CODE OF ORDINANCES
VILLAGE OF
FOWLERVILLE, MICHIGAN

Published in 1999 by Order of the Village Council

Adopted: February 15, 1999

Effective: March 15, 1999

Municipal Code Corporation P.O. Box 2235 Tallahassee, FL 32316
info@municode.com 800.262.2633 www.municode.com

CURRENT OFFICIALS

of the

VILLAGE OF

FOWLERVILLE, MICHIGAN

(2017)

Carol Hill
Village President

Jerry Bell
Ken Bielous
Everett DeGrush
Kathryn Heath
Theresa Mailloux
Scott Schultheis
Village Council

David Stoker
Village Attorney

_____

Kathryn M. Arledge
Village Clerk and Manager

_____

Michelle Lamb
Village Treasurer

OFFICIALS

of the

VILLAGE OF

FOWLERVILLE, MICHIGAN

AT THE TIME OF THIS CODIFICATION

_____

Julie R. Woodward
Village President

_____

Larry Clark
Joyce Campbell
Terri L. McGarry
Jim Martin
Mike Stock
Marjorie Carlon
Village Council

_____

John B. Hyden
Village Manager

_____

David Stoker
Village Attorney

_____

Laura A. Eisele
Village Clerk

_____

Linda Tesch
Village Treasurer

PREFACE

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

Source materials used in the preparation of the Code were the 1979 Compilation of Ordinances, as supplemented through Ordinance Number 289, effective December 12, 1993, and ordinances subsequently 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 tables appearing in the back of this Code, the reader can locate any section of 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:

CODE	CD1:1
CODE APPENDIX	CDA:1
CODE COMPARATIVE TABLES	CCT:1
STATE LAW REFERENCE TABLES	SLT: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 Chantal Parker, Supervising Editor, and Jody Wilson, 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 Laura Eisele, Village Clerk and David Stoker, Village Attorney, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their 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

ORDINANCE NO. 337

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE VILLAGE OF FOWLERVILLE, MICHIGAN; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING FOR THE AMENDMENT OF THE UNIFORM TRAFFIC CODE; 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.

THE VILLAGE OF FOWLERVILLE ORDAINS:

Section 1. The Code entitled "Code of Ordinances, Village of Fowlerville, Michigan," published by Municipal Code Corporation, consisting of chapters 1 through 90, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before November 9, 1998, 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. The following code was amended and incorporated in the Code of the Village of Fowlerville, Michigan. One copy of this code is on file in the village clerk's office:

The Uniform Traffic Code for Cities, Townships and Villages, promulgated by the director of state police and published in the 1979 edition of the Michigan Administrative Code and amendments as published in the Quarterly Supplement No. 5 to the 1979 edition of the Michigan Administrative Code, in accordance with Act No. 62 of the Public Acts of Michigan of 1956 (MCL 257.951 et seq., MSA 9.2651 et seq.), as adopted and amended by Code section 78-28.

Section 5. 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 of not more than $500.00 or imprisonment for not more than 90 days, or both. 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 may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

Section 6. 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 7. Ordinances adopted after November 9, 1998, 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 8. This ordinance shall become effective 20 days from and after its publication. Village President Julie Woodward Village Clerk Laura A. Eisele

Adopted by Council 2-15-99

Published 2-22-99

Effective 3-15-99

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 "Includes." Ordinances that are not of a general and permanent nature are not codified in the Code Book and are considered "Omits."

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.

Ord. No.	Date Adopted	Include/ Omit	Supp. No.
Supp. No. 9			
415	9-13-2010	Include	9
416	1-31-2011	Include	9

417	2-14-2011	Include	9
418	3-14-2011	Include	9
419	3-28-2011	Include	9
420	5-23-2011	Omit	9
Supp. No. 10			
421	7- 5-2011	Include	10
422	7-18-2011	Include	10
423	7-18-2011	Include	10
424	9-12-2011	Include	10
425	10-24-2011	Include	10
Supp. No. 11			
426	4- 9-2012	Include	11
427	5-21-2012	Include	11
428	7-30-2012	Include	11
Supp. No. 12			
429	1-28-2013	Include	12
430	2-25-2013	Include	12
431	4-22-2013	Include	12
432	6- 3-2013	Include	12
Supp. No. 13			
433	7- 1-2013	Include	13
434	7-15-2013	Include	13
Supp. No. 14			
435	11- 4-2013	Include	14
436	12-16-2013	Include	14
437	1-27-2014	Include	14
438	1-27-2014	Include	14
439	1-27-2014	Include	14
440	1-27-2014	Include	14
441	2-10-2014	Include	14
Supp. No. 15			
442	2-24-2014	Include	15
443	2-24-2014	Include	15
444	6-16-2014	Include	15
445	3-24-2014	Omit	15
446	9-22-2014	Include	15
Supp. No. 16			
447	1-26-2015	Include	16
448	2- 9-2015	Omit	16
Supp. No. 17			
449	5-18-2015	Include	17
450	9- 8-2015	Omit	17
Supp. No. 18			
451	10-19-2015	Include	18
452	10-19-2015	Include	18

Supp. No. 19			
453	5-16-2016	Include	19
Supp. No. 20			
454	4- 3-2017	Include	20
455	5-30-2017	Include	20
456	5-30-2017	Include	20
Supp. No. 21			
457	7-10-2017	Include	21
458	7-24-2017	Include	21
459	7-24-2017	Include	21
460	7-24-2017	Include	21
461	8- 7-2017	Include	21
462	8-21-2017	Include	21
463	11-13-2017	Include	21
Supp. No. 22			
464	1- 8-2018	Include	22
465	6-11-2018	Include	22
Supp. No. 23			
466	11-12-2018	Include	23
467	11-12-2018	Omit	23
468	11-12-2018	Omit	23
469	11-12-2018	Include	23
470	11-12-2018	Include	23
Supp. No. 24			
471	11-26-2018	Include	24
472	12-23-2019	Include	24
473	12-23-2019	Include	24
474	12-23-2019	Omit	24
Supp. No. 25			
475	5-26-2020	Omit	25
476	6-22-2020	Include	25
477	6-22-2020	Include	25
477	1-18-2021	Include	25
Supp. No. 26			
478	2- 1-2021	Include	26
479	2- 1-2021	Include	26
480	2-15-2021	Include	26
481	4-12-2021	Include	26

Chapter 1 GENERAL PROVISIONS

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

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

State law reference(s)—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 village council, 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 thereto, the following rules and definitions shall be observed, unless the context clearly indicates otherwise:

Code. The term "this Code" or "Code" shall mean the Code of Ordinances, Village of Fowlerville, 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; when the time is expressed in hours, the whole of Sunday or a legal holiday, from 12:00 midnight to 12:00 midnight, shall be excluded if the time period expires on a Sunday or a legal holiday.

County. The term "the county" or "this county" shall mean the County of Livingston in the 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.

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 phrase "of the Village of Fowlerville, Michigan." Whenever by the provisions of this Code any village officer 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.

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 Acts. All references to "Public Acts" are references to the Public Acts of Michigan. (For example, a reference to Public Act No. 279 of 1909 is a reference to Act No. 279 of the Public Acts of Michigan of 1909.) Any reference to a public act, whether by act number or by short title is a reference to the act as amended.

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.

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. Terms 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 Fowlerville, Michigan.

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

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

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, nor 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. 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 the section.

Sec. 1-5. References and editor's notes.

The references and editor's notes following certain sections of the Code are inserted as an aid and guide to the reader and are not controlling or meant to have any legal effect.

Sec. 1-6. Certain provisions saved from repeal.

(a) Nothing in this Code or the ordinance adopting this Code, when not inconsistent with this Code, shall affect the following:

(1) Any ordinance affecting the boundaries of the village.

(2) Any ordinance relating to any specific local improvement.

(3) Any ordinance authorizing, directing or ratifying any purchase or sale.

(4) Any ordinance approving or accepting any subdivision or plat.

(5) Any ordinance authorizing or directing the issuance of any bonds or other evidence of indebtedness.

(6) Any ordinance authorizing or directing the making of any investment.

(7) Any ordinance making or otherwise affecting any appropriations.

(8) Any ordinance levying or otherwise affecting any taxes, not inconsistent with this Code.

(9) Any ordinance relating to franchises.

(10) Any ordinance prescribing traffic regulations, including through streets, speed limits, one-way traffic, limitations on load of vehicles or loading zones.

(11) Any ordinance regarding special districts.

(12) Any ordinance pertaining to zoning or rezoning.

(13) Any regulations pertaining to personnel.

(14) Any temporary or special ordinances.

(15) Any administrative ordinance.

(b) All such ordinances are 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 manager. No offense committed or penalty incurred or any right established prior to the effective date of this Code shall be affected.

Sec. 1-7. Effect of repeal of ordinances.

(a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, or any suit, prosecution, or proceeding pending at the time of the repeal, for an offense committed or cause of action arising under the ordinance repealed.

Sec. 1-8. Severability.

If any provision or section of this Code shall be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions or sections of this Code, 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. 1-9. Amendments to Code.

(a) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section _____ of the Code of Ordinances, Village of Fowlerville, Michigan (or Fowlerville 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 Fowlerville, Michigan (or Fowlerville 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 Fowlerville, Michigan (or Fowlerville Village Code), is hereby amended by deleting a section, numbered _____."

Sec. 1-10. 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. 1-11. Altering Code.

It shall be unlawful for any person 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 Code to be misrepresented thereby. Any person violating this section shall be punished as provided in section 1-12.

Sec. 1-12. General penalty for violation of Code; continuing violations.

(a) Unless another penalty is expressly provided by this Code for any particular provision or section, every person convicted of a violation of any provision of this Code or any rule or regulation adopted or issued in pursuance of this Code shall be punished by a fine of not more than $500.00 and costs of prosecution or by imprisonment for not more than 90 days or by both such fine and imprisonment. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any section of this Code, whether or not such penalty is reenacted in the amendatory ordinance.

(b) In addition to the penalty prescribed in subsection (a) of this section, the village may pursue other remedies such as enforcement of a civil infraction, abatement of nuisances, injunctive relief and revocation of licenses or permits.

State law reference(s)—Limitation on penalties, MCL 66.2, MSA 5.1272.

Sec. 1-13. General sanction for municipal civil infractions.

(a) As used in this section, the term "violation" includes any act which is prohibited or made or declared to be unlawful or an offense by this Code or any village ordinance, and any omission or failure to act where the act is required by this Code or any village ordinance.

(b) Unless otherwise specifically provided by any section of this Code or any village ordinance, for a particular municipal civil infraction violation the civil fine for a violation shall be $50.00 for each infraction.

(c) Increased civil fines shall be imposed for repeated violations by a person of any requirement or provision of any section of this Code or any ordinance. As used in this subsection, the term "repeat offense" means a second or any subsequent municipal civil infraction violation of the same requirement or provision (i) committed by a person within any six-month period, unless some other period is specifically provided by any section of this Code or any ordinance, and (ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by any section of this Code or any ordinance for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be as follows:

    (1) For any offense which is a first repeat offense, the fine shall be $250.00.

    (2) For any offense which is a second repeat offense or any subsequent repeat offense, the fine shall be $500.00.

    (3) A copy of the schedule, as amended from time to time, shall be posted at the municipal ordinance violations bureau.

(d) Each day on which any violation of any section of this Code or village ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(Ord. No. 301, § 7(a)(1), (2), eff. 12-31-1995)

Chapter 2 ADMINISTRATION[1]

ARTICLE I. IN GENERAL

[1]Cross reference(s)—Any administrative ordinance saved from repeal, § 1-6(15); administration of Greenwood cemetery, § 26-61 et seq.; downtown development authority, § 30-26 et seq.; municipal civil infractions, ch. 50; planning, ch. 62; parking violations bureau, § 78-71 et seq.; utilities, ch. 82; administration and enforcement of zoning regulations, app. A, ch. 4.

State law reference(s)—Freedom of Information Act, MCL 15.231 et seq.; Open Meetings Act, MCL 15.261 et seq.; standards of conduct and ethics, MCL 15.341 et seq.

Sec. 2-1. Nonpartisan elections.

In accordance with authority granted pursuant to Chapter III Elections, Section 3, of the Village Charter (being MCL 63.3), all village elections for village council members and officers shall be nonpartisan. This Code of Ordinances section shall be effective for all village elections beginning with the first village election for which the nomination deadline is not less than 30 days after July 5, 1999.

(Ord. No. 341, § 1, 6-7-1999)

Secs. 2-2—2-25. Reserved.

ARTICLE II. VILLAGE COUNCIL[2]

Sec. 2-26. Compensation of president.

Effective July 1, 2017, the president of the village council shall be paid $264.92 for each regular meeting of the village council attended. The amount shall thereafter be annually increased, effective July 1 of each year, by the same percentage that the state determines the taxable value of property may be adjusted under article 9, section 3, of the state constitution, being the increase in the general price level for the prior year or five percent, whichever is less. Payment shall be made monthly from the village's general fund.

(Ord. No. 202, § 1, eff. 12-9-1977; Ord. No. 252, eff. 3-7-1988; Ord. No. 315, § 1, eff. 8-25-1996; Ord. No. 429, § 1, 1-28-2013; Ord. No. 443, § 1, 2-24-2014, eff. 11-19-2014; Ord. No. 455, § 1, 5-30-2017)

Sec. 2-27. Compensation of trustees.

Effective July 1, 2017, the trustees of the village council shall be paid $113.53 for each regular meeting of the village council attended by them, respectively, during their term of office. The amount shall thereafter be annually increased, effective July 1 of each year, by the same percentage that the state determines the taxable value of property may be adjusted under article 9, section 3, of the state constitution, being the increase in the general price level for the prior year or five percent, whichever is less. Payment shall be made monthly from the village's general fund.

(Ord. No. 202, § 2, eff. 12-9-1977; Ord. No. 252, eff. 3-7-1988; Ord. No. 315, § 2, eff. 8-25-1996; Ord. No. 455, § 2, 5-30-2017)

Sec. 2-28. Meeting attendance of trustee required for compensation.

In no case shall a trustee of the village council receive compensation for any meeting not actually attended.

(Ord. No. 202, § 4, eff. 12-9-1977)

[2]State law reference(s)—Village council, MCL 65.1 et seq.; powers of council, MCL 67.1 et seq.

Sec. 2-29. Additional compensation.

The president and trustees of the village council shall receive no other compensation for services performed for and on behalf of the village.

(Ord. No. 202, § 3, eff. 12-9-1977)

Sec. 2-30. Compensation of officers prescribed by council.

All other village officers, except where other provisions are regulated by statute, shall receive such compensation as the village council shall prescribe.

(Ord. No. 202, § 5, eff. 12-9-1977)

Sec. 2-31. Effective date of changes in compensation.

Compensation for village officers shall take effect as prescribed by the Village Charter. Ordinance amendments providing for changes in compensation shall be applicable prospectively from the amending ordinance's effective date only.

(Ord. No. 202, § 7, eff. 12-9-1977; Ord. No. 252, eff. 3-7-1988)

Sec. 2-32. Council terms of office and election.

(a) Three village trustees shall be elected for a term of four years, and until their successors are qualified, at each biennial village election to be held with the even year November general election; as provided in Ch. II, § 5 of the amended Village Charter (General Law Village Act 3 of 1895, being MCL 62.5, as amended). The term of office for a trustee elected at the village's regular election begins on November 20 after the trustee's election and qualification.

(b) The village president shall be elected for a term of two years, and until his or her successor is qualified, at each biennial village election to be held with the even year November general election; as provided in Ch. II, § 4 of the amended Village Charter (General Law Village Act 3 of 1895, being MCL 62.4, as amended). The term of office for the village president elected at the village's regular election begins on November 20 after the village president's election and qualification.

(Ord. No. 371, § 1, 10-4-2004; Ord. No. 441, § 1, 2-10-2014)

Secs. 2-33—2-60. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES[3]

DIVISION 1. GENERALLY

[3]Cross reference(s)—Regulations pertaining to personnel saved from repeal, § 1-6(13).

State law reference(s)—Village officers, MCL 62.1 et seq.; duties of officers, MCL 64.1 et seq.

Sec. 2-61. Appointment of village clerk.

The office of village clerk shall be an appointed position, with the office being filled through the recommendation of the village manager and the appointment to be made by the village council. The appointed village clerk shall serve at the pleasure of council, and shall serve until the clerk's successor is appointed and qualified. The village manager shall be responsible for the recruitment, supervision, discipline and discharge of the village clerk, subject to the village council's approval. The village clerk will report and be responsible to the village manager for the official functions and activities of the clerk's position and for the day-to-day operations of the department and office, except as otherwise expressly required by state law.

(Ord. No. 338, § 1, 3-1-1999; Ord. No. 374, § 1, 4-18-2005)

Sec. 2-62. Appointment of village treasurer.

The office of village treasurer shall be an appointed position, with the office being filled through the recommendation of the village manager and the appointment to be made by the village council. The appointed village treasurer shall serve at the pleasure of council, and shall serve until the treasurer's successor is appointed and qualified. The village manager shall be responsible for the recruitment, supervision, discipline and discharge of the village treasurer, subject to the village council's approval. The village treasurer will report and be responsible to the village manager for the official functions and activities of the treasurer's position and for the day-to-day operations of the department and office, except as otherwise expressly required by state law.

(Ord. No. 342, § 1, 8-2-1999; Ord. No. 374, § 2, 4-18-2005)

Secs. 2-63—2-85. Reserved.

DIVISION 2. VILLAGE MANAGER[4]

Sec. 2-86. Position created.

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 II of Public Act No. 3 of 1895 (MCL 62.2), as amended, which is the Village Charter, there is created the position of village manager.

(Ord. No. 192, § I, eff. 10-13-1975)

Sec. 2-87. Appointment.

(a) The village council may authorize the employment of a village manager when it deems the filling of such position is in the best interest of the village. When the council has authorized employment of a village manager, the council shall, within 90 days of the effective date of such authorization or within 90 days after a vacancy exists in the position, employ a village manager. The village manager shall serve at the pleasure of the council and may be removed when the council deems it to be in the best interest of the village.

[4]State law reference(s)—Village manager, service, powers and duties, MCL 65.8.

(b) When the village council has not authorized the employment of a village manager, the village president shall assume the duties of the village manager as provided under Charter Sections 64.1, 64.2, and 64.3 (MCL 64.1—64.3), including expressly the duties and responsibilities of the village manager as established within the Code of Ordinances, Village of Fowlerville, Michigan. The village president may, with the concurrence of the village council, delegate some of these responsibilities to other village employees or contractors.

(Ord. No. 192, § II, eff. 10-13-1975; Ord. No. 219, eff. 11-9-1983; Ord. No. 429, § 2, 1-28-2013; Ord. No. 444, § 1, 6-16-2014)

Sec. 2-88. Vacancies; appointment of acting manager.

(a) When a vacancy exists in the office of village manager and the village council has authorize the employment of a village manager, the manager's responsibilities shall be assumed by the village president until the position is filled. The village president may, with the concurrence of the village council, delegate some or all of these responsibilities to other village employees or contractors during the period of vacancy.

(b) The village council may appoint or designate an acting manager during the period of a vacancy in the office of village manger or during the absence of the manager from the village.

(Ord. No. 192, § IV, eff. 10-13-1975; Ord. No. 293, § 5, eff. 7-21-1994; Ord. No. 429, § 3, 1-28-2013; Ord. No. 444, § 2, 6-16-2014)

Sec. 2-89. Compensation.

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

(Ord. No. 192, § III, eff. 10-13-1975; Ord. No. 193, eff. 10-13-1975; Ord. No. 229, eff. 2-14-1985; Ord. No. 236, eff. 4-27-1986)

Sec. 2-90. Powers.

The village manager shall be the chief administrative officer of the village and shall be responsible to the village council for the efficient administration of all affairs of the village and all departments as authorized by section 8 of chapter V of Public Act No. 3 of 1895 (MCL 65.8), as amended, being the Village Charter, or by village ordinance. To this end, the manager, or the manager's designee, shall have the power and shall be required to:

(1) Act on behalf of and carry out the instructions of and be authorized to represent the village council.

(2) Attend all meetings of the village council with the right to take part in discussions, but without the right to vote.

(3) Be an ex officio member of all committees of the village council.

(4) Be responsible for the exercise and performance of all administrative functions that are not exclusively imposed on some other official by state statute, by the Village Charter or by village ordinance.

(5) Be responsible for appointing, suspending, or removing all employees of the village, including all appointed administrative officers and department heads.

(6) Recommend to the council the salaries to be paid to each appointed village official and employee.

(7) Be solely responsible to the president and the council for directing all village departments under the manager's jurisdiction, including health and safety, and the personnel therein, within the limits set by law.

(8) Prepare an annual budget, submit it to the council, recommend its adoption and be responsible for the administration thereof; provided, however, the raising of money shall in all cases be with the consent and approval of the council.

(9) Be responsible for the exercise of supervisory responsibility over the accounting, budgeting, personnel, purchasing and related management functions of the village clerk and village treasurer.

(10) Make budget transfers between budget accounts, departments, or line items, in amounts not in excess of an amount established by the village council pursuant to MCL 141.439(2), provided that the transfer must be made prior to the next scheduled council meeting to avoid a budget deficiency, overdrafts, or similar financial crises and provided, further, that the manager receives the approval of the village president, the president pro tem, or the chairperson of the finance committee. However, in no case shall such transfers be made from restricted funds, and in every case the council shall ratify such transfers no later than the next meeting of the council.

(11) Be responsible for the purchase and sale of all village property, excepting real estate, provided that all sales and all purchases shall be in accordance with the village's adopted purchasing policy.

(12) Recommend to the council the adoption of such measures as the manger may deem necessary or expedient for the improvement or betterment of the village.

(13) Present to the council periodic reports and special reports, when requested by the council, covering the activities of the village administration for which the manager is responsible.

(14) Perform such other duties as may be required of the manager from time to time by the council, not inconsistent with the Village Charter or village ordinances or with state statutes.

(Ord. No. 192, § V, eff. 10-13-1975; Ord. No. 219, eff. 11-9-1983; Ord. No. 229, eff. 2-14-1985; Ord. No. 236, eff. 4-27-1986; Ord. No. 244, eff. 3-17-1987; Ord. No. 293, § 6, eff. 7-21-1994; Ord. No. 308, § 1, eff. 5-12-1996; Ord. No. 393, § 1, 8-6-2007; Ord. No. 480 , § 1, 2-15-2021)

Sec. 2-91. Jurisdiction; interference by council.

Neither the village council nor the village president nor any of the members or committees of the council shall dictate the recommendations of the village manager as to the appointment of any person to office or to the employment of any person by the village manager or in any way interfere with the manager to prevent him from exercising his judgment therein or in the direction of the departments under his jurisdiction. Except for the purpose of inquiry, the president and the council and its members shall deal with the departments under the jurisdiction of the manager through the manager.

(Ord. No. 192, § VI, eff. 10-13-1975)

Secs. 2-92—2-140. Reserved.

ARTICLE IV. BOARDS AND COMMISSIONS[5]

Secs. 2-141—2-160. Reserved.

ARTICLE V. FINANCE[6]

Sec. 2-161. Fiscal year.

The fiscal year of the village shall commence on January 1 and shall end on the following December 31.

(Ord. No. 325, § 1, eff. 3-2-1997)

Secs. 2-162—2-179. Reserved.

Sec. 2-180. Fees.

(a) The village council shall by resolution establish fees for the administration of this Code. The fixed basic application fees shall cover costs associated with the applicant's appearance at village meetings; the mailing and legal notice requirements for public hearings or meetings; and the involvement by village council members and employees (excluding outside contractors or professionals such as village engineering, planning, legal counsel, and other outside professional services). A list of current fees shall be available for review by the public during village office hours at the village hall. The applicant shall pay all applicable fees upon the filing of any application, or any other request or application under this Code. No activity shall commence nor shall any permit be issued unless the fee has been paid.

(b) Fees for the permits required hereunder shall be set by the village council from time to time by resolution, unless a specific fee amount is required by state statute. Additionally, the village council may require that the applicant(s) put sufficient funds in escrow to cover the costs of having the village attorney, engineer, planner, or other professional review, and to perform necessary inspections, as provided in section 2-185.

---

[5]Cross reference(s)—Cable communications commission, § 22-26 et seq.; board of cemetery trustees, § 26-91 et seq.; planning commission, § 62-26 et seq.; zoning board of appeals, app. A, ch. 5.

[6]Cross reference(s)—Any ordinance authorizing, directing or ratifying any purchase or sale saved from repeal, § 1-6(3); any ordinance authorizing or directing the issuance of any bonds or other evidence of indebtedness saved from repeal, § 1-6(5); any ordinance authorizing or directing the making of any investment saved from repeal, § 1-6(6); any ordinance making or otherwise affecting any appropriation saved from repeal, § 1-6(7); any ordinance levying or otherwise affecting any taxes, not inconsistent with this Code saved from repeal, § 1-6(8); tax increment finance and downtown development plan, § 30-61 et seq.; emergency service fees, § 34-56 et seq.; recovery of certain emergency response cost, § 34-86 et seq.; subdivision fees, § 46-311 et seq.; special assessments, ch. 70; rates, charges and billing procedure for utilities, § 82-661 et seq.

State law reference(s)—Finance and taxation, MCL 69.1 et seq.

(Ord. No. 379, § 1, 7-24-2006)

Secs. 2-181—2-184. Reserved.

Sec. 2-185. Review and inspection expense reimbursements.

(a) *Rationale and purpose.* When individuals and entities seek reviews, inspections, and approvals for their private and individual benefit, depending upon the type of review, inspection, and/or approval involved, substantial costs and expenses may be incurred by the village for the work of the village professional consultants in determining whether approvals should be granted, and whether and the extent any conditions should be imposed, and to perform the necessary inspections. Therefore, it is the purpose of this section to protect the taxpayers of the village against the allocation of substantial sums of general fund moneys that would otherwise be expended for the singular benefit of the private individuals and entities seeking the reviews, inspections, and approvals. It is the policy of the village to secure payment for such reviews and inspections from the persons and entities seeking the special and singular benefit there from.

(b) *General requirement and obligation.* In circumstances in which the village is requested for an authorization, permission, permit selection of one person or entity over others, or other approval reasonably requiring a review by the village attorney, engineer, planner, or other professional review or inspection, the person or entity making the request for authorization, permission, selection, approval, or inspection, shall be obligated to advance the monies for such review or inspection. This shall expressly include, but not be limited to, any application for re-zoning, site plan approval, special land use permit, planned unit development, variance, or other use or activity requiring a permit under the village zoning ordinance; any application for a lot division or for plat approvals or amendments under the village subdivision control/land division ordinances; any application concerning granting or transferring of liquor licenses; any requests for construction of private streets or roads within the village; and private requests for water or sewer utility extensions or improvements.

(c) *Amount of payment required.* The amount of money required to be paid in escrow shall be set by council. For purposes of administering this section, the village council shall adopt one or more resolutions setting the fixed amount to be paid, in advance, by applicants seeking village review or inspection. The amount so established shall be based upon the amount reasonably estimated to be required to cover the anticipated fees, costs and expenses to be incurred in the reviews or inspections.

(d) *Escrow amount if not stated in resolution.* In the event a specific escrow amount has not been determined and specified by resolution for a particular purpose, the village manager shall estimate an amount to be placed in escrow with the village, in advance of the review(s) or inspection(s) being conducted.

(e) *Charges.* The village may charge the applicant and deduct from the escrow fund for all reasonable costs incurred by the village during and in connection with the review or inspection process and other related proceedings, whether or not the application or request is granted either in whole or in part. These costs may include, but shall not be limited to, village engineering fees, village attorney fees, village planning fees, fees and costs for services of outside consultants, fees and costs of other professionals who may assist the village, fees and costs for studies and reports pertaining to the matters in question, and other reasonable costs and expenses. The applicant will receive a copy of any written reports and statement of expenses for the professional services rendered, upon request.

(f) *Collection and notice.* The village treasurer shall collect the amounts as provided under subsections (c) and (d), and provide the village consultant notice of the receipt of the full amount of the escrowed funds in respect to each review or inspection. Upon receipt of such notice, the village consultant may then commence the review or inspection.

(g) *Additional review and escrow.* The village consultants shall keep records showing the work performed on each review or inspection, and the amount charged for such purposes, and, if the amount escrowed for any review or inspection, has been, or is likely to be, insufficient to cover the full amount of fees and costs of review or inspection, the village shall, from time-to-time, invoice the applicant, and the applicant shall pay additional amounts into escrow, as reasonably needed to proceed with and complete the review or inspection. The amount of additional payments required to be paid into escrow may be established by council resolution, and shall be based upon an estimate of the sum required to cover the anticipated costs and expenses to be incurred to complete the reviews and inspections. Work on the review or inspection shall be suspended until the additional payment has been escrowed. Upon receipt of the full amount of such additional escrow payment, the village treasurer shall provide notice of such receipt to the village consultant.

(h) *Excess escrow funds.* To the extent such an escrow fund exceeds the actual cost and expense of the reviews or inspections, as ultimately determined, the excess shall be returned to the person or entity that posted the escrow. If the village cannot locate such person or entity at the last known address, the excess escrow monies shall be disbursed as otherwise provided by law or ordinance.

(i) *Qualifications for waiver.* If a person does not have adequate funds to pay for the review, as required under this section, the fees may be waived by the village manager upon the filing of the following prior to the commencement of village review:

(1) An affidavit stating that the applicant is an indigent, and specifying under oath that such person does not have adequate real or personal property to pay or secure all or any part of the funds, and

(2) Such reasonable supporting documentation as may be requested by the village. In such event, the village shall pay the review fees to the village consultant out of general fund moneys, or from such other source as the village council shall determine.

(j) *Appeal.* In the event a person or entity called upon to pay or escrow monies under this section 2-185, disputes the costs of professional reviews or inspections, or feels aggrieved based upon the administration of such section, such person or entity may appeal the costs or decisions made in the administration of this section. An appeal must be taken within 21 days of the decision to be appealed by submitting a letter or other signed writing to the village clerk requesting the appeal. A copy of the appeal letter shall be provided to the village manager, who shall set a timely hearing and thereafter make a written report and recommendation on the appeal, which shall include the reasons for the conclusions reached. The report and recommendation shall be sent to the village council. If requested by the council at the meeting of the council held following distribution of the manager's recommendation, the appeal shall be placed on the agenda of the next available meeting of village council; and, after providing the person making the appeal and the village manager with the opportunity to be heard, the council shall make a final determination on the appeal, specifying its reasons for granting or denying the appeal. Unless the appeal is formally reviewed based upon the request of the council in the manner stated above, the manager's recommendation shall be deemed the final determination on the appeal.

(Ord. No. 379, § 2, 7-24-2006)

Chapter 6 ALCOHOLIC LIQUOR[7]

[7]Cross reference(s)—Businesses, ch. 18; offenses involving alcoholic liquors and drugs, § 54-226 et seq.; alcoholic liquor in parks, § 58-31.

State law reference(s)—Liquor Control Act, MCL 436.1 et seq., MSA 18.971 et seq.

ARTICLE I. IN GENERAL

Sec. 6-1. Authority of chief of police to order establishments closed.

The chief of police is authorized, in any emergency, disturbance or other condition arising in the village, to order any or all liquor establishments closed until the emergency, disturbance or condition has ceased to exist.

(Ord. No. 320, § 8, eff. 10-27-1996)

Sec. 6-2. Violations.

Whenever, by the provisions of this chapter, the performance of any act is required or the performance of any act is prohibited, a failure to comply with such provisions shall constitute a violation of this chapter. In addition, the failure, neglect or refusal to comply with a cease and desist order of the enforcing agency or person shall constitute a violation of this chapter.

(Ord. No. 320, § 15, eff. 10-27-1996)

Sec. 6-3. Penalties.

In addition to the rights and remedies provided to the village in this chapter, any person violating any of the sections of this chapter shall be deemed guilty of a misdemeanor and upon conviction shall be punished as provided in section 1-12. Each violation of this chapter shall be a separate offense, and for a continuing violation each day during which the violation exists shall be deemed to be a separate and distinct offense. Each day such violation is continued or permitted to continue shall constitute a separate offense and shall be punishable as such.

(Ord. No. 320, § 16, eff. 10-27-1996)

Secs. 6-4—6-30. Reserved.

ARTICLE II. LICENSE[8]

Sec. 6-31. Applicability and exemptions.

This article shall apply to all applications for approval or transfer of licenses to sell alcoholic liquor for on-premises consumption and all renewals thereof, except for those licenses issued pursuant to the special license provisions of the Michigan Liquor Control Act, Public Act No. 8 of 1933 (Ex. Sess.) (MCL 436.1 et seq., MSA 18.971 et seq.).

(Ord. No. 320, § 1, eff. 10-27-1996)

[8]State law reference(s)—Licenses, MCL 436.17 et seq., MSA 18.988 et seq.

State law reference(s)—Special license, defined, MCL 436.20, MSA 18.972(15).

Sec. 6-32. Reservation of authority.

No applicant for a liquor license has a right to the issuance of such license to him, and the village council reserves the right to exercise reasonable discretion to determine who, if anyone, shall be entitled to the issuance of such licenses.

(Ord. No. 320, § 7, eff. 10-27-1996)

Sec. 6-33. Application for new license or transfer of location.

(a) *Filing; contents.* Application for approval of a license to sell alcoholic liquor for consumption on the premises or any application for approval of a transfer of such a license to a new licensee or a new location shall be made to the village in writing, signed by the applicant if an individual or by a duly authorized agent thereof if a copartnership or corporation or other legal entity authorized by statute, and shall contain the following statements and information:

(1) The name, age and address of the applicant; if the applicant is a legal entity recognized by state laws, such as but not limited to a copartnership, limited partnership, or corporation, the names, ages, and addresses of all persons who own at least a five-percent interest in such entity (referred to as "investors"), as well as its officers and directors.

(2) The nature of business of the applicant and, for a legal entity recognized by state laws, a copy of the form filed with the state which authorizes the entity and which is marked "filed" by the state.

(3) The length of time the applicant has been in the business for which he seeks the license.

(4) The location and description of the premises that is to be operated under such license.

(5) If the business of the applicant is to be operated or conducted by a local manager or agent, the name and address of the manager or agent.

(6) A statement as to whether the applicant has, prior to this application, made application for a license to sell alcoholic liquor, and the date, place and disposition of such application.

(7) A statement that neither the applicant nor, if applicable, any investor has ever been convicted of a felony and that the applicant or investor is not disqualified to receive approval for a license because of any matter or thing contained in this chapter or state laws.

(8) A statement that the applicant will not violate any village ordinances or laws of the state or of the United States in the conduct of its business.

(9) A statement that, if any of the information provided in the application or any attachment thereto changes during the term of the license or any renewal thereof, the applicant will notify the village manager, in writing, within 30 days of such change.

(10) An 8½ inch by 11 inch building and grounds layout diagram showing the entire structure, premises, and grounds and, in particular, the specific areas where the license is to be utilized. The plans shall demonstrate adequate off-street parking, lighting, refuse disposal facilities and, where appropriate, adequate plans for screening and noise control.

(b) *Fee.* The village council may establish by resolution an application fee in such amount as it deem appropriate to defray the reasonable costs of processing any application required by this article.

(Ord. No. 320, § 2(A), (B), eff. 10-27-1996)

Sec. 6-34. Inspection of premises.

Prior to the issuance of any license required under this article, the premises shall be inspected by the chief of police, chief of the fire department and building official, and such place of business must be approved by each of these departments and shall comply with all of the state laws and village ordinances relative to health and safety.

(Ord. No. 320, § 11, eff. 10-27-1996)

Sec. 6-35. Priorities considered by council for approval.

In exercising its authority under the Liquor Control Act, Public Act No. 8 of 1933 (Ex. Sess.) (MCL 436.1 et seq., MSA 18.971 et seq.), for the maximum benefit of the village and its persons and property, the village council shall, in deciding whether to approve a new liquor license, the transfer of an existing liquor license or the upgrading of the classification of an existing liquor license, consider the following priorities, such priorities being listed in decreasing order of their importance to the village and its persons and property:

(1) Motel, hotel or other lodging facilities which also have restaurants, meeting rooms and banquet facilities.

(2) Restaurants and banquet facilities having a table seating capacity in excess of 100 persons which are located in a general business or business center zoning district.

(3) Restaurants and banquet facilities having a table seating capacity of 100 persons or less which are located in a general business or business center zoning district.

(4) A supper club or dinner theater facility in which high quality food service is the main source of income.

(5) A bar, tavern, cocktail room or lounge, whether or not used in combination with a restaurant, in which 60 percent or more of the gross revenue of the entire facility is derived from food sales.

(Ord. No. 320, § 5, eff. 10-27-1996)

Sec. 6-36. Grounds for denial.

No liquor license shall be approved for any person when:

(1) The village council determines, by a majority vote, that the proposed location is unsuitable for on-premises consumption of alcoholic liquor considering:

   a. The proximity of other premises licensed to sell alcoholic liquor for on-premises consumption.

   b. The lack of any other facilities or uses on the premises to be licensed which are compatible with a license for on-premises consumption of alcoholic liquor (e.g., restaurant, hotel).

   c. The distance from public or private schools for minors.

   d. The proximity of an inconsistent zoning classification or land use.

   e. Traffic safety.

   f. The accessibility to the site from abutting roads.

   g. The capability of abutting roads to accommodate the commercial activity.

   h. Such other relevant factors as the village council may deem appropriate.

(2) The village council determines, by a majority vote, that the premises does not or will not, within six months of the approval of the license by the village council or prior to the commencement of business, whichever occurs first, have adequate off-street parking, lighting, refuse disposal facilities, screening, noise or nuisance control. However, upon timely request and for good cause shown, the village council may extend any deadline established by this subsection.

(3) The premises does not comply with the applicable building, electrical, mechanical, plumbing, or fire codes; applicable zoning regulations; or applicable public health regulations. However, the village council may approve an application subject to compliance with the applicable codes and regulations within 60 days.

(4) The applicant does not own the premises for which the license approval is sought or does not have a lease for the premises for the full period for which the license is to be issued.

(5) The applicant or any investor is a law enforcing public official or any member of the village council.

(6) The applicant or any investor is delinquent in the payment of any taxes, fees, or other debts or charges owed to or collected by the village.

(7) The applicant or any investor has had a liquor license revoked within the last two years or has held an ownership interest or management/officer/director position with any entity whose license has been revoked within the last two years.

(8) The manager of the applicant's business fails to meet any of the standards established by this chapter.

(9) The applicant or any investor has been convicted of a violation of any federal or state law concerning the manufacture or sale of alcoholic liquor.

(10) The village council determines that, based on other relevant factors, the license should not be issued.

(Ord. No. 320, § 2(C), eff. 10-27-1996)

Sec. 6-37. Term; conditions for approval.

The village approval of a new, transfer or upgrade liquor license or the renewal of a liquor license shall remain in effect for a term, which shall expire on the same date as the license itself, unless revocation shall be requested sooner pursuant to section 6-39. Approval of a license shall be upon the condition that any necessary remodeling or new construction for the use of the license required by the village council or indicated on the building and grounds layout diagram submitted pursuant to subsection 6-33(a)(10) shall be completed within six months of the approval of the license by the village council or prior to the commencement of business, whichever occurs first. However, upon timely request for good cause shown, the village council may extend the remodeling or new construction deadline established by this section. Approval of a license shall also be upon the condition that any work on the premises necessary to comply with the applicable codes and regulations in subsection 6-36(3) be completed within 60 days of village council approval of the license. All approvals shall be granted subject to the general condition that the applicant shall comply with all representations and assurances contained in the application and in any oral or written information submitted to the village council, including building and site plans. Approval may also be made subject to specific conditions imposed by the village council.

(Ord. No. 320, § 3, eff. 10-27-1996)

Sec. 6-38. Transferability.

The transfer of any existing liquor license shall be subject to each of the requirements, criteria and procedures, including fees, set forth in this article for the granting of a new liquor license. In addition, the

transferee or applicant shall furnish any necessary authorization to permit the village access to any and all files which may be in the state liquor control commission's possession regarding that commission's investigation of the transferee as a present licensee or as a previous licensee or in which the transferee has or has had a partial interest.

(Ord. No. 320, § 4, eff. 10-27-1996)

Sec. 6-39. Objections to renewal and requests for revocation.

(a) *Criteria for nonrenewal or revocation.* The village council may recommend nonrenewal or revocation of a liquor license to the state liquor control commission upon a determination by the village council that, based upon evidence presented at a hearing, any of the following exist:

(1) Violation of any of the grounds for denial set forth in section 6-36.

(2) Failure to complete necessary remodeling or new construction as required by section 6-37 or to complete, within six months of the approval of the license by the village council or any extension thereof or prior to the commencement of business, whichever occurs first, any construction contemplated in the building and grounds layout diagram submitted pursuant to subsection 6-33(a)(10).

(3) Failure to complete any work on the premises necessary to comply with the applicable codes and regulations in subsection 6-36(3) within 60 days of village council approval of the license.

(4) Failure to comply with the requirements of the Michigan Liquor Control Act, Public Act No. 8 of 1933 (Ex. Sess.) (MCL 436.1 et seq., MSA 18.971 et seq.), or the administrative rules of the state liquor control commission.

(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 building, electrical, mechanical, plumbing, zoning, health, fire or other applicable regulatory codes.

b. A pattern of patron conduct on the licensed premises or in the neighborhood of the licensed premises which is in violation of the law or disturbs the peace, order and tranquility of the neighborhood, including but not limited to violations of the provisions of chapter 54 of this Code pertaining to offenses.

c. Failure to maintain the grounds and exterior of the licensed premises, including litter, debris or refuse blowing or being deposited upon adjoining properties.

d. 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.

e. Any advertising, promotion or activity in connection with the licensed premises which by its nature causes, creates or contributes to disorder; contributes to disobedience of rules, ordinances or law; or contributes to the disruption of normal activity of those in the neighborhood of the licensed premises.

(6) Failure to comply with any of the requirements of this chapter.

(7) Violation of any law or ordinance in the conduct of the business.

(8) Violation of state law or local ordinance concerning health, safety, moral conduct or public welfare.

(9) Failure to comply with promises or representations made by the applicant to the village council or any conditions imposed upon the applicant as a basis for the approval.

(10) Failure to pay any taxes, fees, or debts or charges owed to or collected by the village.

(11) Failure by the licensee to permit the inspection of the licensed premises by the village's agents or employees in connection with the enforcement of this chapter.

(b) *Public hearing.* Before filing an objection to renewal or request for revocation of a license with the state liquor control commission, the village council shall serve the license holder, either personally or by first class mail, with a notice of hearing, which notice shall contain the following:

(1) Notice of the proposed action.

(2) Reasons for the proposed action.

(3) The date, time and place of the hearing.

(4) A statement that the licensee may present evidence and testimony, confront adverse witnesses, and be represented by counsel.

(c) *Procedure at public hearing; findings and determination; notification.* The procedure and findings and determination at the public hearing shall be as follows:

(1) At the public hearing the president shall act as the presiding official. The village representative shall present witnesses and evidence in support of the proposed action. The witnesses called by or on behalf of the village may be cross examined by the licensee or the licensee's attorney. The licensee shall thereafter present any witnesses, evidence or argument against the proposed action; the village representative may thereafter cross examine the licensee's witnesses. Any individual councilmember may question witnesses called by either the licensee or the village. There shall be an opportunity for comments from the general public.

(2) Following the public hearing, the village council shall make specific findings of fact and determinations in regard to the proposed action.

(3) If the village council passes a resolution to request that the license not be renewed by the state liquor control commission or to have the license revoked, a certified copy of the resolution and a certified copy of the separate statement of findings and determinations shall be delivered to the licensee and to the state liquor control commission.

(Ord. No. 320, § 14, eff. 10-27-1996)

Secs. 6-40—6-65. Reserved.

ARTICLE III. OPERATING REQUIREMENTS

Sec. 6-66. Licensees to enforce chapter.

It shall be the duty of the liquor licensee to enforce this chapter. Such licensee shall be responsible for the conduct of patrons and employees and shall maintain order in his place of business at all times.

(Ord. No. 320, § 13, eff. 10-27-1996)

Sec. 6-67. Age of employees.

All liquor licensees must have in their possession birth certificates or other documents, showing the place and date of birth of each employee. No person under the age of 18 years shall be permitted to sell or serve any

alcoholic liquor or to work either on a paid or voluntary basis in that portion of the premises wherein alcoholic liquor is being served. Persons between 18 and 21 years of age, upon approval by the chief of police, may be employed where the major portion of sales are in food, but in no case shall any such person be employed as a bartender. However, in a class C establishment, there shall be on duty at all times during the hours of operation at least one person who has attained the age of 21 years.

(Ord. No. 320, § 9, eff. 10-27-1996)

Sec. 6-68. Dancing and entertainment on licensed premises.

(a) Before any liquor licensee shall permit or allow dancing or entertainment on his premises, he shall first obtain a dance-entertainment permit from the state liquor control commission and the village council. Dancing will be allowed under such permit when there is a minimum floor space for dancing of 300 square feet and where the seating capacity is less than 100 persons, or a minimum space for dancing of 400 square feet in an establishment which has a seating capacity of 100 or more persons. Such dance space shall be well marked and defined, and no tables, chairs or other obstacles shall be allowed during the time that dancing is permitted thereon. Such dance-entertainment permit shall be displayed adjacent to the liquor license.

(b) No licensee who operates a dancehall, pavilion or similar dancing place, charging admission, shall use or give out admission return checks, and no patron who leaves such dancehall, pavilion or similar dancing place shall be permitted to reenter such premises on the same evening without again paying full admission charge.

(c) No overcrowding on dance floors shall be permitted.

(d) All entertainers must comply with the state labor laws.

(e) No disorderly conduct or lewd, obscene or immoral language or exhibitions, dancing or entertainment shall be permitted.

(f) A licensee shall not allow in or upon the licensed premises a person who exposes to public view the pubic region, anus or genitals or any portion of the female breast at or below the areola thereof or other types of nudity prohibited by statute or local ordinance.

(g) A licensee shall not allow in or upon the licensed premises the showing of films, television, slides or other electronic reproductions which depict scenes wherein any person exposes to public view the pubic region, anus or genitals or any portion of the female breast at or below the areola thereof or other types of nudity prohibited by statute or local ordinance.

(h) A licensee shall not allow in or upon the licensed premises a person who performs or who simulates performance of sexual intercourse, masturbation, sodomy, bestiality, fellatio or cunnilingus.

(i) A licensee shall not allow in or upon the licensed premises the showing of films, television, slides or other electronic reproductions which depict scenes wherein a person performs or simulates performance of sexual intercourse, masturbation, sodomy, bestiality, fellatio or cunnilingus.

(j) Lighting must conform with the rules and regulations of the state liquor control commission.

(k) Separate and adequate dressing rooms for male and female entertainers and employees shall be provided.

(l) No patron shall be allowed to take any active part in any entertainment in the licensed establishment, except community singing.

(m) No licensee shall permit any person under the age of 18 years to entertain, either on a paid or voluntary basis, in any licensed establishment.

(Ord. No. 320, § 6, eff. 10-27-1996)

Cross reference(s)—Amusements and entertainments, ch. 10.

Sec. 6-69. Prohibited acts by licensees, agents or employees.

(a) No liquor licensee or his agent or employee shall engage in or permit others to engage in any illegal occupation or illegal act on his licensed premises.

(b) No liquor licensee or his agent or employee shall refuse, fail or neglect to cooperate with any law enforcement officer in the performance of such officer's duties to enforce the provisions of the Liquor Control Act, Public Act No. 8 of 1933 (MCL 436.1 et seq., MSA 18.971 et seq.), as amended, and the rules and regulations promulgated thereunder.

(c) No liquor licensee or his agent or employee shall allow in or upon his licensed premises any improper conduct, disturbance, lewdness, immoral activities or indecent, profane or obscene language, songs, entertainment, literature, pictures or advertising material, or cause to have printed or distributed any lewd, immoral, indecent or obscene literature, pictures or adverting material.

(d) No liquor licensee or his agent or employee shall suffer or allow in or upon his licensed premises the annoying or molesting of patrons or employees by other employees or patrons or any accosting and/or soliciting for immoral purposes.

(e) No liquor licensee or his agent or employee shall permit his licensed premises to be frequented by or to become the meeting place, hangout or rendezvous for known prostitutes, vagrants or those who are known to engage in the use, sale or distribution of narcotics or in any other illegal occupation or business. However, no licensee shall be disciplined under this subsection until he has been warned by the state liquor control commission or the law enforcing agency having jurisdiction thereof, and the licensee has failed for a period of more than five days to comply with the requirements of this subsection.

(f) No liquor licensee shall permit any person engaged in the serving of food or alcoholic liquor in his establishment to eat, drink or mingle with the patrons.

(g) No liquor licensee shall allow upon his licensed premises any gambling or gaming devices or paraphernalia of any nature, type or description; gambling or gaming machines or apparatus; or gambling or gaming of any kind whatever.

(Ord. No. 320, § 10, eff. 10-27-1996)

Sec. 6-70. Sale or serving to persons less than 21 years of age.

No liquor licensee shall sell, offer for sale, give or barter, serve or otherwise furnish alcoholic liquors to any person who shall not have attained the age of 21 years.

