities and do not constitute separate dwelling units.

- (b) *Specific use regulations.* Bed and breakfast establishments subject to the following conditions:

- (1) Each premises must be occupied and operated by its owner or resident manager.
- (2) Not more than 35 percent of the total floor area of the dwelling unit shall be used for bed and breakfast sleeping rooms.
- (3) No bed and breakfast sleeping room shall be located in a basement or above the second story of the dwelling.
- (4) The stay of bed and breakfast occupants shall be no more than 14 consecutive days.
- (5) Adequate bath and toilet facilities shall be provided for all bed and breakfast guests.
- (6) Each sleeping room shall have a minimum floor area of 120 square feet.
- (7) One off-street parking space shall be provided for each room in a bed and breakfast operation. Parking spaces for bed and breakfast registrants shall be in addition to spaces required for the dwelling unit. "Stacked" parking spaces within an existing driveway can be counted toward the required off-street parking spaces.
- (8) No more than four occupants per room shall be allowed.
- (9) A premises containing a bed and breakfast operation shall comply with State of Michigan regulations for bed and breakfast operations, applicable fire safety regulations shall be regularly maintained so as to remain in compliance with all applicable codes and regulations. The applicant for a conditional use permit shall provide written evidence of inspection and compliance with applicable codes and regulations with an application for a conditional use permit.
- (10) Social events, such as: weddings, receptions, luncheons, cocktail parties, or any other function for which the bed and breakfast owner receives payment for the use of the facility and which is not a function for the personal use of the owner, their friends or relatives, may be allowed as part of the conditional use permit if the following constraints are met:
 - a. Amplified sound or music must meet village ordinances for light and sound.
 - b. Social events in residential zones are restricted to the hours of 10:00 a.m. to 11:00 p.m.

(Ord. No. 2015-06, §§ 1, 2, 12-7-15)

Sec. 66-328. - Accessory structures in through lots.

- (a) *Through lot.* A "through lot" shall be defined as any interior lot, other than a corner lot, having frontage on two or more streets.
- (b) *Set backs.* Accessory structures, on the street behind the principle structure, must be placed in the applicable rear yard setback of where a principle structure would otherwise be constructed, or in the setback average for the accessory structures in that block.

(Ord. No. 2015-07, §§ 1, 2, 12-7-15)

Secs. 66-329—66-499. - Reserved.

ARTICLE VI. - STANDARDS, REGULATIONS, AND PROCEDURES FOR SPECIAL ZONING DISTRICTS

Sec. 66-500. - Purpose.

This article provides standards, general regulations, and procedures for planned unit developments.

(Ord. No. 97-06, § 1, 6-2-97; Ord. No. 6 of 2007, § 12, 11-5-07)

Sec. 66-501. - Procedures.

(a) *Petition procedures.*

- (1) A petition for a planned unit development shall be for an amendment to the zoning ordinance. A petitioner shall have a substantial interest in the subject property prior to filing the petition. The petition shall be in the name of and signed by all record owners or their legal representatives. The petitioner shall provide evidence to the village of full ownership of the land in the petition, such as legal title or execution of a binding sales agreement prior to approval of the petition by the village council. To be eligible for a planned unit development, the applicant must present a proposal for development that meets each of the following:
 - a. The proposed development shall be under the control of one owner or group of owners and shall be capable of being planned and developed as one integral unit.
 - b. The site shall have significant natural or historic features which will be preserved through development under a planned unit development as determined by the planning commission or will provide a variety of housing types or a design which preserves common open space and/or provides special site features.
 - c. A proposed development shall result in a recognizable and substantial benefit, both to the residents of the property and to the overall quality of life in the village. The benefits can be provided through site design elements in excess of the requirements of this ordinance, such as: high quality architectural design, extensive landscaping, provision of transition areas from adjacent residential land uses, unique site design features, unified access, preservation of woodlands and open space, particularly along major thoroughfares, and buffering development from lakes, rivers, streams, and wetlands. This benefit should accrue, in spite of any foreseeable detriments of the proposed development.
 - d. The applicant shall guarantee to the satisfaction of the planning commission that all open space portions of the proposed development will be maintained in the manner approved. Documents shall be presented that bind all successors and future owners in fee title to commitments made as a part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the village and the land uses continue as approved.
 - e. The site shall be served by public storm sewers, public sanitary sewers and public water systems.
- (2) The petition shall be filed with the village clerk, who shall transmit a copy of the petition to the planning commission secretary. The petition shall be filed in adequate time to meet publication requirements for the public hearing. Notice shall be given as outlined in section 66-92 of this chapter. Fees which shall be set from time to time by resolution of the village council shall be paid at the time of filing; no transmittals may be made unless the required fees have been paid.
- (3) Upon receipt of the petition from the clerk, the planning commission shall complete a study of the petition within 65 days of receipt.
- (4) At the public hearing the petitioner shall present evidence regarding the following characteristics of the proposed development:
 - a. General character and substance.
 - b. Objectives and purposes to be served.