(Ord. No. 320, § 12, eff. 10-27-1996)

Cross reference(s)—Offenses concerning underage persons, § 54-296 et seq.

State law reference(s)—Sale, etc., to persons less than 21 years of age prohibited, MCL 436.33, MSA 18.1004.

Chapter 10 AMUSEMENTS AND ENTERTAINMENTS[9]

[9]Cross reference(s)—Dancing and entertainment on licensed premises for alcoholic liquors, § 6-68; businesses, ch. 18.

State law reference(s)—Crimes relating to public exhibitions and entertainment, MCL 750.463 et seq.

ARTICLE I. IN GENERAL

Secs. 10-1—10-25. Reserved.

ARTICLE II. RESERVED[10]

Secs. 10-26—10-85. Reserved.

ARTICLE III. RESERVED[11]

Secs. 10-86—10-189. Reserved.

Chapter 14 BUILDINGS AND BUILDING REGULATIONS[12]

ARTICLE I. IN GENERAL

Sec. 14-1. Refuse building materials.

(a) The term "refuse building materials," as used in this section, shall include wood, plaster, stone, brick or other waste and unused materials resulting from the repair or construction of buildings.

[10]Editor's note(s)—Ord. No. 464, § 1, adopted Jan. 8, 2018 , repealed §§ 10-26—10-28, 10-56—10-59, which pertained to billiard halls and derived from Ord. No. 138, §§ 1—5, 7, eff. April 26, 1959; Ord. No. 139, § 7, eff. April 26, 1959; Ord. No. 293, § 15, eff. July 21, 1994; Ord. No. 302, § 8, eff. Dec. 31, 1995.

[11]Editor's note(s)—Ord. No. 464, § 1, adopted Jan. 8, 2018 , repealed §§ 10-86—10-88, 10-116—10-123, 10-151—10-156, 10-186—10-189, which pertained to coin-operated amusement devices and arcades and derived from Ord. No. 225, §§ 1—9, eff. July 2, 1984; Ord. No. 232, eff. Nov. 7, 1985; Ord. No. 292, § 8, eff. June 13, 1994; Ord. No. 293, §§ 20—23, eff. July 21, 1994; Ord. No. 302, § 11, eff. Dec. 31, 1995.

[12]Editor's note(s)—The publication, Municipal Standards for the Village of Fowlerville, which contains the design and construction standards for subdivision and land development, is on file and available for inspection at the village's offices.

Cross reference(s)—Community development, ch. 30; environment, ch. 38; fire prevention and protection, ch. 42; land division, ch. 46; planning, ch. 62; solid waste, ch. 66; streets, sidewalks and certain other public places, ch. 74; utilities, ch. 82; vegetation, ch. 86; zoning, app. A.

State law reference(s)—State Construction Code Act, MCL 125.1501 et seq.

(b) It shall be the duty of the owner, occupant, contractor or other person responsible for construction work to remove from the premises within a reasonable time after the completion of such construction work, not to exceed 30 calendar days, all surplus construction material and all refuse building material. Such materials shall be removed outside the village limits or disposed of within the village in accordance with the directions of the superintendent of public works.

(c) No person shall bring into the village refuse building materials which have accumulated outside the village to be picked up and/or disposed of at public expense.

(d) No person shall knowingly permit others to bring into the village such accumulations of refuse building materials to have the materials picked up and/or disposed of by the village at public expense.

(Ord. No. 160, §§ 1(C), 4, eff. 4-29-1968; Ord. No. 181, § 14, eff. 5-25-1973; Ord. No. 272, eff. 12-2-1990; Ord. No. 275, eff. 7-1-1991; Ord. No. 277, § 19, eff. 1-6-1992)

Cross reference(s)—Solid waste, ch. 66.

Sec. 14-2. Securing unoccupied buildings and structures.

Any owner, lessee or other person offering a building, structure or part of a building or structure for sale or lease or having a building or part of a building or structure under his ownership, partial ownership or control shall keep the building, structure, or part of the building or structure secure when it shall be vacant or unoccupied. Such building, structure or part of the building or structure shall be deemed secure when all exterior openings are secured. All missing, partly missing or unlockable doors and windows or door and window openings shall be covered with exterior plywood sheathing of at least three-eighths-inch thickness nailed to the frame or casing with number six or number eight box coated nails.

(Ord. No. 221, art. IV, § 7, eff. 1-2-1984)

Sec. 14-3. Property maintenance code.

(a) *International Property Maintenance Code adopted.* The International Property Maintenance Code, 2009 Edition, as published by the International Code Council, is hereby adopted as the Property Maintenance Code (the "property maintenance code") of the Village of Fowlerville in the State of Michigan, County of Livingston, for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said property maintenance code on file in the office of the Village Clerk of the Village of Fowlerville are hereby referred to, adopted, and made a part hereof, as if fully set out in this section, with the additions, insertions, deletions and changes, if any, prescribed in subsection (b) of this section.

(b) *Revisions to code.* The International Property Maintenance Code, adopted by the provisions of this section as the property maintenance code of the village, is hereby amended, changed and altered as follows:

Section 101.1. Insert: Village of Fowlerville.

Section 102.3 Application of Other Codes is amended to read as follows:

> *102.3 Application of Other Codes:* Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the Michigan

Rehabilitation Code for Existing Buildings. Nothing in this code shall be construed to cancel, modify or set aside any provision of the Fowlerville Zoning Ordinance, as amended.

Section 103.1 Code Official. References to the "code official" shall be deemed to refer to the Village of Fowlerville Village Manager, or the Village Manager's designee.

Section 103.2. Deleted.

Section 103.5. Insert: The Rates/Fees/Charges shall be adopted by a separate schedule approved by resolution of the Village Council.

Section 104.1 General is amended to read as follows:

104.1 General. The code official shall enforce the provisions of this code. Under the direction of the code official, the personnel designated in Fowlerville Village Code of Ordinances, Section 50-2, as amended, are also authorized to issue municipal civil infraction citations and notices to enforce this Ordinance.

Section 106.3 Prosecution of violation is amended to read as follows:

106.3 Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed civil infraction as provided for in Chapter 1, Section 1-13 and Chapter 50 of the Fowlerville Village Code of Ordinances, as amended, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

Section 111.2 Appeals board is amended to read as follows:

111.2 Appeals board: In order to protect existing structures in the jurisdiction by vigorous enforcement of the provisions of this code, there shall be and is hereby created a Code Appeals Board, hereafter referred to as the "Board". The Village of Fowlerville Zoning Board of Appeals is hereby designated as the Code Appeals Board required by the International Property Maintenance Code hereby adopted, and shall have the power and duty to hear and decide such appeals as are prescribed therein.

111.2.1 Vote: The Board shall hear all appeals relative to the enforcement of the International Property Maintenance Code, and by a concurring vote of the majority of its members may reverse or affirm wholly or partly or may modify the decision appealed from, and shall make such order or determination as in its opinion ought to be made. Failure to secure such concurring votes shall be deemed a confirmation of the decision of the Code Official.

Section 112.4 Failure to comply is amended to read as follows:

112.4 Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than $50 dollars or more than $500 dollars.

Section 302.4. Insert: six (6) inches.

Section 304.14. Insert: May 1st to October 31st.

Section 602.3. Insert: October 1st to May 31st.

Section 602.4. Insert: October 1st to May 31st.

(Ord. No. 389, § 4, 7-9-2007; Ord. No. 426, § 1, 4-9-2012)

Secs. 14-4—14-30. Reserved.

ARTICLE II. DANGEROUS STRUCTURES OR EXCAVATIONS[13]

Sec. 14-31. 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:

Dangerous structure or excavation means any structure or excavation within the village which is unsafe or which is a menace to the health or safety of the public and includes but is not limited to:

(1) All exterior fences, walls or structures that are ruinous or liable to fall and injure persons or property.

(2) All buildings or structures that have any or all of the following defects:

a. Interior walls or other vertical structural members that list, lean or buckle to such an extent that a plumbline passing through the center of gravity falls outside of the middle third of its base.

b. Exclusive of the foundation, that show 33 percent or more of damage or deterioration of the supporting members or 50 percent of damage or deterioration of the nonsupporting enclosing or outside walls or covering.

c. Improperly distributed loads upon the floors or roofs or in which the floors or roofs are overloaded or that have insufficient strength to be reasonably safe for the purpose used.

d. Damage by fire, wind or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the village.

e. So dilapidated, decayed, unsafe, insanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein.

f. Having light, air, and sanitation facilities that are inadequate to protect the health, morals, safety, or general welfare of human beings who live or may live therein.

g. Inadequate facilities for egress in case of fire or panic or having insufficient stairways, elevators, fire escapes, or other means of travel.

h. Parts that are so attached that they may fall and injure members of the public or property.

i. Because their condition are unsafe, insanitary, or dangerous to the health, morals, safety or general welfare of the people of this village.

j. Existing in violation of any provision of the state, county or village building codes, fire prevention codes or health codes.

(3) All excavations that are in any public place or that are situated on private property as to attract the public if such excavations create a hazard and are unguarded.

---

[13]Cross reference(s)—Environment, ch. 38.

State law reference(s)—Dangerous buildings, MCL 125.539 et seq.

(4) All excavations that remain unfilled or uncovered for a period of 90 days or longer and that are so situated so as to endanger the safety of the public.

(Ord. No. 221, art. II, § 2, eff. 1-2-1984)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 14-32. Prohibited; declaration of nuisance.

No person shall maintain any structure or excavation that is unsafe or that is a menace to the health or safety of the public, and any such structure or excavation is declared to be a public nuisance.

(Ord. No. 221, art. II, § 1, eff. 1-2-1984)

Sec. 14-33. Notice and hearing of condemnation.

The village council may, after notice to the owner of record and after holding a public hearing thereon, condemn a dangerous structure or excavation by giving notice to the owner of record of the land upon which such structure or excavation is located, specifying in what respects the structure or excavation is a public nuisance and requiring the owner to alter, repair, tear down, or remove the structure or fill the excavation within such reasonable time, not exceeding 60 days, as may be necessary to do the work or to have the work done as required by the council. The notice may also provide a reasonable time within which such work shall commence.

(Ord. No. 221, art. II, § 3, eff. 1-2-1984)

Sec. 14-34. Abatement generally.

If, at the expiration of any time limit in the notice as provided in section 14-33, the owner has not complied with the requirements of the notice, the village may carry out the requirements. The cost of such abatement shall be charged against the premises and the owner of the premises.

(Ord. No. 221, art. II, § 4, eff. 1-2-1984)

Sec. 14-35. Emergency abatement.

Under this article, the village president may abate any such public nuisance, if the public safety requires immediate action, without preliminary order of the village council. The cost of abating such nuisance shall be charged against the premises and the owner.

(Ord. No. 221, art. II, § 5, eff. 1-2-1984)

Sec. 14-36. Costs of abatement.

(a) Whenever the village shall enter upon any lot or parcel of land in order to accomplish abatement of a public nuisance, pursuant to provisions of this section, the village department of public works director is hereby authorized and directed to keep an accurate account of all expenses incurred, and, based upon these expenses, to issue a certificate determining and certifying the reasonable cost involved for the work with respect to each parcel of property.

(b) Within ten days after receipt of the certificate, the village treasurer shall forward a statement of the total charges assessed on each parcel of property to the person as shown as the owner by the last current tax roll

and the assessment shall be payable to the village treasurer within 30 days from the date the statement was forwarded.

(c) If the owner of a lot, lots or premises fails to pay the bill within 30 days from the date the bill is mailed, the council may cause the amount of the expense incurred, together with a penalty and administrative fee of ten percent, to be levied by them as a special assessment upon the lot, lots or premises as provided in this Code for single lot assessments, or the amount thereof shall be collected by court action.

(Ord. No. 401, § 1, 2-4-2008)

Editor's note(s)—Ord. No. 401, § 1, adopted February 4, 2008, enacted provisions intended for use as section 14-35. Inasmuch as there are already provisions so designated, and at the discretion of the editor, said provisions have been redesignated as section 14-36.

Secs. 14-37—14-60. Reserved.

ARTICLE III. PROPERTY ADDRESSING AND IDENTIFICATION[14]

DIVISION 1. GENERALLY[15]

Secs. 14-61—14-90. Reserved.

DIVISION 2. RESERVED[16]

Secs. 14-91—14-120. Reserved.

DIVISION 3. DISPLAY

Sec. 14-121. Reserved.

Editor's note(s)—Ord. No. 451, § 1, adopted Oct. 19, 2015 , repealed § 14-121, which pertained to responsibility and derived from Ord. No. 281, § 6, eff. Nov. 15, 1992.

Sec. 14-122. Posting requirements.

(a) Every property upon which a house, dwelling, building, house trailer, business, or other such structure is constructed or located within the village shall be considered developed property and shall have property

[14]Cross reference(s)—Streets, sidewalks and certain other public places, ch. 74.

[15]Editor's note(s)—Ord. No. 451, § 1, adopted Oct. 19, 2015 , repealed §§ 14-61 and 14-62, which pertained to definitions and municipal civil infraction and derived from Ord. No. 281, §§ 1, 8, eff. Nov. 15, 1992; Ord. No. 302, § 1, eff. Dec. 31, 1995.

[16]Editor's note(s)—Ord. No. 451, § 1, adopted Oct. 19, 2015 , repealed §§ 14-91—14-96, which pertained to assignment and derived from Ord. No. 281, § 2, eff. Nov. 15, 1992; Ord. No. 382, § 1, adopted Sept. 18, 2006.

identification numbers which shall be posted on the face and/or other appropriate side of the house, dwelling, business or structure in a manner and location so that the identification numbers are clearly and readily readable, to a person of normal vision, from the adjacent roadway. A house trailer shall have an individual space identification number at least three inches in height on the side of the trailer facing the access road. The operator of the trailer park shall be responsible for assigning such numbers. If the house, dwelling, house trailer, business or structure is located on the property so that the posted numbers are not clearly readable from the roadway due to distance or intervening sight barriers, such as but not limited to shrubbery, terrain features or structures, the identification numbers shall also be posted separate from the main structure (i.e., on a yard light post, entrance gate, driveway marker, mailbox, etc.) in a fashion that is clearly readable from the adjacent roadway. Such additional identification numbers shall be either located centrally between the side boundaries of the property or located immediately adjacent to the driveway providing ingress to the property and shall be located on the same side of the adjacent roadway as the property it identifies.

(b) The property identification number or address shall consist of numbers not less than three inches in height. If the dwelling, house trailer, building, business or structure is located more than 90 feet from the centerline of the traveled portion of the adjacent roadway, the identifying numbers shall be not less than six inches in height, but the numbers shall be of a size sufficiently large so that the numbers are readable from the centerline of the adjacent roadway by a person of normal vision.

(c) The color of the numbers shall be in contrast with the immediate background on which they are mounted.

(d) For multiple units, either business or residential, the property identification numbers of those apartments or businesses accessible through each entrance shall be clearly indicated at such entrance. The purpose of this identification is to facilitate the rapid movement of emergency units to a specific apartment or business unit in apartment buildings or business complexes which have entrances bearing the same number and series of such units that are not accessible except through a specific entrance.

(e) The occupants of all buildings in the village used for commercial and/or industrial purposes that are connected with or located so close to other buildings as to prevent access between such buildings and which requires a different route of access to the rear than that to the front of the building shall cause the correct business name and street numbers to be placed on the rear entrance door or immediately adjacent thereto. Such names and numbers shall be not less than three or more than six inches in height and may consist of standard manufactured letters or numbers shall be applied with standard type numeral and letter stencil. The name and number shall be placed to be plainly visible and readable from the alley, service drive, easement, parking lot, or any other rear access.

(Ord. No. 281, § 3, eff. 11-15-1992)

Sec. 14-123. New construction.

Every applicant for land use or building permits for new construction of a residence or business or other such structure shall be required to obtain an address assignment from Livingston County, if such an address has not been previously assigned. For addresses issued after the effective date of this ordinance, or when a building permit is required for any property due to new construction, then any applicable requirements of the Michigan State Construction Code, as amended, shall govern the display size requirements of address numbers on structures rather than the sizes called for in section 14-122 of this Code. Compliance with this article shall be a condition precedent to the issuance of a certificate of occupancy.

(Ord. No. 281, § 5, eff. 11-15-1992; Ord. No. 451, § 2, 10-19-2015)

Secs. 14-124—14-150. Reserved.

ARTICLE IV. SWIMMING POOLS[17]

DIVISION 1. GENERALLY

Sec. 14-151. 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:

Appurtenances refers to the auxiliary and/or accessory devices and/or parts necessary to the construction of the pool and its installation, but is not limited to the pool apron or splash area around the top of a pool.

Building department means the prevailing department, either the village or the county building department issuing a permit at the time of application.

Nonconforming means any swimming pool in existence in the village prior to May 9, 1980.

Permanent swimming pool means a pool constructed for yearround use.

Pool means a swimming pool.

Shall is mandatory and not merely directory.

Swimming pool means any structure or container, either abovegrade or belowgrade, located in part or wholly outside a permanently enclosed and roofed building, designed to hold water to a depth of greater than 24 inches when filled to capacity, whether for swimming and/or wading.

Swimming season means the time of year that outdoor swimming pool usage would be available in the village.

(Ord. No. 210, § 3.01, eff. 5-9-1980)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 14-152. Findings.

It is determined that outdoor swimming pools may endanger the public health, safety and general welfare of the village and its residents unless there are provisions to carefully regulate the construction, maintenance and use of a swimming pool.

(Ord. No. 210, § 2.01, eff. 5-9-1980)

Sec. 14-153. Compliance with state requirements.

In the construction, operation and maintenance of a swimming pool, state laws and rules, regulations and requirements of the state department of health shall be observed. If any conflict occurs between the sections of

[17]Cross reference(s)—Private swimming pools accessory to residential development, app. A, § 614.

this article and any provision of state law or the requirements, rules or regulations of the state department of health, the provision imposing the higher standard or the more stringent requirement shall be controlling.

(Ord. No. 210, § 8.02, eff. 5-9-1980)

Sec. 14-154. Modifications to article.

Upon a showing of good cause, the village council may make modifications to this article in individual cases by resolution upon written petition of the swimming pool owner, provided that the safety, health, and welfare as sought by this article is not reduced by the modification.

(Ord. No. 210, § 8.01, eff. 5-9-1980)

Sec. 14-155. Water rates and charges.

(a) The village council may, as provided in division 2 of article V of chapter 82 of this Code, establish water rates and charges for swimming pools and/or require the installation of water meters for premises with swimming pools.

(b) A surcharge to be established by resolution of the village council shall be assessed to premises with swimming pools used on a yearly basis. The annual surcharge shall be billed by the village in August of each year that the swimming pool is in use.

(Ord. No. 210, § 5.11(B), (C), eff. 5-9-1980; Ord. No. 219, eff. 11-9-1983; Ord. No. 234, eff. 2-1-1986; Ord. No. 286, eff. 5-30-1993; Ord. No. 293, § 30, eff. 7-21-1994)

Sec. 14-156. Inspections, sampling, suspension of use.

The village manager or the village president and/or the county building department and/or the county health department shall:

(1) Inspect and/or cause to be inspected all swimming pools within the village at such times as they may deem necessary to carry out the intent of this article.

(2) Be authorized to enter upon public or private premises to take samples of water from a swimming pool at such times as they may deem necessary and to require the pool owner to comply with this article.

(3) For the failure of compliance, after due notice, with the requirements of this article, have the power to abate or cause the suspension of the use of such swimming pool until such time as the swimming pool is no longer a menace or hazard to health, safety and welfare.

(Ord. No. 210, § 8.03, eff. 5-9-1980; Ord. No. 219, eff. 11-9-1983)

Sec. 14-157. Notice of violations; special assessment for correction of violations by village.

(a) The village manager may notify a swimming pool owner by certified mail of any and/or all violations, specifying corrections or compliance within ten days receipt of the certified mail. If the correction is not made by the pool owner within the ten days, the village manager shall cause the work to be performed. The cost of such work shall be charged to the owners or occupants of the property in violation.

(b) Whenever the village shall enter upon any lot or parcel of land in order to accomplish abatement of swimming pool violations, pursuant to provisions of this section, the village department of public works director is hereby authorized and directed to keep an accurate account of all expenses incurred, and, based

upon these expenses, to issue a certificate determining and certifying the reasonable cost involved for the work with respect to each parcel of property.

(c) Within ten days after receipt of the certificate, the village treasurer shall forward a statement of the total charges assessed on each parcel of property to the person as shown as the owner by the last current tax roll and the assessment shall be payable to the village treasurer within 30 days from the date the statement was forwarded.

(d) If the owner of a lot, lots or premises fails to pay the bill within 30 days from the date the bill is mailed, the council may cause the amount of the expense incurred, together with a penalty and administrative fee of ten percent, to be levied by them as a special assessment upon the lot, lots or premises as provided in this Code for single lot assessments, or the amount thereof shall be collected by court action.

(Ord. No. 210, § 8.04, eff. 5-9-1980; Ord. No. 401, § 2, 2-4-2008; Ord. No. 460, § 1, 7-24-2017)

Sec. 14-158. Municipal civil infraction.

A person who violates any section of this article is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in section 50-38, plus costs and other sanctions, for each infraction. Repeat offenses under this article shall be subject to increased fines as provided by section 50-38.

(Ord. No. 210, § 9.01, eff. 5-9-1980; Ord. No. 302, § 15, eff. 12-31-1995)

Sec. 14-159. Each day a separate offense.

Each day on which any violation of this article may continue shall constitute a separate offense.

(Ord. No. 210, § 9.02, eff. 5-9-1980)

Sec. 14-160. Declaration of nuisance.

Any swimming pool installed, operated or maintained in violation of this article shall constitute a nuisance, and the council and/or the village manager and/or the village president, in addition to the penalties set forth in section 14-158, may maintain any proper action for the abatement of such nuisance.

(Ord. No. 210, § 9.03, eff. 5-9-1980; Ord. No. 219, eff. 11-9-1983)

Sec. 14-161. Nonconforming pools.

(a) *Inspection required.* A lawful, nonconforming pool existing and/or in use on May 9, 1980 shall be allowed, provided that an inspection of such pool may be made by the village manager and/or the village president and/or the county building department and/or the county health department. Written confirmation of their findings regarding the safety of the nonconforming pool and their recommendations which would allow the owner to meet compliance and ensure the safety and health and welfare of the surrounding people and property shall be provided to the owner. The owner shall comply within the given period of time as outlined in the written recommendations, which shall not exceed 30 days.

(b) *Compliance with standards of operation.* The owner of a lawful existing nonconforming pool shall implement and comply with the standards of operation in section 14-232.

(Ord. No. 210, §§ 7.01, 7.02, eff. 5-9-1980; Ord. No. 219, eff. 11-9-1983)

Sec. 14-162. Abandoned pools.

(a) A swimming pool existing on May 9, 1980 that has not been in use for a period of two calendar years from May 9, 1980 shall be declared abandoned by the village manager or the village president. Before further use of such swimming pool, compliance with this article and written approval of the village manager or the village president shall be secured.

(b) The abandoned swimming pool shall not endanger the safety, health and welfare of the persons within the village. The water in the abandoned pool shall at all times be kept in a clean, sanitary manner, including being free from debris, or the pool must be kept completely empty of water. Further, the pool must be kept properly enclosed by fence and a locking gate, or securely covered to provide absolute safety to life, limb and body and/or protection from all foreign objects.

(Ord. No. 210, § 7.03, eff. 5-9-1980; Ord. No. 219, eff. 11-9-1983)

Sec. 14-163. Unfinished pools.

Any swimming pool arranged, intended or designed, the construction of which was started on May 9, 1980, but not completed, may be completed, if compliance with this article on the unfinished portions as near as possible is provided with approval of the village manager or the village president in writing.

(Ord. No. 210, § 7.04, eff. 5-9-1980; Ord. No. 219, eff. 11-9-1983)

Secs. 14-164—14-190. Reserved.

DIVISION 2. CONSTRUCTION, REPAIR AND MAINTENANCE

Sec. 14-191. Permits required.

No person shall construct or maintain an outdoor swimming pool without first making application to the village manager or zoning administrator and obtaining a land use permit according to the provisions of the zoning ordinance in appendix A to this Code, as amended, a building permit as issued according to the provisions of the building department, and any and all other permits as may be required to comply with this article at the time of making an application to construct a pool.

(Ord. No. 210, § 4.01, eff. 5-9-1980; Ord. No. 219, eff. 11-9-1983)

Sec. 14-192. Permit issuance, time limits.

As provided in section 14-191, upon filing of a land use application and plans showing compliance with this article and upon payment of the permit fees required, the village manager or zoning administrator shall issue a land use permit for such construction. Construction shall be completed within six months after issuance of the permit, and if not so completed the permit shall be cancelled. Notice of cancellation shall be given the owner of the property and the person to whom the permit was issued, either by personal service or certified mail.

(Ord. No. 210, § 4.02, eff. 5-9-1980; Ord. No. 219, eff. 11-9-1983)

Sec. 14-193. Setback.

Every swimming pool, including appurtenances, shall be constructed or placed so as to have a side yard of not less than ten feet in width on each side, a rear yard of not less than 15 feet in width and a front setback of not less than 50 feet or in line with 50 percent of existing structures on that street.

(Ord. No. 210, § 5.02, eff. 5-9-1980)

Sec. 14-194. Off-street parking space.

Construction and/or installation of a swimming pool shall not utilize, eliminate, deprive or jeopardize the off-street parking space required for existing uses of and existing structures on the premises.

(Ord. No. 210, § 5.03, eff. 5-9-1980)

Sec. 14-195. Heated pools.

Heated swimming pools shall conform to the requirements of the building permit and shall conform to requirements of the utility company that provides the source of the heat.

(Ord. No. 210, § 5.04, eff. 5-9-1980)

Sec. 14-196. Construction materials.

All materials used in the construction of any swimming pool shall meet material standards as required by the building department, as well as any standards of the manufacturer of the pool.

(Ord. No. 210, § 5.05, eff. 5-9-1980)

Sec. 14-197. Walls; fences.

All swimming pools permanently constructed shall be completely enclosed by a substantial wall and/or fence constructed as follows:

(1) The wall or fence shall be not less than four feet in height.

(2) The wall and/or fence shall be so constructed as to not have openings, holes or gaps larger than two inches in any dimension, except for doors and/or gates. If a picket fence is erected, the horizontal dimensions between pickets shall not exceed two inches.

(3) Every opening in the wall and/or fence shall be equipped with a gate having a closing and latching device with a latch on the inside of the gate to prevent ready accessibility for children to operate. Such gates shall be securely locked when such swimming pool is unattended.

(4) If a pool is constructed aboveground having as a means of entry steps or stairs up to the aboveground pool and the entry to the steps or stairs is not secured by a gate as provided in subsection (3) of this section, the stairs or steps shall be designed and constructed in such a manner that the stairs or steps can be lifted up, stored and latched to prevent ready accessibility. Further, such steps or stairs shall be lifted up, stored and latched to prevent ready accessibility when such pool is unattended.

(5) Walls and/or fences upon construction shall not interfere with and/or obstruct the view of traffic on any public street right-of-way.

(Ord. No. 210, § 5.06, eff. 5-9-1980)

Sec. 14-198. Plumbing; filtration; drainage.

Swimming pool plumbing, filtration, drainage and all sanitary installations shall conform to the provisions as required by the building department.

(Ord. No. 210, § 5.07, eff. 5-9-1980)

Sec. 14-199. Connection with sewer.

There shall be no connection between any swimming pool and any sanitary sewer in the village.

(Ord. No. 210, § 5.08, eff. 5-9-1980)

Sec. 14-200. Drainage of pools and wastewater.

(a) All swimming pool owners shall provide for natural drainage or seepage on the pool owner's own premises as a result of wastewater occurring from backwash, recycling processes, overflow, excess water, or splash water, so as not to allow the water to flow onto any adjoining or abutting property, whether public or private, and any street right-of-way including sidewalk areas.

(b) The pool owner shall provide in writing on the land use application the method to be used in preventing overflow onto adjoining or abutting property.

(c) To substantially or completely drain a pool, approval must be granted either by the village manager, the department of public works superintendent, or the village president.

(Ord. No. 210, § 5.09, eff. 5-9-1980)

Sec. 14-201. Water connection.

All water connections to swimming pools from the public water supply shall be made only on approval of the village manager, the water commissioner or the water committee. All water connections shall be connected according to article II of chapter 82 of this Code, and the connections shall be in compliance with all cross connection standards to prevent backsiphoning adopted therein.

(Ord. No. 210, § 5.11(A), eff. 5-9-1980; Ord. No. 219, eff. 11-9-1983; Ord. No. 234, eff. 2-1-1986; Ord. No. 286, eff. 5-30-1993)

Sec. 14-202. Electrical specifications.

(a) Overhead electrical service conductors or other overhead wires for a swimming pool shall not be located within 18 feet from the edge of the pool in any direction. If interference is unavoidable, such existing conductors shall be rerouted to comply with the requirements of this section or by installing them underground, such underground installation to conform to the prevailing electrical code of the village or the county building department.

(b) Any electrical outlets or appliances or devices shall be waterproof and grounded in accordance with the prevailing electrical code of the village or the county building department, if installed or used within eight feet of the perimeter of the pool.

(Ord. No. 210, § 5.12, eff. 5-9-1980)

Secs. 14-203—14-230. Reserved.

DIVISION 3. STANDARDS OF OPERATION

Sec. 14-231. Protection of public health.

Any outdoor swimming pool owner shall be responsible for providing adequate public health measures to ensure that the use of the pool will not cause the spread of disease.

(Ord. No. 210, § 5.10, eff. 5-9-1980)

Sec. 14-232. Equipment and maintenance.

In the general operation of equipment and in the construction, as provided in this article, the swimming pool shall be maintained and operated as intended for such equipment in a safe and sanitary manner. The pool owner shall provide and maintain the pool as follows:

(1) Competent supervision shall be provided when the pool is in use.

(2) Life-preserver-type devices or equipment shall be within the general area of the swimming pool.

(3) All lighting shall be shielded, arranged and operated to prevent annoyance to neighboring premises.

(4) There shall be no annoyance to neighbors in the immediate area, and there shall be no damage to the adjoining property in the immediate neighborhood.

(5) No loud, offensive, unnecessary and/or unusual noise or sound shall be permitted, by which such noise or sound annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others.

(6) The use or the permitting of the use or operation of any electronic or mechanical device for the production or reproduction of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time louder in volume than is necessary for the convenient hearing of the persons who are in the swimming pool premises shall be unlawful.

(7) The swimming pool, its use, and its operation shall be clean and sanitary at all times and shall be kept free from floating materials, sediment, scum and debris either by automatic surface skimmers, scum gutters, a vacuum cleaner, or other device so constructed for such use.

(Ord. No. 210, § 6.01, eff. 5-9-1980)

Chapter 18 BUSINESSES[18]

[18]Cross reference(s)—Alcoholic liquor, ch. 6; amusements and entertainments, ch. 10; cable communications, ch. 22; community development, ch. 30; emergency services, ch. 34; merchants duty to clean sidewalks, § 38-165; disorderly conduct on commercial premises, § 54-99; illegal occupation or business in parks, § 58-33; utilities, ch. 82; vehicles for hire, ch. 90; BC business center district, app. A, ch. 12; GB general business district, app. A, ch. 13; office district, app. A, ch. 13A; I industrial district, app. A, ch. 14; limited

industrial/research district, app. A, ch. 14A; outdoor sign regulations, app. A, ch. 17; special use permit requirements, app. A, ch. 19; home occupations, app. A, § 615; franchises, app. B.

ARTICLE I. IN GENERAL

Secs. 18-1—18-25. Reserved.

ARTICLE II. PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS[19]

DIVISION 1. GENERALLY

Sec. 18-26. 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:

Canvasser or solicitor means any individual, whether a resident of the village or not, traveling either by foot, wagon, automobile, motor truck, or any other type of conveyance from place to place, from house to house, or from street to street and taking or attempting to take orders for the sale of goods, wares and merchandise, for the sale of personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not. This definition shall include but not be limited to any person who, for himself or for another person, hires, leases, uses or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodginghouse, apartment, shop or any other place within the village for the sole purpose of exhibiting samples and taking orders for future delivery.

Peddler includes any person, whether a resident of the village or not, traveling by foot, wagon, automotive vehicle, or any other type of conveyance from place to place, from house to house, or from street to street and carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions and offering and exposing such or sale or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer such for sale from a wagon, automotive vehicle, railroad car, or other vehicle or conveyance. A person who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this article shall be deemed a peddler subject to this article.

Transient merchant, itinerant merchant or itinerant vendor means any person, whether as owner, agent, consignee or employee, whether a resident of the village or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within the village, and who in furtherance of such purpose hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, or boat, public room in a

[19]Cross reference(s)—Streets, sidewalks and certain other public places, ch. 74.

State law reference(s)—Veterans exempt from payment of fee for peddler's license, MCL 35.441 et seq.; authority to license and regulate peddlers and to require transient traders and dealers to obtain a license, MCL 67.1(h); public safety solicitation act, MCL 14.301 et seq.; charitable organizations and solicitations act, MCL 400.271 et seq.; home solicitation sales, MCL 445.111 et seq.; licensing and regulation of transient merchants, MCL 445.371 et seq.

hotel, lodginghouse, apartment, shop or any street, alley or other place within the village for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction. This definition shall not be construed to include any person who, while occupying such temporary location, does not sell from stock, but exhibits samples only for the purposes of securing orders for future delivery only. The person so engaged shall not be relieved from complying with this article merely because of association temporarily with any local dealer, trader, merchant or auctioneer or by conducting such transient business in connection with, as a part of or in the name of any local dealer, trader, merchant or auctioneer. Transaction of such business by a person for a period of less than six consecutive months shall be prima facie evidence that such person was a transient merchant under this article.

(Ord. No. 248, § 2, eff. 10-20-1987)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 18-27. Enforcement.

(a) It shall be the duty of the village police department, the village president and/or the village marshal to require any person seen peddling, soliciting or canvassing and who is not known by such officer to be duly licensed to produce such person's peddler's, canvasser's or solicitor's license and to enforce this article against any person found to be violating this article.

(b) It shall be duty of the village police department, the village president and/or the village marshal to examine all places of business and persons in their respective territories subject to this article to determine compliance with this article and to enforce this article against any person found to be violating this article.

(Ord. No. 248, § 12, eff. 10-20-1987; Ord. No. 292, § 15, eff. 6-13-1994)

Sec. 18-28. Records.

The village police department, the village president and/or the village marshall shall report to the village manager all convictions for violation of this article, and the village manager shall maintain a record for each license issued and record the reports of violations therein.

(Ord. No. 248, § 13, eff. 10-20-1987; Ord. No. 293, § 28, eff. 7-21-1994)

Sec. 18-29. Municipal civil infraction.

A person who violates any section of this article is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in section 50-38, plus costs and other sanctions, for each infraction. Repeat offenses under this article shall be subject to increased fines as provided by section 50-38.

(Ord. No. 248, § 20, eff. 10-20-1987; Ord. No. 302, § 13, eff. 12-31-1995)

Secs. 18-30—18-55. Reserved.

DIVISION 2. LICENSE[20]

[20]State law reference(s)—Granting of licenses, conditions, revocation, penalty, MCL 67.2.

Sec. 18-56. Required.

No person shall engage in the business of peddler, solicitor or canvasser, transient merchant, itinerant merchant or itinerant vendor within the village without first obtaining a license. For a firm, corporation, association, club, partnership, society or other organization, each individual person who engages in peddling within the village shall require a separate license and shall pay the applicable fees.

(Ord. No. 248, § 1, eff. 10-20-1987)

Sec. 18-57. Excepted activities.

The license required in this division shall not apply to the following:

(1) Sales of goods, wares and merchandise for local charitable purposes.

(2) Vendors approved by the village council or operating with the consent of individuals or organizations sponsoring events approved by the village council.

(3) Commercial travelers employed by wholesale houses and selling staple articles of merchandise to village merchants to be retailed by such merchants.

(4) Persons selling milk.

(5) Delivery of goods sold by village businesses.

(6) Permanently employed and bonded route salespersons who solicit orders from and distribute goods to regular customers on established routes.

(7) Any person under 18 years of age, when engaged in peddling on foot in the neighborhood of his residence under the direct supervision of any school or recognized charitable or religious organization.

(Ord. No. 248, § 19, eff. 10-20-1987)

Sec. 18-58. Application; content.

(a) An applicant for a license required under this division must file with the village manager an application in writing on a form to be furnished by the village, which shall give the following information:

(1) The name and description of the applicant.

(2) The applicant's legal and local address and phone number.

(3) A brief description of the nature of the business and the goods to be sold and, for products of farm or orchard, whether the products are produced or grown by the applicant.

(4) If employed, the name and address of the employer, together with credentials establishing the exact relationship.

(5) The length of time for which the right to do business is desired.

(6) If a vehicle is to used, a description of the vehicle, together with the vehicle license number, the applicant's driver's license number and proof of insurance.

(7) A photograph of the applicant taken within one year immediately prior to the date of filing the application showing the head and shoulders of the applicant in a clear and distinguishing manner.

(8) A statement as to whether the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.

(b) The applicant shall file with the completed application a copy of any form contracts to be used in the course of the applicant's business.

(Ord. No. 248, § 3(A), eff. 10-20-1987; Ord. No. 293, § 24, eff. 7-21-1994)

Sec. 18-59. Statement provided by solicitor or canvasser.

An applicant for a license to do business as a solicitor or canvasser shall, in addition to the information required in section 18-58, file a statement showing the place where the goods or property proposed to be sold or orders taken for the sale thereof are manufactured or produced, where such goods or products are located at the time the application is filed, and the proposed method of delivery.

(Ord. No. 248, § 3(B), eff. 10-20-1987)

Sec. 18-60. Statement provided by transient merchant.

An applicant for a license to do business as a transient merchant shall, in addition to the information required in section 18-58, file a statement including the following:

(1) The name of the person having the management or supervision of applicant's business during the time it is proposed the business will be carried on in the village; the local address of such person while engaged in such business; the permanent address of such person; the capacity in which such person will act (that is, whether as proprietor, agent or otherwise); the name and address of the person for whose account the business will be carried on, if any; and if a corporation, under the laws of what state the business is incorporated;

(2) The place in the village where it is proposed to carry on the applicant's business;

(3) The places, other than the permanent place of business of the applicant, where the applicant, within the six months preceding the date of the application, conducted a transient business, stating the nature thereof and giving the post office and street address of any building or office in which such business was conducted;

(4) A statement of the nature, character and quality of the goods, wares or merchandise to be sold or offered for sale by the applicant in the village; the invoice value and quantity of such goods, wares and merchandise; whether the goods, wares and merchandise are proposed to be sold from stock in possession or from stock in possession and by sample, at auction, by direct sale or by direct sale and by the taking of orders for future delivery; where the goods or property proposed to be sold are manufactured or produced; and where such goods or products are located at the time the application is filed;

(5) A brief statement of the nature and character of the advertising done or proposed to be done in order to attract customers. If required by the village manager, copies of all such advertising, whether by handbills, circulars, newspaper advertising, or otherwise, shall be attached to the application as exhibits to the application;

(6) Credentials from the person for which the applicant proposes to do business, authorizing the applicant to act as such representative;

(7) Such other information as to the identity or character of the person having the management or supervision of the applicant's business or the method or plan of doing such business as the village manager may deem proper to fulfill the purpose of this article in the protection of the public good; and

(8) A copy of the transient merchant license issued by the county treasurer pursuant to section 2 of Public Act No. 51 of 1925 (MCL 445.372, MSA 19.692), as amended.

(Ord. No. 248, § 3(C), eff. 10-20-1987; Ord. No. 293, § 25, eff. 7-21-1994)

Sec. 18-61. Fees.

(a) Before any license required by this division shall be issued, the applicant shall pay the fee prescribed by resolution of the village council.

(b) No fee shall be required from a person selling products actually grown, raised or produced from his own farm or orchard.

(c) No fee for a peddler's license shall be required of any person who is a war veteran and who has first obtained a peddler's license pursuant to Public Act No. 359 of 1921 (MCL 35.441 et seq., MSA 4.1241 et seq.), as amended, provided that the goods, wares and merchandise proposed to be sold by such person are his own.

(d) None of the license fees required of solicitors shall be so applied as to occasion an undue burden upon interstate commerce. If a license fee is believed, by a licensee or by an applicant for a license, to place an undue burden upon such commerce, he may apply to the village council for an adjustment of the fee so that it shall not be discriminatory, unreasonable or unfair as to such commerce. Such application may be made before, at or within six months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show his method of business and such other information as the village council may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The village council shall then conduct an investigation and shall make the findings of fact from which it shall determine whether the fee is unfair, unreasonable or discriminatory as to the applicant's business and shall fix as the license fee for the applicant an amount that is fair, reasonable and nondiscriminatory. If the fee has already been paid, the village council shall order a refund of the amount over and above the fee so fixed.

(Ord. No. 248, § 5, eff. 10-20-1987)

Sec. 18-62. Indebtedness to village.

No license required under this division shall be granted to any person owing any personal property taxes or other indebtedness to the village or who contemplates using any personal property on which personal property taxes are owing in the operation of such business.

(Ord. No. 248, § 17, eff. 10-20-1987)

Sec. 18-63. Food peddlers.

No license to peddle food in the village shall be issued under this division, except to a person holding a current food operator's permit issued by the county. Every applicant shall be 16 years of age or over.

(Ord. No. 248, § 6(A), eff. 10-20-1987)

Sec. 18-64. Investigation; issuance or disapproval; contents.

(a) Upon receipt of the application for the license required by this division, the original shall be referred to the village police department, the village president or the village marshal, who shall cause such investigation of the applicant's business and moral character to be made as is deemed necessary for the protection of the public good.

(b) If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the enforcement officer shall endorse on such application his disapproval and his reasons for the disapproval. The application shall be returned to the village manager, who shall notify the applicant that his application is disapproved and that no license will be issued.

(c) If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the enforcement officer shall endorse on the application his approval. The application shall be returned to the village manager, who shall, upon payment of the prescribed license fee, issue a license.

(d) The license shall contain the village seal and the signature of the issuing officer and shall show the name and address of the licensee, the class of license issued and the kind of goods to be sold under the license, the amount of the fee paid, the date of issuance and the length of time the license shall be operative, as well as the license number and other identifying description of any vehicle used.

(e) The village manager shall keep a permanent record of all licenses issued.

(Ord. No. 248, § 4, eff. 10-20-1987; Ord. No. 292, § 14, eff. 6-13-1994; Ord. No. 293, § 26, eff. 7-21-1994)

Sec. 18-65. Transferability.

(a) No license issued to a peddler, solicitor or canvasser under this division shall be used at any time by any person other than the one to whom it is issued.

(b) No license issued to a transient merchant shall be transferred without written consent from the village council, as evidenced by an endorsement on the face of the license by the village manager, showing to whom the license is transferred and the date of the transfer.

(Ord. No. 248, § 7, eff. 10-20-1987; Ord. No. 293, § 27, eff. 7-21-1994)

Sec. 18-66. Expiration.

Annual licenses issued under this division shall expire on April 1 of each year. A license other than an annual license shall expire on the date specified on the license.

(Ord. No. 248, § 18, eff. 10-20-1987)

Sec. 18-67. Revocation.

(a) A license issued under this division may be revoked by the village council, after notice and hearing, for any of the following causes:

(1) Fraud, misrepresentation, or false statement contained in the application for the license.

(2) Fraud, misrepresentation, or false statement made in the course of carrying on the licensee's business.

(3) Any violation of this article.

(4) Conviction of any crime or misdemeanor involving moral turpitude.

(5) Conducting the business of peddler, solicitor, canvasser or transient merchant in any 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.

(b) Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. The notice shall be mailed by registered or certified mail, return receipt requested, postage prepaid, to the licensee at his last known address at least five days prior to the date set for the hearing.

(Ord. No. 248, § 15, eff. 10-20-1987)

Sec. 18-68. Appeal from denial.

Any person aggrieved by the action of the village manager in the denial of a license as provided in section 18-64 shall have the right of appeal to the village council. Such appeal shall be taken by filing a petition with the council, within 14 days after notice of the denial. The appeal shall include a written statement setting forth fully the grounds for the appeal. The council shall set a time and place for a hearing on such appeal, and notice of the hearing shall be given to the appellant in the same manner as provided in section 18-67 for notice of hearing on revocation. The decision and order of the council on such appeal shall be final and conclusive.

(Ord. No. 248, § 16, eff. 10-20-1987; Ord. No. 293, § 29, eff. 7-21-1994)

Secs. 18-69—18-95. Reserved.

DIVISION 3. OPERATING REQUIREMENTS

Sec. 18-96. Exhibition of license.

Every person licensed under division 2 of this article is required to exhibit his license at the request of any citizen.

(Ord. No. 248, § 10, eff. 10-20-1987)

Sec. 18-97. Prohibited conduct for soliciting or peddling.

No person, in the course of soliciting or peddling, shall:

(1) Enter a private residence under pretenses other than for soliciting or peddling.

(2) Remain in a private residence or on the premises of a private residence after the owner or occupant of the residence has requested any such person to leave.

(3) Go in and upon the premises of a private residence to solicit or peddle when the owner or occupant of the residence has displayed a no soliciting or no peddling sign on such premises.

(Ord. No. 248, § 11, eff. 10-20-1987)

Sec. 18-98. Food peddlers.

(a) No person shall use any vehicle in peddling food unless such vehicle is licensed for such food peddling.

(b) No licensee shall sell or offer for sale any unsound, unripe or unwholesome food or drink or any defective, faulty or deteriorated article of food.

(c) No food peddler shall obstruct any street, alley, sidewalk or driveway, except as may be necessary and reasonable to consummate a sale, or remain, barter, sell or offer or expose for sale any food or drink in front of or at the side of any property against the wish or desire of the property owner or the occupant of such property or within 1,000 feet of the entrance to any school building between the hours of 8:00 a.m. and 5:00 p.m. on the days when school is in session. No food peddler shall stop his vehicle for the purpose of consummating a sale within 50 feet of any street intersection in the village.

(d) No licensee shall make a sale to any person under the age of 12 years of age on any property nearer the traveled portion of any street than the side of the public sidewalk nearest to the pavement or, where no public sidewalk exists, nearer than ten feet from the outer edge of such pavement. Where streets are unpaved, this subsection shall be deemed to apply to that portion of the street set aside for or used by vehicular traffic.

(Ord. No. 248, § 6(B)—(E), eff. 10-20-1987)

Sec. 18-99. Hours of operation.

No peddler, solicitor or canvasser shall engage in such business in the village after the hour of 8:00 p.m. and before the hour of 9:00 a.m.

(Ord. No. 248, § 14, eff. 10-20-1987)

Sec. 18-100. Loud noises and speaking devices.

No person licensed under division 2 of this article or any person on his behalf shall shout, make any outcry, blow a horn, ring a bell or use any sound device, including any loudspeaking radio or sound amplifying system, upon any of the streets, alleys, parks or other public places for the purpose of attracting attention to any goods, wares or merchandise such licensee proposes to sell.

(Ord. No. 248, § 8, eff. 10-20-1987)

Sec. 18-101. Use of streets.

No person licensed under division 2 of this article shall have any exclusive right to any location in the public streets, nor shall any such person be permitted a stationary location in the public right-of-way, nor shall such person be permitted to operate in any congested area where his operations impede or inconvenience the public. For the purpose of this section, the judgment of a law enforcement officer, exercised in good faith, shall be deemed exclusive as to whether the area is congested or the public impeded or inconvenienced.

(Ord. No. 248, § 9, eff. 10-20-1987)

Secs. 18-102—18-130. Reserved.

ARTICLE III. JUNKYARDS

DIVISION 1. GENERALLY

Sec. 18-131. 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:

Junk dealer means any person who buys, sells, or receives at a fixed location what is commonly called junk, such as rags, motor vehicles for dismantling, old rope, bags, bagging, iron, brass, tin, zinc, aluminum, scrap of discarded metal, bottles or other articles whether manufactured or in process of manufacture, or raw material old or new.

Junk gatherer means any person who buys, sells, receives or picks up the articles mentioned in the definition of junk dealer with a cart, wagon or other vehicle.

(Ord. No. 121, § 1(A), (B), eff. 8-22-1941)

Sec. 18-132. Equal liability for violation of article.

All persons who violate any provision of this article whether as owner or as agent, servant or employee shall be equally liable as principals.

(Ord. No. 121, § 1(C), eff. 8-22-1941)

Sec. 18-133. 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, plus costs and other sanctions, for each infraction. Repeat offenses under this article shall be subject to increased fines as provided by section 50-38.

(Ord. No. 121, § 10, eff. 8-22-1941; Ord. No. 302, § 5, eff. 12-31-1995)

Sec. 18-134. Sunday closing; exception.

No person shall engage in the business of junk dealer or junk gatherer on the first day of the week, commonly called Sunday; provided the provisions of this section shall not be applicable to any person who conscientiously believes that the seventh day of the week from sunset Friday to sunset Saturday shall be observed as the Sabbath and actually refrains from conducting or engaging in such business or performing other secular business on that day.

(Ord. No. 121, § 6, eff. 8-22-1941)

Sec. 18-135. Minors; thieves; associates.