- c. Compliance with regulations and standards.
- d. Scale and scope of proposed development.
- e. Economic feasibility of the proposed development.
- f. Community impact, in terms of streets, traffic, schools, recreation facilities, costs and revenues, and utility systems.
- g. Environmental impact assessment.
- h. Development schedules.
- i. Compliance with policies in the general development plan.

Factual evidence and expert opinion may be submitted by the petitioner in the form of maps, charts, reports, models, and other materials, and in the form of testimony by experts as will clearly state for the record the nature and extent of the proposed development. Ten copies of materials shall be submitted in at least ten days prior to the public hearing for review by the public, planning commission and other officials.

- (5) The planning commission shall submit a report on the petition to the village council. The report shall contain the commission's analysis of the petition, its findings regarding the standards in this article, recommended conditions of approval, if approval is recommended, and recommended action.
- (6) The village council shall publish notice of the public hearing at least 15 days prior to the hearing.
- (7) The village council shall hold a public hearing on the petition. The petitioner shall present the evidence in subsection (4), preceding, at the council public hearing.
- (8) The village council shall act on the petition as it would any amendment to the zoning ordinance.
- (9) Within 30 days of approval of the petition, the village manager shall accurately note, and the village clerk shall attest, the amendment on the official zoning map.

(b) *Information required for a petition.*

- (1) Name and address of the petitioner.
- (2) Petitioner's interest in the property; if not the owner, names and addresses of all owners.
- (3) Date of filing with the village clerk's office.
- (4) Signatures of petitioners and all owners, certifying the accuracy of the required information.
- (5) Preliminary site plan signed and sealed by a professional architect containing the following information:
 - a. The information required in subsections 66-307(d)(3)a through 1, o, q, r, t, u, and w.
 - b. Existing topography at one-foot contour intervals, based on USGS datum.
 - c. Proposed streets and driveways, width of rights-of-way or easements, surface type and width.
 - d. General proposed utility layout of sanitary sewer, water, and stormwater systems.
 - e. Density of use for each use area.
 - f. Location, size and use of common areas and open space.
 - g. General description of the organization that will own and maintain, common areas and open space.
 - h. General description of covenants, master deeds, easements, or other restrictions to be imposed on land or buildings.

- i. Description of the petitioner's intentions to sell or lease land and buildings.
- j. General landscape concepts showing tree areas to be preserved or added, berms, ponds, and similar features.
- k. Delineation of areas to be subdivided under the Subdivision Control Act or the Condominium Act.
- l. Identification of condominium units, and limited and general common elements in condominium areas.
- m. Average initial sales prices and average initial rents for dwelling units.

Information requirements may be modified in accordance with subsection 66-307(b), or by other reasonable requirements to meet the particular needs of the individual petition, such as a historic review in the case of historic structures.

- (c) The planning commission shall determine, and shall provide evidence of its findings in its report to the village council, that the petition meets the following standards:
 - (1) The proposed development shall conform to the general development plan, or represents land use policy that, in the planning commission's opinion, is a logical and acceptable change in the existing zoning for the site.
 - (2) The proposed development shall conform to the intent, regulations, and standards for a planned unit development in the zoning ordinance.
 - (3) The proposed development shall be adequately served by public facilities and services such as streets, police and fire protection, drainage, water and sanitary sewer services, sidewalks and refuse disposal.
 - (4) Common open space, other common areas, and all other elements of the project shall be so planned that they will create a unified open and recreation area system, with open space and all other elements in appropriate locations, properly related to each other, the site, and the surrounding land.
 - (5) The petitioner shall have made provision through written agreement, easement or otherwise, for the dedication of the common or public areas to assure that areas shown on the area plan for common or public use have been or will be irrevocably committed for that purpose. Provision shall be made to provide financing of improvements shown on the area plan for open space or other common areas, and to assure regular maintenance of the improvements.
 - (6) The location of proposed uses, layout of the site, and its relation to streets giving access to it, shall be such that traffic to, from, and within the site will not be hazardous or inconvenient to the project or the neighborhood.
 - (7) The mix of dwelling unit types and densities, and the mix of residential and nonresidential uses, shall be acceptable in terms of convenience, privacy, compatibility, and similar measures.
 - (8) Where applicable, noise, odor, light, or other external effects from any source that are created by the proposed uses will not adversely affect adjacent and neighboring lands and uses.
 - (9) The proposed development will create a minimum disturbance to existing natural features and land forms, historical features and structures, surface and underground water bodies and the basic integrity of the land.
 - (10) Streets shall follow topography, be properly spaced, and be located and aligned in accordance with the intended function of each street. The property shall have adequate access to public streets and shall provide suitable street connections to adjacent lands, where applicable.
 - (11) Pedestrian circulation shall be provided for within the site, and shall interconnect all residential and community areas. The pedestrian system shall provide a logical extension of pedestrian ways and sidewalks from outside the site and shall provide pedestrian connections to the edges of the site for future interconnections, where applicable.