No licensee hereunder shall buy or receive any article or automobile from anyone under the age of 21 years without the written permission of the parent or guardian of such minor, which writing shall be kept on file, nor shall he buy an article from an intoxicated person nor an habitual drunkard, nor from any person who he suspects or knows to be a thief or an associate of thieves, or a receiver of stolen property and upon the finding of any stolen property in possession or on the premises of a licensee stolen with his knowledge, his license may be revoked by the village council. Nor shall any such licensee or his clerk or employee receive any article by way of pledge or thing.

(Ord. No. 121, § 7, eff. 8-22-1941)

Secs. 18-136—18-160. Reserved.

DIVISION 2. LICENSE

Sec. 18-161. Required.

No person, directly or indirectly, himself or by his clerk, agent or employee shall engage in the business of a junk dealer or junk gatherer within the village without having first obtained a license from the village council.

(Ord. No. 121, § 2, eff. 8-22-1941)

Sec. 18-162. Application.

Applications for such licenses shall be made in writing to the village council and filed with the village manager or the manager's designee. It shall be at once referred to the village president, the village marshal or the village police department for investigation as to the moral character and previous record for the applicant. The officer is to report his findings as speedily as possible to the village council. Such application shall contain the name of the applicant and the place proposed to be operated by him as a junk shop or yard or place for the dismantling of automobiles, and, if the applicant is a corporation, the names and addresses of the officers. It shall contain an agreement on the part of the applicant that he will accept the license, if granted him, upon the condition that it may be suspended or revoked at the will of the village council. Applicants for junk dealers license shall also file with the application the written consent of 60 percent of the owners of exclusively residential property within the radius of 500 feet of the property where such business is to be conducted.

(Ord. No. 121, § 3, eff. 8-22-1941; Ord. No. 219, eff. 11-9-1983; Ord. No. 293, § 12, eff. 7-21-1994)

Sec. 18-163. Fees; surety bond.

(a) When such licenses have been granted, the village manager shall issue the same upon:

(1) Payment of the following license fees to the village manager or the manager's designee in amounts established by the village council by resolution:

a. Junk dealer maintaining a show or yard in the village, annual fee set by council resolution.

b. Junk gatherer or collector, a daily fee set by council resolution, provided however, that any person who has a junkyard or shop in the village been approved and paid the fee for a license and has filed the bond as hereinafter specified shall be entitled to operate on or move junk

vehicles solely for the purpose of buying, collecting, and conveying junk to and from such shop or yard in the village, without paying the daily license fee.

(2) The filing with the village of surety bonds in amounts established by council resolution and in a form approved by the village president.

(b) The license granted hereunder shall expire April 1 following the date of issue.

(Ord. No. 121, § 5, eff. 8-22-1941; Ord. No. 293, § 13, eff. 7-21-1994; Ord. No. 479 , § 1, 2-1-2021)

Sec. 18-164. Consent of property owners required prior to issuance.

If the village council is satisfied that the applicant is a suitable person to engage in the business of a junk dealer or junk gatherer, it shall grant such license; provided that no license shall be granted to conduct the business of a junk dealer unless the applicant has first obtained and filed the written consent of the owners of property as required in section 18-162, or the village council is satisfied that such yard will not be located within 500 feet of any residence and, provided further, that if the business of the junk dealer is to be conducted on a vacant lot or in a partially enclosed structure no license shall be granted until the applicant therefor shall have enclosed such property with a properly painted tight board fence at least six feet high and erected in such a manner as to obliterate the premises from view, which fence shall at all times be properly maintained by the licensee.

(Ord. No. 121, § 4, eff. 8-22-1941)

Sec. 18-165. Conditions imposed, rescinding of license for noncompliance.

The village council may impose as condition for the granting of a license to operate a junkyard or shop shall be so conducted as not to create a nuisance by reason of noise or disagreeable odors or fumes, that no loads of iron or other heavy materials may be unloaded or loaded nor break-up hammers used between the closing hours in the evening and the opening hours in the morning. The junk dealers shall not burn rubber or other substances so that the air may be polluted, nor shall the junk dealers cause to be lighted any fires in the closing hours, nor shall such junk dealers obstruct or cause to be obstructed the sidewalks, alleys, or right-of-way nor place nor cause to be placed outside of their property lines any secondhand articles, used bar parts, wheels, tin, iron, or metal of any kind or nature. The village council shall impose such other regulation as may be necessary to prevent the business of the licensee from being conducted in such a manner as to be a nuisance or a noisome and offensive business within the village and the village council may rescind such license upon complaint and the junkyard shall cease to operate until such evils are corrected or upon such terms and conditions as the village council in its discretion may ordain.

(Ord. No. 121, § 8, eff. 8-22-1941)

Sec. 18-166. Display.

A junk dealer shall show his license granted under this article in a conspicuous place in or upon his shop, store, wagon, automobile or other place of business.

(Ord. No. 121, § 9, eff. 8-22-1941)

Secs. 18-167—18-169. Reserved.

ARTICLE IV. MARIHUANA ESTABLISHMENTS

Sec. 18-170. Prohibition of marihuana establishments.

(a) Pursuant to the Michigan Regulation and Taxation of Marihuana Act, Section 6.1, the village elects to prohibit marihuana establishments within its boundaries, including, but not limited, any marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the State of Michigan under the Michigan Regulation and Taxation of Marihuana Act.

(b) Pursuant to the Michigan Medical Marihuana Facilities Licensing Act, Section 205(1), being MCL 333.27205(1), the village elects to prohibit medical marihuana facilities within its boundaries, including, but not limited, any medical marihuana grower, medical marihuana processor, medical marihuana provisioning center, medical marihuana transporter, medical marihuana safety compliance facility, or any other type of medical marihuana-related business licensed by the State of Michigan under the Michigan Medical Marihuana Facilities Licensing Act.

(Ord. No. 470, § 1, 11-12-2018)

Chapter 22 CABLE COMMUNICATIONS[21]

ARTICLE I. IN GENERAL

Secs. 22-1—22-25. Reserved.

ARTICLE II. CABLE COMMUNICATIONS COMMISSION[22]

Sec. 22-26. Established.

Before any cable communications franchise is granted, there shall be appointed a commission, to be known as the village cable communications commission.

(Ord. No. 211, § 180, eff. 12-12-1980)

[21]Cross reference(s)—Businesses, ch. 18; streets, sidewalks and certain other public places, ch. 74; utilities, ch. 82; franchises, app. B.

[22]Cross reference(s)—Boards and commissions, § 2-141 et seq.

Sec. 22-27. Composition.

The cable communications commission shall consist of three village residents representative of its population characteristics, appointed by the village council. Each member shall serve a term of three years. Any vacancy in the office shall be filled by the village council for the remainder of the term. No employee or person with ownership interest in a cable television franchise granted pursuant to this chapter shall be eligible for membership on the commission.

(Ord. No. 211, § 181, eff. 12-12-1980)

Sec. 22-28. Functions.

The cable communications commission, in addition to any functions assigned to it elsewhere in this chapter, shall have the following functions:

(1) Advise the council on applications for franchises.

(2) Advise the council on matters that might constitute grounds for revocation of the franchise in accordance with this chapter.

(3) Resolve disagreements among franchisees, subscribers and public and private users of a system. Such decisions of the commission shall be appealable to the village council.

(4) Advise the council on the regulation of rates in accordance with this chapter.

(5) Coordinate the franchisee's consultant services for best use of public facilities and channels of the system.

(6) Determine general policy relating to the service provided subscribers and the operation and use of public channels, with a view to maximizing the diversity of programs and services to subscribers. The use of public channels shall be allocated on a first come, first serve basis, subject to limitations on monopolization of system time or prime time, except that the following shall have priority on the use of public channel time: on the public access channel, village residents; village government; the village public school system; the village public library.

(7) Encourage use of public channels among the widest range of institutions, groups and individuals within the village. This endeavor shall be conducted with a view toward establishing different categories of uses, and the annual reports by the commission to the village council shall be by such categories, defined as follows:

   a. Local educational uses including the library, public schools.

   b. Public access for local programming under public control with guaranteed access for students and minority groups.

   c. Public agency access, including fire, police, burglar alarms, and public announcements.

   d. Off the air network and independent entertainment programs.

   e. Off the air educational programs.

   f. Availability of channel time for lease or pay TV.

   g. Availability of channel time for lease for business uses, including telemetry of information.

   h. Information retrieval and professional communication.

(8) Cooperate with other systems, and supervise interconnection of systems.

(9) Disburse, as provided by the council, revenues from franchisees for the development of the use of public channels, including production grants to users and the purchase and maintenance of equipment not required to be provided by the franchisee.

(10) Audit all franchisee records required by this chapter and, in the commission's discretion, require the preparation and filing of information additional to that required in this chapter.

(11) Make an annual report to the council, including an account of franchise fees received and distributed, the total number of hours of utilization of public channels, and hourly subtotals for various programming categories, and a review of any plans submitted during the year by franchisees for development of new services.

(12) Conduct evaluations of the system at least every three years, with the franchisee, and pursuant thereto make recommendations to the council for amendments to this chapter or the franchise agreement.

(Ord. No. 211, § 182, eff. 12-12-1980)

Sec. 22-29. Action by majority.

Any action of the cable communications commission shall require the concurrence of two members.

(Ord. No. 211, § 183, eff. 12-12-1980)

Secs. 22-30—22-55. Reserved.

ARTICLE III. FRANCHISE[23]

DIVISION 1. GENERALLY

Sec. 22-56. 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:

Cable communications system, cable system, CATV or system means a system of coaxial cables or other electrical conductors and equipment used or to be used to originate or receive television or radio signals directly or indirectly off the air and to transmit them via cable to subscribers for a fixed or variable fee, including the origination, receipt, transmission, and distribution of voices, sound signals, pictures, visual images, digital signals, telemetry, or any other type of closed circuit transmission by means of electrical impulses, whether or not directed to originating signals or receiving signals off the air.

Commission or cable commission means the village cable communications commission provided for in article II of this chapter.

[23]Cross reference(s)—Franchises, app. B.

State law reference(s)—Franchises limited to 30 years, Mich. Const. art. VII, § 30; submittal to electors required if irrevocable, Mich. Const. 1963, art. VII, § 25; expenses of special election to be paid by grantee, MCL 117.5(i), MSA 5.2084, (i).

Franchise or franchise agreement means the separate agreement by which the cable communications franchise is granted to a franchisee, as required by this article.

Local gross subscriber revenues means those gross revenues of the franchisee from subscribers within the village; provided, however, that revenue resulting from installation and relocation charges or from sales of tangible property shall not be deemed local gross subscriber revenues for the purpose of computing any franchise fee pursuant to this article. Local gross subscriber revenues shall not include proceeds from any services, installations, facilities or signal carriage which may originate or terminate outside the state.

Pay TV means an arrangement under which a charge is made to a television receiver for receiving a particular program.

Producer means a user providing input services to the cable system for receipt by subscribers.

Public channels means channels which are dedicated to the public interest, according to the following categories:

(1) Public access.

(2) Educational use.

(3) Local government purposes.

Subscriber means a person or organization whose premises are physically wired to receive any transmission from the system.

Subscriber service drop means each extension wiring from the franchisee's distribution lines to a subscriber's building.

User means a person or organization utilizing a system channel as a producer, for purposes of production and/or transmission of material, or as a subscriber, for purposes of receipt of material.

(Ord. No. 211, § 110, eff. 12-12-1980)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 22-57. Required.

No person shall own or operate a cable system except by franchise granted by the village, in the form of a franchise agreement between the village and the franchisee, which shall comply with all the specifications of this article.

(Ord. No. 211, § 100, eff. 12-12-1980)

Sec. 22-58. Contravention of agreement.

Any breach by the franchisee of the cable communications franchise agreement, in addition to constituting a breach of contract, shall constitute a violation of this article. The cost of any litigation, including attorneys' fees, incurred by the village to enforce this article or a franchise granted pursuant to this article shall be reimbursed to the village by the franchisee, in respect of such litigation or part thereof in which the village is the prevailing party.

(Ord. No. 211, § 101, eff. 12-12-1980)

Sec. 22-59. Compliance by franchisee.

The cable communications franchisee shall not be relieved of its obligation to comply promptly with any of the provisions of the franchise by any failure of the village to enforce prompt compliance.

(Ord. No. 211, § 170, eff. 12-12-1980)

Sec. 22-60. Liability for violations.

All persons, including officers of any franchisee, causing, participating in, or permitting any violation of any section of this chapter shall be severally or jointly liable therefor and as such subject to the fines and penalties provided in this Code for such violation.

(Ord. No. 211, § 171, eff. 12-12-1980)

Sec. 22-61. Prosecution.

Prosecutions under this chapter shall be recommended by the cable communications commission to the village council and shall be prosecuted in the name of the village.

(Ord. No. 211, § 172, eff. 12-12-1980)

Sec. 22-62. Forfeiture.

(a) In addition to all other rights and powers pertaining to the village by virtue of the cable communications franchise or this article, the village may terminate and cancel the franchise and all rights and privileges of the franchisee thereunder if the franchisee:

    (1) Substantially violates any provision of the franchise or any section of this chapter or any rule, order, or determination of the village council or village cable communications commission made pursuant thereto, where such violation shall remain uncured for a period of 30 days subsequent to receipt by the franchisee of written notice of the violation, except where such violation is not the fault of the franchisee or is due to excusable neglect.

    (2) Attempts to dispose of any of the facilities or property of its CATV business to prevent the village from purchasing the business, as provided for in this article.

    (3) Attempts to evade any of the sections of this article or the franchise agreement or practices any fraud or deceit upon the village.

(b) Any termination and cancellation shall be made by resolution of the village council duly adopted after 60 days' notice to the franchisee and shall in no way affect any of the village's rights under this franchise or any provisions of law. Before the franchise may be terminated and cancelled under this section, the franchisee shall be provided with an opportunity to be heard before the village council, upon 30 days' written notice to the franchisee of the time and place of the hearing. The notice shall affirmatively recite whether the revocation is at will or for cause, and if for cause the reasons alleged to constitute such cause shall be recited in the notice. Affording the franchisee the opportunity to be heard shall not be interpreted as an implication that cause need be shown by the village to support a revocation at its will, pursuant to the express requirements as to revocability of franchises contained in the state constitution and the village Charter.

(Ord. No. 211, § 106, eff. 12-12-1980)

Sec. 22-63. Term.

No franchise granted under this article or any renewal thereof shall be for a term of more than ten years. The franchise or any renewals thereof shall be revocable at any time, at the will of the village, expressed through resolution of the village council. A renewal may be granted not more than two years prior to the expiration of any existing term.

(Ord. No. 211, § 105, eff. 12-12-1980)

Secs. 22-64—22-90. Reserved.

DIVISION 2. SELECTION OF FRANCHISEE

Sec. 22-91. Information required.

In selecting a franchisee pursuant to this article, the village shall require the information in this section, which shall be submitted to the cable communications commission by the prospective franchisee in a document entitled "Village of Fowlerville Cable System Proposal." The applicant shall furnish or provide the following:

(1) Biographical data of its proposed management, demonstrating capability of the applicant to operate a cable system. This data shall include a statement of principal residences of all owners, executives, and key personnel of the applicant.

(2) Sufficient evidence of financial ability and technical capability, including experienced personnel, to construct, operate, and maintain the system. Financial ability may be demonstrated by assets of the applicant or by the applicant's ability to secure adequate financing.

(3) Information as to the programming services and public services which it shall propose to provide as follows:

   a. The off-air signals to be carried initially.

   b. The number of channels offered and the potential for diversified services to local government, educational institutions, community groups, householders and local commercial interests.

   c. Projected development of customer and community services, indicating priorities in development, and estimated time schedules therefor.

(4) A map showing the location of all CATV cable lines to be erected within three years of the granting of the franchise.

(5) Information as to the following:

   a. A brief description of the employment practices related to the hiring and training of minority people.

   b. Cost estimates of development, installation, and maintenance of system, which items shall be deemed to include but not be limited to the proposed cost of acquisition of the system where approval of a transfer of the franchise has been requested.

   c. Revenue forecasts for the next five years of service.

   d. A schedule of rates for installation charges, monthly service fees and relocation charges, according to the schedule specified in article IV of this chapter.

e. Such other information as the village may request.

(Ord. No. 211, § 115, eff. 12-12-1980)

Sec. 22-92. Criteria for selection.

Based upon the information contained in a prospective franchisee's proposal, submitted pursuant to section 22-91, and such other pertinent knowledge or information as may be obtained by the village, the following items shall comprise the criteria for award of any cable communications franchise or the transfer thereof:

(1) *Service priorities.* First order consideration shall be given to system capability in terms of no-cost telecasting production facilities and service available to municipal and educational institutions and community groups and individuals. Second order consideration shall be given to system provision for two-way communication. Third order consideration shall be given to total number of channels provided by the system.

(2) *Rate schedule.* Preference may be given to applicants with the most reasonable installation and rate schedule.

(3) *Nonprofit ownership.* Preferences may be given to applicants representing nonprofit organization.

(4) *Financial capacity.* The evidence of financial ability required in the applicant's proposal shall be such as to ensure ability to complete the system.

(5) *Licensees.* No preference may be given to a past or present cable television licensee of the village for that reason alone.

(Ord. No. 211, § 116, eff. 12-12-1980)

Sec. 22-93. Hearings, notices, publications.

The village council shall award a cable communications franchise to an applicant only after a public hearing on the application and proposal, notice of which hearing shall be published in a local newspaper of general circulation at least 20 days before the date of the hearing. Any franchise that is granted shall be published in the same manner as are notices of passage of village ordinances. The village shall actively seek applicants for initial franchises to meet the highest standards of service and character.

(Ord. No. 211, § 117, eff. 12-12-1980)

Secs. 22-94—22-120. Reserved.

DIVISION 3. RESTRICTIONS AND STANDARDS

Sec. 22-121. Agreement; rights reserved by village.

Every cable communications franchise granted pursuant to this article shall be subject to and shall expressly indicate that it is subject to the following:

(1) Any franchise granted shall be subject to the right of the village by resolution of the village council to revoke the franchise with just cause.

(2) Any franchise granted shall be subject to all applicable provisions of village ordinances, the village Charter, and any amendments thereto, whether made prior to or after the inception of this franchise.

(3) Any franchise granted shall be subject to the right of the village to:

a. Repeal the franchise for misuse, nonuse, or the failure to comply with this article or any other local, state or federal laws or FCC rules or regulations.

b. Require proper and adequate extension of plant and service maintenance thereof at the highest practicable standard of efficiency, and specifically require extension of subscriber service to all residents of the village within three years of the inception of the franchise.

c. Establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.

d. Require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period of the franchise.

e. Impose such other regulations as may be determined by the council to be conducive to the safety, welfare and accommodation of the public.

f. Use, control, and regulate the use of village streets, alleys, bridges, and public places and the space above and beneath them. Every franchisee shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges, and public places as shall arise from its use thereof and shall protect and save the village harmless from all damages arising from such use, and the franchisee may be required by the village to permit joint use of its property and appurtenances located in the village streets, alleys, and public places by the village and other utilities insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefor. In the absence of agreement, upon application by any franchisee, the council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor, which award shall be final.

g. Install and maintain without charge, its own equipment upon the franchisee's poles upon the condition that such equipment shall not interfere with the operations of the franchise.

h. Through its appropriately designated representatives, inspect all construction or installation work performed, subject to the provisions of the franchise and this article, and make such inspections as it shall find necessary to ensure compliance with the terms of the franchise, this article, and other pertinent provisions of law.

i. At the expiration of the term for which this franchise is granted or upon the termination and cancellation as provided therein, require the franchisee to remove at its own expense any and all portions of the CATV system from the public ways within the village.

(4) No franchise shall be exclusive.

(Ord. No. 211, § 120, eff. 12-12-1980; Ord. No. 212, eff. 7-22-1981)

Sec. 22-122. Specific contents required in franchise agreement.

(a) In addition to those matters required elsewhere in this article to be included in the cable communications franchise agreement, it must contain the following express representations by the franchisee that:

(1) It accepts and agrees to all of the sections of this article and any supplementary specifications as to construction or operation of the system, which the village may include in the franchise agreement.

(2) It has examined all of the sections of this article and waives any claims that any sections of this article are unreasonable, arbitrary, invalid or void.

(3) It recognizes the right of the village to make reasonable amendments to this article during the term of the franchise upon 60 days prior notice to the franchisee or without notice with respect to emergency amendments. It further recognizes and agrees that the village shall in no way be bound to renew the franchise at the end of any franchise term.

(4) It recognizes and agrees that it shall be considered a public utility for the purposes of this article.

(b) Every franchise shall specifically delineate the territorial extent of the village in which the franchisee is authorized to operate.

(c) Every franchise shall specifically set forth specific standards which the franchisee must maintain in respect of the following:

(1) Signal quality requirements, including what programs must be transmitted in color.

(2) Technical standards of operation and maintenance of the system.

(3) The extent, if any, to which off the air programs may be altered by the franchisee.

(d) The franchise agreement shall contain such further conditions or provisions as may be negotiated between the village and the franchisee, except that no such conditions or provisions shall be such as to conflict with any section of this article or other law. If a conflict occurs or if there is ambiguity between any terms or provisions of the franchise agreement and this article, the words of this article shall control.

(Ord. No. 211, § 121, eff. 12-12-1980)

Sec. 22-123. Number of channels.

The cable communications franchisee's distribution system shall initially be capable of carrying at least 30 channels of television breadth. The system shall also provide simultaneous reverse direction signal capability for digital, audio and video signal transmission on all elements of the system. The extent to which the reverse capability is available to subscriber use shall be specified in the franchise agreement. No less than 21 channels shall be available to subscribers upon the installation of the system within the village. The village may, from time to time, require an increase in the number of channels to be provided.

(Ord. No. 211, § 122, eff. 12-12-1980; Ord. No. 212, eff. 7-22-1981)

Sec. 22-124. Technological advances.

Each cable communications franchisee shall constantly upgrade its facilities, equipment, and service so that its system is as advanced as the current state of technology will allow. Each franchisee shall install additional channel capacity as required to keep channel capacity in excess of the demand therefor by producers. Within a reasonable time, to be determined by the franchisee and the cable communications commission, each cable system shall be upgraded so that it is no less advanced than any other system of comparable size, excepting only systems which are experimental, pilot or demonstration.

(Ord. No. 211, § 123, eff. 12-12-1980)

Sec. 22-125. Use of channels.

(a) Under the cable communications franchise, advertising or pay TV shall be allowed on nonpublic channels only.

(b) Two channels shall be designated "public channels." One of the two such public channels shall be exclusive for the use of the village, and the other shall be available upon request from the village. The franchisee shall, without charge for installation, maintenance or service, provide the equipment and cable necessary to deliver to the cable system the television, audio and telemetry signals from one location specified by the village.

(c) The franchisee is prohibited from censoring any program which is cablecast over public channels; any franchisee is expressly granted immunity from any liability which might otherwise arise out of its failure to censor any program.

(d) Charges made by the franchisee to a user, except for public channels, shall be based upon the fair value of the service to the user and no other criteria. A franchisee is prohibited from discriminating on any other grounds among users or in favor of himself.

(e) The cable communications commission shall designate for use without charge at least one channel in each of the use categories enumerated in the definition of the term "public channels" in section 22-56. Where substantial studio production time or engineering services are required of the franchisee, it may ask the commission to assess a charge to the user of a public access channel, which charge, if assessed, shall be consistent with the goal of affording the public a low cost means of television access.

(f) If, six months after the first availability of any public channels, the cable communications commission determines that there is no immediate public need therefor, such channels may be leased or sold by the franchisee until such time as the commission determines that such need does exist; whereupon, the commission shall, upon 60 days' written notice to the franchisee, have the power to require rededication of the channels.

(g) The franchisee shall submit a proposed list of studio equipment to the cable communications commission for approval prior to granting the franchise.

(h) The franchisee shall employ such technical personnel as may be necessary to meet the standards of utilization of public channels, as established by this article, the franchise, or the cable communications commission.

(i) Advertising for any candidate for political office or for parties sponsoring such candidates shall be granted only upon the basis that all such other candidates for the same office or other parties sponsoring such candidate, where a party itself so advertises in the first instance, shall be provided with comparable advertising time and at a comparable rate. Specific disputes as to what constitutes comparable time or rates may be submitted by the franchisee or any interested party for resolution by the cable communications commission.

(Ord. No. 211, § 124, eff. 12-12-1980)

Sec. 22-126. Subscriber equipment; switching devices.

The cable communications franchisee shall provide every subscriber with all equipment necessary for reception on the subscriber's set of all channels to which he has subscribed. At the request of any subscriber, the franchisee shall install and maintain, at cost, an adequate switching device to allow the subscriber to choose between cable and noncable reception.

(Ord. No. 211, § 125, eff. 12-12-1980)

Sec. 22-127. Public service installations.

The cable communications franchisee shall, without charge for installation, maintenance, or service, make single installations of its standard community antenna service facilities at each fire and police station and public and private school (grades K—12) within the village. The franchisee shall, without charge for installation, maintenance, or service, make single installations of its standard community antenna services to the village hall and the public library. Such installations shall be made at such reasonable locations as shall be requested by the respective units of government or educational institutions. Any charge for relocation of such installations shall, however, be charged at actual costs. Additional installations at the same location may be made at cost plus ten percent. No monthly service charges shall be made for distribution of the franchisee's signals within such publicly owned buildings.

(Ord. No. 211, § 126, eff. 12-12-1980)

Sec. 22-128. Other business activities.

In the conduct of the business franchised under this article, neither the franchisee nor its officers, employees, or agents shall sell, repair, or install or recommend the sale, repair or installation of radio or of television receivers; provided, however, that nothing in this section shall be deemed to prohibit the franchisee, at a customer's request and without payment, from examining and adjusting a customer's receiver set to determine whether reception difficulties originate in such set or in the franchisee's system. The franchise granted pursuant to this article authorizes only the operation of a system as provided for in this article and does not take the place of any other franchise, license or permit which might be required by law of the franchisee.

(Ord. No. 211, § 127, eff. 12-12-1980)

Sec. 22-129. Interconnections.

The cable communications franchisee may interconnect with any other system or service. The franchisee's system shall be designed and constructed so as to be capable of interconnection with any systems existing in municipalities contiguous to the village and, insofar as is technically and economically feasible, with any such systems anticipated for future construction, and the franchisee shall make reasonable and diligent efforts to accomplish interconnection with such systems. However, nothing in this section shall prohibit the charging to subscribers, on a time-used basis, of extra fees for cablecast channels received from noncontiguous systems.

(Ord. No. 211, § 128, eff. 12-12-1980)

Sec. 22-130. Construction standards and requirements.

(a) All of the cable communications franchisee's plant and equipment, including but not limited to the antenna site, head-end and distribution system, towers, house connections, structures, poles, wires, cables, coaxial cables, fixtures and appurtenances shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated in accordance with good engineering practices, performed by experienced pole-line construction crews and so as not to endanger or interfere with the safety of any person or property or to interfere with improvements the village may deem proper to make or to interfere in any manner with the rights of any property owner or to unnecessarily hinder or obstruct pedestrian or vehicular traffic on municipal properties. Further, all such plants and equipment and all construction shall meet all relevant specifications of the Federal Communications Commission.

(b) Any opening or obstruction in or disturbance of the streets, public ways, or other municipal properties made by the franchisee in the exercise of its rights under the franchise agreement shall be guarded and protected at all times by the placement of adequate barriers, fences or boardings, the bounds of which during periods of dusk and darkness shall be clearly designated by adequate warning lights, all by the franchisee at its expense. If any physical disturbance or damage occurs to any streets, public ways, or other municipal properties in the course of erection, installation, construction, reconstruction, replacement, removal, repair, maintenance or operation, the franchisee shall promptly repair such disturbance and damage at its own expense and in a manner approved by the village.

(c) The franchisee shall, at its expense, protect, support, temporarily disconnect, relocate in the same street or other public place or municipal property or remove from the street or other public place or municipal property any property of the franchisee when required by the village council because of traffic conditions; public safety; street vacation; freeway and street construction; change or establishment of street grades; installation of sewers, drains, water pipes, power lines, signal lines and tracks; or any other type of structures or improvements by public agencies. However, this subsection shall not be interpreted to prohibit reimbursement to the franchisee for relocation expenses where reimbursement is required or authorized by state or federal law.

(d) The franchisee shall, on the request of any private party holding an appropriate permit issued by the village, temporarily raise or lower its lines to permit the moving of any building or other structure, and the actual expense of raising or lowering its lines shall be paid by the party requesting the raising or lowering.

(e) Upon failure of the franchisee to commence, pursue, or complete any work required by law or by the franchise to be done in any street or other public place or municipal property, within the time prescribed and to the satisfaction of the village council, the village council may, at its option, cause such work to be done. The franchisee shall pay to the village the cost thereof in the itemized amounts reported by the village council to the franchisee within 30 days after receipt of such itemized report.

(Ord. No. 211, § 129, eff. 12-12-1980)

Sec. 22-131. Payments to building owners.

Each cable communications franchisee shall have the right and obligation to provide cable television service to any member of the public in any publicly or privately owned building which is in the franchisee's franchise area without paying a charge to the building owner. Any disputes between the franchisee and any building owner shall be heard at and resolved by a public hearing by the cable communications commission. Each franchisee shall report to the commission any building owner who requests a payment from the franchisee before allowing the franchisee to install cable system service in the building owner's building or who otherwise refuses the franchisee free access. A franchisee is expressly prohibited from entering into any agreement with an owner of a multiple-dwelling unit, which would either increase or decrease the rates and/or services to a subscriber residing in the dwelling.

(Ord. No. 211, § 130, eff. 12-12-1980)

Sec. 22-132. Repair.

Any damage caused to the property of building owners or users or any other person by the cable communications franchisee shall be repaired fully by the franchisee.

(Ord. No. 211, § 131, eff. 12-12-1980)

Sec. 22-133. Removal of facilities upon request.

Under termination of service to any subscriber, the cable communications franchisee shall promptly remove all its facilities and equipment from the premises of such subscriber upon his written request.

(Ord. No. 211, § 132, eff. 12-12-1980)

Sec. 22-134. Right of village to purchase system; other transactions affecting ownership or control of facilities.

(a) Upon expiration of the term of the cable communications franchise or upon any other termination thereof, as provided for in this article or by law, or upon receipt of an application for prior approval of acquisition or transfer as set forth in subsection (e) of this section, the village, at its election, shall have the right to purchase and take over the system. The village shall pay to the franchisee a fair and reasonable price such as would allow continued operation of the system, by the village, in keeping with the standards established under this article and the franchise agreement. Such price may be established in the franchise agreement, either explicitly or by establishment of a method of arriving at such price. Notwithstanding any terms of the franchise agreement, the price shall not include any consideration for the value of the right awarded by the village to the franchisee under the franchise agreement.

(b) Upon the exercise of this option by the village and its service of an official notice of such action upon the franchisee and upon payment of the purchase price, the franchisee shall immediately transfer to the village possession and title to all facilities and property, real and personal, of the CATV business, free from any and all liens and encumbrances not agreed to be assumed by the village in lieu of some portion of the purchase price set forth in subsection (a) of this section, and the franchisee shall execute such warranty deeds or other instruments of conveyance to the village as shall be necessary for this purpose. The franchisee shall make it a condition of each contract entered into by it with reference to its operations under this franchise that the contract shall be subject to the exercise of this option by the village and that the village shall have the right to succeed to all privileges and obligations thereof upon the exercise of such option. However, the village shall have the right unilaterally to increase the purchase price provided for in subsection (a) of this section should it so elect, by an ordinance amendatory to this section. Such right shall not be construed as giving the franchisee a right to any price in excess of that set forth in subsection (a) of this section.

(c) In order that the village may exercise its option to take over the facilities and property of the system as authorized in this section upon expiration or forfeiture or revocation of the rights and privileges of the franchisee, the franchisee shall not make, execute, or enter into any deed, deed of trust, mortgage, contract, conditional sales contract, or any loan, lease, pledge, sale, gift, pole agreement, or any other agreement concerning any of the facilities or property, real or personal, of the system without prior approval of the village council upon its determination that the transaction proposed by the franchisee will not be inimical to the rights of the village under this franchise. This subsection shall not apply to the disposition of worn out or obsolete facilities or personal property in the normal course of carrying on the CATV business or to routine contractual relationships entered into in the ordinary course of the cable business.

(d) Prior approval of the village council shall be required where ownership or control of more than 25 percent of the right of control of the franchisee is acquired by a person or group of persons acting in concert, none of whom already own or control 25 percent or more of such right of control, singularly or collectively.

(e) No franchise granted under this article may be transferred unless such transaction is first approved by the village council, by resolution after public hearing, in accordance with the same procedures as are specified for grants of franchises. Such approval shall not be unreasonably withheld.

(f) By its acceptance of the franchise, the franchisee specifically concedes and agrees that any acquisitions or transfers as set forth in subsection (d) or (e) of this section, without prior approval of the village council, shall constitute a violation of the franchise and this article by the franchisee.

(Ord. No. 211, § 133, eff. 12-12-1980)

Sec. 22-135. Termination after appointment of receiver or trustee.

(a) The franchise granted in this article shall, at the option of the village council, cease and terminate 120 days after the appointment of a receiver or trustee to take over and conduct the business of the franchisee, whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of the 120 days or unless:

(1) Such receiver or trustee shall have, within 120 days after his election or appointment, fully complied with all the terms and provisions of this article and the franchise granted pursuant to this article, and the receiver or trustee within such 120 days shall have remedied all defaults under the franchise; and

(2) Such receiver or trustee shall, within such 120 days, execute an agreement duly approved by the court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every term, provision and limitation of the franchise granted.

(b) For a foreclosure or other judicial sale of the plant, property, and equipment of the franchisee or any part thereof, including or excluding this franchise, the village council may serve notice of termination upon the franchisee and the successful bidder at such sale, in which event the franchise and all rights and privileges of the franchisee under this article shall cease and terminate 30 days after service of such notice, unless:

(1) The village council shall have approved the transfer of this franchise, as and in the manner in this article provided; and

(2) Such successful bidder shall have covenanted and agreed with the village to assume and be bound by all the terms and conditions of this franchise.

(Ord. No. 211, § 134, eff. 12-12-1980)

Sec. 22-136. Village's right of intervention.

The cable communications franchisee shall not oppose intervention by the village in any suit or proceeding to which the franchisee is a party.

(Ord. No. 211, § 135, eff. 12-12-1980)

Sec. 22-137. Discriminatory or preferential practices.

The cable communications franchisee shall not, in its rates or charges or in making available the services or facilities of its system or in its rules or regulations or in any other respect, make or grant preference or advantages to any subscriber or potential subscriber to the system or to any user or potential user of the system and shall not subject any such person to any prejudice or disadvantage. This section shall not be deemed to prohibit promotional campaigns to stimulate subscriptions to the system or other legitimate uses thereof, nor shall it be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming with such classification shall be entitled.

(Ord. No. 211, § 136, eff. 12-12-1980)

Sec. 22-138. Open access.

The entire cable communications system of the franchisee shall be operated in a manner consistent with the principle of fairness and equal accessibility of its facilities, equipment, channels, studios, and other services to all citizens, businesses, public agencies, or other entities having a legitimate use for the system, and no one shall be arbitrarily excluded from its use. Allocation of the use of such facilities shall be made according to the rules or decisions of regulatory agencies affecting the use, and where such rules or decisions are not effective to resolve a dispute between conflicting uses or potential users, the matter shall be submitted for resolution by the cable communications commission.

(Ord. No. 211, § 137, eff. 12-12-1980)

Sec. 22-139. Maintenance personnel.

The cable communications franchisee shall maintain a force of one or more agents or employees at all times and shall have sufficient employees to provide safe, adequate and prompt service for its facilities.

(Ord. No. 211, § 138, eff. 12-12-1980)

Sec. 22-140. Emergency use of facilities.

The cable communications franchisee shall, in any emergency or disaster, make its entire system available without charge to the village or to any other governmental or civil defense agency the village shall designate.

(Ord. No. 211, § 139, eff. 12-12-1980)

Sec. 22-141. Filings and communications with regulatory agencies.

Copies of all petitions, applications and communications submitted by the cable communications franchisee to the Federal Communications Commission, the Securities and Exchange Commission, or any other federal or state regulatory commission or agency having jurisdiction in respect to any matters affecting CATV operations authorized pursuant to this franchise shall also be submitted simultaneously to the village cable communications commission.

(Ord. No. 211, § 140, eff. 12-12-1980)

Sec. 22-142. Permits and authorizations.

The cable communications franchisee or the applicant for a cable communications franchise shall diligently apply for all necessary permits and authorizations required in the conduct of its business and shall diligently pursue the acquisition thereof, including necessary pole attachment contracts and necessary authorizations from the Federal Aviation Administration to construct such receiving antenna towers as may be required, and any necessary authorizations or waivers from the Federal Communications Commission. When such permit, authorization, contract or waiver is obtained, a copy thereof shall be promptly filed by the franchisee with the cable communications commission.

(Ord. No. 211, § 141, eff. 12-12-1980)

Sec. 22-143. Reports.

(a) Each cable communications franchisee shall file with the cable communications commission copies of statements filed pursuant to this article with the village treasurer. Each franchisee shall also allow the commission to audit all of its accounting and financial records upon reasonable notice; shall make available all of its plans, contracts, and engineering, statistical, customer and service records relating to its system and all other records required to be kept thereunder; and shall at all times maintain complete and accurate books of account, records of its business and operations, and all other records required by this article or the franchise.

(b) Each franchisee shall file annually with the cable communications commission an ownership report, indicating all persons who at any time during the preceding year did control or benefit from an interest in the franchise of one percent or more and all creditors, secured and unsecured, in excess of $1,000.00.

(c) Each franchisee shall also file annually with the commission copies of all rules, regulations, terms and conditions that it has adopted for the conduct of its business.

(Ord. No. 211, § 142, eff. 12-12-1980)

Sec. 22-144. Emergency alert.

The cable communications system shall be engineered to provide an audio alert system to allow authorized officials to automatically override the audio signal on all channels and transmit and report emergency information. If any such use is made by the village, the village will hold harmless and indemnify the franchisee from any damages or penalties resulting from the use of this service.

(Ord. No. 211, § 143, eff. 12-12-1980)

Sec. 22-145. Safety, nuisances.

The cable communications franchisee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices preventing failures and accidents which are likely to cause damage, injury or nuisance to the public.

(Ord. No. 211, § 144, eff. 12-12-1980)

Sec. 22-146. New developments.

The village council may amend this article or the cable communications franchise whenever necessary to enable the franchisee to take advantage of any developments in the field of transmission of communication signals which will afford it an opportunity to more effectively, efficiently, or economically serve its customers. However, this section shall not be construed to require the village to make any such amendment. Before a franchisee adds additional services to its communications system, such service and the rate to be charged shall first be approved by the cable communications commission.

(Ord. No. 211, § 145, eff. 12-12-1980)

Sec. 22-147. Insurance, bonds and indemnification.

(a) *Liability and indemnification of village.* The cable communications franchisee shall indemnify and hold harmless the village at all times during the term of the franchise granted by this article and specifically agrees

that it will pay all damages and penalties the village may be legally required to pay as a result of granting the franchise. Such damages and penalties shall include but not be limited to damages arising out of copyright infringements and other damages arising out of the installation, operation or maintenance of the CATV system authorized in this article, whether or not any act or omission complained of is authorized, allowed, or prohibited by the franchise. If suit shall be filed against the village either independently or jointly with the franchisee to recover for any claim or damages, the franchisee, upon notice to it by the village, shall defend the village against the action and, if a final judgment is obtained against the village, either independently or jointly with the franchisee solely because of the acts of the franchisee, the franchisee will pay the judgment and all costs, and shall hold the village harmless therefrom.

(b) *Performance bond.* The franchisee shall, concurrently with its acceptance of the cable communications franchise, file with the village clerk and at all times thereafter maintain in full force and effect for the term of the franchise or any renewal thereof, at the franchisee's sole expense, a corporate surety bond in a responsible company licensed to do business in the state in the amount of $200,000.00, renewable annually. The bond shall be conditioned upon the faithful performance of the franchisee and upon the further condition that, if the franchisee shall fail to comply with any one or more of the provisions of the franchise, there shall be recoverable jointly and severally from the principal and surety of such bond any damages or loss suffered by the village as a result thereof, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the franchisee as prescribed by this article, plus a reasonable allowance for attorneys' fees and costs, up to the full amount of the bond. Such condition shall be a continuing obligation for the duration of the franchise and any renewal thereof and thereafter until the franchisee has liquidated all of its obligations with the village that may have arisen from the acceptance of this franchisee or renewal by the franchisee or from its exercise of any privilege or right granted by this article. The bond shall provide that at least 30 days' prior written notice of the intention not to renew, of cancellation, or of material change be given to the village by filing the notice with the village clerk. The village council may, in its sole discretion, waive the bond or reduce the required amount of the bond after construction of the initial system.

(c) *Insurance.* Insurance shall be required in such forms and in such companies as shall be approved by the village, such approval not to be unreasonably withheld, to protect the village and the franchisee from and against any and all claims, injury or damage to persons or property, both real and personal, caused by the construction, erection, operation, or maintenance of any aspect of the system. The amount of such insurance shall be not less than the following:

(1) *General liability insurance.*

a. One person, $500,000.00.

b. One accident, $1,000,000.00.

c. Property damage, $250,000.00.

(2) *Automobile insurance.*

a. One person, $500,000.00.

b. One accident, $1,000,000.00.

c. Property damage, $250,000.00.

(3) *Worker's compensation.* Worker's compensation insurance shall also be provided as required by state law.

All such insurance coverage shall provide a ten-day notice to the village clerk of material alteration or cancellation of any coverage afforded in such policies prior to the date the material alteration or cancellation shall become effective. Copies of all policies required under this subsection shall be furnished to and filed with the village clerk prior to the commencement of operations or the expiration of prior policies, as the case may be.

(d) *Liability.* Neither this section nor any bond accepted by the village pursuant to this section nor any damage recovered by the village under the bond shall be construed to excuse unfaithful performance by the franchisee or to limit the liability of the franchisee under this article or the franchise for damages, either to the full amount of the bond or otherwise.

(Ord. No. 211, § 146, eff. 12-12-1980)

Sec. 22-148. Operational standards.

The technical standard for operation of the cable communications system shall, in addition to meeting the requirements specified in this article, conform to all further requirements specified in the franchise agreement and any other standards or codes therefor as may be adopted by the village or the cable communications commission.

(Ord. No. 211, § 147, eff. 12-12-1980)

Secs. 22-149—22-175. Reserved.

DIVISION 4. FEES

Sec. 22-176. Application fee.

The application for the grant of a cable communications franchise shall be accompanied by a fee in the amount of $5,000.00, which shall be applied against the annual franchise fee due to the village from the franchisee and which shall be refunded to the applicant if its application is rejected by the village. If a granted franchise is subsequently revoked by the village, pursuant to this article, the village council may, in its discretion and upon consideration of all circumstances, refund none, all, or part of the application fee.

(Ord. No. 211, § 160, eff. 12-12-1980; Ord. No. 212, eff. 7-22-1981)

Sec. 22-177. Annual fee.

During the term of any franchise granted pursuant to this article, the franchisee shall pay to the village for the use of its streets, public places, and other facilities, as well as the maintenance improvements and supervision thereof, an annual franchise fee in an amount to be established by contract between the parties. This payment shall be in addition to any other tax or payment owed to the village by the franchisee.

(Ord. No. 211, § 161, eff. 12-12-1980)

Sec. 22-178. Method of computation.

Sales taxes or other taxes levied directly on a per-subscription basis and collected by the cable communications franchisee shall be deducted from the local gross subscriber revenues before computation of sums due the village is made. Payments due the village under this article shall be computed quarterly as of September 30, December 31, March 31, and June 30, for the preceding quarter, and shall be paid on or before the 30th calendar day from each such computation date at the office of the village treasurer. The village shall be furnished a statement with each payment, certified as correct by the franchisee, and an annual statement for the entire year, prepared by a certified public accountant. All statements shall reflect the total amount of local gross subscriber revenues and the charges, deductions and computations for the period covered by the statement. Statements accompanying payments of the franchise fee shall set forth a detailed computation of the payment.

(Ord. No. 211, § 162, eff. 12-12-1980)

Sec. 22-179. Additional obligations of franchisee.

No acceptance of any payment shall be construed as a release or as an accord and satisfaction of any claim the village may have for further or additional sums payable as a franchise fee under this article or for the performance of any other obligation under this article.

(Ord. No. 211, § 163, eff. 12-12-1980)

Sec. 22-180. Failure to make required payment.

Failure to pay any fees required by this division shall result in automatic suspension of the cable communications franchise granted, and reinstatement thereof may be had only upon resolution by the village council and payment of the delinquent fee or fees plus any interest or penalties as may be required by the resolution.

(Ord. No. 211, § 164, eff. 12-12-1980)

Sec. 22-181. Disbursement.

The allocation and distribution of cable communications franchise revenues shall be determined, from time to time, by the village council after meeting with the cable communications commission.

(Ord. No. 211, § 165, eff. 12-12-1980)

Secs. 22-182—22-210. Reserved.

ARTICLE IV. RATE REGULATION

Sec. 22-211. Definitions.

(a) 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, PL 102-385.

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 Federal Communications Commission rules, and any other cable television service which is subject to rate regulation by the village pursuant to the act and the Federal Communications Commission rules.

Federal Communications Commission rules means all rules of the Federal Communications Commission 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.

(b) All other words and phrases used in this article shall have the same meaning as defined in the act and in Federal Communications Commission rules.

(Ord. No. 291, § 1(1), eff. 1-23-1994)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 22-212. Purpose; interpretation.

(a) The purpose of this article is to:

(1) Adopt regulations consistent with the act and the Federal Communications Commission 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.

(b) This article shall be implemented and interpreted consistent with the act and with Federal Communications Commission rules.

(Ord. No. 291, § 1(2), eff. 1-23-1994)

Sec. 22-213. Rate regulations promulgated by Federal Communications Commission.

In connection with the regulation of rates for basic cable service and associated equipment, the village shall follow all Federal Communications Commission rules.

(Ord. No. 291, § 1(3), eff. 1-23-1994)

Sec. 22-214. 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 Federal Communications Commission 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 Federal Communications Commission rules. The cable operator shall file ten copies of the schedule or proposed increase with the village clerk. 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 clerk. The village council may, by resolution or otherwise, adopt rules and regulations prescribing the information, data and calculations which must be included as part of the cable operator's filing of the schedule of rates or a proposed increase.

(b) In addition to information and data required by rules and regulations of the village pursuant to subsection (a) of this section, a cable operator shall provide all information requested by the village manager in connection with the village's review and regulation of existing rates for the basic service tier and associated equipment or a proposed increase in these rates. The manager may establish deadlines for submission of the requested information, and the cable operator shall comply with such deadlines.

(c) A cable operator has the burden of proving that its schedule of rates for the basic service tier and associated equipment or a proposed increase in such rates complies with the act and the Federal Communications Commission rules, including without limitation 47 USC 543 and 47 CFR 76.922 and 76.923.

(Ord. No. 291, § 1(4), eff. 1-23-1994)

Sec. 22-215. Proprietary information.

(a) If this article, any rules or regulations adopted by the village pursuant to subsection 22-214(a), or any request for information pursuant to subsection 22-214(b) requires the production of proprietary information, the cable operator shall produce the information. However, at the time the allegedly proprietary information is submitted, a cable operator may request that specific, identified portions of its response be treated as confidential and withheld from public disclosure. The request must state the reason why the information should be treated as proprietary and the facts that support those reasons. The request for confidentiality will be granted if the village determines that the preponderance of the evidence shows that nondisclosure is consistent with the provisions of the Freedom of Information act, 5 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, (i) 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 (ii) 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 person 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 person 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 person or the cable operator may seek review of the decision by filing an appeal with any appropriate forum. Disclosure will be stayed pending resolution of any appeal.

(c) The procedures set forth in this section shall be construed as analogous to and consistent with the rules of the Federal Communications Commission regarding requests for confidentiality, including without limitation 47 CFR 0.459.

(Ord. No. 291, § 1(5), eff. 1-23-1994)

Sec. 22-216. 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 subsection 22-214(a), the village clerk shall publish a public notice in a newspaper of general circulation in the village which shall state that: (i) the filing has been received by the village clerk and, except those parts which may be withheld as proprietary, is available for public inspection and copying, and (ii) interested parties are encouraged to submit written comments on the filing to the village clerk not later than seven days after the public notice is published. The village clerk shall give notice to the cable operator of the date, time, and place of the meeting at which the village council shall first consider the schedule of rates or the proposed increase. This notice shall be mailed by first class mail at least three days before the meeting. In addition, if a written staff or consultant's report on the schedule of rates or the proposed increase is prepared for consideration of the village council, the village clerk shall mail a copy of the report by first class mail to the cable operator at least three days before the meeting at which the village council shall first consider the schedule of rates or the proposed increase.

(Ord. No. 291, § 1(6), eff. 1-23-1994)

Sec. 22-217. Tolling order.

After a cable operator has filed its existing schedule of rates or a proposed increase in these rates pursuant to this article, 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 subsection 22-214(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. 291, § 1(7), eff. 1-23-1994)

Sec. 22-218. Public notice; hearing on basic cable service rates following tolling of 30-day deadline.