- (12) The village may impose additional reasonable conditions when applicable (a) to ensure that public services and facilities affected by a special district will be capable of accommodating increased service and facility loads caused by the special district; (b) to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent land uses, (c) to preserve and protect the historic nature and quality of the site and surrounding area, and (d) to promote the use of the land in a socially and economic desirable manner.
- (d) *Effects of approval of a petition.* Approval of a petition for a planned unit development shall have the following effects:
- (1) Approval shall confer a right to the petitioner, for a period of three years from the date of approval, that existing zoning regulations as they apply to the property in the approved petition will remain unchanged, provided that subsequent development of the site is diligently pursued within this time period.
 - (2) Approval shall indicate the village council's and planning commission's acceptance of the uses, building locations, street layout, numbers and types of dwelling units, floor areas, densities, and other elements of the petition.
 - (3) Approval shall permit the petitioner or successor to file an application for final site approval for all the property in the district or the first phase of development. Final site plans shall not be required for an area that is to be platted for single-family detached residential use.
 - (4) Approval shall authorize an applicant to file a preliminary plat for tentative approval for areas of the petition that are to be subdivided or submit a site plan as a site condominium.
 - (5) No deviations from the area plan in an approved petition for a planned unit development shall be permitted except as provided in this article.

(Ord. No. 97-06, § 1, 6-2-97; Ord. No. 6 of 2007, § 13, 11-5-07)

Secs. 66-502—66-504. - Reserved.

Sec. 66-505. - Continuing applicability of regulations.

The location of uses and structures, mixtures of uses, yards and transition or buffer strips, and all other information regarding use of property in an approved petition for a planned unit development, and site plans and subdivision plats approved subsequently thereto, and all conditions of the approved petition, shall have the full force and permanence of the zoning ordinance as though such regulations were specifically set forth in the ordinance. Compliance with the approved regulations were specifically set forth in the ordinance. Compliance with the approved petition shall be the continuing obligation of any subsequent interest in the property in a planned unit development and shall not be changed except as provided in this article. A property that has been zoned as a planned unit development shall not thereafter be developed or used in any manner except in accordance with the approved petition.

(Ord. No. 97-06, § 1, 6-2-97; Ord. No. 6 of 2007, § 14, 11-5-07)

Sec. 66-506. - Construction.

No construction, grading, tree removal, soil stripping, or other site improvements or changes may commence, and no permit shall be issued therefor, on a property that is under petition for amendment to a planned unit development, until use of the requirements of this article have been met and the approved amendment has taken effect.

(Ord. No. 97-06, § 1, 6-2-97; Ord. No. 6 of 2007, § 15, 11-5-07)

Sec. 66-507. - Phasing of development.

Development within a planned unit development may be phased as delineated on the area plan. A phase shall not depend on a subsequent phase for safe and convenient vehicular or pedestrian access, adequate public utility services, or open space and recreational facilities. Each phase shall be capable of substantial occupancy, operation, and maintenance upon completion of development of that phase.

(Ord. No. 97-06, § 1, 6-2-97; Ord. No. 6 of 2007, § 16, 11-5-07)

Sec. 66-508. - Circulation and access.

- (a) Each lot or principal building shall have vehicular access from a public street or a private street approved by the village council.
- (b) Each lot or principal building shall have pedestrian access from a public or private sidewalk where deemed necessary by the village council, upon recommendation by the planning commission. All parts of a planned unit development shall be connected by a sidewalk or pedestrian path system which will provide safe and convenient movement of pedestrians. A bicycle path system shall also be provided and may be part of the sidewalk or pedestrian path system.
- (c) Public and private streets shall be designed and constructed according to established standards for public streets. If, in the future, a private street in a planned unit development is to be dedicated to the public, the owners shall pay the full expense of reconstruction or any other action required to make the street suitable for public acceptance.