If a written order has been issued pursuant to section 22-217 and 47 CFR 76.933 to toll the effective date of existing rates for the basic cable service tier rates and associated equipment rates or a proposed increase in these rates, the cable operator shall submit to the village any additional information required or requested pursuant to section 22-214. 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 clerk shall publish a public notice of the public hearing in a newspaper of general circulation within the village which shall state: (i) the date, time, and place at which the hearing shall be held, (ii) interested parties may appear in person, by agent, or by letter at such hearing to submit comments on or objections to the existing rates or the proposed increase in rates, and (iii) 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 clerk. The public notice shall be published not less than 15 days before the hearing. In addition, the village clerk shall mail by first class mail a copy of the public notice to the cable operator not less than 15 days before the hearing.

(Ord. No. 291, § 1(8), eff. 1-23-1994)

Sec. 22-219. Staff or consultant report; written response.

Following the public hearing as provided in section 22-218, 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 22-220. The village clerk shall mail a copy of the report to the cable operator by first class mail not less than 20 days before the village council acts under section 22-220. The cable operator may file a written response to the report with the village clerk. If at least ten copies of the response are filed by the cable operator with the village clerk within ten days after the report is mailed to the cable operator, the village clerk shall forward it to the village council.

(Ord. No. 291, § 1(9), eff. 1-23-1994)

Sec. 22-220. 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, which denies the existing rates or proposed increase, which orders a rate reduction, which prescribes a reasonable rate, which allows the existing rates or proposed increase to become effective subject to refund, or which orders other appropriate relief, in accordance with the Federal Communications Commission 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 22-217 in all cases not involving a cost-of-service showing. The order shall be issued within 150 days after the tolling order under section 22-217 in all cases involving a cost-of-service showing.

(Ord. No. 291, § 1(10), eff. 1-23-1994)

Sec. 22-221. Refunds; notice.

Under this article, 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 clerk shall give at least seven days' written notice to the cable operator by first class mail of the date, time, and place at which the village council shall consider issuing a refund order and shall provide an opportunity for the cable operator to comment. The cable operator may appear in person, by agent, or by letter at such time for the purpose of submitting comments to the village council.

(Ord. No. 291, § 1(11), eff. 1-23-1994)

Sec. 22-222. Written decisions; public notice.

Any order of the village council pursuant to section 22-220 or section 22-221 shall be in writing, shall be effective upon adoption by the village council, and shall be deemed released to the public upon adoption. The clerk shall publish a public notice of any such written order in a newspaper of general circulation within the village which shall: (i) summarize the written decision, and (ii) state that copies of the text of the written decision are available for inspection or copying from the office of the clerk. In addition, the village clerk shall mail a copy of the text of the written decision to the cable operator by first class mail.

(Ord. No. 291, § 1(12), eff. 1-23-1994)

Sec. 22-223. Rules and regulations for proceedings.

In addition to rules promulgated pursuant to section 22-214, 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 Federal Communications Commission rules.

(Ord. No. 291, § 1(13), eff. 1-23-1994)

Sec. 22-224. Failure to give notice.

The failure of the village clerk 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.

(Ord. No. 291, § 1(14), eff. 1-23-1994)

Sec. 22-225. Additional hearings.

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

(Ord. No. 291, § 1(15), eff. 1-23-1994)

Sec. 22-226. Additional powers.

Under this article, the village shall possess all powers conferred by the act, the Federal Communications Commission rules, the cable operator's franchise, and all other applicable law. The powers exercised pursuant to

the act, the Federal Communications Commission 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 Federal Communications Commission rules to protect the public interest in connection with basic cable service rate regulation.

(Ord. No. 291, § 1(16), eff. 1-23-1994)

Sec. 22-227. Failure to comply; remedies.

The village may pursue any and all legal and equitable remedies against the cable operator, including without limitation all remedies provided under a cable operator's franchise with the village, for failure to comply with the act, the Federal Communications Commission 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. Subject to applicable law, failure to comply with the act, the Federal Communications Commission 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.

(Ord. No. 291, § 1(17), eff. 1-23-1994)

Sec. 22-228. Rates and charges for nonbasic cable TV.

The charges made for service of the franchisee for nonbasic cable TV shall be fair and reasonable and shall be in accordance with state and federal laws and regulations.

(Ord. No. 291, § 1(18), eff. 1-23-1994)

Chapter 26 CEMETERIES[24]

ARTICLE I. IN GENERAL

Secs. 26-1—26-25. Reserved.

ARTICLE II. GREENWOOD CEMETERY

DIVISION 1. GENERALLY

[24]Cross reference(s)—Streets, sidewalks and certain other public places, ch. 74.

State law reference(s)—Cemeteries, MCL 67.55 et seq.; authority to acquire and maintain, MCL 128.1; cemeteries generally, MCL 128.31 et seq.

Sec. 26-26. Ownership.

The village is the owner of the property described as Greenwood Cemetery, as reflected in the plats of the village of that cemetery, as well as any additional new property added to and laid out as an addition to Greenwood Cemetery.

(Ord. No. 163, § 1, eff. 3-7-1969; Ord. No. 311, § 1, eff. 7-7-1996)

Sec. 26-27. Declaration of public burial ground.

The burial ground known as Greenwood Cemetery is declared to be a public burial ground, and no interment shall be made in any other places in the village, except in such other public burial grounds as may be established by village ordinance.

(Ord. No. 163, § 2, eff. 3-7-1969)

Sec. 26-28. Dedication of ground.

The cemetery, although under village jurisdiction, will not be considered as public land in the sense that it is common property and subject to the whims of the public, but it is to be considered as ground dedicated to the peace and repose of the departed and subject to the consideration and respect of all who visit or own lots or grave sites in the cemetery.

(Ord. No. 163, § 24(G), eff. 3-7-1969; Ord. No. 170, eff. 4-16-1969; Ord. No. 311, § 18, eff. 7-7-1996)

Sec. 26-29. Lots; instruments; laws; use restricted.

All lots shall be held and interments shall be made subject to such bylaws, rules and regulations as may be adopted by the village manager. A lot shall not be used for any other purpose than as a place of burial for the human dead.

(Ord. No. 163, § 19, eff. 3-7-1969; Ord. No. 333, § 10, 11-9-1998)

Sec. 26-30. Prices and fees.

The village council shall regulate the prices and fees which shall be charged for cemetery services, after review of the recommendations of the village manager.

(Ord. No. 163, § 18, eff. 3-7-1969; Ord. No. 311, § 14, eff. 7-7-1996; Ord. No. 333, § 9, 11-9-1998)

Sec. 26-31. Reserved.

Editor's note(s)—Ord. No. 354, § 2, effective May 15, 2002, repealed § 26-31 in its entirety, which pertained to the collection and deposit of monies and derived from Ord. No. 163, § 17(E), effective March 7, 1969, and Ord. No. 311, § 13(17(E)), effective July 7, 1996.

Sec. 26-32. Duties of village manager.

(a) The village manager shall:

(1) Report in writing to the village council at one of the regular council meetings in the month of December of each year, as to the condition and finances, number of lots or grave sites sold and interments made in the cemetery during the year.

(2) Execute in behalf of the village, all Burial Rights Certificates for lots or grave sites in the cemetery and shall record the name in a book provided for that purpose.

(b) The village manager or the manager's designee shall:

(1) Receive all sums paid for lots, grave sites, or rights of burial and perpetual care and shall keep an account for such funds.

(2) Deposit all sums received into the cemetery fund, except sums paid into perpetual care shall be held and invested as provided under the village Charter and the state laws governing investment of perpetual care funds.

(3) Keep, in a book provided for that purpose, a record of all interments made in Greenwood Cemetery, including the name; sex; age; last place of residence; nativity; disease or cause of death; date of burial; cemetery, subdivision lot, and section in which burial is made; and the name of the undertaker conducting the funeral.

(Ord. No. 163, § 8, eff. 3-7-1969; Ord. No. 311, § 5(8(2)(B), (C)), eff. 7-7-1996; Ord. No. 333, § 3, 11-9-1998; Ord. No. 454, § 1, 4-3-2017)

Sec. 26-33. Violations.

A person who violates any section of this article is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in section 50-38, plus costs and other sanctions, for each infraction. Repeat offenses under this article shall be subject to increased fines as provided by section 50-38.

(Ord. No. 163, § 14, eff. 3-7-1969; Ord. No. 302, § 27, eff. 12-31-1995; Ord. No. 311, § 10, eff. 7-7-1996)

Sec. 26-34. Reports of errors, neglect, carelessness or inactivity of employees.

Lot and grave site owners are requested to report any error, neglect, carelessness or inactivity on the part of the employees of the cemetery to the superintendent at once.

(Ord. No. 163, § 24(F), eff. 3-7-1969; Ord. No. 170, eff. 4-16-1969; Ord. No. 311, § 18, eff. 7-7-1996)

Sec. 26-35. Gifts or tips to employees.

Gifts or tips to cemetery employees are not allowed as they are not necessary to obtain service.

(Ord. No. 163, § 24(D), eff. 3-7-1969; Ord. No. 170, eff. 4-16-1969)

Secs. 26-36—26-60. Reserved.

DIVISION 2. ADMINISTRATION[25]

[25]Cross reference(s)—Administration, ch. 2.

Sec. 26-61. Superintendent; general duties.

The superintendent of the cemetery shall be the village manager, or the village manager's designee. It shall be the duty of the superintendent of the cemetery, under the direction and control of the village council, to administer, maintain and supervise all the activities of the cemetery and grounds and to make such recommendations as are necessary or expedient in the proper control, maintenance and improvement of the cemetery.

(Ord. No. 163, § 15, eff. 3-7-1969; Ord. No. 311, § 11, eff. 7-7-1996; Ord. No. 454, § 2, 4-3-2017)

Sec. 26-62. Responsibilities of superintendent and cemetery employees.

It shall be the duty of the superintendent or a designated employee to:

(1) Demand and examine the burial permit and to refuse burial until such permit and papers shall comply with the state law and the restrictions of the village.

(2) Hold the sole and exclusive right in person or through competent employees to dig and fill all graves and to reopen a grave upon request of a duly authorized and competent party after having first received a written permit.

(3) Aid and assist the public in locating of lots or burial spaces in interpreting the meaning of this chapter, and to take such steps as are necessary for the protection and convenience of funeral parties.

(4) Keep a duplicate plat and record of the cemetery showing the cemetery sections, lots and subdivisions with the location, name and date of all burials.

(Ord. No. 163, § 16, eff. 3-7-1969; Ord. No. 311, § 12, eff. 7-7-1996; Ord. No. 333, § 7, 11-9-1998)

Sec. 26-63. Reserved.

Editor's note(s)—Ord. No. 354, § 2, effective May 15, 2002, repealed § 26-63 in its entirety, which pertained to the clerk's duties and derived from Ord. No. 163, § 8, effective March 7, 1969, and Ord. No. 311, § 5, effective July 7, 1996.

Sec. 26-64. Care and control of cemetery.

The care and control of the cemetery shall be vested in the village manager in accordance with charter section 57, chapter VII, as amended, being MCL 67.57, as amended.

(Ord. No. 163, § 3, eff. 3-7-1969; Ord. No. 311, § 2, eff. 7-7-1996; Ord. No. 333, § 1, 11-9-1998)

Sec. 26-65. Rules for care and control of cemetery.

Subject to the consent and approval of the village council, the village manager shall adopt suitable rules and regulations for the proper care and control of Greenwood Cemetery. The village manager shall also provide for enforcement of its rules and regulations and shall attend to such other matters properly appertaining to the good care and control of the cemetery not specifically enumerated in this article.

(Ord. No. 163, § 7, eff. 3-7-1969; Ord. No. 333, § 2, 11-9-1998)

Secs. 26-96—26-120. Reserved.

DIVISION 3. SALE OR TRANSFER OF CEMETERY LOTS OR GRAVE SITES

Sec. 26-121. Sale and price of lots.

The village council shall fix the price of cemetery lots and individual graves, after reviewing the recommendation of the village manager. The village manager shall recommend to the village council the price of lots and grave sites and shall sell them. All lots, parts of lots, or grave sites must be paid for in advance of interment. No right of burial shall be issued or given until funds are received for the lot or grave site.

(Ord. No. 163, § 10, eff. 3-7-1969; Ord. No. 170, eff. 4-16-1969; Ord. No. 311, § 7, eff. 7-7-1996; Ord. No. 333, § 4, 11-9-1998; Ord. No. 454, § 3, 4-3-2017 ; Ord. No. 463, § 1, 11-13-2017)

State law reference(s)—Board shall fix the price of lots and make the sales thereof, MCL 67.59.

Sec. 26-122. Speculative sales.

No lots, grave sites or other lot subdivisions in the cemetery may be purchased or sold or rights transferred for speculative purposes.

(Ord. No. 163, § 20(G), eff. 3-7-1969; Ord. No. 170, eff. 4-16-1969; Ord. No. 227, eff. 10-16-1984; Ord. No. 311, § 15, eff. 7-7-1996)

Sec. 26-123. Identification of lots.

The burial rights certificates of every cemetery lot or grave site shall describe it by mention of the number of the lot and in the division of the cemetery in which the lot or grave site is situated.

(Ord. No. 163, § 9, eff. 3-7-1969; Ord. No. 311, § 6, eff. 7-7-1996; Ord. No. 454, § 4, 4-3-2017)

Sec. 26-124. Plat and plat book; sales.

It shall be the duty of the village manager, or the village manager's designee, to:

(1) Keep a plat and plat book of the cemetery on which shall be shown all lots and grave sites which are sold or are for sale and a record made of the date, name and undertaker conducting the funeral for all deceased persons who are buried.

(2) Sell such lots and grave sites or other lot subdivisions as are authorized by the village council at the price and under the restrictions set by the village council and issue a burial rights certificate, upon the payment of the whole amount, naming such special restrictions as are not embodied in this article, signed by the village manager and stamped with the seal of the village.

(3) Record the transfer of a burial rights certificate from one owner to another after a request for transfer has been made and authorized by the village manager.

(4) The village manager's designee shall promptly notify the village manager of the sale of a lot, with the name of the owner and of the date, time of day, section, lot and subdivision of every proposed interment with the name of the deceased and undertaker.

(Ord. No. 163, § 17, eff. 3-7-1969; Ord. No. 311, § 13(17(A)—(D)), eff. 7-7-1996; Ord. No. 333, § 8, 11-9-1998; Ord. No. 354, § 1, eff. 5-15-02; Ord. No. 454, § 5, 4-3-2017)

Sec. 26-125. Perpetual care.

(a) The purchase price of every lot and single grave in Greenwood Cemetery shall include payment to the perpetual care fund, which shall be used exclusively for the perpetual care and maintenance of Greenwood Cemetery and the burial lot. Payment to the perpetual fund is made a part and condition of each sale.

(b) Perpetual care of a burial lot or grave, as included in the sale price, includes the essential features of lot maintenance and shall consist of mowing of all lots and graves at reasonable intervals and also such items as reseeding, raising of sunken graves and semi-seasonal inspections and clean-ups.

(c) Perpetual care of a burial lot or grave shall not include repair, maintenance or replacement of any marker or other lot adornment, nor will it include the watering of urns, plants, beds, or baskets, or the annual placing of beds or cut flowers.

(Ord. No. 163, § 21, eff. 3-7-1969; Ord. No. 170, eff. 4-16-1969; Ord. No. 311, § 16, eff. 7-7-1996; Ord. No. 454, § 6, 4-3-2017 ; Ord. No. 463, § 2, 11-13-2017)

Sec. 26-126. Transferability of certificates.

(a) *Procedure.* Cemetery certificates are transferable through the execution of an appropriate instrument of transfer issued by the village, upon surrender of the previous certificate and payment of a charge therefor.

(b) *Transfer to legal relative.* Lots or grave sites may be transferred to a legal relative upon payment of a nominal charge for each certificate issued. For the purposes of this subsection, a legal relative is defined as a father, mother, son, daughter and grandchild or a stepfather, stepmother, stepson, stepdaughter and step grandchild.

(c) *Village buyback of graves sites.* The village may buyback lots and grave sites if proof of ownership and purchase price is proven. If the owner is unable to produce paperwork, the Village will pay the $100.00 transfer fee as the buyback price.

(Ord. No. 311, § 13(17(G)), eff. 7-7-1996; Ord. No. 463, § 3, 11-13-2017)

Secs. 26-127—26-155. Reserved.

DIVISION 4. INTERMENTS AND DISINTERMENTS

Sec. 26-156. Permit required for interment.

Interment shall be made in the cemetery only with a burial transit permit to the village; or a statement giving the name, sex, age, last place of residence, nativity, disease or cause of death, and date of death.

(Ord. No. 163, § 11, eff. 3-7-1969; Ord. No. 333, § 5, 11-9-1998; Ord. No. 463, § 4, 11-13-2017)

State law reference(s)—Permit for disposition of body, MCL 333.2850.

Sec. 26-157. Funeral procedures.

(a) Funerals and interments within the cemetery grounds shall be under the direction of the superintendent or his assistant.

(b) Notice of a funeral, with the exact location of the grave, must be given to the superintendent at least 24 regular working hours in advance of burial.

(c) All funerals entering the cemetery grounds after the established working hours (8:00 a.m.—3:00 p.m.) will be charged overtime for attendance.

(d) No funeral will be permitted on Sunday, except as authorized by the village.

(e) Strangers are not allowed to approach the grave at a funeral without permission.

(f) Under no condition will the village assume responsibility for error in opening graves when orders are given by telephone. Orders from undertakers will be construed as orders from the owner.

(Ord. No. 163, §§ 20(C), (D), 22, eff. 3-7-1969; Ord. No. 170, eff. 4-16-1969; Ord. No. 227, eff. 10-16-1984; Ord. No. 463, § 5, 11-13-2017)

Sec. 26-158. Limitations on persons buried in lot.

Burial in any lot or grave site shall be restricted to the owner of such lot or grave, or designee, unless written authorization is obtained from such owner or designee.

(Ord. No. 311, § 13(17(F)), eff. 7-7-1996; Ord. No. 463, § 6, 11-13-2017)

Sec. 26-159. Number of persons buried in one grave.

A grave site shall be considered full if one full burial and two cremains are interred in one site, or four non-vaulted cremains are interred in one site, with the exception for a mother and infant if interred at the same time or for several children in one family if interred at the same time.

(Ord. No. 163, § 20(B), eff. 3-7-1969; Ord. No. 170, eff. 4-16-1969; Ord. No. 227, eff. 10-16-1984; Ord. No. 311, § 15, eff. 7-7-1996; Ord. No. 463, § 7, 11-13-2017)

Sec. 26-160. Cremation remains.

Cremation remains (cremains) must be buried or interred, with all work performed by the village as it would for a non-cremation burial. All cremation remains must be contained in an urn of non-disintegrating material, subject to the approval of the superintendent. A maximum of four non-vaulted cremains are permitted in any one grave, provided that all marker regulations are complied with. Vaulted cremains are permitted for interment in one grave site, but dependent on the size of the vault. Scattering of remains is strictly prohibited within the cemetery grounds.

(Ord. No. 163, § 20(B), eff. 3-7-1969; Ord. No. 170, eff. 4-16-1969; Ord. No. 227, eff. 10-16-1984; Ord. No. 311, § 15(20(B), (BB)), eff. 7-7-1996; Ord. No. 463, § 8, 11-13-2017)

Sec. 26-161. Authority to open graves and disinter body.

No grave will be opened and body disinterred except by order of the husband, wife, father, mother, son or daughter of the deceased, and then only for good cause. The village reserves the right to refuse any such request. This section does not apply when disinterment is ordered by a duly authorized public official.

(Ord. No. 163, § 20(H), eff. 3-7-1969; Ord. No. 170, eff. 4-16-1969; Ord. No. 227, eff. 10-16-1984)

Sec. 26-162. Potter's field.

Lots number 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, and 30 of division A of the cemetery shall be set apart for the use as a potter's field. Potter's field shall be reserved for the burial of indigent persons who were residents of the village at the time of their death, and for any unidentified or unclaimed bodies found within the village limits. Where there is no estate or assets to defray the cost of burial and there is no person, relative, court-appointed fiduciary, or other organization who can or will defray such burial costs, the superintendent may determine indigence under this section. The decision of the superintendent shall be final, subject only to review by the village council.

(Ord. No. 163, § 12, eff. 3-7-1969; Ord. No. 311, § 8, eff. 7-7-1996; Ord. No. 333, § 6, 11-9-1998)

Sec. 26-163. Baby lot section.

(a) Lots number 29, 30, 31, and 32 of section 9 shall be set apart for use as a "Baby Land" in the Greenwood Cemetery.

(b) Burial rights sold in consecutive order.

(c) The maximum size of a marker for a baby grave site in Baby Land is 18" width by 10" length.

(Ord. No. 163, § 25, eff. 3-7-1969; Ord. No. 197, eff. 11-9-1976; Ord. No. 463, § 9, 11-13-2017)

Secs. 26-164—26-190. Reserved.

DIVISION 5. CARE AND MAINTENANCE

Sec. 26-191. Cleaning of lots by village.

When a lot or grave site in the cemetery is uncared for and becomes unsightly or a nuisance or detrimental to other lots, by order of the village manager, the superintendent or employees will enter such lot or grave site and clean up and make the lot or grave site presentable and the cost of such work collected from the owner or made a lien on such lot or grave site.

(Ord. No. 163, § 20(AA), eff. 3-7-1969; Ord. No. 170, eff. 4-16-1969; Ord. No. 227, eff. 10-16-1984; Ord. No. 311, § 15, eff. 7-7-1996; Ord. No. 333, § 11, 11-9-1998)

Sec. 26-192. Removal of flowers and decorations.

Flowers and decorations will be removed from graves as soon as they become unsightly, and no responsibility for their return to lot owners will be assumed.

(Ord. No. 163, § 20(E), eff. 3-7-1969; Ord. No. 170, eff. 4-16-1969; Ord. No. 227, eff. 10-16-1984; Ord. No. 463, § 10, 11-13-2017)

Sec. 26-193. Removal of objects; making excavations.

No person shall remove any object from any place in the cemetery or make any excavation without the consent of the superintendent or his assistant.

(Ord. No. 163, § 20(W), eff. 3-7-1969; Ord. No. 170, eff. 4-16-1969; Ord. No. 227, eff. 10-16-1984)

Sec. 26-194. Trees, shrubs and vines.

If any tree, shrub or vine situated on any cemetery lot by means of its roots, branches or in any other way becomes a detriment to adjacent lots, paths or avenues or inconvenient to visitors, the superintendent shall have the right to remove the tree, shrub or vine.

(Ord. No. 163, § 20(Y), eff. 3-7-1969; Ord. No. 170, eff. 4-16-1969; Ord. No. 227, eff. 10-16-1984)

Sec. 26-195. Seats, urns or similar objects.

Any seat, urn or similar object placed on a cemetery lot shall be removed without notice to the owner when such seat or urn becomes a nuisance or unsightly or uncared for. Any iron or wood object placed on a lot by permission of the superintendent shall be painted and kept clean and neat.

(Ord. No. 163, § 20(Z), eff. 3-7-1969; Ord. No. 170, eff. 4-16-1969; Ord. No. 227, eff. 10-16-1984)

Secs. 26-196—26-220. Reserved.

DIVISION 6. MARKERS[26]

Sec. 26-221. Private mausoleums, exposed vaults, or monuments.

No private mausoleums, exposed vaults, or monuments shall be allowed in Greenwood Cemetery.

(Ord. No. 454, § 7, 4-3-2017)

Sec. 26-222. Markers.

(a) A marker shall be defined as any memorial structure upon a lot, vault, mausoleum, or gravesite. Only a total of two markers shall be allowed consisting of one upright marker with the secondary marker being flush with the ground on any single grave site.

[26]Editor's note(s)—Ord. No. 454, § 7, adopted April 3, 2017 , amended Div. 6 in its entirety to read as herein set out. Former Div. 6, §§ 26-221—26-226, pertained to markers and monuments, and derived from Ord. No. 163, §§ 20(I)—(O), (Q)—(V), 23(A), (B), eff. March 7, 1969; Ord. No. 170, eff. April 16, 1969; Ord. No. 227, eff. Oct. 16, 1984; Ord. No. 311, §§ 15, 17, eff. July 7, 1996; Ord. No. 333, § 11, adopted Nov. 9, 1998.

(b) Maximum size of a single marker/foundation to be installed on a single grave is 38" width by 14" length. Maximum size of a double marker/foundation to be installed spanning two contiguous graves is 48" width by 14" length.

(c) Where two lots are purchased extending from path to path and with a common centerline, the marker may be set on the centerline but equidistant from the sidelines, and lettering may be on both sides. All marker work must face the abutting path or roadway.

(Ord. No. 454, § 7, 4-3-2017 ; Ord. No. 463, § 11, 11-13-2017)

Sec. 26-223. Full payment for lot.

Markers will not be allowed on cemetery lots not fully paid for.

(Ord. No. 454, § 7, 4-3-2017)

Sec. 26-224. Construction standards.

(a) All foundation work for markers in the cemetery will be placed by village employees at a rate set by the village and at a proper depth and strength.

(b) The material used in the construction of markers must be of recognized durable granite, cement, standard bronze or such other materials that have been approved by the village manager.

(c) No vertical joints will be allowed in marker work.

(d) Unsightly, ill-proportioned markers and stone work are prohibited and all appendages such as photographs, books and other objects of curiosity are prohibited.

(Ord. No. 454, § 7, 4-3-2017)

Sec. 26-225. Maintenance and repair costs.

(a) Neither the purchase price nor the perpetual care agreement contemplates the repair or replacement of any marker in the cemetery or the repair of damages caused by the elements. Maintenance and repair costs are to be borne by the owners of the lots.

(b) At any time when a marker becomes unsafe in the opinion of the village manager, a notice will be mailed to the last known or recorded address of the owner, and the structure removed and charged to the owner.

(Ord. No. 454, § 7, 4-3-2017)

Sec. 26-226. Responsibilities of contractors and workers.

(a) Contractors and workers engaged within the cemetery on any class of work whatsoever will be held responsible for damage done by them to any cemetery properties.

(b) Material for any class of work will not be permitted on the grounds unless accompanied by workers to erect the work, except by special arrangements.

(c) Roadways must be satisfactorily protected against damages from heavily loaded vehicles.

(d) Rolling of stones across any section of lots must be done under the supervision and orders of the superintendent. In all cases provision must be made for properly protecting the lawns.

(e) All unsightly material or debris accumulating from any class of work must be removed at once. On completion of the work all derricks, tools, etc., must be removed immediately and the grounds left in as good condition as found.

(f) No stone work shall be brought into the cemetery on Saturday or Sunday.

(Ord. No. 454, § 7, 4-3-2017)

Secs. 26-227—26-255. Reserved.

DIVISION 7. PUBLIC CONDUCT

Sec. 26-256. Animals.

Dogs, cats, or other animals are not allowed in the cemetery and may be removed in such manner as may seem expedient.

(Ord. No. 163, § 24(A), eff. 3-7-1969; Ord. No. 170, eff. 4-16-1969; Ord. No. 454, § 8, 4-3-2017)

Sec. 26-257. Responsibilities of drivers.

The driver of an automobile, motorcycle or other conveyance will be held responsible for any damage he may do in the cemetery, whether intentional or unintentional. The speed limit shall be 15 miles per hour.

(Ord. No. 163, § 24(B), eff. 3-7-1969; Ord. No. 170, eff. 4-16-1969)

Cross reference(s)—Traffic and vehicles, ch. 78.

Sec. 26-258. Language; loiterers.

Profane or boisterous language will not be tolerated in the cemetery, and loiterers will not be tolerated in the cemetery.

(Ord. No. 163, § 24(C), eff. 3-7-1969; Ord. No. 170, eff. 4-16-1969)

Sec. 26-259. Children.

Children must be accompanied by their parents or adults who will be responsible for their conduct in the cemetery.

(Ord. No. 163, § 24(E), eff. 3-7-1969; Ord. No. 170, eff. 4-16-1969)

Cross reference(s)—Offenses concerning underage persons, § 54-296 et seq.

Sec. 26-260. Willful destruction of property.

If any person shall wilfully destroy, mutilate, deface, injure, or remove any tomb, monument, gravestone, or structure or thing placed or designed for a memorial of the dead or any fence, railing, curb, or other thing intended for the protection or for the ornament of any tomb, monument, gravestone, or other structure mentioned in this section or of any enclosure for the burial of the dead or if any person shall wilfully destroy, mutilate, remove, cut,

or injure any tree, shrub, or plant placed or being within any such enclosure, the person shall be guilty of a violation of this article.

(Ord. No. 163, § 13, eff. 3-7-1969; Ord. No. 311, § 9, eff. 7-7-1996)

Sec. 26-261. Firearms.

No firearms will be allowed in the cemetery, except for military funerals and on Memorial Day, without the written permission of the superintendent.

(Ord. No. 163, § 20(F), eff. 3-7-1969; Ord. No. 170, eff. 4-16-1969; Ord. No. 227, eff. 10-16-1984)

Sec. 26-262. Obstructing drives, walks or alleys.

No person shall obstruct any drive, walk or alley in the cemetery.

(Ord. No. 163, § 20(X), eff. 3-7-1969; Ord. No. 170, eff. 4-16-1969; Ord. No. 227, eff. 10-16-1984)

Chapter 30 COMMUNITY DEVELOPMENT[27]

ARTICLE I. IN GENERAL

Secs. 30-1—30-25. Reserved.

ARTICLE II. DOWNTOWN DEVELOPMENT AUTHORITY[28]

DIVISION 1. GENERALLY

Sec. 30-26. Definitions.

Unless defined in this section, all terms used in this article shall have the same meaning as given to them in Public Act No. 197 of 1975 (MCL 125.1651 et seq.), as amended. 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 197 means Public Act No. 197 of 1975 (MCL 125.1651 et seq.), as amended.

Authority means the village downtown development authority.

---

[27]Cross reference(s)—Buildings and building regulations, ch. 14; businesses, ch. 18; environment, ch. 38; land division, ch. 46; planning, ch. 62; streets, sidewalks and certain other public places, ch. 74; utilities, ch. 82; zoning, app. A.

[28]Cross reference(s)—Administration, ch. 2.

State law reference(s)—Downtown development authority, MCL 125.1651 et seq.

Board means the governing board of the authority.

Chief executive officer means the president of the village.

Downtown district means the area designated by this article.

(Ord. No. 271, § 3, eff. 12-2-1990)

Cross reference(s)—Definitions generally, § 1-2.

State law reference(s)—Definitions, MCL 125.1651 et seq.

Sec. 30-27. Council's findings.

For the purpose of this article, the village council finds that:

(1) A significant number of parcels of property in the designated downtown district have deteriorating and stagnant property values.

(2) Act 197 permits villages such as this village to establish a downtown development authority.

(3) The establishment of a downtown development authority is necessary for the best interests of the public to halt property value deterioration and increase property tax valuation, where possible in the village's business district; to eliminate the cause of that deterioration; and to promote economic growth within the village.

(Ord. No. 271, § 1, eff. 12-2-1990)

Sec. 30-28. Established.

The village council does hereby create a downtown development authority for the village.

(Ord. No. 271, § 2, eff. 12-2-1990)

Sec. 30-29. Organization.

The downtown development authority shall be a public body corporate and shall be known and shall exercise its powers under the title of Fowlerville Downtown Development Authority.

(Ord. No. 271, § 4, eff. 12-2-1990)

Sec. 30-30. Board.

(a) The downtown development authority shall be under the supervision and control of a board consisting of the village president and ten members. Members shall be appointed by the president, subject to approval by a majority of the members of the council. No less than a majority of the members of the authority board shall be persons having an interest in property located in the downtown district. Not less than one member shall be a resident of the downtown district.

(b) Each member shall serve a term of four years.

(c) An appointment made by the president to fill a board vacancy shall be for the unexpired term of the vacant position only.

(d) Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses as predetermined by the board and confirmed by the council, or as deemed actual and necessary by the board and the council after the fact.

(e) Before assuming the duties of office, a member of the board shall qualify by taking and subscribing to the constitutional oath of office.

(f) Pursuant to notice and after having been given the opportunity to be heard, a member of the board may be removed for cause by the council. Removal of a member is subject to review by the circuit court.

(g) The board shall set meeting dates and establish rules governing its procedures. All meetings and procedures shall be consistent with Act 197 and as reviewed and approved by the council.

(h) The chairperson of the board shall be elected by a majority vote of the members of the board.

(Ord. No. 271, § 5, eff. 12-2-1990; Ord. No. 347, § 1, 7-5-2000)

State law reference(s)—Board membership, qualifications, terms, vacancy, compensation and expenses, chairperson, MCL 125.1654.

Sec. 30-31. Director, secretary, treasurer, legal counsel and other personnel.

(a) The director of the downtown development authority, if one is authorized by the council and employed by the governing board of the authority, shall post bond in the sum directed by the council. The employment of a director shall be consistent with Act 197.

(b) The board shall designate one of its members as secretary, subject to the requirements of Act 197. The secretary shall serve without compensation.

(c) The board may designate one of its members as treasurer, subject to the requirements of Act 197. The treasurer shall serve without compensation. The treasurer shall post bond in the sum directed by the council.

(d) The board may retain legal counsel to advise the board in the proper performance of its duties. The legal counsel shall represent the authority in actions brought by or against the authority.

(e) The board may employ other personnel deemed necessary by the board and approved by the council.

(Ord. No. 271, § 6, eff. 12-2-1990)

State law reference(s)—Similar provisions, MCL 125.1655.

Sec. 30-32. Powers of board.

The powers of the governing board of the downtown development authority shall include those powers enumerated in Act 197.

(Ord. No. 271, § 7, eff. 12-2-1990)

State law reference(s)—Powers of board, MCL 125.1657.

Sec. 30-33. Instrumentality of political subdivision.

The downtown development authority shall be deemed an instrumentality of the village for purposes of Public Act No. 227 of 1972 (MCL 213.321 et seq., as amended.

(Ord. No. 261, § 8, eff. 11-6-1989)

State law reference(s)—Similar provisions, MCL 125.1659; relocation assistance for displaced persons, MCL 213.321 et seq.

Sec. 30-34. Fiscal year and budget.

(a) The fiscal year of the downtown development authority shall be the same as that of the village.

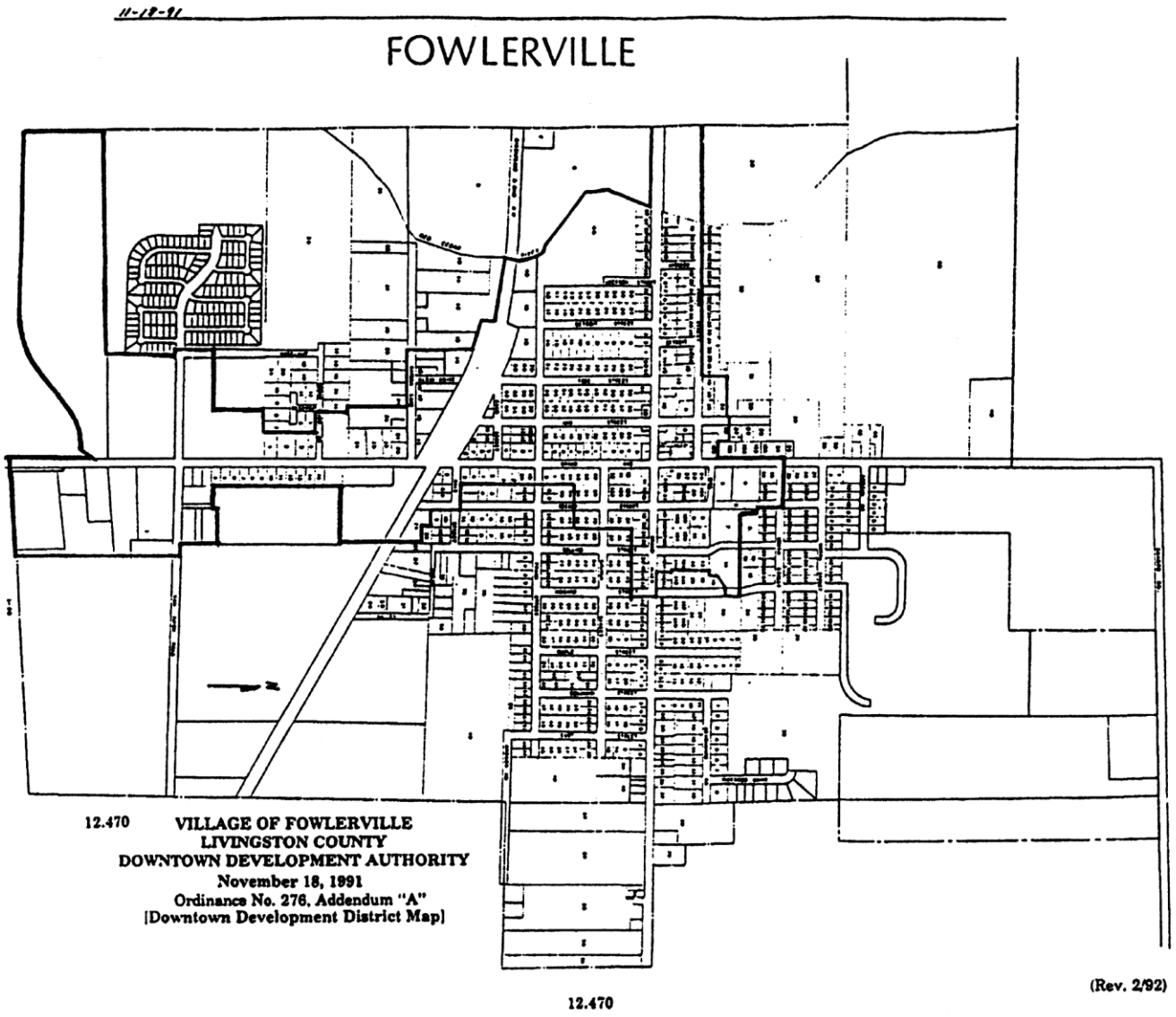
(b) The governing board of the authority shall annually prepare a budget for the authority and shall present it to the village council at least three weeks prior to the council meeting for the month before the public hearing of the budget for the village.

(Ord. No. 261, § 9, eff. 11-6-1989)

Sec. 30-35. Description of downtown district.

The downtown district over which the downtown development authority shall exercise its powers shall consist of the territory in the village reflected on the map following this section. The downtown district shall be subject to such changes as may be made pursuant to this article and Act 197.

(Ord. No. 271, § 10, eff. 12-2-1990; Ord. No. 276, eff. 12-23-1991)



Downtown District

Secs. 30-36—30-60. Reserved.

DIVISION 2. TAX INCREMENT FINANCE AND DOWNTOWN DEVELOPMENT PLAN[29]

[29]Cross reference(s)—Finance, § 2-161 et seq.

State law reference(s)—Development plan; conditions, etc., MCL 125.1667 et seq.

Sec. 30-61. Findings and declarations.

(a) For the purpose of this division, the Fowlerville Village Council finds and determines the following:

(1) A Tax Increment Finance and Downtown Development Plan for a development area within the downtown district established pursuant to 1975 Public Act 197 (now MCL 125.4201 et seq.) and pursuant to Division 1 of this article was prepared by the Fowlerville Village Downtown Development Authority and was adopted by the village pursuant to Ordinance No. 283, and previously amended by Ordinance Nos. 300, 351, 366, 377, 398, 399, 404414, 418, 431, 446, 453, 471, and 476.

(2) The 2021 Tax Increment Finance and Downtown Development Plan Amendments have been recommended by the Downtown Development Authority.

(3) An opportunity was provided for the Tax Increment Finance and Downtown Development Plan Amendments to be reviewed with the other area taxing authorities, including the Livingston County, the Township of Handy, and the Fowlerville District Library.

(4) A public hearing thereon was held before the Village Council on Monday, for April 12, 2021, at 7:30 p.m. in the Council Chambers, Village Hall, 213 South Grand, Fowlerville, Michigan.

(5) Notice of the public hearing was given in accordance with Section 218 of Michigan Public Act No. 57 of 2018 [MCL 125.4218].

(6) The village council has carefully considered the 2021 Tax Increment Finance and Downtown Development Plan Amendments, the statements and ideas expressed at the public hearing, and the recommendations received by council, and the modifications suggested by council members.

(b) The village council declares that:

(1) The Tax Increment Finance and Downtown Development Plan, as amended, constitute a public purpose.

(2) The Tax Increment Finance and Downtown Development Plan, as amended, meet the requirements set forth in sections 214 and 217 of Michigan Public Act No. 57 of 2018, as amended (MCL 125.4214, 125.4217).

(3) The Tax Increment Finance and Downtown Development Plan, as amended, meet the requirement set forth in section 217(2) of Michigan Public Act No. 57 of 2018 [MCL 125.4217(2)].

(4) Both the Tax Increment Finance and Downtown Development Plan, as amended, meet all other requirements as set forth in Michigan Public Act 57 of 2018.

(5) The proposed method of financing the development, as amended, is feasible, and the authority has the ability to arrange the financing.

(6) The development, as amended, is reasonable and necessary to carry out the purposes of Michigan Public Act 57 of 2018.

(7) The Development Plan, as amended, is in reasonable accord with the master plan of the village.

(8) Public services such as fire and police protection and utilities are or will be adequate to service the project area, as amended.

(9) Changes in zoning, streets, intersections, and utilities are reasonably necessary for the project, as amended, and for the village.

(10) The land included within the development area to be acquired is reasonably necessary to carry out the purposes of the plan and of this part in an efficient and economically satisfactory manner.

(11) The Tax Increment Finance and Downtown Development Plan, as amended, have been recommended by both the Downtown Development Authority and the Authority representatives have been consulted as to modifications made by the village council.

(Ord. No. 283, § 1, eff. 12-26-1992; Ord. No. 300, § 1, 12-31-1995; Ord. No. 366, § 1, 1-26-2004; Ord. No. 377, § 1, 6-12-2006; Ord. No. 395, § 1, 12-10-2007; Ord. No. 398, § 1, 12-21-2007; Ord. No. 399, § 1, 2-4-2008; Ord. No. 404, § 1, 11-24-2008; Ord. No. 414, § 1, 5-24-2010; Ord. No. 418, § 1, 3-14-2011; Ord. No. 431, § 1, 4-22-2013; Ord. No. 446, § 1, 9-22-2014; Ord. No. 453, § 1, 5-16-2016 ; Ord. No. 471 , § 1, 11-26-2018; Ord. No. 476 , § 1, 6-22-2020; Ord. No. 481 , § 1, 4-12-2021)

Sec. 30-62. Approval and adoption.

The Fowlerville Downtown Development Authority Tax Increment Finance and Downtown Development Plan for the development area within the downtown district established pursuant to Michigan Public Act 57 of 2018 (MCL [125.]4201 et seq.), as initially adopted through Fowlerville Ordinance No. 283, and previously amended by Fowlerville Ordinance Nos. 300, 351, 366, 377, 395, 398, 399, 404, 414, 418, 431, 446, 453, 471, and 476 as further amended by revisions incorporated in the "2021 Tax Increment Finance and Downtown Development Plan Amendments" prepared by John L. Gormley, Esq., attorney for the Fowlerville Downtown Development Authority, and as approved by the Fowlerville Downtown Development Authority at its meeting of March 3, 2021, and as submitted to the village council, are hereby approved and adopted by the Fowlerville Village Council.

(Ord. No. 283, § 2, eff. 12-26-1992; Ord. No. 300, § 2, 12-31-1995; Ord. No. 366, § 2, 1-26-2004; Ord. No. 377, § 2, 6-12-2006; Ord. No. 395, § 2, 12-10-2007; Ord. No. 398, § 2, 12-21-2007; Ord. No. 399, § 2, 4-2008; Ord. No. 404, § 2, 11-24-2008; Ord. No. 414, § 2, 5-24-2010; Ord. No. 418, § 2, 3-14-2011; Ord. No. 431, § 2, 4-22-2013; Ord. No. 446, § 2, 9-22-2014; Ord. No. 453, § 2, 5-16-2016 ; Ord. No. 471 , § 2, 11-26-2018; Ord. No. 476 , § 2, 6-22-2020; Ord. No. 481 , § 2, 4-12-2021)

Secs. 30-63—30-89. Reserved.

DIVISION 3. DEVELOPMENT AREA CITIZENS COUNCIL

Sec. 30-90. Citizens council dissolution.

After reviewing a petition for dissolution containing the signatures of not less than 20 percent of the adult resident population of the Fowlerville downtown development authority's development area, as determined by an approved formula based on the last federal decennial census and after conducting a public hearing on the matter with notice as provided in the manner described in MCL 125.1668, the village has determined to dissolve the development area citizens council for the village downtown development authority, pursuant to the authority granted by MCL 125.1677(a).

(Ord. No. 394, § 1, 10-15-2007)

Secs. 30-91—30-99. Reserved.

ARTICLE III. TAX EXEMPTION FOR HOUSING

DIVISION 1. GENERALLY

Sec. 30-100. Tax exemption not applicable.

Except as otherwise provided in this article, property tax exemptions as provided by Act No. 346 of the Public Acts of Michigan of 1966 (MCL 125.1411 et seq.), as amended, shall not apply to any housing projects, as that term is defined by the above-mentioned statute, within the boundaries of the village; provided, however, that the village council may grant property tax exemptions to certain classes of housing projects on an individual basis and within its sole discretion. Such discretion shall be exercised in a nondiscriminatory and reasonable manner.

(Ord. No. 415, § 1, 9-13-2010)

Secs. 30-101—30-109. Reserved

DIVISION 2. LIVINGSTON GREENE LDHA LP

Sec. 30-110. 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 State Housing Development Authority Act, being Public Act 346 of 1966 of the State of Michigan, as amended.

Authority means the Michigan State Housing Development Authority.

Housing development means a development which contains a significant element of housing for persons of low and moderate income and such elements of other housing, commercial, recreational, industrial, communal, and educational facilities as the authority determines improve the quality of the development as it relates to housing for persons of low income.

Sponsor means Livingston Greene LDHA LP, which has applied to the authority for an allocation of low income housing tax credits to finance a housing development.

(Ord. No. 415, § 1, 9-13-2010)

Sec. 30-111. Class/location of housing developments.

It is determined that the class of housing developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be multi-family dwellings for persons and families of low to moderate income, which are financed or assisted pursuant to the Act. It is further determined that the sponsor, Livingston Greene, has a property is of this class commonly known as Livingston Greene and is located at 470 and 480 North Grand Avenue, Fowlerville, Michigan 48836, and is designated as taxation parcel numbers 4705-11-100-005 and 4705-11-000-569; and is legally described as:

> SEC 11 T3N R3E BEG AT A PT DUE N 462 FT FROM W1/4 COR, TH CONT DUE N 96.45 FT, TH S87*E 230.62 FT, TH DUE N 275 FT, TH S87*E 329.57 FT TO PT ON W LINE FOWLERVILLE SCHOOLS PROPERTY, TH S 503.44 FT ALG SD W LINE TO PT ON N LINE ADDISON HTS, TH N87*W 394.85 FT ALG SD N LINE SD SUB TO A PT S87*E 165 FT FROM W SEC LINE, TH N 132 FT, TH N87*W 165 FT TO POB. SPLIT 1-91 FROM 003 AKA: 480 & 470 N. GRAND

Passage of this article shall not be deemed precedent for other PILOT ordinances or tax exemption requests.

(Ord. No. 415, § 1, 9-13-2010)

Sec. 30-112. Establishment of annual service charge.

The housing development identified as Livingston Greene and the property upon which it sits shall be exempt from all property taxes from and after the date the project is placed in service, as evidenced by a certificate of occupancy from the applicable public authority. The village, acknowledging that the sponsor and the authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this article and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this article, and in consideration of the sponsor's offer, subject to receipt of an allocation of LIHTC from the authority, to construct, own and operate the housing development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes attributable to the portion of the project occupied by persons of low or moderate income.

The initial annual service charge shall be equal to $25,732.05 (which is equal to the tax on the property on which the project is located for the 2010 tax year). In each succeeding year the annual service charge shall increase by the same percentage increase in the Inflation Rate Multiplier calculated pursuant to Michigan Complied Laws 211.34d by the Michigan State Tax Commission, or its successor agency, in the immediately preceding year but shall not increase by more than three percent in any one year. However, in no event, shall the service charge drop below the taxes paid on the property on which the project is located for the 2010 tax year, nor shall the service charge exceed the taxes that which would be paid but for the Act or this article.

(Ord. No. 415, § 1, 9-13-2010)

Sec. 30-113. Limitation on the payment of annual service charge.

Notwithstanding section 30-112, the service charge to be paid each year in lieu of taxes for the part of the housing development which is tax exempt and which is occupied by other than low or moderate income persons or families shall be equal to the full amount of the taxes which would be paid on that portion of the housing development if the housing development were not tax exempt.

The term "low income persons or families" as used herein shall be the same meaning as found in Section 15(a)(7) of the Act.

(Ord. No. 415, § 1, 9-13-2010)

Sec. 30-114. Payment of service charge.