(Ord. No. 97-06, § 1, 6-2-97; Ord. No. 6 of 2007, § 17, 11-5-07)

Sec. 66-509. - Utilities.

In addition to meeting the building, mechanical, plumbing and electrical code requirements of the village:

- (1) Each principal building shall be connected to public water and sanitary services;
- (2) Storm water retention shall be constructed in accordance with village standards.
- (3) Electrical, telephone, and cable television lines shall be underground, unless otherwise approved by the village council, upon recommendation by the planning commission.

(Ord. No. 97-06, § 1, 6-2-97)

Sec. 66-510. - Open space regulations.

- (a) Buildings, parking lots, drives, and similar improvements may be permitted in open space areas if related and necessary to the functions of the open space. Other buildings and improvements shall be prohibited.
- (b) Open space areas shall be distributed throughout the petition area and shall be reasonably located with respect to natural features and residential areas.
- (c) Open space areas shall have minimum dimensions that are suitable for the functions intended and that will be maintainable.
- (d) Natural features, such as woods, stream corridors, and wetlands, shall be preserved to the maximum feasible extent as part of the open space system.

(Ord. No. 97-06, § 1, 6-2-97)

Sec. 66-511. - Parking regulations.

The parking and loading requirements in section 66-304 shall apply except that the number of off-street spaces required may be reduced, and the width of spaces may be reduced to not less than nine feet, if approved by the village council, upon recommendation by the planning commission. A reduction shall be justified by the petitioner and shall be based on a finding that sufficient parking will be available by sharing of spaces by two or more uses, in village parking lots, or that the parking requirement is excessive for the type of use proposed.

Pavement area that is saved by reducing the number or width of parking spaces shall be put into landscape or open space areas within the property in the petition.

(Ord. No. 97-06, § 1, 6-2-97)

Sec. 66-512. - Density calculations.

- (a) Land areas to be used in calculating gross densities, lot coverages (LC), and floor area ratios (FAR) shall each be delineated on the area plan.
- (b) The land area used for calculating gross residential density shall include the total residential land area designated on the area plan, less any area within existing public street rights-of-way.
- (c) The surface area of lakes, streams, ponds, wetlands and similar areas may be included in the area used in calculating density if at least 50 percent of the frontage of such areas is part of lands devoted to open space used for and accessible to residents or tenants of the development.
- (d) Lot coverage and floor area ratio calculations for residential structures shall be based on the acreage designated for calculating gross residential density, LC and FAR calculations for nonresidential structures shall be based on land areas that include the structures, drives, parking and loading areas, open spaces around the structures, landscape areas, and similar areas, but not including acreage in existing public street rights of way.
- (e) Land used to provide acreage to meet density regulations in one part of the district shall not be used to compute density in another part of the development.

(Ord. No. 97-06, § 1, 6-2-97)

Sec. 66-513. - Common areas and facilities.

- (a) The location, extent, and purpose of common areas and facilities shall be identified on the area plan and on each site plan and plat. Such areas and facilities that are to be conveyed to a public agency shall also be defined.
- (b) Public areas and facilities that are to be dedicated to a public agency shall be accepted by that agency prior to approval of a final site plan or final plat by the village council, unless a binding agreement for dedication is provided in lieu of dedication.
- (c) Legal instruments setting forth a plan or manner of permanent maintenance of common areas and facilities shall be submitted to the village manager for review as to legal form and effect, and to the village council or planning commission, whichever is applicable, for review as to the suitability for meeting public interests. The instruments shall become a part of the approval final site plan or final plat, whichever is applicable.

(Ord. No. 97-06, § 1, 6-2-97)

Sec. 66-514. - Site plan requirements.

A site plan shall be approved for each phase of planned unit development as delineated on the area plan. Each site plan shall be submitted and reviewed in accordance with section 66-307, and shall meet all applicable provisions of that section.

(Ord. No. 97-06, § 1, 6-2-97; Ord. No. 6 of 2007, § 18, 11-5-07)

Sec. 66-515. - Amendment and revision.