The annual service charge in lieu of taxes as determined under the article shall be payable in the same manner as general property taxes are payable to the village except that the annual payment shall be paid on or before July 1 of each year and shall be distributed to the several units levying the general property tax in the same proportion as for general property taxes.

(Ord. No. 415, § 1, 9-13-2010)

Sec. 30-115. Duration.

This article shall commence on the last day of the calendar year in which the village issues its certificate of occupancy for the housing development, and shall remain in effect and shall not terminate so long as the housing development remains subject to income and rent restrictions pursuant to Section 42 of the Internal Revenue Code of 1986, as amended; and the regulatory agreement of the authority; provided that renovation of the housing development commences within two years from the effective date of this article.

(Ord. No. 415, § 1, 9-13-2010)

Chapter 34 EMERGENCY SERVICES[30]

ARTICLE I. IN GENERAL

Secs. 34-1—34-25. Reserved.

ARTICLE II. ALARM SYSTEMS

Sec. 34-26. 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:

Alarm system means an assembly of equipment and devices, or a single device, arranged to signal the presence of a hazard or situation requiring urgent attention, primarily to signal visibly, audibly, electronically, mechanically or by any combination of these methods the presence of a hazard to a point and to persons not on the protected premises, and to which either the police department or fire department may be summoned directly or indirectly to respond. "Alarm system" shall include, but not be limited to, systems designed for use for one or any combination of the following: the detection of an unauthorized entry or attempted entry into a building, structure or vehicle; the alerting of others of the commission of any unlawful act within a building, structure or vehicle; the detection of fire, smoke or heat within a building, structure or vehicle; a burglar alarm, a holdup alarm, ATM alarms, or similar devises.

False alarm means the activation of an alarm system through mechanical failure, malfunction, improper installation, or the negligence of the owner or lessee of an alarm system or of his employee or agent. The term "false alarm" does not include the alarm caused by severe weather or other conditions beyond the control of the owner or lessee of an alarm system or of his employee or agent.

(Ord. No. 306, § 6, eff. 3-11-1996; Ord. No. 461, § 1, 8-7-2017)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 34-27. Scope of article.

(a) This article is intended to regulate the types of alarms listed in section 34-26 of this Code, whether automatically or manually activated, and whether emergency personnel are summoned directly or indirectly to respond.

(b) It is intended that the term "alarm system," as defined in this article, and the scope of this article shall exclude those devices or those pieces of equipment attached and affixed entirely within a protected premises and designed or arranged primarily to signal visibly, audibly, electronically, mechanically or by any combination of these methods, the presence of a hazard only to the occupants of the protected premises, such as single-family residence battery-operated smoke, carbon dioxide, or heat detectors, and similar

[30]Cross reference(s)—Businesses, ch. 18; fire prevention and protection, ch. 42.

devices. However, if such a system employs an audible signal emitting sounds or a flashing light or beacon designed to signal persons outside the premises, or automatically summons emergency personnel, then such system shall be within the definition of an alarm system and shall be subject to this article.

(c) Excluded from this scope of this article are alarm systems on motor vehicles. However, if an alarm system on a motor vehicle is connected with an alarm system at a premise, then such system is an alarm shall be subject to this article.

(d) A system which only summons medical help, and a system which monitors temperature, humidity, water levels, storm or sanitary sewers, or other environmental or manufacturing conditions, and is not directly related to the detection of a fire or an unauthorized intrusion into or robbery of a premise, then such an alarm is excluded from this article.

(Ord. No. 306, § 7, eff. 3-11-1996; Ord. No. 461, § 2, 8-7-2017)

Sec. 34-28. Registration.

Any resident or business having an alarm system must notify the village police, in writing, of the location, type, and date of installation of the alarm system within five business days of the installation.

(Ord. No. 306, § 9, eff. 3-11-1996)

Sec. 34-29. False alarms.

(a) An alarm system experiencing one false alarm within a calendar year is deemed defective. Upon written notice to the owner or lessee of the alarm system by the police or fire department, the owner or lessee shall have the system inspected by an alarm system contractor who shall, within 15 days, file a written report to the police or fire department of the results of such inspection of the system, the probable cause of the false alarm and his recommendation for eliminating false alarms.

(b) Upon receipt of the report, the police or fire department shall forward the report to the owner or lessee, ordering corrections to be based upon the recommendations contained in the report.

(c) The owner or lessee shall have three working days from receipt of the order to make corrections; thereafter, to defray the cost of responding to false alarms, the owner or lessee of an alarm system shall pay to the village an amount established by resolution of the village council for each additional false alarm received and responded to by the police or fire department during the calendar year in which the order to correct the system was issued. The amount due the village shall be paid forthwith upon demand by the village. If not so paid, at the election of the village, the village shall have the right, along with all of the other rights it may have, to impose a lien on the real and personal property of the owner or lessee, and such lien shall be enforced in the same manner as delinquent taxes.

(Ord. No. 306, § 8, eff. 3-11-1996)

Secs. 34-30—34-55. Reserved.

ARTICLE III. EMERGENCY SERVICE FEES[31]

[31]Cross reference(s)—Finance, § 2-161 et seq.

Sec. 34-56. Firefighting service fees.

Pursuant to authority granted under section 6a of Public Act No. 102 of 1990 (MCL 41.806a), as amended, the village establishes a firefighting service fee for providing, sending and/or utilizing of firefighting and rescue emergency services by the fire department, which fee shall be in an amount established annually by resolution of the village council, after receipt of a recommendation of the fire board.

(Ord. No. 324, § 1(19), eff. 2-9-1997)

Sec. 34-57. Emergency medical first responder service fees.

Pursuant to authority granted under section 6a of Public Act No. 102 of 1990 (MCL 41.806a) and section 20948 of Public Act No. 179 of 1990 (MCL 333.20948), as amended, the village establishes an emergency medical first responder service fee for providing, sending and/or utilizing emergency medical first responder services by the fire department, which fee shall be in an amount established annually by resolution of the village council, after receipt of a recommendation of the fire board.

(Ord. No. 324, § 1(20), eff. 2-9-1997)

Sec. 34-58. Liability for fees.

Any person for whom firefighting, rescue, or emergency medical first responder services are provided shall be liable for the applicable firefighter and/or emergency medical first responder fees established under this article. For firefighting services relating to real or personal property, the owner of the property involved shall be liable for the firefighting service fee.

(Ord. No. 324, § 1(21), eff. 2-9-1997)

Sec. 34-59. Administration and payment of fees.

The village manager shall promptly prepare and deliver to a person who is liable for the payment of fees of an emergency response a detailed invoice by first class mail or personal service. The person who is liable for the payment of the fees of an emergency response shall make payment in full to the village within 30 days of the date of service of the invoice.

(Ord. No. 324, § 1(22), eff. 2-9-1997)

Sec. 34-60. Failure to pay.

The village may commence a civil action against a person who is liable for a firefighting or emergency medical first responder service fee who has failed to make payment in full to the village within 30 days of service of the invoice to recover the fees, statutory interest, court costs, and reasonable attorney fees.

(Ord. No. 324, § 1(23), eff. 2-9-1997)

Secs. 34-61—34-85. Reserved.

ARTICLE IV. RECOVERY OF CERTAIN EMERGENCY RESPONSE COSTS[32]

DIVISION 1. GENERALLY

Secs. 34-86—34-110. Reserved.

DIVISION 2. INCIDENTS INVOLVING DRIVERS OPERATING MOTOR VEHICLES UNDER THE INFLUENCE[33]

Sec. 34-111. 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:

Emergency response means:

(1) The providing, sending and/or utilizing of police, firefighting, rescue, and emergency medical services by the village to an accident involving a motor vehicle where one or more of the drivers was operating the motor vehicle under the influence of intoxicating liquor or a controlled substance or while his ability was visibly impaired due to the consumption of an intoxicating liquor and/or a controlled substance.

(2) The making of a traffic stop and arrest by a police officer when the driver was operating the motor vehicle while under the influence of intoxicating liquor or a controlled substance or while the driver's ability to operate the vehicle was visibly impaired due to the consumption of an intoxicating liquor and/or controlled substance.

Expense of emergency response means:

(1) The costs incurred by the village in making an emergency response, including the costs of providing police, firefighting, rescue, and emergency medical services at the scene of the emergency response, as well as the salaries or wages, including overtime, of the personnel responding to and investigating the incident and the costs of medical and other supplies used.

(2) The costs of conducting and analyzing preliminary chemical breath analysis and chemical test of blood, urine, or breath to determine the amount or presence of alcohol or controlled substances in the blood and the costs of processing or analyzing other physical evidence.

(Ord. No. 306, § 1, eff. 3-11-1996)

Cross reference(s)—Definitions generally, § 1-2.

[32]Cross reference(s)—Finance, § 2-161 et seq.

[33]Cross reference(s)—Traffic and vehicles, ch. 78.

Sec. 34-112. Liability for expenses.

Any person who, while under the influence of intoxicating liquor and/or a controlled substance or while operating a vehicle while visibly impaired due to the consumption of an intoxicating liquor and/or a controlled substance, causes an accident resulting in an emergency response or who is arrested shall be liable for the expense of the emergency response.

(Ord. No. 306, § 2, eff. 3-11-1996)

Sec. 34-113. Presumption of liability.

For purposes of this division, it shall be presumed that a person was operating a motor vehicle under the influence of intoxicating liquor when his blood contains 0.10 percent or more by weight of alcohol; furthermore, it is presumed that a person's ability to operate a motor vehicle was visibly impaired by alcohol when his blood contains at least 0.07 percent but less than 0.10 percent by weight of alcohol.

(Ord. No. 306, § 3, eff. 3-11-1996)

Sec. 34-114. Payment of expenses.

The village manager shall promptly prepare and deliver to a person who is liable for the payment of expenses of an emergency response a detailed invoice by first class mail or personal service. The person who is liable for the payment of the expenses of an emergency response shall make payment in full to the village within ten days of the date of service of the invoice.

(Ord. No. 306, § 4, eff. 3-11-1996)

Sec. 34-115. Failure to pay.

(a) A person liable for the expenses of an emergency response who fails to make payment in full to the village within ten days of service of the invoice shall be responsible for a municipal civil infraction subject to payment of a civil fine as set forth in section 50-38. Repeat offenses under this division shall be subject to increased fines as set forth in section 50-38.

(b) The village may also commence a civil action against a person who has failed to make payment in full to the village within ten days of service of the invoice to recover the expenses, statutory interest, court costs, and reasonable attorney fees.

(Ord. No. 306, § 5, eff. 3-11-1996)

Secs. 34-116—34-140. Reserved.

DIVISION 3. HAZARDOUS MATERIAL SPILLS[34]

[34]Cross reference(s)—Fire prevention and protection, ch. 42.

Sec. 34-141. 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:

Emergency hazardous material spill means any sudden and unexpected leak, release or other dissemination of a hazardous material which presents an immediate threat to the public health, safety or welfare or to the environment and which requires an immediate response to mitigate the threat.

Hazardous material means any material which is or may become injurious to the public health, safety, or welfare or to the environment and includes but is not limited to explosive, pyrotechnics, flammable gas, flammable compressed gas, nonflammable compressed gas, flammable liquid, combustible liquid, irritating material, etiological material, radioactive material, corrosive material, liquefied petroleum gas, or a material obnoxious because of odor.

Hazardous material emergency response means the providing, sending or utilizing of police, firefighting, emergency medical or rescue or public works services by the village or by a private person or governmental agency operating at the request or direction of the village to an emergency hazardous material spill or threatened spill.

Shall is always mandatory and not merely directory.

(Ord. No. 306, § 11, eff. 3-11-1996)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 34-142. Duty to remove, clean up and pay response costs.

Any person who accidentally, negligently, or intentionally causes or is responsible for an emergency hazardous material spill or a threatened spill affecting persons or property within the village shall be responsible for the immediate and complete containment, removal, and proper disposal of the hazardous material and the clean up and restoration of the affected property to its condition before the emergency spill, if necessary, and for any and all costs of the hazardous material emergency response to such spill or threatened spill.

(Ord. No. 306, § 12, eff. 3-11-1996)

Sec. 34-143. Failure to remove and clean up.

Under this division, any person who fails to immediately and completely contain, remove, and properly dispose of a hazardous material and to clean up and restore the affected property to its condition before the emergency hazardous material spill shall be liable for and shall pay to the village any and all costs incurred by the village for such purposes.

(Ord. No. 306, § 13, eff. 3-11-1996)

Sec. 34-144. Costs of response, removal and cleanup.

The costs of the hazardous material emergency response and the removal and cleanup of the hazardous material spill shall include but not be limited to the actual costs incurred by the village or a private person or governmental agency operating at the request or direction of the village when responding to the emergency hazardous material spill or threatened spill, including the costs of providing police, firefighting, emergency medical and rescue, and public works services unrelated to the normal provision of such services. These costs shall include actual labor costs of village personnel, including workers' compensation benefits, fringe benefits, administrative

overhead, costs of equipment operation, costs of materials obtained directly by the village, and costs of any contract labor and materials.

(Ord. No. 306, § 14, eff. 3-11-1996)

Sec. 34-145. Charge against person responsible.

The costs of the emergency hazardous material spill or threatened spill shall be a charge against the person liable for the costs under this division. The village shall have the right to initiate proceedings in any court of competent jurisdiction to collect the costs as a matured debt of the village.

(Ord. No. 306, § 15, eff. 3-11-1996)

Sec. 34-146. Cost recovery schedule.

The village council shall, by resolution, adopt a schedule of the costs included within the expense of a response to an emergency hazardous material spill. This schedule shall be available to the public at the village office.

(Ord. No. 306, § 16, eff. 3-11-1996)

Sec. 34-147. Billing.

The village may, within ten days of receiving itemized costs or any part thereof incurred for an emergency hazardous material spill or threatened spill, submit a bill for the costs by first class mail or personal service to the person liable for the costs under this division, at the person's last known post office address, demanding payment of the amount due. The bill shall require full payment within 30 days from the date of service.

(Ord. No. 306, § 17, eff. 3-11-1996)

Sec. 34-148. Failure to pay costs.

If the person fails to pay the bill submitted pursuant to section 34-147 within 30 days of service and the person is the owner of the affected property, the village may add such costs to the tax roll as to such property and may levy and collect such costs in the same manner as provided for the levy and collection of real property taxes against the property. The village may also bring action in the appropriate court to collect such costs if it deems such action to be necessary.

(Ord. No. 306, § 18, eff. 3-11-1996)

Chapter 38 ENVIRONMENT[35]

[35]Cross reference(s)—Buildings and building regulations, ch. 14; dangerous structures or excavations, § 14-31 et seq.; community development, ch. 30; land division, ch. 46; parks and recreation, ch. 58; planning, ch. 62; solid waste, ch. 66; streets, sidewalks and certain other public places, ch. 74; utilities, ch. 82; vegetation, ch. 86; zoning, app. A.

State law reference(s)—Natural resources and environmental protection act, MCL 324.101 et seq., MSA 13A.101 et seq.

ARTICLE I. IN GENERAL

Secs. 38-1—38-25. Reserved.

ARTICLE II. NUISANCES

DIVISION 1. GENERALLY

Sec. 38-26. 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:

Public nuisance means whatever annoys, injures, or endangers the safety, health, comfort, or repose of the public; offends public decency; interferes with or obstructs or renders dangerous any street, highway, public area or navigable stream; allows accumulation of junk or obnoxious matter on private property; or in any way renders the public insecure in life or property.

(Ord. No. 221, art. I, § 2, eff. 1-2-1984)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 38-27. Scope of article.

Conditions enumerated in this article shall be deemed public nuisances; provided, however, such conditions shall not be exclusive, and any offensive condition, whether or not enumerated in this article, shall be deemed a nuisance.

(Ord. No. 221, art. I, § 2, eff. 1-2-1984)

Sec. 38-28. Right of entry.

The police department or the village president shall have the right to enter private property at any reasonable hour of the day or night for the purpose of making a compliance survey of the premises, for obtaining a sample of water used thereon, or for collecting other data and material pertaining to public health, safety and welfare and enforcing this article. No person shall resist or attempt to prevent such officers from carrying out the purposes set forth in this section. Such officers shall have in their possession and shall carry upon their persons at all times, while carrying out the duties outlined in this section, sufficient credentials identifying themselves. Such credentials shall be exhibited by the bearer on demand to any person in charge of any premises such officer seeks to enter.

(Ord. No. 221, art. IV, § 1, eff. 1-2-1984; Ord. No. 292, § 19, eff. 6-13-1994)

Sec. 38-29. Violations.

Whenever by any section of this article the performance of any act is required or the performance of any act is prohibited, a failure to comply with such section shall constitute a violation of this article. In addition, the failure, neglect or refusal to comply with a cease and desist order of the enforcing agency or person shall constitute a violation of this article.

(Ord. No. 221, art. IV, § 3, eff. 1-2-1984)

Sec. 38-30. Municipal civil infraction.

A person who violates any section of this article is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in section 50-38, plus costs and other sanctions, for each infraction. Repeat offenses under this article shall be subject to increased fines as provided by section 50-38.

(Ord. No. 221, art. IV, § 4, eff. 1-2-1984; Ord. No. 302, § 30, 12-31-1995)

Sec. 38-31. Civil procedures to compel compliance.

In addition to any other remedies pursued by the village to abate violations of this article, the village may also file a complaint in circuit court for the county for an order granting the relief for which the action or proceeding is brought or for an order enjoining all persons from doing or maintaining a public nuisance. The village president, in such petition, may also apply to the circuit court for an order authorizing him to abate any nuisance in the village.

(Ord. No. 221, art. IV, § 5, eff. 1-2-1984)

Sec. 38-32. Offensive condition of premises or of trades.

No person shall permit or suffer on premises owned by such person or on any premises such person may occupy within the village limits any nuisance, nor shall any person exercise any calling or trade within the village that is unwholesome or offensive or by which a nuisance shall be created.

(Ord. No. 221, art. I, § 1, eff. 1-2-1984)

Sec. 38-33. Apiaries.

(a) No person shall operate or maintain an apiary or keep bees within a distance of 200 feet from the nearest portion of any residence, dwelling, hotel, apartment house or roominghouse constructed or owned by any other person within the village. The operating and maintenance of any apiary or the keeping of bees within any such residential district is declared to be a public nuisance.

(b) This section is not intended to prohibit the operation and maintenance of an apiary or the keeping of bees where and so long as the consent in writing to the operation and maintenance or the keeping thereof by the owners of all the residences, dwellings, hotels, apartment houses or roominghouses owned by others within 200 feet from the nearest portion of such apiary or hive where such bees are kept is obtained by the person desiring to operate or maintain such apiary or keep such bees, and filed with the village manager.

(Ord. No. 221, art. I, § 3, eff. 1-2-1984; Ord. No. 293, § 39, eff. 7-21-1994)

Sec. 38-34. Objectionable and unhealthy conditions.

Each of the following conditions, acts, dwellings, structures and property is considered objectionable and/or unhealthy and is declared to be a public nuisance and shall require the owner to correct the nuisance under this article:

(1) Any building, erection, structure, cellar, or any part thereof which is overcrowded or does not provide adequate means of egress or ingress.

(2) Any dwelling or residential building which does not have adequate facilities for the disposal of human excreta or other sewage.

(3) Any dwelling or residential building which does not have a reasonably necessary amount of clean water for use on the premises.

(4) Any building which is not adequately ventilated, drained, cleaned, and lighted.

(5) Any structure, yard, or lot which is conducive to the harboring or breeding of insects, vermin, rats or other rodents.

(6) Every cellar, foundation or excavation for any building, pool, pond and/or vessel which contains stagnant or putrid water.

(7) An unclean building, yard, or lot that includes any unreasonable accumulation of garbage, rubbish, ashes, branches, leaves, or yard clippings.

(8) All methods of human excreta disposal, except toilets properly maintained and connected with a sanitary sewer or septic tank which has been constructed and maintained in accordance with this Code or other village ordinances.

(9) All clogged or choked sewers and house drains.

(10) The discharge of any household or industrial liquid waste or any foul or nauseous liquid, water or other substance into or upon any highway, street, lane, alley, public space, square or into any adjacent lot or ground.

(11) The pollution of any stream or body of water by depositing into the stream or water body or upon any adjacent highway, street, lane, alley, public street or square or into any adjacent lot or grounds any refuse, foul or nauseous liquid or water, creamery or industrial waste, or by forcing or discharging into any public or private sewer or drain any steam, vapor or gas.

(12) The emission of noxious fumes or gas in such quantities as to render occupancy of property uncomfortable to a person of ordinary sensibilities.

(13) All explosives, inflammable liquids and other dangerous substances stored in any manner or in any amount contrary to the state statutes.

(14) The accumulation of dust or papers on any public parking lot or any parking lot maintained by any establishment for the use of its customers so that such dust or papers may be blown upon adjoining, surrounding and other premises and be offensive or cause damage to the owners or occupants of such premises. The owner, lessee, operator or person in charge of such lot shall take such measures and shall treat the surface of such lot in a manner that dust or papers shall not be blown therefrom in violation of this subsection.

(Ord. No. 221, art. I, § 4, eff. 1-2-1984)

Sec. 38-35. Noise.

(a) *Unlawful noises.* No person shall make, continue, or cause to be made or continued any excessive, unnecessary, or unusually loud noise or any noise that either annoys, disturbs, injures, or endangers the comfort, repose, health, peace or safety of others within the village. The following acts, among others, are declared to be loud, disturbing, injurious and unnecessary and unlawful noises in violation of this section, but this enumeration shall not be deemed to be exclusive:

(1) *Horns and signal devices.* The sounding of any horn or signal device on any automobile, motorcycle, bus, train, or other vehicle while not in motion, except as a danger signal or to give warning of intent to get into motion, or if in motion only as a danger signal after or as brakes are being applied and decelerating of the vehicle has begun; and the creation by means of any signal device for any unreasonable or unnecessary period of time.

(2) *Radio, phonograph, musical instruments.* The playing of any radio, phonograph, television set, amplified or unamplified musical instruments, loudspeaker, tape recorder, or other electronic sound producing devices in such a manner or with such volume at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office or in any dwelling, hotel, or other type of residence or of any persons in the vicinity. The operation of any such set, instrument, phonograph, machine, or device in such a manner as to be plainly audible on a property or in a dwelling unit other than that in which it is located shall be prima facie evidence of a violation of this section.

(3) *Shouting and whistling.* Yelling, shouting, hooting, whistling, singing, or the making of any other loud noises on the public streets between the hours of 11:00 p.m. and 7:00 a.m. or the making of any such noise at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any dwelling, hotel, or other type of residence or in any office or of persons in the vicinity.

(4) *Hawking.* The hawking of goods, merchandise, or newspapers in a loud or boisterous manner.

(5) *Animal and bird noises.* The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort or repose of any person.

(6) *Whistle or siren.* The blowing of any whistle or siren, except to give notice of the time to begin or stop work or as a warning of fire or danger.

(7) *Engine exhaust.* The discharge into the open air of the exhaust of any steam engine or stationary internal combustion engine, except through a muffler or other device which effectively prevents loud or explosive noises therefrom.

(8) *Construction noises.* The erection including excavation, demolition, alteration, or repair of any building, and the excavation of streets and highways on Sundays and other days, except between the hours of 7:00 a.m. and 8:00 p.m., unless a permit therefor is first obtained from the village manager.

(9) *Handling merchandise.* The creation of a loud and excessive noise in connection with loading and unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.

(10) *Devices to attract attention.* The use of any drum, loudspeaker, amplifier, or other instrument or device for the purpose of attracting attention for any purpose.

(b) *Exceptions.* None of the terms or prohibitions of subsection (a) of this section shall apply or be enforced against the following:

(1) *Emergency vehicles.* Any police or fire vehicle or any ambulance, while engaged upon necessary emergency business.

(2) *Highway and utility maintenance and construction.* Necessary excavations in or repairs of bridges, streets, or highways or any public utility installation by or on behalf of the village or any public utility or any agency of the state during the night or on Sunday when the public safety, welfare, and convenience necessitates the performance of the work at such time.

(3) *Public addresses.* The reasonable use of stationary amplifiers or loudspeakers for public addresses which are noncommercial in character.

(4) *Sacred music.* The use of sound amplifiers or other such devices by churches or other organizations approved by the council.

(Ord. No. 221, art. I, § 5, eff. 1-2-1984; Ord. No. 293, § 40, eff. 7-21-1994)

Secs. 38-36—38-60. Reserved.

DIVISION 2. ABATEMENT

Sec. 38-61. Access.

The village authorized representatives shall be granted free access to and from any land for the work necessary to accomplish the abatement of any violation of this article found to exist, when such abatement is authorized by ordinance. No person shall obstruct or prevent such work. Such authorized representatives, after performing their duties in a prudent manner, shall not be liable for suit in any action of trespass therefor and shall be defended in any action arising therefrom by the village attorney until the final disposition of the proceedings.

(Ord. No. 221, art. IV, § 2, eff. 1-2-1984)

Sec. 38-62. Procedures.

(a) Where no other procedure is made specifically applicable by another section of this Code, any structure, condition or activity prohibited by this article may be abated by the village manager in accordance with the procedures in this division.

(b) The village manager shall first investigate the existence of the alleged nuisance to determine whether or not a public nuisance, as defined in this article, exists and to further determine the person who has created or is committing or maintaining such nuisance.

(c) The village manager shall then give written notice to the person responsible for the creation, commission or maintenance of such nuisance, specifying in particular the nature thereof, the corrective action to be taken to abate the nuisance and the time limit for abatement of such nuisance, which shall be a reasonable time but not to exceed ten days from the time the notice is served. Such notice shall be by registered or certified return receipt mail.

(d) If, at the expiration of the time limit in the notice, the person responsible for the commission, creation or maintenance of any nuisance shall not have complied with the requirements of the notice, the village may carry out the abatement requirements of the notice. The cost of such abatement shall be a debt owed the village by the person responsible for the commission, creation or maintenance of such nuisance and, if the nuisance is attributable to the use, occupancy or ownership of any land or premises within the village, shall be charged against such premises and the owner thereof.

(e) Whenever the village shall enter upon any lot or parcel of land in order to accomplish abatement of a nuisance, pursuant to provisions of this article, the village department of public works director is hereby

authorized and directed to keep an accurate account of all expenses incurred, and, based upon these expenses, to issue a certificate determining and certifying the reasonable cost involved for the work with respect to each parcel of property.

(f) Within ten days after receipt of the certificate, the village treasurer shall forward a statement of the total charges assessed on each parcel of property to the person as shown as the owner by the last current tax roll and the assessment shall be payable to the village treasurer within 30 days from the date the statement was forwarded.

(g) If the owner of a lot, lots or premises fails to pay the bill within 30 days from the date the bill is mailed, the council may cause the amount of the expense incurred, together with a penalty and administrative fee of ten percent, to be levied by them as a special assessment upon the lot, lots or premises as provided in this Code for single lot assessments, or the amount thereof shall be collected by court action.

(Ord. No. 221, art. I, § 8(a), eff. 1-2-1984; Ord. No. 278, eff. 2-9-1992; Ord. No. 401, § 3, 2-4-2008)

Sec. 38-63. Additional remedies.

Any action taken by the village to abate any nuisance under this division or any other section of this Code shall not affect the right of the village to institute proceedings against the person committing, creating or maintaining any nuisance for violation of this article nor shall it affect the imposition of the penalty prescribed for such violation. As an additional remedy, upon application by the village to any court of competent jurisdiction, the court may order the nuisance abated and/or the violation or threatened violation restrained and enjoined.

(Ord. No. 221, art. I, § 8(b), eff. 1-2-1984; Ord. No. 278, eff. 2-9-1992)

Sec. 38-64. Appeal hearing.

Except as otherwise provided in this article, appeals from any notice or order of any officer charged with the enforcement of this article shall be made to the village council within ten days from the date of service of the notice or order, provided that if the time limit specified for compliance is less than ten days, the appeal shall be within the time limit specified for compliance. The appellant shall file a written notice of appeal, specifying the ground therefor with the village manager. With each notice of appeal filed there shall be paid a fee of $10.00. The village council shall fix a reasonable time for the hearing of the appeal and shall give notice thereof to all interested parties. The village council may reverse or affirm, in whole or in part, or make such order or decision with regard to the appeal as is determined necessary and shall have all the power of the officer from whom the appeal was taken.

(Ord. No. 221, art. I, § 8(c), eff. 1-2-1984; Ord. No. 278, eff. 2-9-1992; Ord. No. 293, § 41, eff. 7-21-1994)

Secs. 38-65—38-90. Reserved.

ARTICLE III. DISMANTLED, INOPERABLE AND UNLICENSED VEHICLES[36]

DIVISION 1. GENERALLY

[36]Cross reference(s)—Traffic and vehicles, ch. 78.

Sec. 38-91. 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 or *partially dismantled vehicle* means a vehicle from which some part that is ordinarily a component of such vehicle has been removed or is missing.

Inoperable motor vehicle means a motor vehicle which, because of dismantling, deterioration, disrepair 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 as well as travel trailers, recreational vehicle, house trailers or camper bodies.

Unlicensed vehicle means any motor vehicle, or other vehicle requiring a license or registration, that does not have a current registration or does not have a registration tab or license plate affixed to the vehicle in the manner required by law.

Vehicle means every device in, upon or by which any person is or may be transported, or any device that may be drawn upon a highway, including a motor vehicle, travel trailer, recreational vehicle, fifth wheel, motor home, camper, watercraft, snowmobile and off-road or all-terrain vehicle, boat trailers, and utility or other trailers designed for transporting or storing another vehicle.

(Ord. No. 277, § 2(3), (5), (7), (17), (18), eff. 1-6-1992; Ord. No. 434, § 1, 7-15-2013)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 38-92. Right of entry.

The village president, the village marshal, or the police department shall have the right to enter private property at any reasonable hour of the day or night for the purpose of making a compliance survey of the premises or collecting other data and material pertaining to public health, safety and welfare and enforcing this article. No person shall resist or attempt to prevent such officers from carrying out the purposes set forth in this article. Such officers shall have in their possession and shall carry upon their persons at all times, while carrying out the duties outlined, sufficient credentials identifying themselves. Such credentials shall be exhibited by the bearer on demand to any person in charge of any premises such officer seeks to enter.

(Ord. No. 277, § 24, eff. 1-6-1992; Ord. No. 292, § 17, eff. 6-13-1994)

Sec. 38-93. Violations.

Whenever, by any section of this article, the performance of any act is required or the performance of any act is prohibited, a failure to comply with such section shall constitute a violation of this article. In addition, the failure, neglect or refusal to comply with a cease and desist order of the enforcing agency or person shall constitute a violation of this article.

(Ord. No. 277, § 27, eff. 1-6-1992)

Sec. 38-94. Municipal civil infraction.

A person who violates any section of this article is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in section 50-38, plus costs and other sanctions, for each infraction. Repeat offenses under this article shall be subject to increased fines as provided by section 50-38.

(Ord. No. 277, § 28, eff. 1-6-1992; Ord. No. 302, § 29, 12-31-1995)

Sec. 38-95. Civil procedures to compel compliance.

In addition to any other remedies pursued by the village to abate violations of this article, the village may also file a complaint in circuit court for the county for an order granting the relief for which the action or proceeding is brought or for an order enjoining all persons from doing or maintaining such nuisance. The village president, in the petition, may also apply to the circuit court for an order authorizing him to abate any nuisance in the village.

(Ord. No. 277, § 29, eff. 1-6-1992)

Sec. 38-96. Evidence of nuisance.

The presence of a dismantled, partially dismantled, unlicensed or inoperable vehicle, or parts of a vehicle on any platted or unplatted parcel of land in violation of this article is declared to be a public nuisance.

(Ord. No. 277, § 23, eff. 1-6-1992; Ord. No. 434, § 2, 7-15-2013)

Sec. 38-97. Storage on private property.

No person shall store on, place on or permit to be stored or placed on or allowed to remain on any private property within the village a dismantled, partially dismantled, unlicensed, or inoperable vehicle, or any parts of a vehicle, except within a completely enclosed building or upon the premises of an authorized junkyard business as may be permitted under the zoning ordinance in appendix A to this Code.

(Ord. No. 277, § 20, eff. 1-6-1992; Ord. No. 434, § 3, 7-15-2013)

Sec. 38-98. Location permitted.

No person shall dismantle, cut up, remove parts from or otherwise disassemble any automobile, abandoned vehicle, or otherwise except in a completely enclosed building or upon the premises of an authorized junkyard, as may be permitted under the zoning ordinance in appendix A to this Code.

(Ord. No. 277, § 21, eff. 1-6-1992)

Sec. 38-99. Placement on street or in front yard.

This article shall not be construed to permit parking or placing of a dismantled, partially dismantled, unlicensed or inoperable vehicle on any street area in the village or in any front yard, as defined by the zoning ordinance in appendix A to this Code.

(Ord. No. 277, § 22, eff. 1-6-1992; Ord. No. 434, § 4, 7-15-2013)

Secs. 38-100—38-125. Reserved.

DIVISION 2. ABATEMENT

Sec. 38-126. Access.

The village authorized representatives shall be granted free access to and from any land for the work necessary to accomplish the abatement of any violation of this article found to exist, when such abatement is authorized by ordinance. No person shall obstruct or prevent such work. Such authorized representatives, after performing their duties in a prudent manner, shall not be liable for suit in any action of trespass therefor and shall be defended in any action arising therefrom by the village attorney until the final disposition of the proceedings.

(Ord. No. 277, § 26, eff. 1-6-1992)

Sec. 38-127. Notice to remove.

The village president, the village marshal or the police department is authorized and empowered to notify the owner or occupant of any private property within the village or the agent of such owner to remove any dismantled, partially dismantled, unlicensed or inoperable vehicle located on the owner's property. Such notice shall be by registered mail, addressed to the owner or occupant at his last known address, or shall be delivered to the owner or occupant in person.

(Ord. No. 277, § 25(a), eff. 1-6-1992; Ord. No. 292, § 18, eff. 6-13-1994; Ord. No. 434, § 5, 7-15-2013)

Sec. 38-128. Action for noncompliance.

Upon the failure, neglect or refusal of any owner, occupant or agent notified to remove any dismantled, partially dismantled, unlicensed, or inoperable vehicle within ten days after receipt of written notice provided for in section 38-127 or within ten days after the date of return of such notice if it is returned to the village post office department because of the inability to make delivery thereof, provided the notice was properly addressed to the last known address of such owner or agent, as reflected upon the village tax records, the village president is authorized and empowered to pay for the removal of such vehicle, or to order its disposal or removal by the village.

(Ord. No. 277, § 25(b), eff. 1-6-1992; Ord. No. 434, § 6, 7-15-2013)

Sec. 38-129. Costs of removal.

The reasonable cost and expense incurred by the village in removing and storing any vehicle from the property, as provided in section 38-128 shall be determined by the village, and the amount thus determined shall be charged to the owner of the premises involved and shall be due and payable forthwith. A bill covering such amount shall be mailed by the village clerk to the person as shown as the owner by the last current tax roll, demanding payment of the amount due. If the owner of a lot, lots or premises involved fails to pay the bill within 30 days from the date the bill is mailed, the council may cause the amount of the expense incurred, together with a penalty and administrative fee of ten percent, to be levied by them as a special assessment upon the lot, lots or premises as provided in this Code for single lot assessments, or the amount thereof shall be collected by court action.

(Ord. No. 277, § 25(c), eff. 1-6-1992; Ord. No. 292, § 18, eff. 6-13-1994; Ord. No. 401, § 4, 2-4-2008; Ord. No. 434, § 7, 7-15-2013)

Secs. 38-130—38-155. Reserved.

ARTICLE IV. LITTER[37]

DIVISION 1. GENERALLY

Sec. 38-156. 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:

Authorized private receptacle means a litter storage and collection receptacle as required and authorized in chapter 66 of this Code.

Commercial handbill means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature that:

(1) Advertises for sale any merchandise, product, commodity, or thing;

(2) Directs attention to any business or mercantile or commercial establishment or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales;

(3) Directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind for which an admission fee is charged for the purpose of private gain or profit. However, this subsection shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event of any kind, when any of such is held, given or takes place in connection with the dissemination of information that is not restricted under the ordinary rules of decency, goods morals, public peace, safety and good order. Nothing contained in this subsection shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind without a license, where such license is or may be required by any state law or under any village ordinance; or

(4) While containing reading matter other than advertising matter, is predominantly and essentially an advertisement and is distributed or circulated for advertising purposes or for the private benefit and gain of any person so engaged as advertiser or distributor.

Garbage means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

Litter means garbage, refuse and rubbish as defined in this section and all other waste material which, as thrown or deposited as prohibited in this article, tends to create a danger to public health, safety and welfare.

Newspaper means any newspaper of general circulation as defined by general law, any newspaper duly entered with the United States Postal Service in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law and, in addition, means and includes any periodical or current magazine regularly published with not less than four issues per year and sold to the public.

---

[37]Cross reference(s)—Solid waste, ch. 66.

State law reference(s)—Littering prohibited, MCL 324.8901 et seq.

Noncommercial handbill means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet or any other printed or otherwise reproduced original or copies of any matter or literature not included in the definition of a commercial handbill or newspaper.

Park means a park, reservation, playground, recreation center or any other public area in the village owned or used by the village and devoted to active or passive recreation.

Private premises means any dwelling, house, building or other structure, whether inhabited or temporarily or continuously uninhabited or vacant, and includes any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

Public place means any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, cemetery, grounds and buildings.

Refuse means all putrescible and nonputrescible solid wastes except body wastes, including garbage, rubbish, ashes, street cleanings, dead animals, unused stoves or other appliances stored in the open, machinery or motor vehicle parts, furniture, oil, refuse building materials and solid market and industrial wastes.

Refuse building materials means any wood, plaster, stone, brick, or other waste and unused materials resulting from the repair or construction of buildings.

Rubbish means nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, glass, metal, plastic, wood, paper containers, pallets, yard clippings, leaves, lawn or garden waste, bedding, crockery and similar materials.

Shall is always mandatory and not merely directory.

(Ord. No. 277, § 2(1), (2), (4), (6), (8)—(10), (12)—(14), (16), eff. 1-6-1992)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 38-157. Right of entry.

The village president, the village marshal or the police department shall have the right to enter private property at any reasonable hour of the day or night for the purpose of making a compliance survey of the premises or collecting other data and material pertaining to public health, safety and welfare and enforcing this article. No person shall resist or attempt to prevent such officers from carrying out the purposes set forth in this section. Such officers shall have in their possession and shall carry upon their persons at all times, while carrying out the duties outlined, sufficient credentials identifying themselves. Such credentials shall be exhibited by the bearer on demand to any person in charge of any premises such officer seeks to enter.

(Ord. No. 277, § 24, eff. 1-6-1992; Ord. No. 292, § 17, eff. 6-13-1994)

Sec. 38-158. Violations.

Whenever, by any section of this article, the performance of any act is required or the performance of any act is prohibited, a failure to comply with such section shall constitute a violation of this article. In addition, the failure, neglect or refusal to comply with a cease and desist order of the enforcing agency or person shall constitute a violation of this article.

(Ord. No. 277, § 27, eff. 1-6-1992)

Sec. 38-159. Municipal civil infraction.

A person who violates any section of this article is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in section 50-38, plus costs and other sanctions, for each infraction. Repeat offenses under this article shall be subject to increased fines as provided by section 50-38.

(Ord. No. 277, § 28, eff. 1-6-1992; Ord. No. 302, § 29, eff. 12-31-1995)

Sec. 38-160. Civil procedures to compel compliance.

In addition to any other remedies pursued by the village to abate violations of this article, the village may also file a complaint in circuit court for the county for an order granting the relief for which the action or proceeding is brought or for an order enjoining all persons from doing or maintaining the nuisance. The village president, in the petition, may also apply to the circuit court for an order authorizing him to abate any nuisance in the village.

(Ord. No. 277, § 29, eff. 1-6-1992)

Sec. 38-161. Evidence of nuisance.

The presence of any litter on any platted or unplatted parcel of land in violation of this article is declared to be a public nuisance.

(Ord. No. 277, § 23, eff. 1-6-1992)

Sec. 38-162. Depositing in public places.

No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the village except in public receptacles, in authorized private receptacles for collection, or in official village dumps.

(Ord. No. 277, § 3, eff. 1-6-1992)

Sec. 38-163. Placement in receptacles to prevent scattering.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

(Ord. No. 277, § 4, eff. 1-6-1992)

Sec. 38-164. Sweeping into gutters.

No person shall sweep into or deposit in any gutter, street or other public place within the village the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. A person owning or occupying property shall keep the sidewalk in front of his premises free of litter.

(Ord. No. 277, § 5, eff. 1-6-1992)

Sec. 38-165. Merchants' duty to clean sidewalks.

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the village the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. A person owning or occupying a place of business within the village shall keep the sidewalk in front of his business premises free of litter.

(Ord. No. 277, § 6, eff. 1-6-1992)

Cross reference(s)—Businesses, ch. 18.

Sec. 38-166. Throwing from vehicles.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the village or upon private property.

(Ord. No. 277, § 7, eff. 1-6-1992)

Cross reference(s)—Traffic and vehicles, ch. 78.

Sec. 38-167. Truck loads.

No person shall drive or move any truck or other vehicle within the village unless such vehicle is so constructed or loaded as to prevent any loads, contents or litter from being blown or deposited upon any street, alley or other public place. No person shall drive or move any vehicle or truck within the village, the wheels or tires of which carry onto or deposit in any street, alley or other public place mud, dirt, sticky substances, litter or foreign matter of any kind.

(Ord. No. 277, § 8, eff. 1-6-1992)

Cross reference(s)—Traffic and vehicles, ch. 78.

Sec. 38-168. Depositing in parks.

No person shall throw or deposit litter in any park within the village except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and shall be properly disposed of elsewhere.

(Ord. No. 277, § 9, eff. 1-6-1992)

Cross reference(s)—Parks and recreation, ch. 58.

Sec. 38-169. Throwing or distributing handbills in public places.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public place within the village. No person shall hand out or distribute or sell any commercial handbill in any public place. However, it shall not be a violation on any sidewalk, street or public place within the village for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill to any person willing to accept it.

(Ord. No. 277, § 10, eff. 1-6-1992)

Sec. 38-170. Placing handbills on vehicles.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle. However, it shall not be a violation in any public place for a person to hand out or distribute, without charge to the receiver thereof, a noncommercial handbill to any occupant of a vehicle who is willing to accept it.

(Ord. No. 277, § 11, eff. 1-6-1992)

Cross reference(s)—Traffic and vehicles, ch. 78.

Sec. 38-171. Depositing handbills on uninhabited or vacant premises.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

(Ord. No. 277, § 12, eff. 1-6-1992)

Sec. 38-172. Distributing handbills where properly posted.

No person shall throw, deposit or distribute any commercial or noncommercial handbill upon any private premises, if requested by any person thereon not to do so or if there is placed on the premises, in a conspicuous position near the entrance thereof, a sign bearing the words "no trespassing," "no peddlers or agents," "no advertisement" or any similar notice, indicating in any matter that the occupants of the premises do not desire to be molested or have their right of privacy disturbed or to have any such handbills left upon the premises.

(Ord. No. 277, § 13, eff. 1-6-1992)

Sec. 38-173. Distributing handbills at inhabited private premises.

(a) No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or other person then present in or upon such private premises. However, if the inhabited private premises are not posted, as provided in section 38-172, such person, unless requested by any person upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if the handbill is so placed or deposited as to secure or prevent the handbill from being blown or drifted about such premises or sidewalks, streets or other public places, and except that mailboxes may not be so used when so prohibited by federal postal law or regulations.

(b) This section shall not apply to the distribution of mail by the United States or to newspapers, except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

(Ord. No. 277, § 14, eff. 1-6-1992)

Sec. 38-174. Posting of notices.

No person shall post or affix any notice, poster or other paper or device calculated to attract the attention of the public to any lamppost, public utility pole or shade tree, or upon any public structure or building, except as may be authorized or required by law.

(Ord. No. 277, § 15, eff. 1-6-1992)

Sec. 38-175. Depositing on occupied private property.

No person shall throw or deposit litter on any occupied private property within the village, whether owned by such person or not. However, the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

(Ord. No. 277, § 16, eff. 1-6-1992)

Sec. 38-176. Maintenance of premises free of litter.

The owner or person in control of any private property shall at all times maintain the premises free of litter. However, this section shall not prohibit the storage of litter in authorized private receptacles for collection.

(Ord. No. 277, § 17, eff. 1-6-1992)

Sec. 38-177. Depositing on vacant lots.

No person shall throw or deposit litter on any open or vacant private property within the village, whether owned by such person or not.

(Ord. No. 277, § 18, eff. 1-6-1992)

Secs. 38-178—38-205. Reserved.

DIVISION 2. ABATEMENT

Sec. 38-206. Access.

The village authorized representatives shall be granted free access to and from any land for the work necessary to accomplish the abatement of any violation of this article found to exist, when such abatement is authorized by ordinance. No person shall obstruct or prevent such work. Such authorized representatives, after performing their duties in a prudent manner, shall not be liable for suit in any action of trespass therefor and shall be defended in any action arising therefrom by the village attorney until the final disposition of the proceedings.

(Ord. No. 277, § 26, eff. 1-6-1992)

Sec. 38-207. Notice to remove.

The village president, the village marshal or the police department is authorized and empowered to notify the owner or occupant of any private property within the village or the agent of such owner to properly dispose of litter located on such owner's property. Such notice shall be by registered mail, addressed to the owner or occupant at his last known address, or shall be delivered to the owner or occupant in person.

(Ord. No. 277, § 25(a), eff. 1-6-1992; Ord. No. 292, § 18, eff. 6-13-1994)

Sec. 38-208. Action for noncompliance.

Upon the failure, neglect or refusal of any owner, occupant or agent notified to properly dispose of litter within ten days after receipt of the written notice provided for in section 38-207 or within ten days after the date of return of such notice if the notice is returned to the village post office department because of the inability to make delivery thereof, provided the notice was properly addressed to the last known address of such owner or agent, as reflected upon the village tax records, the village president is authorized and empowered to pay for the disposing of such litter or to order its disposal or removal by the village.

(Ord. No. 277, § 25(b), eff. 1-6-1992)

Sec. 38-209. Costs of removal.

(a) The reasonable cost and expense incurred by the village in cleaning up and/or disposing of litter shall be determined by the village, and the amount thus determined shall be charged to the owner of the premises involved and shall be due and payable forthwith. A bill covering such amount shall be mailed by the village clerk to the owner of such premises at his last known post office address, demanding payment of the amount due. If the year in which the amount is not paid to the village is on or before January 31 of the year following the calendar year in which the amount became due, the amount thereof shall be collected by court action or may be placed on the next subsequent tax roll of the village as a special assessment.

(b) Whenever the village shall enter upon any lot or parcel of land in order to accomplish the cleaning up and/or disposing of litter, pursuant to provisions of this article, the village department of public works director is hereby authorized and directed to keep an accurate account of all expenses incurred, and, based upon these expenses, to issue a certificate determining and certifying the reasonable cost involved for the work with respect to each parcel of property.

(c) Within ten days after receipt of the certificate, the village treasurer shall forward a statement of the total charges assessed on each parcel of property to the person as shown as the owner by the last current tax roll and the assessment shall be payable to the village treasurer within 30 days from the date the statement was forwarded.

(d) If the owner of a lot, lots or premises fails to pay the bill within 30 days from the date the bill is mailed, the council may cause the amount of the expense incurred, together with a penalty and administrative fee of ten percent, to be levied by them as a special assessment upon the lot, lots or premises as provided in this Code for single lot assessments, or the amount thereof shall be collected by court action.

(Ord. No. 277, § 25(c), eff. 1-6-1992; Ord. No. 292, § 18, eff. 6-13-1994; Ord. No. 401, § 5, 2-4-2008)

Chapter 42 FIRE PREVENTION AND PROTECTION[38]

[38]Cross reference(s)—Buildings and building regulations, ch. 14; emergency services, ch. 34; recovery of certain emergency response costs for hazardous materials spills, § 34-141 et seq.; discharge of fireworks, § 54-131; bulk storage of flammable and combustible materials, app. A, § 1916.

State law reference(s)—State fire prevention code, MCL 29.1 et seq.; fire protection act, MCL 41.801 et seq.; fires and fire departments, MCL 70.1 et seq.; crimes related to fires, MCL 750.240 et seq.

ARTICLE I. IN GENERAL

Secs. 42-1—42-25. Reserved.

ARTICLE II. OPEN BURNING[39]

Sec. 42-26. 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:

Opening burning means a fire from which the products of combustion are emitted directly into the open air without passing through a stack or chimney, including the burning of a bonfire, rubbish fire, or other fire in an outdoor location where fuel being burned is not contained in an incinerator, outdoor fireplace, barbecue grill, or barbecue pit.

Recreational fire means the burning of materials other than rubbish, garbage, waste paper or debris from construction or demolition, where fuel being burned is not contained in an incinerator, outdoor fireplace, or barbecue grill and the total fuel area is of three feet (914 mm) or less in diameter and two feet (610 mm) or less in height and is within a fireproof ring or pit; and provided the fire is used for pleasure, religious, ceremonial, cooking or similar purposes.

(Ord. No. 160, § 1(E), (F)(1), (2), eff. 4-29-1968; Ord. No. 272, eff. 12-2-1990; Ord. No. 275, eff. 7-1-1991; Ord. No. 323, § 1, eff. 12-29-1996; Ord. No. 331, § 1, eff. 8-2-1998)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 42-27. Municipal civil infraction.

A person who violates any section of this article is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in section 50-38, plus costs and other sanctions, for each infraction. Repeat offenses under this article shall be subject to increased fines as provided by section 50-38.

(Ord. No. 160, § 11, eff. 4-29-1968; Ord. No. 302, § 28, 12-31-1995)

Sec. 42-28. Evidence.

It shall be prima facie evidence that a person who owns or controls property on which open burning occurs has caused or permitted the open burning.

(Ord. No. 160, § 9(D), eff. 4-29-1968; Ord. No. 272, eff. 12-2-1990; Ord. No. 275, eff. 7-1-1991)

[39]State law reference(s)—Open burning of grass clippings or leaves prohibited, MCL 324.11522, MSA 13A.11522.

Sec. 42-29. Prohibited burning.

(a) It shall be unlawful for any person to burn or permit the burning within the village of any garbage, food containers, rubbish or other waste material, including by way of description, but not by way of limitation, any leaves, brush, tree trimmings and grass, magazines, boxes, paper, straw, saw dust, paper packing materials, wood shavings, wood chips, or any other wood products; except as may be permitted under sections 42-30 and 42-31.

(b) No person shall conduct a salvage operation by open burning.

(Ord. No. 160, § 9(A), (B), eff. 4-29-1968; Ord. No. 272, eff. 12-2-1990; Ord. No. 275, eff. 7-1-1991; Ord. No. 331, § 2(A), (B), eff. 8-2-1998)

Sec. 42-30. Permit.

(a) Open burning may be done under permits as follows:

(1) Open burning may be conducted upon obtaining a written permit from the fire chief or his/her designee for the following purposes:

a. Fires set for fire department training purposes or similar fire department activities.

b. For occasional special events, such as high school rallies, block parties, yule logs, and religious gatherings, and for recreational fires.

(2) A request is made to the fire chief or his/her designee for the open burning permit by the party that will be responsible for meeting all conditions and requirements of the permit.

(3) No permit shall be issued unless the issuing officer is satisfied that:

a. There is no practical available alternative method for disposal of the material to be burned; and

b. No hazardous condition will be operated by such burning.

(4) Any permit issued may be limited by the imposition of conditions to:

a. Prevent or limit the creation of smoke; and/or

b. Protect property and the health, safety and comfort of persons from the effects of open burning.

(5) No permit shall be issued for:

a. The open burning of building demolition or excess construction materials.

b. The open burning of refuse from a multiple dwelling.

c. The open burning of refuse at commercial or industrial sites.

d. The open burning of refuse, or the open burning of yard waste, such as leaves, brush, tree trimmings and grass.

e. Open burning at the same property address more often than once per week.

(6) Any permit issued under this section may be revoked or canceled by the fire chief or his/her designee.

(Ord. No. 160, § 9(C)(1)—(5), eff. 4-29-1968; Ord. No. 272, eff. 12-2-1990; Ord. No. 275, eff. 7-1-1991; Ord. No. 331, § 2(C)(1)—(6), eff. 8-2-1998)

Sec. 42-31. Exceptions to article.

Provided there is compliance with the provisions of the Uniform Fire Code, as duly adopted by the county, this article shall not apply to:

(1) The preparation of food in conventional charcoal, wood, or gas grills specifically designed for that purpose.

(2) The use of approved gaseous or liquid fired salamanders commonly employed in conjunction with building and construction operations when used in accordance with accepted safety standards.

(3) Roofers, tinners, plumbers, or other mechanics pursuing a business requiring the use of fire, or for the purpose of boiling tar, pitch or oil used in the course of an appropriate business or trade and while being used in a safe and sanitary manner.

(Ord. No. 331, § 2(D), eff. 8-2-1998)

Sec. 42-32. Evidence of violation.

It shall be prima facie evidence that a person who owns or controls property on which open burning occurs has caused or permitted the open burning.

(Ord. No. 331, § 2(E), eff. 8-2-1998)

Secs. 42-33—42-50. Reserved.

ARTICLE III. OUTDOOR FURNACES

Sec. 42-51. Purpose.

The purpose of this article is to establish and impose restrictions upon the construction and operation of outdoor furnaces within the limits of the village, to secure and promote the public health, safety, and welfare of the village and its inhabitants. Outdoor furnaces can create noxious and hazardous smoke, soot, fumes, odors, air pollution, particles, and other products of combustion, particularly when restricted airflow and low operating temperatures are present. These products can be detrimental to citizens' health and can deprive neighboring residents of the enjoyment of their property. These regulations are intended to eliminate noxious and hazardous conditions caused by outdoor furnaces.

(Ord. No. 409, § 1, 11-23-2009)

Sec. 42-52. Definitions.

An "outdoor furnace" is any device or structure that:

(1) Is designed, intended, or used to provide heat and/or hot water to any residence, or other structure;

(2) Operates by the burning of wood or other fuel; and

(3) Is not located within a residential structure or other structure for which it provides heat or hot water.

"Outdoor furnace" does not include boilers or furnaces fueled by natural gas, propane, or fuel oil if the boiler or furnace has been inspected and approved by the Livingston County Building Department.

(Ord. No. 409, § 1, 11-23-2009)

Sec. 42-53. Regulations.

It shall be unlawful to install or operate an outdoor furnace within the village. Any outdoor furnace installed or operated in violation of this section is declared to be a nuisance per se.

(Ord. No. 409, § 1, 11-23-2009)

Sec. 42-54. Municipal civil infraction.

A person who violates any section of this article is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in section 50-38, plus costs and other sanctions, for each infraction. Repeat offenses under this article shall be subject to increased fines as provided by section 50-38.

(Ord. No. 409, § 1, 11-23-2009)

Chapter 46 LAND DIVISION[40]

ARTICLE I. IN GENERAL

Secs. 46-1—46-25. Reserved.

ARTICLE II. DIVISION OF UNPLATTED LAND

Sec. 46-26. 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:

Applicant means a person who holds an ownership interest in land, whether recorded or not.

Divided or *division* means the partitioning or splitting of a parcel or tract of land by the proprietor thereof 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 that results in one or more parcels of less than 40 acres or the equivalent and that satisfies the requirements of sections 108 and 109 of the land division act (MCL 560.108 et seq., MSA 26.430(108) et seq.).

Exempt split or *exempt division* means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his heirs, executors, administrators, legal representatives, successors or assigns that does

[40]Cross reference(s)—Any ordinance approving or accepting any subdivision or plat saved from repeal, § 1-6(4); buildings and building regulations, ch. 14; community development, ch. 30; environment, ch. 38; planning, ch. 62; streets, sidewalks and certain other public places, ch. 74; utilities, ch. 82; vegetation, ch. 86; zoning, app. A.

State law reference(s)—Land division act, MCL 560.101 et seq., MSA 26.430(101) et seq.

not result in one or more parcels of less than 40 acres or the equivalent, provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads through existing adequate roads or easements or through areas owned by the owner of the parcel that can provide such access.

Forty acres or the equivalent means either 40 acres, a quarter-quarter section containing less than 30 acres, or a government lot containing not less than 30 acres.

Land division act means Public Act No. 288 of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.), as amended.

(Ord. No. 329, § 3, eff. 5-24-1998)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 46-27. Purpose.

The purpose of this article is to carry out the provisions of the land division act, Public Act No. 288 of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.), as amended, formerly known as the Subdivision Control Act; to prevent the creation of parcels of property which do not comply with applicable ordinances and such act; to minimize potential boundary disputes; to maintain orderly development of the community; and to otherwise provide for the health, safety and welfare of the residents and property owners of the village by establishing reasonable standards for prior review and approval of land divisions within the village.

(Ord. No. 329, § 2, eff. 5-24-1998)

Sec. 46-28. Prior approval required for land divisions.

Land in the village shall not be divided without the prior review and approval of the zoning administrator or other official designated by the village council in accordance with this article and the land division act, provided that the following shall be exempted:

(1) A parcel proposed for subdivision through a recorded plat pursuant to article III of this chapter and the land division act.

(2) A lot in a recorded plat proposed to be divided in accordance with article III of this chapter.

(3) An exempt split as defined in this article or otherwise exempt under the land division act.

(Ord. No. 329, § 4, eff. 5-24-1998)

Sec. 46-29. Application for land division approval.

An applicant shall file all of the following with the zoning administrator or other official designated by the village council for review and approval of a proposed land division before making any division either by deed, land contract, lease for more than one year, or for building development:

(1) A completed application form on such form as may be provided by the village.

(2) Proof of fee ownership of the land proposed to be divided.

(3) A survey map of the land proposed to be divided, prepared pursuant to the survey map requirements of Public Act No. 132 of 1970 (MCL 54.211 et seq., MSA 13.115(61) et seq.), by a land surveyor licensed by the state, and showing the dimensions and legal descriptions of the existing parcel and the parcels proposed to be created by the division, the location of all existing structures and other land

improvements, and the accessibility of the parcels for vehicular traffic and utilities from existing public roads.

In lieu of such survey map, at the applicant's option, the applicant may waive the 45-day statutory requirement for a decision on the application until such survey map and legal description are filed with the village and submit a tentative preliminary parcel map drawn to scale of not less than that provided for on the application form including an accurate legal description of each proposed division and showing the boundary lines, dimensions, and the accessibility of each division from existing or proposed public roads for automobile traffic and public utilities, for preliminary review, approval and/or denial by the locally designated official prior to a final application under this article.

The village council may waive the survey map requirement where the tentative parcel map is deemed to contain adequate information to approve a proposed land division considering the size, simple nature of the divisions, and the undeveloped character of the territory within which the proposed divisions are located. An accurate legal description of all the proposed divisions, however, shall at all times be required.

(4) Proof that all standards of the land division act and this article have been met. (See the checklist accompanying Ordinance No. 329.)

(5) The history and specifications of any previous divisions of land of which the proposed division was a part sufficient to establish the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of the land division act.

(6) Proof that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full.

(7) If transfer of division rights are proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.

(8) Unless a division creates a parcel which is acknowledged and declared to be not buildable under section 46-31, all divisions shall result in buildable parcels containing sufficient buildable area outside of unbuildable wetlands, floodplains and other areas where buildings are prohibited therefrom, and with sufficient area to comply with all required setback provision, minimum floor areas, off-street parking spaces, on-site sewage disposal and water well locations where public water and sewer service is not available, and maximum allowed area coverage of buildings and structures on the site.

(9) A fee for land division reviews pursuant to this article to cover the costs of review of the application and administration of this article and the land division act in the amount of $100.00 per division reviewed.

(Ord. No. 329, § 5, eff. 5-24-1998; Ord. No. 372, § 1, 11-15-2004)

Sec. 46-30. Procedure for review of applications for land division approval.

(a) Upon receipt of a land division application package, the zoning administrator shall forward a copy of the package to the Township of Handy Assessor. The zoning administrator shall approve; approve with reasonable conditions to ensure compliance with applicable ordinances and the protection of public health, safety and general welfare; or disapprove the land division applied for within 45 days after receipt of the application package conforming to the requirements of this article, and shall promptly notify the applicant of the decisions and the reasons for denial. If the application package does not conform to this article and the land division act, the zoning administrator shall return the package to the applicant for completion and refiling in accordance with this article and the land division act.

(b) Any person aggrieved by the decision of the zoning administrator may, within 30 days of the decision, appeal the decision to the zoning board of appeals, which shall consider and resolve such appeal by a majority vote of the board at its next regular meeting or session, affording sufficient time for a 20-day written notice to the applicant and the appellant, where other than the applicant, of the time and date of the meeting and appellate hearing.

(c) A decision approving a land division is effective for 90 days, after which it shall be considered revoked unless within such period a document is recorded with the county register of deeds office and filed with the zoning administrator accomplishing the approved land division or transfer.

(d) The zoning administrator shall maintain an official record of all approved and accomplished land divisions or transfers.

(Ord. No. 329, § 6, eff. 5-24-1998)

Sec. 46-31. Standards for approval of land divisions.

A proposed land division shall be approved if the following criteria are met:

(1) All the parcels to be created by the proposed land division fully comply with the applicable lot (parcel), yard and area requirements of the applicable zoning ordinance, including but not limited to minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area, minimum lot width to depth ratio, and maximum lot (parcel) coverage and minimum setbacks for existing buildings/structures.

(2) The proposed land division complies with all requirements of the land division act and this article.

(3) All parcels created and remaining have existing adequate accessibility or an area available therefor to a public road for public utilities and emergency and other vehicles not less than the requirements of the land division act and applicable zoning ordinance, major thoroughfare plan, road ordinance or this article. In determining adequacy of accessibility, ordinance standards applicable to plats shall also apply as a minimum standard whenever a parcel or tract is proposed to be divided to create four or more parcels.

(4) The ratio of depth to width of any parcel created by the division does not exceed a three-to-one ratio exclusive of access roads, easements, or nonbuildable parcels created under section 46-32 and parcels added to contiguous parcels that result in all involved parcels complying with such ratio. The permissible depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the abutting road right-of-way to the most remote boundary line point of the parcel from the point of commencement of the measurement. The permissible minimum width shall be as defined in the applicable zoning ordinance.

(5) All parcels created by a land division shall comply with the village zoning ordinance in appendix A to this Code, as amended; all street and utility regulations adopted by the village council; and with the following standards:

a. Where accessibility is to be provided by a proposed new dedicated public road, the proposed layout and construction design of the road and of utility easements and drainage facilities connected therewith must be approved by the department of public works director and the village engineer and shall comply with all village duly adopted design and construction requirements.

b. Where accessibility by vehicle traffic and for utilities is permitted through other than a dedicated and accepted public road or easement, such accessibility shall comply with the following:

1. Where such private road or easement extends for more than 660 feet from a dedicated public road or is serving or is intended to serve more than one separate parcel, unit or ownership, it shall be not less than 66 feet in right-of-way width, 24 feet in improved roadbed width with at least three feet of improved shoulder width on each side and adequate drainage ditches and necessary culverts on both sides to accumulate and contain surface waters from the road area. It shall further be improved with not less than six inches of a processed and stabilized gravel base over six inches of granular soil, shall have a grade of not more than seven percent, and if dead-ended shall have a cul-de-sac with a radius of not less than 50 feet of improved roadbed for the accommodation of emergency, commercial and other vehicles.

2. Where the private road or easement is 660 feet or less in length and is serving or intended to serve not more than four separate parcels, units or ownerships, it shall not be less than 40 feet in right-of-way width, 20 feet in improved roadbed width with at least two feet of improved shoulder width on each side, and it shall have adequate drainage ditches on both sides with necessary culverts to accommodate and contain surface waters from the road area. It shall further be improved with processed and stabilized gravel and granular soil, shall have a grade of not more than seven percent, and shall have a cul-de-sac where dead-ended as specified in subsection (5)b.1 of this section. If the private road or easement is serving or intended to serve more than four separate parcels, units or ownerships, the right-of-way and development standards set forth in subsection (5)b.1 of this section shall apply.

3. If accessibility is by a private road or easement, a document acceptable to the village shall be recorded with the county register of deeds and filed with the zoning administrator specifying the method of private financing of all maintenance, improvements, and snow removal; the apportionment of these costs among those benefitted; and the right of the village to access such costs against those properties benefitted, plus a 25-percent administrative fee; and to perform such improvements for failure of those benefitted to privately perform these duties for the health, safety and general welfare of the area.

4. Any intersection between private and public roads shall contain a clear vision triangular area of not less than two feet along each right-of-way line as measured from the intersecting right-of-way lines.

5. No private road or easement shall extend for more than 1,000 feet from a public road.

6. No private road shall serve more than 25 separate parcels.

(Ord. No. 329, § 7, eff. 5-24-1998)

Sec. 46-32. Allowance for approval of other land divisions.

Notwithstanding disqualification from approval pursuant to this article, a proposed land division which does not fully comply with the applicable lot, yard, accessibility and area requirements of the applicable zoning ordinance or this article may be approved in any of the following circumstances:

(1) The applicant executes and records an affidavit or deed restriction with the county register of deeds, in a form acceptable to the village, designating the parcel as not buildable. Any such parcel shall also be designated as not buildable in the village records and shall not thereafter be the subject of a request to the zoning board of appeals for variance relief from the applicable lot and/or area requirements and shall not be developed with any building or aboveground structure exceeding four feet in height.

(2) In circumstances not covered by subsection (1) of this section, the zoning board of appeals has, prior to the effective date of the ordinance from which this article derives, granted a variance from the lot, yard, ratio, frontage and/or area requirements with which the parcel failed to comply.

(3) The proposed land division involves only the minor adjustment of a common boundary line or involves a conveyance between adjoining properties which does not result in either parcel violating this article, any applicable zoning ordinance, or the land division act.

(Ord. No. 329, § 8, eff. 5-24-1998)

Sec. 46-33. Consequences of noncompliance.

Any parcel created in noncompliance with this article shall not be eligible for any land use permits, building permits, or zoning approvals, such as special land use approval or site plan approval, and shall not be recognized as a separate parcel on the assessment roll. In addition, violation of this article shall subject the violator to the penalties and enforcement actions set forth in section 46-34 and as may otherwise be provided by law.

(Ord. No. 329, § 9, eff. 5-24-1998)

Sec. 46-34. Penalties and enforcement.

(a) Any person who violates this article is responsible for the payment of a civil fine of not more than $1,000.00 for each parcel sold. A default in the payment of a civil fine or costs ordered under this subsection or an installment of the fine or costs may be remedied by any means authorized under the revised judicature act of 1961, Public Act No. 236 of 1961 (MCL 600.101 et seq., MSA 27A.101 et seq.).

(b) Any person who violates this article shall also be subject to a civil action seeking invalidation of the land division and appropriate injunctive or other relief.

(Ord. No. 329, § 10, eff. 5-24-1998)

Secs. 46-35—46-60. Reserved.

ARTICLE III. SUBDIVISIONS

DIVISION 1. GENERALLY

Sec. 46-61. Definitions.

Any word or term not interpreted or defined by this section shall be used with a meaning of common or standard utilization. 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:

Alley means a public thoroughfare which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

Block means the property abutting one side of a street and lying between the two nearest intersecting or intercepting streets, or between the nearest intersecting or intercepting street and a physical barrier such as a right-of-way, park, river, or undivided acreage.

Block length means the distance between intersections of through streets, such distance being measured along the longest street bounding the block and from the right-of-way, other public area, or the edge of a stream or river bank.

Buffer means a landscaped area composed of living plant material, a wall or berm, or a combination thereof for the purpose of visual screening and/or noise reduction between noncompatible land uses and/or between a thoroughfare and an existing land use.

Building line or setback line means a line formed by the face of the building, and extending to the side lot lines. For purposes of this article, a minimum building line is the same as the front setback line, as provided in the zoning ordinance in appendix A to this Code, as amended.

Caption means the name by which the plat is legally and commonly known.

Clerk means the clerk of the village.

Commercial development means a planned commercial center providing building areas, parking areas, service areas, screen planting and widening, turning movement and safety lane roadway improvements.

Commission means the village planning commission.

Crosswalk (pedestrian walkway) means right-of-way, dedicated to public or quasipublic use, which crosses a block to facilitate pedestrian access to adjacent streets and properties.

Dedication means the intentional appropriation of land by the owners to public use.

Developer, subdivider or proprietor means a person who may hold any recorded or unrecorded ownership interest in land, whether recorded or not. The proprietor is also commonly referred to as the "owner."

Easement means a nonpossessing interest held by one person in land of another person whereby the first person is accorded partial use of such land for a specific purpose. An easement restricts but does not abridge the rights of the fee owner to the use and enjoyment of the easement holder's rights. Easements fall into three broad classifications: surface easements, subsurface easements, and overhead easements.

Floodplain means that area of land adjoining the channel of a river, stream, watercourse, lake or other similar body of water which will be inundated by a flood which can reasonably be expected for that area.

Greenbelt or planting strip means an open landscaped area at least 20 feet wide and not part of roadway right-of-way or utility easement used to screen incompatible features such as highways, railroads, industrial or commercial uses from residential property.

Improvements means any structure incidental to servicing or furnishing facilities for a subdivision such as grading, street surfacing, curb and gutter, driveway approaches, sidewalks, crosswalks, water mains and lines, sanitary sewers, storm sewers, culverts, bridges, utilities, lagoons, slips, waterways, lakes, bays, canals and other appropriate items, with appurtenant construction.

Industrial development means a planned industrial area designed specifically for industrial use which shall provide screened buffers, wider street, off-street parking and loading, and turning movement and safety lane roadway improvements, where deemed necessary.

Land division act means Public Act No. 288 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.), as amended.

Land use permit means the permit required prior to any change in land use under the village zoning ordinance in appendix A to this Code, as amended.

Lot means a parcel or tract of land which is described and fixed in a recorded plat and is occupied or capable of being occupied by a land use, building, structure, or group of buildings together with such yards, open spaces, lot width and lot area.

(1) *Corner lot* means a lot at the junction of and fronting two or more intersecting street rights-of-way.

(2) *Lot depth* means the mean horizontal distance between the front and rear lot lines.

(3) *Lot width* means the horizontal distance between the side lot lines measured at the two points where either the building line or front lot line intersects the side lot lines.

Lot line means the lines bounding a lot as defined in this section:

(1) *Front lot line* means, for an interior lot, that line separating the lot from the right-of-way line of the abutting street. For a corner lot, the term "front lot line" means that line separating the lot from the right-of-way line of that street which is designated as the front street in the plat and in the application for a land use permit.

(2) *Rear lot line* means that lot line opposite and most distant from the front lot line. For a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line not less than ten feet long farthest from the front lot line and wholly within the lot.

(3) *Side lot line* means any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot is an interior side lot line.

Master plan means the village master plan, as may be adopted by the planning commission in accordance with Public Act No. 285 of 1931 (MCL 125.31 et seq., MSA 5.2991 et seq.), as amended.

May is permissive.

Outlot, when included within the boundary of a recorded plat, means a lot set aside for purposes other than a development site, park or other land dedicated to public use or reserved to private use.

Parcel means a continuous area or acreage of land defined by property lines; a parcel need not be in single ownership.

Planting strip or greenbelt. See *Greenbelt or planting strip.*

Plat means a map or chart of a subdivision of land.

(1) *Sketch plan* means an informal plan or sketch drawn to scale and in pencil, if desired, showing the existing features of a site and its surroundings and the general layout of a proposed subdivision.

(2) *Preliminary plat* means a map showing the salient features of a proposed subdivision of land submitted to an approving authority for purposes of preliminary consideration.

(3) *Final plat* means a map of a subdivision of land made up in final form ready for approval and recording.

Public open space means land dedicated or reserved for use by the general public. It includes parks, parkways, recreation areas, school sites, community or public building sites, streets and highways and public parking spaces.

Public utility means every person or municipal or other public authority providing gas, electricity, water, steam, telephone, telegraph, cable television, storm sewers, sanitary sewers, transportation, or other services of a similar nature.

Record plans means revised construction plans in accordance with all approved field construction changes.

Replat means the process of changing or the map or plat which changes the boundaries of a recorded subdivision plat or part thereof. The legal dividing of an outlot within a recorded subdivision plat without changing the exterior boundaries of the outlot is not a replat.

Reserve strip means a one-foot reserve of land at the end of stub or dead-end streets which terminate at subdivision boundaries and between half streets which shall be deeded in fee simple to the village for future street purposes. A privately held reserve strip controlling access to streets is prohibited.

Right-of-way means a street, alley, or other thoroughfare or easement permanently established for the passage of persons or vehicles or the location of utilities. The right-of-way is delineated by legally established lines or boundaries.

Shall is always mandatory and not discretionary.

Sidewalk means a pedestrian walkway installed by the proprietor within the dedicated nonpavement right-of-way being a minimum of five feet in width and four inches thick and which shall be six inches thick and reinforced when part of a driveway. All sidewalks shall conform to village sidewalk specifications.

Sketch plan means a pre-preliminary plat.

Street means a dedicated and accepted public thoroughfare, other than a public alley, open to public travel, whether designated as a road, avenue, highway, boulevard, drive, lane, circle, place, court, terrace or any similar designation, or a permanently unobstructed private easement of access having a right-of-way at least 30 feet in width and a roadway suitable for vehicular travel at least 12 feet wide which affords the principal means of vehicular access to abutting property.

(1) *Freeway* means a divided arterial highway for through traffic with full control of access and with all crossroads separated in grade from pavements for through traffic.

(2) *Collector street* means a route that connects separate parts of the village and provides access to the community's residential areas, e.g., West Frank (between Grand and Detroit), Church (between Grand and Second), Power, Hibbard, North, Second, Hale (between Grand and Second), Cedar River, Van Riper, and Ann are classified as collector streets.

(3) *Local streets* means thoroughfares which provide access to individual residential properties with traffic movement a secondary consideration. All streets not specifically mentioned in subsections (1) and (2) of this definition are classified as local streets in the village.

(4) *Major thoroughfare* means a main thoroughfare for regional movement. Access to local activity centers is a secondary function. For example, Grand River Avenue is classified as a major thoroughfare in the village.

(5) *Minor thoroughfare* means a minor thoroughfare for regional movement with access to local activity centers as a primary function; also serves as regional thoroughfare, but is most important for providing access to local destinations. For example, in the village, Grand Avenue is classified as a minor thoroughfare.

(6) *Cul-de-sac* means a street with only one outlet having sufficient space at the closed end to provide a vehicular turning area.

(7) *Marginal access street* means a minor street which is parallel and adjacent to arterial streets and which provides access to abutting properties and protection from through traffic and not carrying through traffic.

(8) *Street width* means the shortest distance between the lines delineating the right-of-way streets.

(9) *Stub street* means a dead-end local street which provides for eventual extension of a street on an unplatted land.

(10) *Half street* means a street having lesser than the required right-of-way width for a street of full width.

Surveyor means either a land surveyor who is registered in this state as a licensed land surveyor or a civil engineer who is registered in the state as a registered professional engineer.

Topographical map means a map showing existing physical characteristics, with contour lines at sufficient intervals to permit determination of proposed grades and drainage.

Tract means two or more parcels that share a common property line and that are under the same ownership.

Village engineer or engineer means the staff engineer or consulting engineer of the village.

Village planner or planner means the staff planner or consulting planner of the village.

Wetlands means land characterized by the presence of water at a frequency and duration sufficient to support and that under normal circumstances does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp or marsh and as defined in section 30301 of Public Act No. 59 of 1995 (MCL 324.30301, MSA 13A.30301).

Zoning administrator means the individual designated by village council who shall review plans and specifications of development, site plans and plats for conformance.

(Ord. No. 288, §§ 2.1, 2.2, eff. 8-16-1993; Ord. No. 330, §§ 1, 3, eff. 5-24-1998)

Cross reference(s)—Definitions generally, § 1-2.

State law reference(s)—Definitions, MCL 560.102, MSA 26.430(102).

Sec. 46-62. Purpose.

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

(1) Provide for orderly growth and harmonious development of the community, consistent with orderly growth policies.

(2) Secure adequate traffic circulation through coordinated street systems with proper relation to major thoroughfares, adjoining subdivisions, and public facilities.

(3) Achieve individual property lots of maximum utility and liveability for various uses of land, including residential, commercial and industrial, as may be provided.

(4) Ensure adequate provisions for water, sidewalk, drainage and sanitary sewer facilities, and other health requirements.

(5) Assist in the planning for the provision of adequate recreational areas, school sites and other public facilities.

(Ord. No. 288, § 1.2, eff. 8-16-1993)

Sec. 46-63. Scope.

This article shall not apply to any lot forming a part of a subdivision created and recorded prior to the effective date of the ordinance from which this article derives, except for further dividing of existing lots. It is not intended by this article to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws, ordinances or regulations or with private restrictions placed upon property by deed, covenant, or other private agreement or with restrictive covenants running with the land to which the village is a party. Where this article imposes a greater restriction upon land than is imposed or required by such existing provision of any other village ordinance, the provisions of this article shall prevail.

(Ord. No. 288, § 1.3, eff. 8-16-1993)

Sec. 46-64. Amendment procedures.

The village council may, from time to time, amend, supplement, or repeal the sections of this article. A proposed amendment, supplement, or repeal may be originated by the village council, by the planning commission, or by petition. All proposals not originating with the planning commission shall be referred to it for a report and recommendation thereon before any action is taken on the proposal by the village council.

(Ord. No. 288, § 8.1, eff. 8-16-1993)

Sec. 46-65. Enforcement.

No subdivision plat required by this article or the land division act shall be admitted to the public land records of the county or received by the county register of deeds until such subdivision plat has received final approval by the village council. No public board, agency, commission, official or other authority shall proceed with the construction of or authorize the construction of any of the public improvements required by this article unless such public improvements shall have already been accepted, shall have been opened or shall have otherwise received the legal status of a public improvement prior to the effective date of the ordinance from which this article derives unless such public improvement shall correspond in its location and to the other requirements of this article.

(Ord. No. 288, § 7.1, eff. 8-16-1993)

Sec. 46-66. Penalties.

Violation of any of the sections of this article or failure to comply with any of the requirements of this article shall constitute a misdemeanor. Any person who violates this article or who fails to comply with any of its requirements shall, upon conviction, be punished as provided in section 1-12. Each day such violation continues shall be considered a separate offense. The landowner, tenant, subdivider, builder, public official or any other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties provided in this section. Nothing contained in this section shall prevent the village council or any other public official or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this article or of the land division act.

(Ord. No. 288, § 7.2, eff. 8-16-1993)

Sec. 46-67. Future arrangements of lots.

Where parcels of land are subdivided into unusually large lots, the parcels shall be divided, where feasible, so as to allow for resubdividing into smaller parcels in a logical fashion. Lot arrangements shall allow for the ultimate extension of adjacent streets through the middle of wide blocks or splitting of lots into smaller lots. Whenever such future resubdividing or lot splitting is contemplated, the plan thereof shall be approved by the planning commission prior to taking such action.

(Ord. No. 288, § 4.5.9, eff. 8-16-1993)

Sec. 46-68. Lot division.

(a) The division of a lot in a recorded plat is prohibited, unless approved following application to the village. The application shall be filed in writing with the zoning administrator and shall be accompanied by a certified survey indicating the original lot, the proposed division, the pertinent dimensions and the legal description of

the resultant parcels. The application shall be accompanied by a fee as established in the fee schedule by village council resolution.

(b) No lot in a recorded plat shall be divided into more than four parts, and the resulting lots shall be not less in area than permitted by the zoning ordinance in appendix A to this Code. No building permit shall be issued nor shall any building construction commenced until the division has been approved by the village council and the suitability of the land for building sites has been approved by the county health department. The division of a lot resulting in a smaller area than prescribed by the zoning ordinance may be permitted, but only for the purpose of adding to the existing building site. The application shall so state and shall be in affidavit form.

(Ord. No. 288, § 4.5.10, eff. 8-16-1993; Ord. No. 479 , § 2, 2-1-2021)

State law reference(s)—Further partition or division of property in a recorded plat, MCL 560.263, MSA 26.430(263).

Sec. 46-69. Division of unplatted parcel.

The division of an unplatted parcel or tract of land that results in one or more parcels of less than 40 acres or the equivalent shall be in accordance with article II of this chapter and the land division act.

(Ord. No. 288, § 4.5.11, eff. 8-16-1993; Ord. No. 330, § 4, eff. 5-24-1998)

Secs. 46-70—46-95. Reserved.

DIVISION 2. VARIANCES

Sec. 46-96. Procedures generally.

(a) The planning commission may recommend to the village council a variance from this article upon a finding that undue hardship may result from strict compliance with specific sections or requirements of this article or that application of such section or requirement is impractical. However, financial hardships alone are not grounds for granting a variance. The planning commission shall only recommend variances that it deems necessary or desirable for the public interest. In making its findings, as required in this section, the planning commission shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be recommended unless the planning commission finds after a public meeting all the following:

(1) There are such special circumstances or conditions affecting the property that the strict application of this article would clearly be impractical or unreasonable. In such cases the subdivider shall first state his reasons in writing as to the specific provision or requirement involved and submit them to the planning commission.

(2) The granting of the specified variance will not be detrimental to the public welfare or injurious to other property in the area in which the property is situated.

(3) The variance will not violate the provision of the land division act.

(4) The variance will not have the effect of nullifying the intent and purpose of this article and the village master plan.

(b) The planning commission shall include its findings and the specific reasons therefor in its report of recommendations to the village council and shall also record its reasons and actions in its minutes.

(Ord. No. 288, § 6.1, eff. 8-16-1993)

Sec. 46-97. Topographical or physical limitation variance.

Where, for a particular proposed subdivision, it can be shown that strict compliance with the requirements of this article would result in extraordinary hardship to the subdivider because of unusual topography, other physical conditions, or such other conditions that are not self-inflicted or that these conditions would result in inhibiting the achievement of the objectives of this article, the planning commission may recommend to the village council that variance modification or a waiver of this article be granted.

(Ord. No. 288, § 6.2, eff. 8-16-1993)

Sec. 46-98. Variances to required public improvements or utilities.

The planning commission may recommend to the village council that waivers be granted for the installation of a public sanitary sewer system and a public water system or any or all of them when in its best judgment the installations shall be impractical; provided, however, that the average width of the lot in the proposed subdivision, as measured at the street frontage line or the building setback line, is more than 150 feet and where the average area of parcels or lots resulting from the subdivision of land exceeds one acre and is approved by the county health department. The planning commission may also recommend waivers be granted for the installation of gas mains and/or service connections, stubs, communications, electrical conduits, when in its best judgment the installation shall be impracticable.

(Ord. No. 288, § 6.3, eff. 8-16-1993)

Sec. 46-99. Applications required.

Under this article, application for any required public improvement variance or topographical variance shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the planning commission. The petition shall state fully the grounds for the application and all the facts relied upon by the petitioner.

(Ord. No. 288, § 6.4, eff. 8-16-1993)

Secs. 46-100—46-125. Reserved.

DIVISION 3. PLAT APPROVAL PROCEDURE

Subdivision I. In General

Secs. 46-126—46-150. Reserved.

Subdivision II. Sketch Plan

Sec. 46-151. Scope.

The subdivider shall have no obligation to submit his proposed plat for sketch plan approval. This procedure is suggested as a means of avoiding problems of a technical nature which may arise due to a lack of information during the preliminary or final stages of approval. If the subdivider elects to submit a sketch plan, the procedure of this subdivision shall apply.

(Ord. No. 288, § 3.1, eff. 8-16-1993)

Sec. 46-152. Purpose.

(a) The purpose of the subdivision sketch plan is to:

(1) Provide guidelines for the subdivider concerning development policies of the village.

(2) Acquaint the subdivider with the platting procedures and requirements of:

a. The village council and the planning commission.

b. Other approving agencies.

(3) Provide the village general information concerning the proposed development.

(b) Acceptance of the sketch plan does not ensure acceptance of the preliminary plat.

(Ord. No. 288, § 3.1.1, eff. 8-16-1993)

Sec. 46-153. Contents.

(a) The subdivision sketch plan shall show the entire development scheme of the subdivision in schematic form, including the area for immediate development, and shall include the following:

(1) A scale drawing of the proposed development, but it may be in sketch form.

(2) Existing conditions and characteristics of the land on and adjacent to the site.

(3) The general layout of streets, blocks, and lots.

(4) The location and size of general areas to be set aside for schools, parks or other public facilities.

(b) If the proposal is one of several phases, an outline or generalized plan showing future contiguous development shall also be shown, including the proposed pattern of development and estimated time frames for development.

(Ord. No. 288, § 3.1.2, eff. 8-16-1993)

Sec. 46-154. Procedure.

(a) The developer shall submit ten copies of the subdivision sketch plan to the village clerk.

(b) The planning commission will review the plan with the subdivider or his agent. The commission may also request that copies of the sketch plan be submitted to other affected public agencies for review.

(c) The commission shall inform the subdivider or his agent of the village's development policies and make appropriate comments and suggestions concerning the proposed development scheme. The commission may recommend tentative sketch stage approval or indicate its intent to recommend rejection of the

proposed plat; provided, however, that an indicated rejection at this stage shall not bar the developer from submitting a preliminary plat.

(Ord. No. 288, § 3.1.3, eff. 8-16-1993)

Secs. 46-155—46-180. Reserved.

Subdivision III. Preliminary Plat[41]

Sec. 46-181. Tentative approval—Generally.

The procedure for preparation and submission of a preliminary plat of the land area to be subdivided for tentative approval in accordance with section 112 of the land division act (MCL 560.112, MSA 26.430(112)) shall be as provided in sections 46-182 through 46-186.

(Ord. No. 288, § 3.2, eff. 8-16-1993)

Sec. 46-182. Same—Submission and filing.

(a) The subdivider shall submit ten copies of 24 inches by 36 inches and two copies of 11 inches by 17 inches of the preliminary plat on a topographic map to the clerk for subsequent distribution.

(b) When submitting the preliminary plat to the clerk, the subdivider shall submit a written application for approval, together with written and graphic information and also the established fee for review of the preliminary plat.

(c) Filing with the clerk shall be at least 30 days prior to the regular meeting of the planning commission, which meeting shall be considered as the date of filing, at which the subdivider will be scheduled to appear. Should any of the data required in sections 46-181 through 46-186 is omitted, the clerk shall notify the subdivider of the additional data required, and the action of the commission shall be delayed until the required data is received. The commission shall act on the preliminary plat within 60 days after the date of filing unless the subdivider agrees to an extension of time in writing.

(Ord. No. 288, § 3.2.1, eff. 8-16-1993)

Sec. 46-183. Same—Identification and description.

The subdivision preliminary plat shall include the following:

(1) Proposed name of the subdivision.

(2) Location by section, township and range, or by legal description.

(3) Names and addresses and telephone numbers of the subdivider and the surveyor preparing the plat.

(4) The size of the plat map shall not be less than 24 inches by 36 inches.

(5) The scale of the plat map shall be not more than 200 feet per one inch.

[41]State law reference(s)—Preliminary plats, MCL 560.111 et seq., MSA 26.430(111) et seq.

(6) The date.

(7) The north point.

(Ord. No. 288, § 3.2.2, eff. 8-16-1993)

Sec. 46-184. Same—Existing conditions.

The submission of the subdivision preliminary plat shall include the following written and graphic information:

(1) A legal document showing the legal and equitable owners, including mortgages, contract purchasers and fee owners, of the land to be platted, plus all grants, reservations, deed restrictions and easements of record which may condition the use of the property.

(2) Statements of intended use of the proposed plat, such as the following:

a. Residential single-family, two-family and multiple housing; commercial; industrial; recreational; or agricultural.

b. Proposed sites, if any, for multifamily dwellings, shopping centers, churches, industry, and other nonpublic uses exclusive of single-family dwellings.

c. Sites proposed for parks, playgrounds, schools or other public uses.

(3) An indication of soil limitations based on site inspection carried out by a soil specialist qualified in the area of soil classification and mapping, including soils information as may be obtained from a soils map which meets the standards of the National Cooperative Soil Survey. The source of information shall be specified.

(4) Deed restrictions and covenants as required by the planning commission.

(5) The names and addresses of all property owners whose lands abut the proposed subdivision as they appear on the village tax records.

(6) An overall area map at a scale not less than one inch equals 2,000 feet showing the relationship of the proposed subdivision to its surroundings such as section lines and/or major streets or collector streets.

(7) Boundary lines of proposed subdivision, section lines within or adjacent to the tract, and overall property dimensions.

(8) Property lines of adjacent tracts of subdivided and unsubdivided land shown in relation to the tract being proposed for subdivision, including those of areas across abutting roads.

(9) Locations, widths and names of existing or prior platted streets and private streets and public easements within or adjacent to the tract being proposed for subdivision, including those located across abutting roads.

(10) Location of existing sewers, water mains, storm drains and other underground utilities; high tension towers; utility easements of record or in use; excavations; bridges or culverts within or adjacent to the tract being proposed for subdividing.

(11) Topography drawn as contours with an interval of at least two feet. Topography shall be based on United States Geological Survey datum.

(12) Location of floodplain areas, rivers, streams, creeks, lakes, wetlands, drains, lagoons, slips, waterways, bays, canals, and artificial impoundments, either existing or proposed within or adjacent to the area to be subdivided.

(Ord. No. 288, § 3.2.3, eff. 8-16-1993)

Sec. 46-185. Same—Proposed improvements.

The submission of the subdivision preliminary plat shall also include the following:

(1) Layout of streets indicating proposed street names, right-of-way widths, and connections with adjoining platted streets and also the widths and location of alleys, easements and public walkways.

(2) Layout, numbers and dimensions of lots, including building setback lines showing dimensions.

(3) Indication of parcels of land included to be dedicated or set aside for public use or for the use of property owners in the proposed subdivision.

(4) An indication of the ownership, and existing and proposed use of any parcels identified as "excepted" on the preliminary plat. If the subdivider has an interest or owns any parcel so identified as "excepted," the preliminary plat shall indicate how this property could be developed in accordance with the requirements of the existing zoning district in which it is located and with an acceptable relationship to the layout of the proposed preliminary plat.

(5) An indication of the system proposed for sewage disposal by a method approved by the village council and village engineer.

(6) An indication of the system proposed for water supply by a method approved by the village council and village engineer.

(7) An indication of storm drainage proposed by a method approved by the village council and the village engineer, and if involving county drains the proposed drainage shall be acceptable to the county drain commissioner.

(8) When the subdivider wishes to subdivide a given area, but wishes to begin with only a portion of the total area, the preliminary plat shall include the proposed general layout for the entire area. The part which is proposed to be subdivided first shall be clearly superimposed upon the overall plan in order to illustrate clearly the method of development the subdivider intends to follow and shall reflect the proposed pattern of development and estimated timeframe for future development. Each subsequent plat shall follow the same procedure until the entire area controlled by the subdivider is subdivided.

(Ord. No. 288, § 3.2.4, eff. 8-16-1993)

Sec. 46-186. Same—Review.

(a) The clerk shall receive and check for completeness of the subdivision preliminary plat as required under sections 46-182 through 46-185. If complete and basically in conformance with applicable village requirements, the clerk shall validate the required number of copies and place the proposal on the agenda of the next regular planning commission meeting. The clerk shall also collect the fee established by the village for review of plats.

(b) The notice shall be given and the public hearing procedures shall be as follows:

(1) Upon the validation of the preliminary plat by the village clerk, the village clerk shall publish one notice in a newspaper of general circulation in the village that a subdivision plat has been submitted for approval. The village clerk shall also ensure notice of the meeting at which the proposed plat will be considered is sent by first class mail or personal delivery to (i) the owners of property for which approval is being considered; (ii) all persons to whom real property is assessed on the village's last assessment roll within 300 feet of the boundary of the property in question; and (iii) the occupants of

all structures within 300 feet of the boundary of the property in question. 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; however, 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.

(2) The notice shall state all of the following:

a. A description of the nature of the hearing.

b. The property which is the subject of the hearing.

c. When and where the review will be considered.

d. When and where written comments concerning the preliminary plat will be received.

e. A public hearing will be held by the planning commission on the preliminary plat review and shall give the date, time and location of the public hearing.

(3) The planning commission shall hold a public hearing for the purpose of considering the preliminary plat review.

(c) The clerk shall transmit a copy of the preliminary plat to the village engineer for technical review and recommendations.

(d) A designated plat review committee shall meet with the developer to review his proposal prior to making its recommendations to the planning commission.

(e) The planning commission shall review all details of the proposed subdivision within the framework of the zoning ordinance, within the various elements of the master plan, and with the standards of this article.

(f) The planning commission shall approve or reject the preliminary plat as follows:

(1) If the approval is a conditional approval, the conditions shall be met to the satisfaction of the planning commission within the time set by the planning commission or the preliminary plat shall be rejected.

(2) If the planning commission rejects the preliminary plat, it shall record the reasons for rejection and requirements for tentative approval in its minutes. Copies of the minutes shall be sent to the subdivider and filed in the office of the clerk.

(3) If the planning commission finds that all conditions have been satisfactorily met and the preliminary plat conforms to the land division act and this article, it shall give a recommendation for tentative approval of the preliminary plat to the council. The chairman shall make a notation to that effect on each copy of the preliminary plat and distribute copies of the plat as follows:

a. Return one copy to the subdivider.

b. Retain one copy, which shall become a matter of permanent record in the commission files.

c. File the remaining copies in the office of the clerk; one copy shall become the official copy for the village.

(4) The village council shall not receive, approve, modify or disapprove a preliminary plat until it has received the planning commission's report and recommendations.

(5) Within 30 days of the meeting at which the village council receives the report and recommendations of the planning commission, the village council shall approve, modify or disapprove the preliminary plat. Failure of the council to act within the 30 days specified in this subsection shall not be deemed to be approval of the preliminary plat. The council shall approve the preliminary plat and note its approval on the copy of the preliminary plat to be returned to the proprietor; shall modify the preliminary plat and

approve it as modified and note its approval as modified on the copy of the preliminary plat to be returned to the proprietor; shall conditionally approve the preliminary plat and note the conditions of final plat approval on the copy of the preliminary plat to be returned to the proprietor; or shall disapprove the preliminary plat and set forth its reasons for rejection and its requirements for approval.

(6) Approval of the preliminary plat by the planning commission and village council shall confer upon the proprietor for a period of one year from the date of approval the conditional right that the general terms and conditions under which preliminary approval was granted will not be changed. The one-year period may be extended by the village council in writing, if applied for by the proprietor before its expiration.

(Ord. No. 288, § 3.2.5, eff. 8-16-1993)

State law reference(s)—Tentative approval, MCL 560.112, MSA 26.430(112).

Sec. 46-187. Final approval—Generally.

Following tentative approval of the subdivision preliminary plat, the procedure for the preparation and review of a preliminary plat for final approval under section 120 of the land division act (MCL 560.120, MSA 26.430(120)) is as provided in sections 46-188 and 46-189.

(Ord. No. 288, § 3.3, eff. 8-16-1993)

Sec. 46-188. Same—Procedures.

(a) *Application for approval.* When submitting the preliminary plat to the village clerk, the subdivider shall submit a written application for approval.

(b) *Validation.* The subdivider shall submit to the village clerk for validation a sufficient number of copies of the preliminary plat to meet the requirements of section 112 and/or 113 to 119 of the land division act (MCL 560.112 et seq., MSA 26.430(112) et seq.).

(c) *Distribution of authorities.* The subdivider shall submit the required number of validated copies of the preliminary plat as required by section 112 to 119 of the land division act (MCL 560.112 et seq., MSA 26.430(112) et seq.), including ten copies for the village clerk for subsequent distribution.

(d) *Letters from authorities.* The subdivider or his agent shall obtain and submit letters indicating approval or rejection of the preliminary plat from the following authorities:

(1) The county drain commissioner.

(2) The state department of transportation, if any of the proposed subdivision includes or abuts a state trunk line highway, or includes streets or roads that connect with or lie within the right-of-way of state trunk line highways.

(3) The state department of natural resources, land resources program division, if the land proposed to be subdivided abuts a lake or stream or abuts an existing or proposed channel or lagoon affording access to a lake or stream where public rights may be affected or if any part of the proposed subdivision lies within the floodplain of a river, stream, creek or lake.

(4) The village engineer.

(5) The zoning administrator.

(e) *Compliance with state law.* Developers, builders and property owners have the responsibility to comply with the provisions of part 303 of the natural resources and environmental protection act, Public Act No. 451 of 1994 (MCL 324.30301 et seq., MSA 13A.30301 et seq.) and all other submission requirements of the land division act, as amended, and the village shall not be responsible for such compliance.

(Ord. No. 288, § 3.3.1, eff. 8-16-1993)

Sec. 46-189. Same—Preliminary plat review.

(a) When the subdivider has secured the approvals of the various approving authorities as required by section 46-188, he shall deliver all copies to the village clerk who shall review for correct submission. The clerk shall receive and check for completeness of the preliminary plat as required under section 46-188. If complete, the clerk shall place the proposal on the agenda of the next regular council meeting.

(b) The council, upon review of the preliminary plat and finding that all conditions and requirements imposed on the preliminary plat at the time of tentative approval have been complied with, shall consider and review the plat.

(c) The council shall, within 20 days, either reject the preliminary plat and give its reasons or set forth in writing conditions for granting approval.

(d) The clerk shall promptly notify the subdivider of approval or rejection of the preliminary plat.

(e) If the preliminary plat is approved by the village council, the clerk shall make a notation to that effect on each copy of the preliminary plat and distribute copies of the plat as follows:

(1) Return one copy to the subdivider.

(2) Retain one copy in the clerk's office, which shall become the official copy for the village council.

(3) Forward one copy to the planning commission.

(f) Final approval shall be effective for a period of two years from the date of final approval. The two-year period may be extended if applied for by the subdivider and granted by the council in writing.

(g) No installation or construction of any improvements shall be made before the preliminary plat has received final approval of the council and engineering plans have been approved by the village engineer, and any pertinent permits which may be legally required, and any deposits required under division 5 of this article have been received by the village.

(Ord. No. 288, § 3.3.2, eff. 8-16-1993)

State law reference(s)—Final approval, rights conferred, MCL 560.120, MSA 26.430(120).

Secs. 46-190—46-215. Reserved.