- (a) A petitioner or successor in the property may request a change in an approved planned unit development or in site plans or plats approved subsequently thereto. A change in an approved site plan or plat that results in a major change in the approved planned unit development shall first require an amendment to the approved zoning district. Amendments shall follow the procedures and conditions required for original submittal and review.
- (b) A request for a change shall be made in writing to the village council and shall state the reasons for the request. The reasons may be based on considerations such as changing social or economic conditions, potential improvements in layout or design, unforeseen difficulties, or reasons mutually affecting the village and developer, such as technical causes, site conditions, state or federal projects, and statutory revisions. The council, upon finding the reasons and request reasonable, shall notify the applicant in writing. Following payment of the appropriate fee, the developer shall submit the required information for review.
- (c) Changes to be considered major, for which amendment is required shall include one or more of the following:
 - (1) Change in concept of the development.
 - (2) Change in use or character of the development.
 - (3) Change in type of dwelling unit.
 - (4) Increase in number of dwelling units.
 - (5) Change in nonresidential floor area of more than five percent.
 - (6) Change in lot coverage or floor area ratio for the entire district or more than one percent.
 - (7) Rearrangement of lots, blocks, or building tracts.
 - (8) Change in the character or function of any street.
 - (9) Reduction in land area for common open space or relocation thereof.
 - (10) Increase in building heights.
- (d) A developer may request village council approval of minor changes in an approved planned unit development or site plans or plats approved subsequently thereto. The village council shall refer to a site plan or plat that is affected by the minor change to the planning commission for review and recommendation.
- (e) Minor changes shall be those not covered by subsection 66-515(c).
- (f) The village council shall have the authority to determine if a requested change is major or minor, in accordance with this section. The burden shall be on the applicant to show good cause for a requested change.

(Ord. No. 97-06, § 1, 6-2-97; Ord. No. 6 of 2007, § 19, 11-5-07)

Sec. 66-516. - Expiration of plan approvals.

- (a) An area plan shall expire 18 months after approval of the planned unit development by the village council unless a site plan or preliminary plat for tentative approval is filed for the first phase of the project, or for the entire property if the development is not to occur in phases, is filed for village approval.
- (b) In development of two or more phases, site plans for all phases in a special zoning district shall have been approved by the village council within five years of the date of approval of the special zoning district. All final plats in the district shall have been approved and recorded within the five-year period.
- (c) Expiration of the area plan as provided in subsections (a) and (b), preceding, or failure to obtain approvals as provided in subsection (b), preceding, shall authorize the village council to revoke the right to develop under the area plan of the approved planned unit development, after a hearing, and unless good cause can be shown for the expiration. In such case the village council may require that a new area plan be filed and reviewed in accordance with the requirements for an original petition. Expiration shall also authorize the village council to initiate a zoning amendment to place the property into one or more zoning districts deemed by the council to be appropriate. Expiration of an area plan shall be noted on the official zoning map and shall be signed by the village manager and attested by the village clerk. The zoning inspector shall notify the village clerk of expiration of an area plan.
- (d) Approval of a site plan in a planned unit development shall expire as provided in subsection 66-307(h), herein. Expiration shall authorize the village council to require filing and review of a new site plan.
- (e) Development shall be completed within two years of the date of approval of a site plan. If development is not completed the village council shall not review or approve a site plan for a subsequent phase of the planned unit development unless good cause can be shown for the lack of completion.
- (f) If an area plan or an approved site plan has expired, no permits for any development of the property in the planned unit development shall be issued until the applicable requirements of this section have been met.

(Ord. No. 97-06, § 1, 6-2-97; Ord. No. 6 of 2007, § 20, 11-5-07)

Sec. 66-517. - Extension of time limits.

Time limits in this article may be extended upon showing of good cause, by written agreement between the applicant and the village council.

(Ord. No. 97-06, § 1, 6-2-97)

Sec. 66-518. - Performance guarantees.

Performance guarantees shall be provided in accordance with section 66-307(g), herein.

(Ord. No. 97-06, § 1, 6-2-97)

Sec. 66-519. - Violations.

- (a) A petition or site plan approved under this article shall have the full force of the zoning ordinance. Any violation of the terms of an approved planned unit development or plan for property within a planned unit development shall be grounds for the village council to order that all construction be stopped, and to order that building permits and certificates of occupancy be withheld until the violation is removed, or adequate guarantee of removal is provided to the village council.
- (b) Violations of any approvals under this article, or failure to comply with any requirements of this article, including any agreements or conditions, shall be considered a violation of this ordinance as provided in section 66-37, herein.

(Ord. No. 97-06, § 1, 6-2-97; Ord. No. 6 of 2007, § 21, 11-5-07)

APPENDIX A - FRANCHISES

The following franchise has been granted by the village:

Franchisee	Ord. No.	Date	Term
Consumers Power Company	75-1	7-16-75	30 years

CODE COMPARATIVE TABLE - ORDINANCES

This is a chronological listing of the ordinances of the village used in this Code. Repealed or superseded laws at the time of the codification and any omitted materials are not reflected in this table.

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