Subdivision IV. Final Plat[42]

[42]State law reference(s)—Final plats, MCL 560.131 et seq., MSA 26.430(131) et seq.

Sec. 46-216. Scope.

The procedure for preparation and review of a subdivision final plat shall be as provided in this subdivision.

(Ord. No. 288, § 3.4, eff. 8-16-1993)

Sec. 46-217. Submission and filing.

(a) A subdivision final plat shall be prepared and submitted as provided for in the land division act.

(b) A written application for approval and the established recording fee shall accompany all final plats.

(c) The final plat shall conform substantially to the preliminary plat as approved, and it may constitute only that portion of the approved preliminary plat the subdivider proposed to record and develop at the time, provided, however, that such portion conforms to this article. No changes from the preliminary plat to the final plat may be made for the following: layout, number of lots, street layout, street direction, utility improvements, lot number sequence and street names.

(d) The subdivider submitting the final plat for approval shall furnish to the council an abstract of title certified to date of the proprietor's certificate to establish recorded ownership interests and any other information deemed necessary for the purpose of ascertaining whether the proper parties have signed the plat, or shall furnish a policy of title insurance, in force, covering all of the land included within the boundaries of the proposed subdivision.

(e) The council, in lieu of an abstract of title, may accept on its own responsibility an attorney's opinion based on the abstract of title as to ownership and marketability of title of the land.

(f) Filing of the final plat and record engineering drawing with the clerk shall be at least 14 days prior to the regular meeting of the council, which meeting shall be considered the date of filing, at which the subdivider will be scheduled to appear. If any of the data required in this subdivision is omitted, the clerk shall notify the subdivider of the additional data required, and the action of the council shall be delayed until the required data is received. The council shall act on the final plat within 20 days after the date of filing unless the subdivider agrees to an extension of time in writing.

(g) The subdivider shall submit the final plat and record engineering plans, where required, for approval to the following:

(1) Drain commissioner, for approval or rejection.

(2) Village clerk, for approval or rejection by the council.

(3) Village engineer, for review of the infrastructure.

(Ord. No. 288, § 3.4.1, eff. 8-16-1993)

Sec. 46-218. Village council review.

(a) The village council shall approve the subdivision final plat or disapprove it. If disapproved, the council shall give the subdivider its reasons in writing and rebate the recording fee and whatever portion of the review fee as is provided for in this article.

(b) The village council shall instruct the clerk to record all proceedings in the minutes of the meeting, which shall be open for inspection, and to sign the municipal certificate on the approved plat.

(c) If the council approves the final plat, the clerk shall promptly forward all copies of the final plat to the clerk of the county plat board, together with the filing and recording fee.

(Ord. No. 288, § 3.4.2, eff. 8-16-1993)

Sec. 46-219. Improvements and facilities required by village.

(a) The village council may require installation of all improvements and facilities in the subdivision before it approves the final plat.

(b) If improvements and facilities are not required by the village council to be completed before final plat approval, the final plat shall be accompanied by a contract between the subdivider and the village council for completion of all required improvements and facilities, and such contract shall be recorded and referred to on the final plat.

(c) Performance of the contract shall be guaranteed by a cash deposit or certified check.

(d) The village council shall not require a bond duplicating any performance guarantee required by another governmental agency.

(e) Such surety shall be rebated or credited to the account of the proprietor as the work progresses, as included in a written agreement between the village and the subdivider.

(Ord. No. 288, § 3.4.3, eff. 8-16-1993)

State law reference(s)—Agreement to construct improvements, deposit, MCL 560.188, MSA 26.430(188).

Secs. 46-220—46-245. Reserved.

DIVISION 4. DESIGN STANDARDS

Sec. 46-246. Trafficways; streets and roads.

(a) *Generally.* The standards of all streets, roads and intersections in a subdivision shall conform to the standards set forth in this article, the master plan and regulations adopted by the village council and amended from time to time. Any higher standards adopted by the state department of state highways shall prevail. Generally, all streets shall be dedicated to public use.

(b) *Location.* The location and arrangement of streets in the subdivision shall be as follows:

(1) *Local streets.* Local streets shall be so arranged as to discourage their use by through traffic.

(2) *Continuation and extension.* The arrangement of streets shall provide for the continuation of existing streets from adjoining areas into a new subdivision, unless otherwise approved by the planning commission and the village engineer.

(3) *Stub streets.* Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall be extended to the boundary line of the tract to make provision for the future projection of streets into adjacent areas.

(4) *Relation to topography.* Streets shall be arranged in proper relation to topography so as to result in usable lots, safe streets and reasonable gradients.

(5) *Alleys.* Alleys shall not be permitted in areas of detached single-family or two-family residences. Alleys may be provided in multiple-dwelling or commercial subdivisions unless other provisions are made for service access, off-street loading, and parking. Dead-end alleys are prohibited.

(6) *Marginal access streets.* Where a subdivision abuts or contains an arterial street, the village may require the following:

a. Marginal access streets approximately parallel to and on each side of the arterial right-of-way.

b. Such other treatment as it deems necessary for the adequate protection of residential properties and to afford separation of through and local traffic.

(7) *Cul-de-sac streets.* Cul-de-sac streets shall not be more than 1,320 feet in length. Special consideration shall be given to a longer cul-de-sac under certain topographic conditions or other unusual situations. Culs-de-sac shall terminate with an adequate turnaround with a minimum external diameter of 150 feet.

(8) *Half streets.* Half streets shall generally be prohibited except where unusual circumstances make it essential to the reasonable development of a tract in conformance with this article and where satisfactory assurance for dedication of the remaining part of the street is provided.

(9) *Private streets.* Private streets and roads shall generally be prohibited. If private streets or roads are approved, sufficient area shall be left undeveloped with structures around the private street or road to allow for possible future dedication.

(c) *Specifications.* Street specifications shall be as follows:

(1) *Right-of-way, roadway widths.* Street and road right-of-way and roadway widths shall conform to the adopted master plan and the standards set forth in regulations adopted by the village council and the state department of state highways.

(2) *Gradients and alignments.* Street gradients and alignments shall conform to the regulations adopted by the village council and the state department of state highways.

(d) *Street names.* Street names shall be sufficiently different in sound and in spelling from other road names in the area so as not to cause confusion. Duplications shall be avoided by checking new street names with the county road commission or the planning commission master listing for existing street names in the area.

(Ord. No. 288, § 4.1, eff. 8-16-1993)

Sec. 46-247. Crosswalks and sidewalks.

(a) *Crosswalks.* In a subdivision, right-of-way for pedestrian crosswalks in the middle of blocks longer than 800 feet shall be required where necessary to obtain convenient pedestrian circulation to schools, parks or shopping areas. The right-of-way shall be at least ten feet wide and shall extend entirely through the block.

(b) *Sidewalks.* Sidewalks shall be installed by the proprietor within the dedicated nonpavement right-of-way on both sides of streets within all commercial subdivisions and all subdivisions developed in the residential zoning districts. Variances may be granted from this subsection in special cases such as the placement of sidewalks on cul-de-sac streets. Sidewalks shall be a minimum of five feet in width and four inches thick and shall be six inches thick and reinforced when part of a driveway. All sidewalks shall conform to village sidewalk specifications.

(Ord. No. 288, § 4.2, eff. 8-16-1993)

Sec. 46-248. Easements.

(a) *Location.* In a subdivision, easements shall be provided along rear lot lines and also along side lot lines when necessary for public utilities. The total width shall not be less than eight feet along each lot, or a total of 16 feet for adjoining lots.

(b) *Drainageways.* The subdivider shall provide drainageway easements as required by the rules of the county drain commissioner.

(c) *Major easements.* Where easements are required to allow access to municipal water and sanitary sewer facilities, the village may require the easement to extend to the boundary of the proposed subdivision in order to ensure the continuation of such services into adjoining lands or subdivisions. The location and size of such easement shall be subject to the village engineer's approval.

(Ord. No. 288, § 4.3, eff. 8-16-1993)

Sec. 46-249. Blocks.

(a) *Arrangements.* In a subdivision, a block shall be so designed as to provide two tiers of lots except where lots back onto an arterial street, railroad, natural features or the subdivision boundary.

(b) *Minimum length.* A block shall not be less than 480 feet long, except where, in the opinion of the planning commission, physical conditions justify a lesser distance.

(c) *Maximum length.* The maximum length allowed for residential blocks shall be 800 feet, except where, in the opinion of the planning commission, physical conditions justify a greater distance.

(Ord. No. 288, § 4.4, eff. 8-16-1993)

Sec. 46-250. Lots.

(a) *Conformance to zoning.* The lot width, depth, and area in a subdivision shall not be less than the particular district requirements of the village zoning ordinance in appendix A to this Code, except with respect to outlots which may be provided for some indicated and permitted purpose. The area of properties reserved or laid out for business, commercial, or industrial purposes shall be adequate to provide for the off-street parking and loading facilities and other requirements for the type of use and development contemplated, as established in the village zoning ordinance.

(b) *Lot lines.* Side lot lines shall be at right angles to straight streets and radial to curved streets, except where such lot lines would create unusual, inconvenient, or irregular lot shapes.

(c) *Width related to length.* Narrow, deep lots shall be avoided. The buildable depth of a residential lot generally shall not exceed three times the width as measured at the building line.

(d) *Corner lots.* Corner lots shall have extra width to permit appropriate building setback from both streets or orientation to both streets. Lots abutting a pedestrian midblock crosswalk easement shall be treated as corner lots. The plat shall reflect the front lot line for all corner lots.

(e) *Floodplain areas.* Lots that have lands that are designated as floodplain by the state department of natural resources or the Federal Emergency Management Agency flood insurance study shall have a sufficient area above the floodplain elevation to accommodate a buildable area.

(f) *Location on certain streets or commercial or industrial properties.* Lots shall not front upon such features as freeways, arterial streets, shopping centers, or industrial properties, except where there is a marginal access

street, unless a secondary access is provided. Such lots shall contain a landscaped greenbelt easement along the rear at least 20 feet wide in addition to the utility easement to minimize noise and to protect outdoor living areas.

(g) *Location near railroad tracks.* Residential lots which back up to railroad tracks shall have a depth of at least 250 feet.

(h) *Frontage.* All lots shall front upon a publicly dedicated street. Lots extending through a block and having frontage on two local streets shall be discouraged and may be prohibited, except for properties that front on primary or local major roads where alternative access is desired.

(Ord. No. 288, § 4.5, eff. 8-16-1993)

Sec. 46-251. Planting strips and reserve strips.

(a) *Planting strips.* In a subdivision, planting strips shall be required to be placed next to incompatible features such as highways, railroads, or commercial or industrial uses to screen the view from residential properties. Such screens shall be a minimum of 20 feet wide unless otherwise provided in the zoning ordinance in appendix A to this Code; in such cases the most stringent provisions shall prevail. Such screens shall not be a part of the normal roadway right-of-way or utility easement.

(b) *Reserve strips.* Standards for reserve strips shall be as follows:

(1) *Private.* Privately held reserve strips controlling access to streets shall be prohibited.

(2) *Public.* A one-foot reserve may be required to be placed at the end of stub or dead-end streets which terminate at subdivision boundaries and between half streets. These reserves shall be deeded in fee simple to the village for future street purposes.

(Ord. No. 288, § 4.6, eff. 8-16-1993)

Sec. 46-252. Public sites and open spaces.

(a) *Public uses.* Where a proposed park, playground, school, or other public use shown on the master plan is located in whole or in part within a subdivision, a suitable area for this purpose may be dedicated to the public or reserved for public purchase.

(b) *Natural features.* Existing natural features which add value to residential development and enhance the attractiveness of the community, such as trees, watercourses, historic spots, and similar irreplaceable assets, shall be preserved, insofar as possible, in the design of the subdivision.

(Ord. No. 288, § 4.7, eff. 8-16-1993)

Sec. 46-253. Large scale developments.

(a) *Identification.* This article may be modified in accordance with division 2 of this article for a subdivision large enough to constitute a complete community or neighborhood, consistent with the master plan and with a building and development program which provides and dedicates adequate public open space and improvements for the circulation, recreation, education, light, air, and service needs of the tract when fully developed and populated.

(b) *Neighborhood characteristics.* A community or neighborhood under this section shall be consistent with the master plan; shall contain or be bounded by major streets or natural physical barriers as necessary; and shall

contain reserved areas of sufficient size to serve its population for schools, playgrounds, parks, and other public facilities. Such reserves may be dedicated.

(Ord. No. 288, § 4.8, eff. 8-16-1993)

Sec. 46-254. Commercial and industrial development.

The subdivision design standards in this division may be modified in accordance with division 2 of this article for subdivisions specifically for commercial or industrial development, including shopping districts, wholesaling areas, and planned industrial districts. In all cases, however, adequate provision shall be made for off-street parking and loading areas, pedestrian safety and convenience, as well as for traffic circulation, and any and all requirements specified in the village zoning ordinance, as amended, in appendix A to this Code.

(Ord. No. 288, § 4.9, eff. 8-16-1993)

Secs. 46-255—46-280. Reserved.

DIVISION 5. IMPROVEMENTS

Sec. 46-281. Purpose.

It is the purpose of this division to establish and define the public improvements which will be required to be constructed by the subdivider as conditions for final plat approval and, also, to outline the procedures and responsibilities of the subdivider and the various public officials and agencies concerned with the administration, planning, design, construction, and financing of public facilities, and to further establish procedures for ensuring compliance with these requirements.

(Ord. No. 288, § 5.1, eff. 8-16-1993)

Sec. 46-282. Responsibility for plans.

It shall be the responsibility of the developer of every proposed subdivision to have prepared by a registered professional engineer, whose area of practice is in the field of civil, sanitary or environmental engineering, a complete set of construction plans, including profiles, cross sections, specifications, and other supporting data, for the required public streets, utilities, and other facilities. Such construction plans shall be based on the preliminary plat and shall be prepared in conjunction with the final plat. Construction plans are subject to approval by the responsible public agencies shown. All construction plans shall be prepared in accordance with the applicable standards or specifications.

(Ord. No. 288, § 5.2, eff. 8-16-1993)

Sec. 46-283. Procedure for submission.

If construction has been completed at the time of filing the subdivision final plat, two complete copies of Mylar record engineering plans of each required public improvement shall be filed with the clerk coincident with the filing of the final plat. Other requirements and procedures in the submission of final plats shall be as provided in sections 46-187 through 46-189.

(Ord. No. 288, § 5.3, eff. 8-16-1993)

Sec. 46-284. Required public improvements.

(a) *Generally.* Every developer shall be required at his expense and without reimbursement from any public agency or any improvement district to install the public and other improvements within the plat in accordance with the conditions and specifications as provided in this section.

(b) *Streets and alleys.* All streets and alleys shall be constructed in accordance with the standards and specifications adopted by this article and all village street regulations, as adopted by the village council.

(1) *Sidewalks and crosswalks.* Right-of-way for pedestrian crosswalks in the middle of blocks longer than 800 feet shall be required where necessary to obtain convenient pedestrian circulation to schools, parks or shopping areas. The right-of-way shall be at least ten feet wide and shall extend entirely through the block. Sidewalks shall be installed by the proprietor within the dedicated nonpavement right-of-way on both sides of streets within subdivisions developed in the residential zoning districts.

(2) *Street name signs.* Street name signs shall be installed in the appropriate locations at each street intersection in accordance with the requirements of the village council.

(3) *Street lighting.* All streets shall be lighted in a manner approved by the village council and in accordance with all village street regulations, as adopted by the village council.

(c) *Installation of public utilities.* Public utilities and driveways shall be located in accordance with the requirements of this article and all other applicable village ordinances and regulations. The underground work for utilities shall be stubbed to ten feet on the building side of the property line, and shall be of normal depth not greater than ten feet.

(d) *Driveways.* All driveway openings in curbs shall be as specified by village ordinance.

(e) *Water supply.* Provision shall be made by the subdivider to supply each lot in the subdivision with water from the public supply by means of a water distribution system, and as required by village ordinance.

(f) *Sanitary sewer system.* Each lot within the subdivision shall be provided with a connection to public sanitary sewer. All connections shall be subject to the approval of the village engineer, and all materials used in such system shall conform to current village specifications and ordinances.

(g) *Storm drainage system.* Where a storm drain is reasonably accessible, each lot within the subdivided area shall be provided with a connection thereto. All connections shall be subject to the approval of the village engineer, and all materials used in such system shall be subject to current village specifications and ordinances. Sump leads shall have positive connections to a public storm drainage system.

(h) *Underground wiring.* The subdivider of a residential subdivision shall make arrangements for all local distribution lines for telephone, electric or cable television service, exclusive of main supply and perimeter feed lines, to be placed entirely underground throughout a subdivided area. When a subdivision overlaps a section or quarter-section line, main supply and perimeter feed lines located on such section or quarter-section line shall be placed underground. Conduits or cables shall be placed within private easements provided to the service companies by the subdivider or within public ways. Those telephone, electrical, and cable television facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All telephone, electrical and cable television facilities shall be constructed with standards of construction approved by the state public service commission.

(i) *Recreation.* Where a school site, neighborhood park, recreation area, or public access to water frontage, as previously delineated or specified by official action of the planning commission, is located in whole or in part in the proposed subdivision, the village council may request the reservation of such open space for school, park and recreation or public access purposes. All such areas may either be reserved for the respective

school district for school sites or for the village in all other cases; however, voluntary dedication of these land areas may be accepted.

(j) *Greenbelts.* It is desirable for the protection of residential properties to have greenbelts or landscaped screen plantings located between a residential development and adjacent major arterial streets and railroad rights-of-way. The planning commission shall require a proposed subdivision plat show the location and type of the greenbelts.

(k) *Monuments and lot corner markers.* Monuments and lot corner markers shall be set in accordance with the land division act and the rules of the state department of the treasury.

(l) *Plans required for control of erosion and sedimentation.* If any developer shall intend to make changes in the contour of any land proposed to be subdivided, developed, or changed in use by grading, excavating or the removal or destruction of the natural topsoil, trees, or other vegetative covering thereon, the changes shall only be accomplished after the owner of the land or his agent has submitted to the county drain commissioner for approval a plan for erosion and sedimentation controls, unless there has been a prior determination by the drain commissioner that such plans are not necessary. Such plans shall contain adequate measures for control of erosion and siltation, where necessary, using the guidelines and policies contained in this article and the standards and specifications of the county drain commissioner. The village zoning administrator shall review these plans as submitted and shall take necessary steps to ensure compliance by the developer with these plans as finally approved. This shall in no way override the approval of the county drain commissioner.

(Ord. No. 288, § 5.4, eff. 8-16-1993)

Sec. 46-285. Guarantee of completion of public improvements.

(a) *Financial guarantee arrangements, exceptions.* In lieu of the actual installation of public improvements, as required by the village, the subdivider may elect to provide a financial guarantee of performance for the village requirements. The developer shall provide bond on deposit for the construction of the required sidewalks for a period of time as assigned by the village council. A financial guarantee of performance may be required under this article for streetlights. Completion of these improvements shall be required prior to the issuance of occupancy permits. The financial guarantee shall be one of the following:

(1) *Performance or surety bond.* A performance or surety bond shall be subject to the following:

a. *Accrual.* The bond shall accrue to the village for administering the construction, operation and maintenance of the specific public improvement.

b. *Amount.* The bond shall be an amount equal to the estimated cost for completing construction of the specific public improvements, including contingencies as estimated by the village council.

c. *Term.* The length of the term in which the bond shall be in force shall be for a period to be specified by the village council for the specific public improvement.

d. *Bonding or surety company.* The bond shall be with a surety company authorized to do business in the state.

e. *Escrow agreement.* Escrow agreement shall be written and furnished by the village council.

(2) *Cash deposit or certified check.* A cash deposit or certified check shall be subject to the following:

a. *Deposit with treasurer, escrow agency or trust company.* A cash deposit or certified check, such surety acceptable by the village council, shall accrue to the village for administering the construction, operation or maintenance of the specific public improvement. These deposits shall

be made with the village treasurer or deposited with a responsible escrow agent or trust company, subject to the approval of the village council.

b. *Dollar value.* The dollar value of the cash deposit or certified check shall be equal to the total estimated cost of construction of the specific improvement, including contingencies as estimated by the village council.

c. *Escrow time.* The escrow time for the cash deposit or certified check shall be for a period to be specified by the village council.

d. *Progressive payment.* For cash deposits or certified checks, an agreement between the village and the subdivider may provide for progressive payment out of the cash deposit or reduction of the certified check, negotiable bond or irrevocable bank letter of credit, to the extent of the estimated cost of the completed portion of the public improvement in accordance with the financial guarantees previously entered into agreement with respect to financial guarantee.

(b) *Condition of approval of final plat.* The approval of all final subdivision plats shall be conditioned on the accomplishment of one of the following:

(1) The construction of improvements required by this article shall have been completed by the subdivider and approved by the village council.

(2) A deposit by the subdivider with the village clerk in the form of cash, a certified check, or irrevocable bank letter of credit, whichever the subdivider selects, or a surety bond acceptable to the village council. The deposit shall be of an amount equal to the total estimated cost of construction of the improvements not completed, including contingencies estimated by the village council.

(c) *Special agreements.* A special agreement may be entered into between the subdivider and the village council for required sidewalks and streetlights by the village council, when the village agrees to install these improvements.

(d) *Inspection of public improvements under construction.* Inspectors authorized by the village council shall be required to review construction of all required improvements on a continuous basis. In no case shall the same engineer provide services to both the village and the subdivider, unless expressly approved by the village council by resolution. It shall be the responsibility of the improvements contractors to notify the office of the clerk at least three business days in advance for the continuous inspections of sanitary sewers, mains and laterals, before the trenches are backfilled. No work covered by the bond shall be accepted or bonds released until these inspections have been made and the work found satisfactory. The agreement to install required public improvements shall also provide for the checking of improvements plans and continuous inspections of all improvements by the village and for costs of such services, which shall be borne by the subdivider.

(e) *Penalty for failure to complete construction of public improvement.* If the subdivider shall, in any case, fail to complete such work within such period of time as required by the conditions of the guarantee for the completion of public improvements, it shall be the responsibility of the village council to proceed to have such work completed. In order to accomplish this, the village council shall reimburse itself for the cost and expense thereof by appropriating the cash deposit or certified check, which the subdivider may have deposited in lieu of a surety bond, or may take such steps as may be necessary to require performance by the bonding or surety company and as included in the written agreement with the village council and the subdivider.

(f) *Maintenance bond.* Prior to acceptance by the village of required improvements, a one-year maintenance bond in an amount set by the village council shall be posted by the subdivider.

(Ord. No. 288, § 5.5, eff. 8-16-1993)

Secs. 46-286—46-310. Reserved.

DIVISION 6. FEES[43]

Sec. 46-311. Schedule generally.

The schedule of nonrefundable fees in this division for review of subdivision plats is established by the village council. All plats submitted to the village shall not be reviewed or acted upon unless the fees accompany the proposed plat as well as all other fees required by law.

(Ord. No. 288, § 1.4, eff. 8-16-1993)

Sec. 46-312. Preliminary plat.

Upon original submission of the subdivision preliminary plat for tentative approval, the sum established by village council for the fixed preliminary plat review fee, plus a per lot fee for the number of lots in the plat, shall be paid to the village.

(Ord. No. 288, § 1.4.1, eff. 8-16-1993; Ord. No. 372, § 2, 11-15-2004; Ord. No. 479 , § 3, 2-1-2021)

Sec. 46-313. Final plat.

Upon submission of the subdivision final plat for review and approval by the village council, a total sum of one-half of the preliminary plat fee shall accompany the final plat, payable to the village.

(Ord. No. 288, § 1.4.2, eff. 8-16-1993)

Sec. 46-314. Recording final plat.

The subdivider shall pay to the village a recording fee of an amount established by the County of Livingston, which shall be forwarded with the final plat to the County Plat Board. The fee shall be a check or money order made out to the County of Livingston.

(Ord. No. 288, § 1.4.3, eff. 8-16-1993; Ord. No. 479 , § 4, 2-1-2021)

Sec. 46-315. Inspection of improvements.

The village council may, by resolution, establish a fee schedule for the inspection of improvements included within the subdivision plat such as streets, sewers and other utilities. The subdivider shall be responsible for all inspection fees. All inspection fees shall be paid before the village council may approve the final plat within which such improvements lie.

(Ord. No. 288, § 1.4.4, eff. 8-16-1993)

---

[43]Cross reference(s)—Finance, § 2-161 et seq.

State law reference(s)—Filing and recording fees, MCL 560.241, 560.241a.

Sec. 46-316. Extraordinary review costs.

Extraordinary review costs shall be paid by the developer to the village upon prior written notice to the developer providing the developer the right to pay the extraordinary costs of withdrawing the documents. Extraordinary review costs are additional costs of review incurred by the village which result from or arise out of unique geographical circumstances or unusual or extraordinary deficiencies in the documents submitted by the developer.

(Ord. No. 288, § 1.4.5, eff. 8-16-1993)

Chapter 50 MUNICIPAL CIVIL INFRACTIONS[44]

ARTICLE I. IN GENERAL

Sec. 50-1. 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:

Act means Public Act No. 236 of 1961 (MCL 600.101 et seq., MSA 27A.101 et seq.), as amended.

Authorized village official means a police officer or other village personnel authorized by section 50-2 to issue municipal civil infraction citations or municipal civil infraction violation notices.

Bureau means the municipal ordinance violations bureau as established by article II of this chapter.

Municipal civil infraction means a civil infraction as defined in section 113 of the act (MCL 600.113(1)(c), MSA 27A.113, (1)(c)), as amended, which involves a violation of a village ordinance. A municipal civil infraction does not include anything deemed a misdemeanor under the village ordinances.

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 council, as authorized under sections 8396 and 8707 of the act (MCL 600.8396, 600.8707, MSA 27A.8396, 27A.8707).

(Ord. No. 301, § 2, eff. 12-31-1995)

Cross reference(s)—Definitions generally, § 1-2.

[44]Cross reference(s)—Administration, ch. 2.

State law reference(s)—Authority to designate certain violations as municipal civil infractions, MCL 66.2, MSA 5.1272; municipal civil infractions, MCL 600.8701 et seq., MSA 27A.8701 et seq.

State law reference(s)—Definitions, MCL 600.8701 et seq., MSA 27A.8701 et seq.

Sec. 50-2. Designation of authorized village officials.

The following village personnel have the authority to issue municipal civil infraction citations and municipal civil infraction violation notices pursuant to this chapter:

(1) Police officers.

(2) The police chief.

(3) The building inspector.

(4) The cemetery superintendent.

(5) The code enforcement officer.

(6) The village manager.

(7) The village president.

(Ord. No. 301, § 2, eff. 12-31-1995)

Sec. 50-3. Commencement of municipal civil infraction action.

A municipal civil infraction action may be commenced upon the issuance by an authorized village official of the following:

(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 municipal ordinance violations bureau.

(Ord. No. 301, § 3, eff. 12-31-1995)

Sec. 50-4. Issuance and service of municipal civil infraction citations.

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

(1) The time for appearance specified in a citation shall be within ten days 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 (MCL 600.8705, MSA 27A.8705).

(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 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 subsection (7)b of this section, 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 on an owner or occupant of the land, building or structure by posting the copy on 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. 301, § 4, eff. 12-31-1995)

State law reference(s)—Similar provision, MCL 600.8705, 600.8707, MSA 27A.8705, 27A.8707.

Sec. 50-5. Contents of municipal civil infraction citations.

(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) The citation shall inform the alleged violator that he 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) If the alleged violator desires to admit responsibility with explanation in person, by mail, by telephone, 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) 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) A hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the village.

(4) 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) 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 the entry of a default judgment against the alleged violator on the municipal civil infraction.

(Ord. No. 301, § 5, eff. 12-31-1995)

State law reference(s)—Similar provisions, MCL 600.8709, MSA 27A.8709.

Secs. 50-6—50-30. Reserved.

ARTICLE II. MUNICIPAL ORDINANCE VIOLATIONS BUREAU[45]

Sec. 50-31. Established.

The village establishes a municipal ordinance violations bureau as authorized under section 8396 of the act (MCL 600.8396, MSA 27A.8396) 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.

(Ord. No. 301, § 6(a), eff. 12-31-1995)

Sec. 50-32. Location; director; employees; rules and regulations.

The municipal ordinance violations bureau shall be located at the village offices and shall be under the supervision and control of the bureau director. The bureau director shall be appointed by the village president, with consent of the council, and shall serve at the pleasure of the council. The bureau director, subject to the approval of the village council, shall adopt rules and regulations for the operation of the bureau and shall appoint any necessary qualified village employees to administer the bureau.

(Ord. No. 301, § 6(b), eff. 12-31-1995)

[45]Cross reference(s)—Parking violation bureau, § 78-71 et seq.

State law reference(s)—Authority to establish a municipal ordinance violations bureau, MCL 600.8396, MSA 27A.8396.

Sec. 50-33. Disposition of violations.

The municipal ordinance violations bureau may 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. The fact that a fine has been scheduled for a particular violation shall not entitle any person to dispose of the violation at the bureau. Nothing in this chapter shall prevent or restrict the village from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction. No person shall be required to dispose of a municipal civil infraction violation at the bureau, and the person 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.

(Ord. No. 301, § 6(c), eff. 12-31-1995)

Sec. 50-34. Scope of authority.

The scope of the municipal ordinance violations 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 the bureau shall not determine or attempt to determine the truth or falsity of any fact or matter relating to an alleged violation.

(Ord. No. 301, § 6(d), eff. 12-31-1995)

Sec. 50-35. 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 subsections 50-4(6) and (7) of this chapter. In addition to any other information required by this chapter or other ordinance, the notice of violation shall indicate the time by which the alleged violator must appear at the municipal ordinance violations bureau, the methods by which an appearance may be made, the address and telephone number of the municipal ordinance violations 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.

(Ord. No. 301, § 6(e), eff. 12-31-1995)

State law reference(s)—Similar provisions, MCL 600.8707(6), MSA 27A.8707, (6).

Sec. 50-36. Appearance; payment of fines and costs.

An alleged violator receiving a municipal civil infraction violation notice shall appear at the municipal ordinance violations 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.

(Ord. No. 301, § 6(f), eff. 12-31-1995)

Sec. 50-37. Procedure when 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 municipal ordinance violations 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 (MCL 600.8705, 600.8709, MSA 27A.8705, 27A.8709), 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. 301, § 6(g), eff. 12-31-1995)

State law reference(s)—Similar provisions, MCL 600.8707(6), MSA 27A.8707, (6).

Sec. 50-38. Schedule of civil fines established.

(a) A schedule of civil fines payable to the municipal ordinance violations bureau for admissions of responsibility by persons served with municipal ordinance violation notices is established. The fines for the violations listed shall be as follows:

  (1) Unless otherwise specifically provided for a particular municipal civil infraction violation by any ordinance, the civil fine for a violation shall be $50.00 for each infraction.

  (2) Increased civil fines shall be imposed for repeated violations by a person of any requirement or provision of any ordinance. As used in this section, the term "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision:

    a. Committed by a person within any six-month period (unless some other period is specifically provided by any ordinance); and

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

  (3) Unless otherwise specifically provided by any ordinance for a particular municipal civil infraction 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 $250.00.

    b. The fine for any offense for any offense which is a second repeat offense or any subsequent repeat offense shall be $500.00.

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

(c) A violation includes any act which is prohibited or made or declared to be unlawful or an offense by the Code of Ordinances or any village ordinance; and any omission or failure to act where the act is required by the Code of Ordinances or any village ordinance.

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

(Ord. No. 301, § 7(a), (b), eff. 12-31-1995; Ord. No. 302, eff. 12-31-1995; Ord. No. 305, § 4, eff. 3-11-1996; Ord. No. 307, § 61, eff. 3-11-1996; Ord. No. 316, § 11.2(c), eff. 10-27-1996)

Chapter 54 OFFENSES AND VIOLATIONS[46]

[46]Cross reference(s)—Traffic and vehicles, ch. 78.

ARTICLE I. IN GENERAL

Sec. 54-1. 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, parking lot, alley, park, public building, any place of business or assembly open to or frequented by the public, and any other place which is open to the public view or to which the public has access.

(Ord. No. 307, § 1, eff. 3-11-1996)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 54-2. Reserved.

Editor's note(s)—Ord. No. 435, § 1, adopted Nov. 4, 2013, repealed § 54-2, which pertained to begging and derived from Ord. No. 307, § 2, effective March 11, 1996.

Sec. 54-3. Window peeping.

It shall be a violation for any person to look, peer, or peep into or be found loitering around or within view of any window not on his own property, with the intent of looking through such window 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. Violations of this section would expressly include use of a small unmanned aircraft systems or drone, balloon or similar devise for conducting surveillance in violation of Code section 54-133(b)(2)f.

(Ord. No. 307, § 3, eff. 3-11-1996; Ord. No. 456, § 1, 5-30-2017)

State law reference(s)—Person window peeping defined as disorderly person, MCL 750.167(1)(c).

Sec. 54-4. Deposits of urine, excrement and other fecal matter.

It shall be a violation for any person to empty, place, or conduct any urine, excrement, or other fecal matter into any place open to or in clear view of the public.

(Ord. No. 307, § 5, eff. 3-11-1996)

Sec. 54-5. Penalty for violation of article.

(a) Any person that violates sections 54-2, 54-3, 54-61, 54-62, 54-91, 54-92, 54-96, 54-97, 54-131, 54-167, 54-196—54-198, 54-230—54-233, 54-263—54-266, 54-352, and 54-353 shall be subject to fines of up to $500.00, plus the costs of prosecution, or imprisonment in the county jail of up to 90 days, or both.

(b) A person who violates any other provisions of this article is responsible for a municipal civil infraction, subject to payment of a civil fine of $50.00, plus costs and other sanctions, for each infraction. Repeat offenses under this article shall be subject to increased fines as provided by section 50-38.

(Ord. No. 332, § 2, eff. 9-14-1998)

Secs. 54-6—54-60. Reserved.

ARTICLE II. OFFENSES AGAINST PROPERTY

Sec. 54-61. Malicious mischief.

No person shall willfully destroy, damage, or in any manner deface any property not his own or post handbills on or in any manner mar the walls of any public building or fence, tree, or pole within the village.

(Ord. No. 307, § 7, eff. 3-11-1996)

State law reference(s)—Malicious mischief generally, MCL 750.377 et seq.

Sec. 54-62. Malicious destruction of public property.

No person shall maliciously destroy, damage, injure, mar or deface any building, monument, sign or structure, or fence, tree, shrub, plant, park, or public property of any kind which is owned, controlled, or managed by the state, county or village; by any school district within the village; or by any other unit or agency of government whose operating budget is raised in whole or in part by public taxation. No person shall commit any act of vandalism on or in any such property.

(Ord. No. 307, § 8, eff. 3-11-1996)

Sec. 54-63. Trespass.

(a) *Posted properties.* Any person who shall enter and/or remain upon the lands or premises of another without lawful authority, after having been warned of the owner's regulations governing access to and use of the property through the conspicuous posting of informational signs, is trespassing in violation of this section.

(b) *Nonposted properties.* Any person who shall willfully enter upon the lands or premises of another without lawful authority after having been forbidden to do so by the owner, occupant, agent or servant of the owner or occupant or a duly authorized police officer, or any person being upon the land or premises of another, upon being notified either verbally or in writing to depart therefrom by the owner, occupant, agent or servant of the owner or occupant or a duly authorized police officer who without lawful authority neglects or refuses to depart therefrom is trespassing in violation of this section.

(c) *[Use of small unmanned aircraft systems, drone, balloon, or similar device.]* The flying or hovering of a small unmanned aircraft systems (UAS), drone, balloon, or similar device over the lands or premises of another at less than the maximum buildable height under the village's Zoning Ordinance of 70 feet shall be presumed to be an entry and/or remaining upon such lands or premises.

(d) *Misdemeanor.* A person who violates this section is responsible for a misdemeanor, subject to punishment as provided in section 1-12.

(Ord. No. 307, §§ 9, 10, eff. 3-11-1996; Ord. No. 456, § 2, 5-30-2017)

State law reference(s)—Similar provisions, MCL 750.552.

Secs. 54-64—54-90. Reserved.

ARTICLE III. OFFENSES AGAINST PUBLIC PEACE

Sec. 54-91. Disorderly intoxication.

No person shall be intoxicated in a public place and either endanger directly the safety of another person or of property or act in a manner that causes a public disturbance.

(Ord. No. 307, § 11, eff. 3-11-1996)

State law reference(s)—Intoxicated person defined as a disorderly person, MCL 750.167(1)(e).

Sec. 54-92. Jostling.

No person shall be found jostling or roughly crowding people unnecessarily in a public place.

(Ord. No. 307, § 12, eff. 3-11-1996)

State law reference(s)—Person found jostling, etc., defined as a disorderly person, MCL 750.167(1)(l).

Sec. 54-93. Insulting, accosting, molesting or annoying others.

No person shall insult, accost, molest, or otherwise annoy, either by word of mouth, sign, or motion, any person in any public place.

(Ord. No. 307, § 13, eff. 3-11-1996)

Sec. 54-94. Language or gestures causing public disorder.

No person shall, with the purpose of causing public danger, alarm, disorder or nuisance, or if his conduct is likely to cause public danger, alarm, disorder or nuisance willfully use abusive or obscene language or make an obscene gesture to any other person when such words or gestures by their very use inflict injury or tend to incite an immediate breach of the peace.

(Ord. No. 307, § 14, eff. 3-11-1996)

Sec. 54-95. Public disturbances generally.

No person shall engage in any disturbance, fight, or quarrel in a public place.

(Ord. No. 307, § 15, eff. 3-11-1996)

Sec. 54-96. 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 in violation of this Code.

(Ord. No. 307, § 16, eff. 3-11-1996)

State law reference(s)—Disturbing public places, MCL 750.170.

Sec. 54-97. Loitering.

(a) 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:

Loitering means remaining idle in essentially one location and includes the concept of spending time idly; to be dilatory; to linger; to stay; to saunter; to delay; to stand around and also includes the colloquial expression "hanging around."

Public place means any place to which the general public has access and a right of resort for business, entertainment or for lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern, or other place of business and also public grounds, parking lots, areas, or parks.

(b) It shall be a violation for any person to loiter, loaf, wander, stand, or remain idle either alone or in consort with others in a public place in such manner so as to:

(1) Obstruct any public street, public highway, public sidewalk, or any other public place or building by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians after having been told to move on by a police officer.

(2) Commit in or upon any public street, public highway, public sidewalk or any other public place or building any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk, or any other public place or building, all of which prevents the free and uninterrupted ingress, egress and regress therein, thereon and thereto after having been told to move on by a police officer.

(3) Obstruct the entrance to any business establishment, without so doing for some lawful purpose, if contrary to the expressed wish of the owner, lessee, managing agent or person in control or charge of the building or premises.

(Ord. No. 307, § 17, eff. 3-11-1996)

State law reference(s)—Certain loiterers deemed disorderly persons, MCL 750.167.

Sec. 54-98. Disorderly conduct in public parking lots.

(a) *Purpose.* Because the village council is convinced of the ever present danger to the safety of persons using the public parking lots located in the village, it is the objective of the village to prevent injuries to persons using the public parking lots. Accordingly, in order to avoid accidents resulting in personal injuries and property damage and thereby protect the health, safety and welfare of all individuals using the public parking lots, the village council wishes to prohibit the use of public parking lots situated in the village for any purpose other than for the parking of motor vehicles and for purposes incident thereto and for the purpose of serving pedestrian traffic to and from points outside of the parking lots. This section is not intended to limit the intent or the effect of this article.

(b) *Conduct prohibited.* It shall be a violation of this section for any person to:

(1) Conduct himself in any parking lot so as to create a hazard to himself or others who are using the public parking lot.

(2) Use such parking lot for any purpose other than the parking of a motor vehicle or the movement of such motor vehicle incident thereto or traveling to and from such motor vehicle or traversing such parking lot on foot or bicycle from and to points outside of the parking lot.

(Ord. No. 307, § 18, eff. 3-11-1996)

Sec. 54-99. Disorderly conduct on commercial premises.

It shall be a violation for any person to be found standing, idling, or sitting, either in person or within a motorized vehicle, in or about any store, shop, business, or commercial establishment and/or its premises and private parking lot, if such standing, idling, or sitting causes interference or disorder with the normal course of business of the store, business or commercial establishment or in any way tends to hinder or impede the passage of pedestrians or vehicles en route to or from the establishment or premises.

(Ord. No. 307, § 19, eff. 3-11-1996)

Cross reference(s)—Businesses, ch. 18.

Sec. 54-100. Interfering at elections.

It shall be a violation of this section for any person to solicit, petition, canvass, or in any way interfere with the access of persons to and from polling places in local, state or national elections, either at or within such polling places or within 100 feet from the entrance to such polling places.

(Ord. No. 307, § 20, eff. 3-11-1996)

State law reference(s)—Unlawful conduct at elections, MCL 168.744; prohibited conduct at elections, MCL 168.931 et seq.

Sec. 54-101. Picketing of dwellings.

It shall be a violation for any person to engage in picketing directed against the occupant of a residence or other dwelling where such picketing occurs in front of or about such residence or dwelling.

(Ord. No. 307, § 21, eff. 3-11-1996)

Secs. 54-102—54-130. Reserved.

ARTICLE IV. OFFENSES AGAINST PUBLIC SAFETY

DIVISION 1. GENERALLY

Sec. 54-131. Fireworks.

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

(1) *Michigan Fireworks Safety Act* means Act 256 of the Public Acts of Michigan of 2012, being MCL 28.451 et seq., as it may be amended from time to time.

(2) *Consumer fireworks* means that term as defined in Michigan Fireworks Safety Act.

(3) *Display fireworks* means that term as defined in Michigan Fireworks Safety Act.

(4) *Consumer fireworks* means that term as defined in Michigan Fireworks Safety Act.

(5) *Firework* or *fireworks* means that term as defined in Michigan Fireworks Safety Act.

(6) *Retailer* means that term as defined in Michigan Fireworks Safety Act.

(7) *Wholesaler* means that term as defined in Michigan Fireworks Safety Act.

(b) *Use of consumer fireworks, prohibition, holidays.*

(1) No person shall ignite, discharge or use consumer fireworks in the village; except this prohibition shall not preclude any person from igniting, discharging or using consumer fireworks within the village on the day proceeding, the day of, or the day after a national holiday, consistent with Michigan Fireworks Safety Act.

(2) Use of consumer fireworks, as defined in the Michigan Fireworks Safety Act, in the Village is limited to the day before, the day of, and the day after, a holiday, as defined in 5 USC § 6103, and is expressly contingent on the following:

a. No person under the age of 18 years shall use, possess, explode or cause to explode any fireworks, as defined herein, within the village.

b. A person shall not ignite, discharge, or use consumer fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance, as the terms are defined in the Michigan Motor Vehicle Code (MCL 257.1 et seq.).

c. A person shall not ignite, discharge, or use consumer fireworks on public property, school property, church property, or the property of another person without that organization's or person's express permission.

d. A person shall not ignite, discharge, or use consumer fireworks between the hours of 1:00 a.m. and 8:00 a.m.

(c) *Compliance with applicable ordinances and codes.* Unless otherwise expressly provided in this chapter, a retailer or wholesaler of fireworks located within the village must comply with the requirements of the village's zoning ordinance, as well as all building codes and regulations, in addition to the requirements of Michigan Fireworks Safety Act, and any applicable federal laws and regulations.

(d) *Display fireworks permits.* Upon application in writing to the village by any association or group of individuals for the public display of fireworks, the village council may grant permission for such display, subject to such conditions as the police chief and the fire authority chief may impose to properly safeguard the public, both as to persons and property; and subject to the provisions of the Michigan Fireworks Safety Act. Applicants shall furnish proof of financial responsibility by a bond or insurance in an amount, character, and form deemed necessary by the village to satisfy claims for damages to property or personal injuries arising out of an act or omission on the part of the person, firm, or corporation or an agent or employee of the person, firm, or corporation, and to protect the public.

(e) *Violations, fines and penalties.*

(1) *Civil infraction.* Persons who violate a provision of this Code section or fail to comply with any of the requirements thereof, shall be guilty of a municipal civil infraction and subject to the civil fines set forth in the schedule of civil fines in Code section 1-13, and shall be subject to any other relief that may be imposed by a court for such conduct, which shall also be considered a nuisance per se. Each act of violation and each day upon which such violation occurs shall constitute a separate violation.

(2) *Determination of violation: Seizure.* If a police safety officer determines that a violation of this Code section has occurred, the officer may seize the fireworks as evidence of the violation.

(3) *Disposal.* Following final disposition of a finding of responsibility for violating this Code section, the village may dispose of or destroy any fireworks retained as evidence in that prosecution.

(4) *Costs.* In addition to any other penalty, a person that is found responsible for a violation of this Code section shall be required to reimburse the village for the costs of storing, disposing of, or destroying fireworks that were confiscated for a violation of this Code section.

(Ord. No. 307, § 22, eff. 3-11-1996; Ord. No. 428, § 1, 7-30-2012; Ord. No. 433, § 1, 7-1-2013)

Cross reference(s)—Fire prevention and protection, ch. 42.

State law reference(s)—Fireworks, MCL 750.243a et seq.

Sec. 54-132. Abandoned refrigerators.

No person shall have in his possession, either inside or outside of any building, structure, or dwelling, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or any other similar airtight container of any kind which has a snap latch or other locking device thereon, without first removing the snap latch or other locking device or the doors from such icebox, refrigerator or other similar container.

(Ord. No. 221, art. IV, § 6, eff. 1-2-1984)

State law reference(s)—Abandoned or unattended icebox or refrigerator, leaving in place accessible to children, penalty, MCL 750.493d.

Sec. 54-133. Small unmanned aircraft systems (UAS).

(a) *Definitions:*

(1) *"Small unmanned aircraft systems"* (herein after also referred to as "small UAS") means an aircraft which weighs one-half pound or more, but less than 55 pounds, that is operated without the possibility of direct human intervention from within or on the aircraft. The term small UAS includes drones. The term "small UAS" does not include (1) a glider or hand-tossed unmanned aircraft that is not designed for and is incapable of sustained flight; (2) an unmanned aircraft that is capable of sustained flight and is controlled by means of a physical attachment, such as a string or wire.

(2) *"Public gathering space"* means any structure, enclosed area or other demarcated space used for the assembly of persons in the open air, including, but not limited to, parks, stadiums, athletic fields, band stands, enclosures, grandstands, observation platforms, outdoor theaters, reviewing stands, street festivals, or parade routes.

(b) *Regulations:*

(1) No person, firm or corporation shall operate any small UAS violation of Federal Aviation Administration (herein after also referred to as "FAA") laws and regulations, including, but not limited to, the following regulations:

a. No small UAS shall be operated within the village unless it is registered with the FAA.

b. No person shall operate any small UAS if that person is not duly licensed for small UAS operation by the FAA.

c. A small UAS shall not be operated outside the visual line of sight of the operator, with vision unaided by any device other than corrective lenses.

d. No small UAS shall be operated directly over any person who is not directly involved in the operation of the unmanned aircraft, is not under a covered structure, and is not inside a covered stationary vehicle; nor closer than 25 feet to any individual, except the operator or the operator's helper(s).

e. No person shall operate any small UAS within the village other than during daylight hours, which is defined as between 30 minutes before official sunrise and 30 minutes after official sunset for local time.

f. A small UAS shall not be operated at a groundspeed of in excess of 100 mph (87 knots), or at an altitude in excess of 400 feet above ground level.

g. No person shall operate any small UAS within the village whenever weather conditions would impair the operator's ability to do so safely.

Violations of FAA laws and regulations will be reported to the enforcement action.

(2) No person, firm or corporation shall operate any small UAS so as to interfere with the privacy, safety, peace or repose of persons or endanger the health of another, recklessly, carelessly, including, but not limited to, the following regulations:

a. No person shall operate any small UAS within the village if he or she knows, or has reason to know, of any physical or mental condition that would interfere with their safe operation of the small UAS; nor while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof, as those terms are defined in the Michigan Motor Vehicle Code (MCL 257.1 et seq.) nor in excess of levels set within the Michigan Aeronautics Code [MCL 259.185(2), as amended].

b. No person shall operate any small UAS within the village without the without notifying any applicable Livingston County Airport; and shall not operate any small UAS in a manner that interfere with manned aircraft, and shall always give way to any manned aircraft.

c. Operation of a small UAS shall be completely prohibited within 400 feet of a police investigation, traffic accident, medical emergency, fire, fire investigation, public gathering space, or that would interfere with persons discharging their public duties. However, operation in the vicinity of public gathering space may be authorized by the entity having ownership or jurisdiction of the facility or site, and also any sponsor of the event involved; provided, however, safety measures must be reviewed in advance with the village manager, or the manager's designee, and satisfactorily addressed; and, further, any such small UAS operation shall be subject to any requirements and any restrictions that the facility owner and event sponsor may place on the operation.

d. A small UAS shall not be operated within 400 feet of a public water tower, or within 100 feet of any electric transmission facility, or within 25 feet of any electric distribution facility or of any overhead wire, cable, conveyor or similar equipment for the transmission of sounds or signal, or of heat, light or power, or data, upon or along any public way within the village, without the facility or equipment owner's consent, and subject to any restrictions that the facility or equipment owner may place on such operation.

e. A small UAS shall not takeoff from, land on, or be operated in or over any village public park, or village owned land, or village owned buildings and structures, or over any village public rights-of-way, including village streets and alleys, unless prior written authorization to do so is approved by the village manger; nor shall a small UAS takeoff from, land on, or be operated in or over any Fowlerville Community Schools property, including school buildings, parking areas, school sports facilities or recreation fields, unless prior written authorization to do so is approved by the Fowlerville Community Schools Superintendent.

f. No person shall operate a small UAS in village for the purpose of conducting surveillance, unless expressly permitted by law. Conducting surveillance includes operating any small UAS in such a manner so as to observe or record the activities of anyone who, by their location, has a reasonable expectation of being safe from surveillance or observation or in violation of Code section 54-3. For purposes of this provision, persons have a "reasonable expectation of being safe from surveillance or observation" if they are within a building, within an enclosed privacy fence or in an area not otherwise visible from ground level on neighboring public or private property.

g. No person shall operate a small UAS in village for the purpose of harassing any person or animal, or with intent to use such small UAS, or anything

h. A small UAS shall not be operated in village that is equipped with a firearm or other weapon, has attached to it any explosives, or any other hazardous materials.

(c) *Exceptions.* The prohibitions in this section of the Code do not apply to:

(1) The operation of small UAS by the police or other law enforcement agency in performance of their official duties.

(2) The operation of small UAS by a governmental agency or with the prior approval of a governmental agency in the performance of a governmental function or to assist in the performance of a governmental function.

(3) A person authorized to operate a small UAS pursuant to a FAA issued certificate of waiver, certificate of authorization or airworthiness certification under Section 44704 of Title 49, United States Code if operated in accordance with the terms of such certificate of waiver, certificate of authorization or airworthiness certification.

(d) *Other UAS's.* This section of the Code does not apply to unmanned aircraft systems with a weight exceeding 55 pounds, and any UAS to be flown at speeds in excess of 100 mph (87 knots), or at an altitude in excess of 400 feet above ground level, each of which must be expressly authorized by the FAA and must be operated in accordance with the terms of such FAA authorization and federal laws and regulations.

(Ord. No. 456, § 3, 5-30-2017)

Secs. 54-134—54-160. Reserved.

DIVISION 2. WEAPONS[47]

Sec. 54-161. Use of weapons in village.

(a) *Generally.* It shall be a violation for any person to recklessly or heedlessly or willfully or wantonly draw, handle, flourish, discharge, or fire any revolver, pistol, airgun, bow and arrow, cross bow, slingshot, or any

[47]Editor's note(s)—Ord. No. 417, § 1, adopted Feb. 14, 2011, amended div. 2 in its entirety to read as herein set out. Former div. 2, §§ 54-161—54-167, pertained to similar subject matter, and derived from Ord. No. 307, §§ 23—30, effective March 11, 1996.

State law reference(s)—License required to sell, purchase, possess and carry certain firearms, MCL 28.421 et seq.; local units of government prohibited from imposing certain restrictions on pistols or other firearms, MCL 123.1101 et seq.; crimes relating to explosives and bombs, MCL 750.200 et seq.; crimes involving firearms and weapons, MCL 750.222 et seq.

weapon designed to discharge any shot, pellet or missile likely to do bodily injury in any public street, alley, park, or congested public or private place within the village which might endanger the safety or welfare of others, except as provided in this division. This section shall not apply to citizens acting in self-defense, nor to peace officers or members of any duly authorized military organization, when acting in the discharge of their duties. This section shall not apply to the firing of blank ammunition from a firearm by any authorized military veterans organization while performing in a drill or ceremony, or a member of a historical society or organization while performing in a drill, ceremony or demonstration, or an actor while performing in a theatrical performance, or an official at an organized sporting event for the purpose of designating the start or finish of an event. This section shall not prohibit the council from granting permission for the maintenance of shooting galleries or target ranges under suitable regulations for the protection of and safety of its citizens and inhabitants.

(b) *Discharging of an air gun, etc.* The discharging of an air gun, BB gun, pellet gun, paintball gun, bow and arrow, or slingshot in the open will not be a violation if each of the following conditions is met.

(1) The activity is done by an adult or under adult supervision.

(2) The activity is done on private property. If the owner or other adult having control of the property is not present, those engaged in the activity must have written permission of the owner or the person having control of the property.

(3) The activity is done in a manner that does not allow any projectile to enter onto any other parcel of property.

(4) The activity is done with appropriate safety precautions to prevent injury to any person or property damage.

(c) *Responsibility of parents and guardian.* It shall be the duty of every parent, guardian, or other person having the custody or charge of any minor under the age of 16 years to control such minor. It shall be a violation for any such parent, guardian, or other person having the custody or charge of any minor under the age of 16 years to permit such minor to violate this section.

(Ord. No. 417, § 1, 2-14-2011)

Sec. 54-162. Hunting within village.

It shall be a violation for any person to hunt wild game within the village or in any manner carry any gun, weapon, or firearm within the village for the purpose of hunting any wild game or fowl at any time.

(Ord. No. 417, § 1, 2-14-2011)

Sec. 54-163. Air guns, BB gun[s], pellet guns, bow and arrows, or slingshots; minors use or possession.

(a) *Use or possession by minors.* It shall be unlawful for any minor under the age of 16 years to use or have in his possession in any public place of the village, unless accompanied by his parent or guardian or other authorized person, an air gun, BB gun, pellet gun, bow and arrow, or slingshot. Any police officer shall have the authority and it shall be his duty to confiscate such air gun, BB gun, pellet gun, bow and arrow, or slingshot found in the possession of any minor under the age of 16 years not accompanied by a parent or guardian or other authorized person.

(b) *Duty of parents and guardians.* It shall be unlawful for the parents or guardian of any such minor in his charge or custody to knowingly permit any such minor to use or have in his possession, when not properly accompanied, an air gun, pellet gun, bow and arrow, or slingshot.

(Ord. No. 417, § 1, 2-14-2011)

Sec. 54-164. Destruction of property.

It shall be a violation for any person to injure or damage any electric light or equipment or any livestock, animal or poultry of another or any real or personal property of any person with a revolver, pistol, gun, or other firearm or with a slingshot, air gun, BB gun, bow and arrow, or with any other weapon, device, or means to destroy. This subsection shall not apply to any law enforcement officer acting in the discharge of his or her duty.

(Ord. No. 417, § 1, 2-14-2011)

Sec. 54-165. Sale of weapons to minors.

It shall a violation for any person to sell or offer for sale any airgun or other like weapon to any minor who is under the age of 16 years.

(Ord. No. 417, § 1, 2-14-2011)

Sec. 54-166. Unauthorized taking, killing of birds, animals.

It shall be a violation for any person to use any pit, pitfall, deadfall, cage, snare, trap, net, baited hook, or any similar device or to use any drug, poison, chemical or explosive to injure, capture or kill any bird or any game or fur-bearing animal; nor shall any person at any time or in any manner whatever molest, harass, or annoy any such bird or any game or fur-bearing animal within the village limits, except under authority of a written license issued by the police chief. This provision shall not apply to live trapping to relocate animals, only where such animals are released in a live state.

(Ord. No. 417, § 1, 2-14-2011)

Sec. 54-167. Possession of knives or sharp-edged or pointed instruments by minors.

No minor under 18 years of age shall have in his possession or control, except within his own domicile, or carry or use in any manner any knife with a blade in excess of three inches, a dagger, a dirk, a razor, a stiletto or any other sharp-edged or pointed instrument; provided, however, that such person shall not be in violation of this section if:

(1) His possession of such bladed weapon is necessary for his employment, trade or occupation;

(2) He is engaged in or is proceeding to or returning from a place of hunting, trapping or fishing and, whenever required, is also carrying a currently valid license issued to him by the state department of natural resources;

(3) He is a duly enrolled member of the Boy Scouts of America or a similar organization or society and such possession is necessary to participate in the activities of such organization or society; or

(4) Such bladed weapon is required under circumstances that tend to establish that its possession is for a lawful purpose.

(Ord. No. 417, § 1, 2-14-2011)

Secs. 54-168—54-195. Reserved.

ARTICLE V. OFFENSES AGAINST PUBLIC MORALS

Sec. 54-196. Indecent conduct generally.

It shall be a violation for any person to engage in any indecent, insulting, illegal or obscene conduct in a place where such conduct is observable from a public place.

(Ord. No. 307, § 31, eff. 3-11-1996)

State law reference(s)—Person engaged in indecent or obscene conduct deemed a disorderly person, MCL 750.167(1)(f).

Sec. 54-197. Public indecency.

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

Nudity or *nude* means the showing, in a public place, of the human male or female genitals, pubic area, anus or buttocks, the showing of the female breast below the top of the areola, or the showing of the covered male genitals in a discernibly turgid state.

Public place as used in this section means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public places include, but are not limited to: streets, sidewalks, parks, business and commercial establishments (whether for profit or not-for-profit and whether open to the public at large or where entrance is limited by a cover charge or membership requirement), bottle clubs, hotels, motels, restaurants, nightclubs, country clubs, cabarets and meeting facilities utilized by any religious, social, fraternal or similar organizations. Premises used solely as a private residence whether permanent or temporary in nature shall not be deemed a public place. Public place shall not include enclosed single sex public restrooms, enclosed single sex functional showers, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designated and intended for sleeping accommodations, doctor's offices, portions of hospitals and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and the sphere of private property protected therein; nor shall it include a person appearing in a state of nudity in a modeling class operated by:

(1) A proprietary school, licensed by the state; a college, junior college or university supported entirely or partly by taxation; or

(2) A private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation or an accredited private college.

Theatrical production means a production that is recognized in the community as having serious social, literary or artistic merit. Proof that a theatrical production has been licensed or copyrighted shall be one consideration in determining whether a theatrical production has serious social, literary or artistic merit.

(b) No person shall knowingly and intentionally, in a public place commit an act of public indecency, which is defined as:

(1) Engaging in actual or simulated sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, excretory functions or other ultimate sex acts;

(2) Appearing in a state of nudity;

(3) Fondling the genitals of himself or another person; or

(4) Swimming or bathing in the nude, except where the location is enclosed by a building and open only to members of the same sex.

(c) The provisions of this section shall not apply to:

(1) Any theatrical production performed in a theater by a professional or amateur theatrical or musical company.

(2) A woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.

(3) Material as defined in section 2 of Act No. 343 of the Public Acts of 1984 (MCL 752.362).

(4) Sexually explicit visual material as defined in section 3 of Act No. 33 of the Public Acts of 1978 (MCL 722.673).

(Ord. No. 332, § 1, eff. 9-14-1998)

Sec. 54-198. Patronizing houses of ill fame.

(a) It shall be a violation for any person to patronize, to frequent, to be found in or to be an inmate of any house of ill fame or assignation or place for the practice of prostitution or lewdness.

(b) It shall be a violation for any person to accept the solicitation of or to solicit a prostitute for the practice of fornication, prostitution or lewdness.

(Ord. No. 307, § 33, eff. 3-11-1996)

State law reference(s)—Prostitute defined as a disorderly person, MCL 750.167(1)(b); prostitution generally, MCL 750.448 et seq.

Secs. 54-199—54-225. Reserved.

ARTICLE VI. OFFENSES INVOLVING ALCOHOLIC LIQUORS AND DRUGS[48]

DIVISION 1. GENERALLY

Sec. 54-226. 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:

[48]Cross reference(s)—Alcoholic liquors generally, ch. 6; alcoholic liquor in parks, § 58-31; possession of narcotics in parks, § 58-32.

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 Public Act No. 8 of 1933 (Ex. Sess.) (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 the public acts of the state.

Minor means a person not legally permitted because of age to possess alcoholic beverages pursuant to section 33b of Public Act No. 8 of 1933 (Ex. Sess.) (MCL 436.33b), as amended.

(Ord. No. 307, § 34, eff. 3-11-1996)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 54-227. Adult responsibility.

(a) A 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 inquiry 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. This subsection shall not apply to a person related to a minor as parent or guardian or to a person placed in the position of a parent by a parent or guardian of the minor and to legally protected religious observances, educational activities, or medical treatments.

(b) 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 the premises shall take reasonable steps to prevent any minor on such 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.

(Ord. No. 307, § 36, eff. 3-11-1996)

Sec. 54-228. Open containers of alcoholic liquor.

It shall be a violation for any person to have in his possession any open bottle or container containing alcoholic liquor, while such person is on any park, place of amusement, parking area, or any other public place open to the public, except those premises duly licensed for the sale and consumption of alcoholic beverages on the premises.

(Ord. No. 307, § 37, eff. 3-11-1996)

State law reference(s)—Authority to prohibit possession or consumption of alcoholic liquor on public property, MCL 436.34.

Sec. 54-229. False representation of age to obtain alcoholic liquor.

It shall be a violation for any person, in order to procure the sale and furnishing of alcoholic liquor to any person under the age of 21 years, to make any false representations as to the age of the person for whom such alcoholic liquor is desired. It shall be a violation for any person under the age of 21 years of age to furnish any false information regarding his age for the purpose of obtaining the sale of any alcoholic liquor to himself.

(Ord. No. 307, § 38, eff. 3-11-1996)

Cross reference(s)—Offenses concerning underage persons, § 54-296 et seq.

Sec. 54-230. False identification.

It shall be unlawful for any person to furnish fraudulent identification to a person less than 21 years of age nor shall any person less than 21 years of age use a fraudulent identification to purchase alcoholic liquor.

(Ord. No. 307, § 39, eff. 3-11-1996)

Cross reference(s)—Offenses concerning underage persons, § 54-296 et seq.

State law reference(s)—Similar provisions, MCL 436.33b(3).

Sec. 54-231. Transport or possession of alcoholic liquor by person less than 21 years of age.

A person less than 21 years of age shall not knowingly transport or possess, in a motor vehicle, alcoholic liquor unless the person is employed by a licensee under the state liquor control act, Public Act No. 8 of 1933 (Ex. Sess.) (MCL 436.1 et seq.), a common carrier designated by the liquor control commission pursuant to Public Act No. 8 of 1933 (Ex. Sess.) (MCL 436.1 et seq.), the liquor control commission or an agent of the liquor control commission and is transporting or having the alcoholic liquor in a motor vehicle under the person's control during regular working hours and in the course of the person's employment. This section does not prevent a person less than 21 years of age from knowingly transporting alcoholic liquor in a motor vehicle if a person at least 21 years of age is present inside the motor vehicle. A person who violates this section is guilty of a misdemeanor. As part of the sentence, the person may be ordered to perform community service and undergo substance abuse screening and assessment at his own expense as described in section 33b(1) of Public Act No. 8 of 1933 (Ex. Sess.) (MCL 436.33b(1)).

(Ord. No. 307, §§ 40, 41, eff. 3-11-1996)

Cross reference(s)—Offenses concerning underage persons, § 54-296 et seq.

State law reference(s)—Similar provisions, MCL 257.624b.

Sec. 54-232. Purchase, consumption or possession of alcoholic liquor by person less than 21 years of age.

(a) A person less than 21 years of age shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, or possess or attempt to possess alcoholic liquor, except as provided in this section and section 624b of Public Act No. 493 of 1996 (MCL 257.624b). A person less than 21 years of age who violates this subsection is guilty of a misdemeanor punishable by the following fines and sanctions:

    (1) For the first violation a fine of not more than $100.00, and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in section 6107 of the public health code, Public Act No. 368 of 1978 (MCL 333.6107), and designated by the administrator of substance abuse services, and may be ordered to perform community service and to undergo substance abuse screening and assessment at his own expense.

    (2) For a second violation a fine of not more than $200.00, and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in section 6107 of Public Act No. 368 of 1978 (MCL 333.6107), and designated by the administrator of substance abuse

services, to perform community service, and to undergo substance abuse screening and assessment at his own expense. The person is also subject to sanctions against his operator's or chauffeur's license.

(3) For the third or subsequent violation a fine of not more than $500.00, and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in section 6107 of Public Act No. 368 of 1978 (MCL 333.6107), and designated by the administrator of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his own expense. The person is also subject to sanctions against his operator's or chauffeur's license.

(b) A peace officer who has reasonable cause to believe a person less than 21 years of age has consumed alcoholic liquor may require the person to submit to a preliminary chemical breath analysis. A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a criminal prosecution to determine whether the person less than 21 years of age has consumed or possessed alcoholic liquor. A person less than 21 years of age who refuses to submit to a preliminary chemical breath test analysis as required in this subsection is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $100.00.

(c) A law enforcement agency, upon determining that a person less than 18 years of age who is not emancipated pursuant to Public Act No. 293 of 1968 (MCL 722.1 et seq.), allegedly consumed, possessed, purchased, or attempted to consume, possess, or purchase alcoholic liquor in violation of subsection (a) of this section shall notify the parent, custodian, or guardian of the person as to the nature of the violation if the name of a parent, guardian, or custodian is reasonably ascertainable by the law enforcement agency. The notice required by this subsection shall be made not later than 48 hours after the law enforcement agency determines that the person who allegedly violated subsection (a) of this section is less than 18 years of age and not emancipated pursuant to Public Act No. 293 of 1968 (MCL 722.1 et seq.). The notice may be made by any means reasonably calculated to give prompt actual notice, including but not limited to notice in person, by telephone, or by first class mail. If a person less than 17 years of age is incarcerated for violating subsection (a) of this section, his parents or legal guardian shall be notified immediately as provided in this subsection.

(d) This section does not prohibit a person less than 21 years of age from possessing alcoholic liquor during regular working hours and in the course of his employment if employed by a person licensed by this section, by the commission or by an agent of the commission, if the alcoholic liquor is not possessed for his personal consumption.

(e) This section shall not be construed to limit the civil or criminal liability of the vendor or the vendor's clerk, servant, agent, or employee for a violation of this section.

(f) The consumption of alcoholic liquor by a person less than 21 years of age who is enrolled in a course offered by an accredited post-secondary educational institution in an academic building of the institution under the supervision of a faculty member is not prohibited by this section if the purpose of the consumption is solely educational and is a necessary ingredient of the course.

(g) The consumption by a person less than 21 years of age of sacramental wine in connection with religious services at a church, synagogue, or temple is not prohibited by this section.

(h) Subsection (a) of this section does not apply to a person less than 21 years of age who participates in either or both of the following:

(1) An undercover operation in which the person less than 21 years of age purchases or receives alcoholic liquor under the direction of the person's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.

(2) An undercover operation in which the person less than 21 years of age purchases or receives alcoholic liquor under the direction of the state police, the commission, or a local police agency as part of an enforcement action except that any initial or contemporaneous purchase or receipt of alcoholic liquor by the person less than 21 years of age is under the direction of the state police, the commission, or the local police agency and is part of the undercover operation. The state police, the commission, or the local police agency shall not recruit or attempt to recruit a person less than 21 years of age for participation in an undercover operation at the scene of a violation of subsection (a) of this section.

(Ord. No. 307, §§ 35, 40, 42, eff. 3-11-1996)

Cross reference(s)—Offenses concerning underage persons, § 54-296 et seq.

State law reference(s)—Similar provisions, MCL 436.33b.

Sec. 54-233. Transportation or possession of alcoholic liquor in container open or uncapped or upon which seal is broken.

(a) Except as provided in subsection (2), a person shall not transport or possess alcoholic liquor in a container that is open or uncapped or upon which the seal is broken within the passenger compartment of a vehicle upon a highway, or within the passenger compartment of a moving vehicle in any place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, in this state.

(b) A person may transport or possess alcoholic liquor in a container that is open or uncapped or upon which the seal is broken within the passenger compartment of 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 in this state, if the vehicle does not have a trunk or compartment separate from the passenger compartment, the container is not readily accessible to the occupants of the vehicle.

(c) This section does not apply to a passenger in a chartered vehicle authorized to operate by the Michigan Department of Transportation.

(Ord. No. 307, § 43, eff. 3-11-1996)

State law reference(s)—Similar provisions, MCL 257.624a.

Secs. 54-234—54-260. Reserved.

DIVISION 2. DRUG PARAPHERNALIA[49]

Sec. 54-261. 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:

Drug paraphernalia means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into

[49]State law reference(s)—Drug paraphernalia, MCL 333.7451 et seq.

the human body a controlled substance in violation of state or local law. It includes but is not limited to the following:

(1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

(2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

(3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.

(4) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances.

(5) Scales or balances used, intended for use, or designed for use in weighing or measuring controlled substances.

(6) Diluents and adulterants, such as quinine hydrochloride mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances.

(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana.

(8) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances.

(9) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.

(10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.

(11) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.

(12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as the following:

a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.

b. Water pipes.

c. Smoking and carburetion masks.

d. Roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette, that has become too small or too short to be held in the hand.

e. Miniature straws, cocaine spoons, and cocaine vials.

f. Chamber pipes.

g. Carburetor pipes.

h. Miniature lockets, rings, or vials designed, marketed, or used for the storing of controlled substances.

(Ord. No. 307, § 44, eff. 3-11-1996)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 54-262. Determination of factors.

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(1) Statements by an owner or by anyone in control of the objects concerning its use.

(2) Prior convictions, if any, of an owner or of anyone in control of an object, under any state or federal law relating to any controlled substances.

(3) The proximity of the object, in time and space, to a direct violation of the state law.

(4) The proximity of the object to controlled substances.

(5) The existence of any residue of controlled substances on the object.

(6) Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object to deliver it to persons whom he knows or should reasonably know intend to use the object to facilitate a violation of state or local law or of this division. The innocence of an owner or of anyone in control of the object as to a direct violation of state, local law or this division shall not prevent a finding that the object is intended for use or is designed for use as drug paraphernalia.

(7) Instruction, oral or written, provided with the object concerning its use.

(8) Descriptive materials accompanying the object which explain or depict its use.

(9) National and local advertising concerning its use.

(10) The manner in which the object is displayed for sale.

(11) Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

(12) Direct or circumstantial evidence of the ratio of sales of the objects to the total sales of the business enterprise.

(13) The existence and scope of legitimate uses for the object in the community.

(14) Expert testimony concerning its use.

(Ord. No. 307, § 45, eff. 3-11-1996)

Sec. 54-263. Possession.

It is a violation for any person to use or to possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of state or local law.

(Ord. No. 307, § 46, eff. 3-11-1996)

Sec. 54-264. Manufacture, delivery or sale.

It is a violation for any person to deliver, sell, possess with intent to deliver or sell or manufacture with intent to deliver or sell drug paraphernalia, knowing that it will be used to plant, convert, produce, process, prepare, test,

analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of state or local law.

(Ord. No. 307, § 47, eff. 3-11-1996)

State law reference(s)—Sale of drug paraphernalia prohibited, MCL 333.7453.

Sec. 54-265. Advertisement.

It is a violation for any person to place in any newspaper, magazine, handbill, sign, poster, or other publication any advertisement, knowing that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

(Ord. No. 307, § 48, eff. 3-11-1996)

Sec. 54-266. Presence in places where stored or kept.

It is a violation for any person to knowingly remain in any building, apartment, store, automobile, boat, boathouse, airplane or other place of any description whatsoever where any drug paraphernalia is illegally sold, dispensed, furnished, given away, stored, or kept.

(Ord. No. 307, § 49, eff. 3-11-1996)

Sec. 54-267. Exceptions.

This division 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, pharmacists, and embalmers in the normal legal course of their respective business or profession, nor to persons suffering from diabetes, asthma, or any other medical condition requiring self-injection.

(Ord. No. 307, § 50, eff. 3-11-1996)

Sec. 54-268. Civil forfeiture.

Any drug paraphernalia used, sold, possessed with intent to use or sell or manufactured with intent to sell in violation of this division shall be seized and forfeited to the village.

(Ord. No. 307, § 51, eff. 3-11-1996)

Secs. 54-269—54-295. Reserved.

ARTICLE VII. OFFENSES CONCERNING UNDERAGE PERSONS[50]

[50]Cross reference(s)—Sale or serving alcoholic liquors to persons less than 21 years of age, § 6-70; children in public cemeteries, § 26-259; sale of weapons to minors, § 54-165; possession of knives or sharp edged or pointed instruments by minors, § 54-167; false representation of age to obtain alcoholic liquor, § 54-229; false identification to obtain alcoholic liquor, § 54-230; transport or possession of alcoholic liquor by person

less than 21 years of age, § 54-231; purchase, consumption or possession of alcoholic liquor by person less than 21 years of age, § 54-232.

DIVISION 1. GENERALLY

Secs. 54-296—54-320. Reserved.

DIVISION 2. CURFEW[51]

Sec. 54-321. Hours.

(a) It shall be a violation for any person under the age of 17 years to loiter, wander, stroll, or play in or upon public streets, highways, alleys, parks, playgrounds, public places, places of amusement, vacant lots, or other unsupervised places in the village at night after the hour of 11:00 p.m. and before the hour of 6:00 a.m. of the following day unless such person is accompanied by a parent, guardian, or other person having the legal custody of a minor person.

(b) It shall be a violation for any person under the age of 16 years to loiter, wander, stroll, or play in or upon public streets, highways, alleys, parks, playgrounds, public places, places of amusement, vacant lots, or other unsupervised places in the village at night after the hours of 10:00 p.m. and before the hour of 6:00 a.m. of the following day unless such person is accompanied by a parent, guardian, or other person having the legal custody of a minor person.

(c) This section does not apply to a minor accompanied by his parent, guardian, or other person having the legal care and custody of such minor or when such minor is engaged in a useful occupation by virtue of a work permit issued by the police department or when such minor is going to or returning home from such work. The police department is authorized to issue work and school permits under such regulations and restrictions as it may deem proper, to permit minors to engage in certain occupations and activities, which permits may except them from the restrictions of this section.

(d) The village council may direct the village president or the village marshal to extend the curfew hour for those children attending a public function.

(Ord. No. 307, § 52, eff. 3-11-1996)

Sec. 54-322. Parental responsibility.

It shall be a violation for any parent, guardian, or other person having the legal care and custody of a minor person under the age of 17 years to allow or permit such minor child in his legal custody to loiter or remain unaccompanied upon any of the streets, alleys, or other public places in the village within the time prohibited and specified in section 54-321.

(Ord. No. 307, § 53, eff. 3-11-1996)

[51]State law reference(s)—Curfew, MCL 722.751 et seq.

Sec. 54-323. Parental duty.

It is the duty of parents and guardians to keep their children and wards off the streets at the times and within the hours referred to in section 54-321.

(Ord. No. 307, § 54, eff. 3-11-1996)

Sec. 54-324. Knowledge of offense.

It shall not constitute a defense that the parent, guardian, or other person having legal care and custody of a minor who violates section 54-321 did not have knowledge of the presence of such minor in and upon any of the streets, alleys, public places, vacant lots, or other unsupervised places prohibited in section 54-321.

(Ord. No. 307, § 55, eff. 3-11-1996)

Sec. 54-325. Enforcement.

The village president or the village marshal is authorized to take any child under the age of 17 years found violating this division to the home of such child and there inquire from the parent or guardian of such child whether the child is locked out or is compelled to be upon the street because of lack of a home or home restraint, and if such child has a home where he can be properly cared for to leave such child at his home and report the fact as the case may be whether the parent or guardian is negligent to a judge of the probate or district court.

(Ord. No. 307, § 56, eff. 3-11-1996)

Secs. 54-326—54-350. Reserved.

DIVISION 3. SMOKING[52]

Sec. 54-351. 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:

Alternative nicotine product shall mean a noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed or ingested by any other means. FDA approved cessation products containing nicotine, when properly procured either via a prescription or a medical doctor's recommendation, to control an alternative nicotine problem or addiction, shall be a defense to liability under subsection 54-352(a).

Chewing tobacco shall mean loose tobacco or a flat, compressed cake of tobacco which is inserted into the mouth to be chewed or sucked.

---

[52]Editor's note(s)—Ord. No. 466, § 1, adopted Nov. 12, 2018 , amended Div. 3 in its entirety to read as herein set out. Former Div. 3, §§ 54-351—54-354, pertained to similar subject matter, and derived from Ord. No. 307, §§ 57—60, effective March 11, 1996.

State law reference(s)—Youth Tobacco Act, MCL 722.641 et seq.

Minor shall mean an individual who is less than 18 years of age.

Person shall mean an individual, corporation, partnership, limited liability company, wholesaler, retailer or any business.

Person who sells tobacco products at retail shall mean a person whose ordinary course of business consists, in whole or in part, of the retail sale of tobacco products subject to state sales tax.

Person who sells vapor products at retail shall mean a person whose ordinary course of business consists, in whole or in part, of the retail sale of vapor products.

Possess a tobacco product or vapor product shall mean either actual physical control of the tobacco product or vapor product without necessarily owning that product, or the right to control the product even though it is in a different room or place than where the person is physically located.

Public place shall mean a public street, sidewalk, or park or any area open to the general public in a publicly owned or operated building or premises, any school property, or in a public place of business.

School district shall mean a school district, local act school district or intermediate school district, as those terms are defined in the School Code of 1976, Public Act No. 451 of 1976 (MCL 380.1 et seq.), as amended, or a consortium or cooperative arrangement consisting of any combination of these.

School property shall mean a building, facility or structure or other real estate owned, leased or otherwise controlled by a school district.

Smoking or *smoke* shall mean the carrying by a person of a lighted cigar, cigarette, pipe, or other lighted smoking device.

Tobacco product shall mean a product that contains tobacco and is intended for human consumption, including but not limited to cigarettes, non-cigarette smoking tobacco, or smokeless tobacco, as those terms are defined in Section 2 of the Michigan Tobacco Products Tax Act, as amended (being MCL 205.422), cigars, chewing tobacco, and flavored tobacco (shisha). Tobacco product does not include a vapor product or a product regulated as a drug or device by the United States Food and Drug Administration.

Use a tobacco product, alternative nicotine product, or *vapor product* shall mean any of the following:

(1) The carrying by a person of a lighted cigar, cigarette, pipe, or other lighted smoking device.

(2) The inhaling, sucking, or chewing of a tobacco product, alternative nicotine product, or vapor product.

(3) The placing of a tobacco product, alternative nicotine product, or vapor product in one's mouth; or

(4) Otherwise consuming a tobacco product, alternative nicotine product, or vapor product.

Vapor product shall mean a noncombustible product containing nicotine 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 vapor from nicotine in a solution or other form. Vapor product includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and a vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. Vapor product does not include a product regulated as a drug or device by the United States Food and Drug Administration.

(Ord. No. 466, § 1, 11-12-2018)

Sec. 54-352. Prohibited conduct by minor; penalty.

(a) Subject to subsections 54-352(c) and 54-352(d) below, a minor shall not do any of the following:

(1) Purchase or attempt to purchase a tobacco product, alternative nicotine product or vapor product.

(2) Possess or attempt to possess a tobacco product, alternative nicotine product or vapor product.

(3) Use a tobacco product, alternative nicotine product or vapor product in a public place.

(4) Present or offer to an individual a purported proof of age that is false, fraudulent, or not actually his or her own proof of age for the purpose of purchasing, attempting to purchase, possessing, or attempting to possess a tobacco product, alternative nicotine product or vapor product.

(b) An individual who violates subsection 54-352(a) is subject to the following:

(1) The first violation is a municipal civil infraction, punishable by a fine of $500.00 for each violation, except that the fine will be $50.00 for each violation cited on a single municipal civil infraction citation if the individual completes a health promotion and risk reduction program approved by the police department and agrees to perform not more than 16 hours of community service, within 30 days of receiving the citation or prior to entering a plea of responsibility at the district court. An individual who agrees to participate in a health promotion and risk reduction assessment program under this subsection 54-352(b) is responsible for the costs of participating in the program.

(2) A second violation or subsequent violation shall be a misdemeanor, punishable by a fine as provided in Code section 1-12. Pursuant to a probation order, the court may also require an individual who violates subsection 54-352(a) to participate in a health promotion and risk reduction assessment program, if available. An individual who is ordered to participate in a health promotion and risk reduction assessment program under this subsection 54-352(b) is responsible for the costs of participating in the program. In addition, an individual who violates subsection 54-352(a) is subject to the following:

a. For a second violation, in addition to participation in a health promotion and risk reduction program, the court may order the individual to perform not more than 32 hours of community service.

b. For a third or subsequent violation, in addition to participation in a health promotion and risk reduction program, the court may order the individual to perform not more than 48 hours of community service.

(c) Subsection 54-352(a) does not apply to a minor participating in any of the following:

(1) An undercover operation in which the minor purchases or receives a tobacco product, alternative nicotine product or vapor product under the direction of the minor's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.

(2) An undercover operation in which the minor purchases or receives a tobacco product, alternative nicotine product or vapor product under the direction of a state police or a local police agency as part of an enforcement action, unless the initial or contemporaneous purchase or receipt of a tobacco product, alternative nicotine product or vapor product by the minor was not under the direction of the state police or the local police agency and was not part of the undercover operation.

(3) Compliance checks in which the minor attempts to purchase a tobacco product, alternative nicotine product or vapor product for the purpose of satisfying federal substance abuse block grant youth tobacco access requirements, if the compliance checks are conducted under the direction of a substance abuse coordinating agency as defined in section 6103 of the Michigan Public Health Code, being 1978 PA 368, as amended (MCL 333.6103), and with the prior approval of the state police or a local police agency.

(d) Subsection 54-352(a) does not apply to the handling or transportation of a tobacco product, alternative nicotine product or vapor product by a minor under the terms of that minor's employment.

(e) This section does prohibit the individual from being charged with, convicted of, or sentenced for any other violation of law arising out of the violation of subsection 54-352(a).

(Ord. No. 466, § 1, 11-12-2018)

Sec. 54-353. Parental responsibility.

A primary caretaker having custody or control of a minor who violates section 54-352(a) shall be responsible for a municipal civil infraction and a fine of $500.00 for knowingly allowing or, through lack of supervision, allowing the minor to violate section 54-352(a). The fine will be $50.00 if the primary caretaker completes a health promotion and risk reduction program approved by the police department, either within 30 days of receiving the citation or prior to entering a plea of responsibility at the district court.

(Ord. No. 466, § 1, 11-12-2018)

Sec. 54-354. Selling, giving, or furnishing tobacco products, alternative nicotine product or vapor product to minor prohibited; penalty.

(a) A person shall not sell, give or furnish a tobacco product, alternative nicotine product or vapor product to a minor, including, but not limited to, through a vending machine. A person who violates this subsection 54-354(a) is guilty of a misdemeanor punishable by a fine of $50.00 for each violation.

(b) A person who sells a tobacco product, alternative nicotine product or vapor product at retail shall post, in a place close to the point of sale and conspicuous to both employees and customers, a sign that includes the following statement:

"The purchase of a tobacco product, alternative nicotine product or vapor product by a minor under 18 years of age and the provision of tobacco products to a minor are prohibited by law. A minor unlawfully purchasing or using a tobacco product, alternative nicotine product or vapor product is subject to criminal penalties."

(c) If the sign required under subsection 54-354(b) is more than six feet from the point of sale, it shall be 5½ inches by 8½ inches and the statement required under subsection 54-354(b) shall be printed in 36-point boldfaced type. If the sign required under subsection 54-354(b) is six feet or less from the point of sale, it shall be two inches by four inches and the statement required under subsection 54-354(b) shall be printed in 20-point boldfaced type.

(d) Before selling, offering for sale, giving, or furnishing a tobacco product, alternative nicotine product, or vapor product to an individual, a person shall verify that the individual is at least 18 years of age by doing one of the following:

(1) If the individual appears to be under 27 years of age, examining a government-issued photographic identification that establishes that the individual is at least 18 years of age.

(2) For sales made by the internet or other remote sales method, performing an age verification through an independent, third-party age verification service that compares information available from a commercially available database, or aggregate of databases, that are regularly used by government agencies and businesses for the purpose of age and identity verification to the personal information entered by the individual during the ordering process that establishes that the individual is 18 years of age or older.

(e) It is an affirmative defense to a charge under subsection 54-354(a) that the defendant had in force at the time of arrest and continues to have in force a written policy to prevent the sale of a tobacco product, alternative nicotine product or vapor product to persons under 18 years of age and that the defendant enforced and continues to enforce the policy. A defendant who proposes to offer evidence of the affirmative defense described in this subsection 54-354(e) shall file and serve notice of the defense, in writing, upon the court and the village attorney. The notice shall be served not less than 14 days before the date set for trial.

(f) A village attorney who proposes to offer testimony to rebut the affirmative defense described in subsection 54-354(e) above, shall file and serve a notice of rebuttal, in writing, upon the court and the defendant. The notice shall be served not less than seven days before the date set for trial and shall contain the name and address of each rebuttal witness.

(g) Subsection 54-354(a) does not apply to the handling or transportation of a tobacco product, alternative nicotine product or vapor product by a minor under the terms of that minor's employment.

(Ord. No. 466, § 1, 11-12-2018)

Sec. 54-355. Selling cigarette separately prohibited; penalty.

(a) Except as otherwise provided in subsection 54-355(b) below, a person who sells tobacco products at retail shall not sell a cigarette separately from its package.

(b) Subsection 54-355(a) does not apply to a person who sells tobacco products at retail in a tobacco specialty retail store or other retail store that deals exclusively in the sale of tobacco products and smoking paraphernalia.

(c) A person who violates subsection 54-355(a) is guilty of a misdemeanor, punishable by a fine of not more than $500.00 for each offense.

(Ord. No. 466, § 1, 11-12-2018)

Sec. 54-356. Smoking on school property.

It shall be unlawful for any person to use a tobacco product, alternative nicotine product, or vapor product on school property.

(Ord. No. 466, § 1, 11-12-2018)

Sec. 54-357. Noninterference with right of parent or guardian.

This act does not interfere with the right of a parent or legal guardian in the rearing and management of his or her minor children or wards within the bounds of his or her own private premises.

(Ord. No. 466, § 1, 11-12-2018)

Chapter 58 PARKS AND RECREATION[53]

ARTICLE I. IN GENERAL

[53]Cross reference(s)—PL public lands district, app. A, ch. 7; environment, ch. 38; depositing litter in parks, § 38-168; streets, sidewalks and certain other public places, ch. 74; vegetation, ch. 86.

State law reference(s)—Public parks, powers of council, MCL 67.6; public recreation system, powers of village, MCL 123.51 et seq.

Secs. 58-1—58-25. Reserved.

ARTICLE II. CONDUCT IN PUBLIC PARKS

Sec. 58-26. Municipal civil infraction.

A person who violates any section of this article is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in section 50-38, plus costs and other sanctions, for each infraction. Repeat offenses under this article shall be subject to increased fines as provided by section 58-38.

(Ord. No. 179, § 8, eff. 11-3-1971; Ord. No. 302, § 24, 12-31-1995)

Sec. 58-27. Application of article.

This article applies to any public park area maintained by the village.

(Ord. No. 179, § 1, eff. 11-3-1971)

Sec. 58-28. Schedule of days and hours for use of parks.

(a) The village council shall have the power at any time to regulate the days and hours during which the parks shall be open for use by the public by resolution of the village council, provided that a schedule of such days and hours shall be maintained at the village offices and the days and hours shall also be posted on an appropriate sign at the main entrance of the park.

(b) No person shall be in or use the facilities of the park at any time other than the scheduled permitted hours.

(Ord. No. 179, § 2, eff. 11-3-1971; Ord. No. 293, § 35, eff. 7-21-1994; Ord. No. 396, § 1, 12-10-2007)

Sec. 58-29. Permit for use of park by groups of persons.

The village manager shall be authorized to approve park use permits for use of park facilities by groups of persons for non-community wide events, such as weddings, family reunions, birthday parties, club meetings, and similar events. The village council shall be authorized to approve park use permits for use of park facilities for community wide events, including events open to the entire community, festivals, concerts in the public park, community fundraising events, or other planned gatherings in a park consisting of 50 or more people. Application for a permit for such use shall be made with the village manager at the village offices. The village manager shall refer every community wide events request for a group permit to the village council. Such park use permits may provide for the use of park facilities outside of the established hours in a proper case, and may be made subject to conditions or limitations as the village manager or village council deems appropriate. Any person using the park under such special park use permit will be held responsible for any damage to park facilities incurred during such use.

(Ord. No. 179, § 7, eff. 11-3-1971; Ord. No. 219, eff. 11-9-1983; Ord. No. 293, § 36, eff. 7-21-1994; Ord. No. 357, § 1, 11-3-2002; Ord. No. 458, § 1, 7-24-2017)

Sec. 58-30. Illegal occupation or business; disorderly conduct.

No person while in or about the public parks shall:

(1) Engage in any conduct threatening, endangering or impairing the safety, health or comfort of others.

(2) Use profane or indecent language.

(3) Engage in any improper or indecent conduct.

(4) Engage in loud, threatening, abusive language or behavior.

(5) Engage in any unduly boisterous or offensive conduct of any character.

(6) Be found jostling or roughly crowding people.

(7) Engage in fighting.

(8) Engage in any disorderly conduct or behavior tending to breach of the public peace.

(9) Be drunk and disorderly while under the influence of alcoholic liquor and/or a controlled substance.

(10) Beg.

(11) Engage in any illegal occupation or business.

(Ord. No. 357, § 1, eff. 11-3-2002)

Editor's note(s)—Ord. No. 357, § 1, effective November 3, 2002, amended § 58-30 in its entirety to read as herein set out. Formerly, § 58-30 pertained to vehicles and derived from Ord. No. 179, § 3, effective November 3, 1971. Ord. No. 357 also enacted provisions intended for use as subsections 58-30(a)—(l). To preserve the style of this Code, and at the discretion of the editor, said provisions have been redesignated as subsections 58-30(1)—(11).

Cross reference(s)—Businesses, ch. 18.

Sec. 58-31. Alcoholic liquor.

No person shall drink or have in his possession at any time in the public parks any alcoholic liquor, beer or other intoxicating beverage.

(Ord. No. 179, § 4, eff. 11-3-1971; Ord. No. 357, § 1, eff. 11-3-2002)

Cross reference(s)—Alcoholic liquor generally, ch. 6; offenses involving alcoholic liquor and drugs, § 54-226 et seq.

State law reference(s)—Authority to prohibit consumption of liquor in public parks, MCL 436.34.

Sec. 58-32. Possession of narcotics.

It shall be unlawful for any person to use or have in his possession in the public parks any narcotic drug, the use or possession of which is prohibited by state law.

(Ord. No. 179, § 5, eff. 11-3-1971; Ord. No. 357, § 1, eff. 11-3-2002)

Cross reference(s)—Offenses involving alcoholic liquors and drugs, § 54-226 et seq.

Sec. 58-33. Noise; amplification systems or apparatus.

(a) No person shall operate or cause to be operated any source of loud or unusual noise in any park which disturbs the peace and quiet of any park or which causes any discomfort or annoyance to any reasonable person of normal sensitiveness in such park.

(b) No person shall use, maintain or operate a public address system, commonly called a P.A. public address system, radio, compact disk or audio tape player, or any other sound amplification system or apparatus on park property in a loud or otherwise offensive manner so as to cause actual discomfort or an annoyance to others utilizing the park or to surrounding property owners. The operation of any such system or apparatus in a manner as to be plainly audible on a property other than the public park itself shall be prima facie evidence of a violation of this subsection.

(c) Exceptions may be made to this section for special events, such as concerts, provided a permit is issued by the village council under section 58-29.

(Ord. No. 357, § 1, eff. 11-3-2002)

Editor's note(s)—Ord. No. 357, § 1, effective November 3, 2002, amended § 58-33 in its entirety to read as herein set out. Formerly, § 58-33 pertained to illegal occupation or business; disorderly conduct, and derived from Ord. No. 179, § 6, effective November 3, 1971.

Sec. 58-34. Injury to property.

No person shall injure, mar or damage in any manner any monument, ornament, fence, bridge, seat, tree, fountain, shrub, flower, playground equipment, fireplace, signs, or other public property within or pertaining to the parks.

(Ord. No. 357, § 1, eff. 11-3-2002)

Sec. 58-35. Litter disposal.

No person shall dump, deposit or leave any litter, refuse or trash in violation of section 38-168 of this Code. No household litter, trash, or brush may be brought onto park property for disposal.

(Ord. No. 357, § 1, eff. 11-3-2002)

Sec. 58-36. Traffic regulations.

No person shall, within a public park, fail to comply with all provisions of the state motor vehicle code relative to equipment and operation of motor vehicles; and all provisions of chapter 78 of this Code relative to equipment and operation of motor vehicles, bicycles, recreation vehicles, roller skates, street skates and skate boards. No person shall drive or park motorized vehicles or any recreational vehicle (including, but not limited to: motorbikes, mopeds, motorcycles, go-carts, snowmobile or all terrain vehicles) on any park area except roads or designated parking lots. Other areas may, on occasion, be specified as temporary parking areas by the village manager.

(Ord. No. 357, § 1, eff. 11-3-2002)

Sec. 58-37. Service and repair of motor vehicles or trailers.

No person shall clean, wash, polish, repair, or in any manner service any motor vehicle or trailer in any public park or cause same to be done. For the purpose of this section, the term "repair" shall be deemed to mean the replacement of old, worn-out parts of the vehicle with new parts, and the term "service" shall be deemed to mean the draining of oil, sludge, gasoline and water and other engine cooling fluids for the purpose of replacing same with a new supply. This prohibition shall not apply to the changing of deflated tires or the performing of necessary emergency work on a disabled car for the purpose of immediate movement.

(Ord. No. 357, § 1, eff. 11-3-2002)

Sec. 58-38. Loitering in parking lots.

No person shall loiter in any parking lot in any public park. Any person who is found loitering in any village park parking lot and who is asked to leave the parking lot by a police officer or village employee, and who refuses to leave, shall be deemed a loiterer and shall be in violation of this article.

(Ord. No. 357, § 1, eff. 11-3-2002)

Sec. 58-39. Village activities.

The provisions of this article may, at the discretion of the village council, be waived or not applied to village sponsored, sanctioned or operated activities.

(Ord. No. 357, § 1, eff. 11-3-2002)

Sec. 58-40. Additional rules.

(a) The village council is hereby authorized to establish and adopt rules to regulate the use, enjoyment and operation of each and every public park of the village.

(b) Such rules may be adopted at any properly constituted, regular meeting of the village council.

(c) Such rules shall become effective upon adoption, publication once in a local newspaper of general circulation, and posting upon a prominent place of the park.

(d) Failure to post such regulations or the destruction of such posting by acts of vandalism, nature or otherwise shall not affect their validity or enforceability.

(e) Such regulations may apply to a particular park or to all such public parks as designated by resolution.

(f) Violation of any park rules adopted under this section shall constitute a municipal civil infraction.

(Ord. No. 357, § 1, eff. 11-3-2002)

Sec. 58-41. Citations; ejections from park.

Any person found violating any provision of this article, or any rule adopted under this article, may be issued a municipal civil infraction citation, arrested and/or ejected from the park, and/or have their park use permit confiscated and park privileges suspended for a period to be determined by the village manager.

(Ord. No. 357, § 1, eff. 11-3-2002)

Sec. 58-42. Use of walking path/bike trail and paved surfaces.

(a) As used in this section, the walking path/bike trail and the paved surfaces in Centennial Park and Fowlerville Community Park which is any paved surface designated for the purposes of walking, jogging, bicycling, playing basketball, (and including picnic areas), and other similar activities as approved by the village.

(b) No person using the walking path/bike trail and paved surfaces shall:

(1) Operate any wheeled device, i.e. a bicycle, in-line skates, rollerskates, or other such device, in a careless or negligent manner likely to endanger any person or property.

(2) Fail to wear protective headgear which at a minimum meets the standards promulgated by the American National Standards Institute, while engaged in any of the following activities on the walking path and/or paved surfaces:

a. Bicycling (both rider and passengers);

b. In-line skating, i.e. rollerblading;

c. Rollerskating;

d. Using any other wheeled device intended for recreational purposes and permitted to be used on the walking trail and/or paved areas.

(c) The use of a wheeled device commonly known as a skateboard is prohibited throughout Centennial Park and Fowlerville Community Park.

(d) Persons using wheeled devices of any kind on the walking path/bike trail, and/or paved areas must obey any and all traffic control signs regulating the use of the trail.

(e) Penalties. A person who violates any provision of this section shall be responsible for a municipal civil infraction. The civil fines payable shall be as follows:

(1) Municipal civil infraction violation notice (cognizable by the village municipal civil infraction violations bureau): first offense ten dollars ($10.00); second offense: twenty-five dollars ($25.00).

A person to whom a civil infraction violation notice has been issued, to which a first offense fine attaches, alleging violation of subsection (b)(1)or (b)(2), may have the violation dismissed, if the person submits proof of the purchase of a protective bicycle helmet (to consist of the protective bicycle helmet and purchase receipt), to the village police department, within ten (10) days of the date of the violation notice.

(2) Municipal civil infraction citation for third and subsequent violations (payable upon a plea or determination or responsibility by a judge or magistrate): each offense fifty dollars ($50.00).

(Ord. No. 369, § 1, 6-14-2004)

Chapter 62 PLANNING[54]

[54]Editor's note(s)—The publication, Municipal Standards for the Village of Fowlerville, which contains the design and construction standards for subdivision and land development, is on file and available for inspection at the village's offices.

Cross reference(s)—Administration, ch. 2; buildings and building regulations, ch. 14; community development, ch. 30; environment, ch. 38; land division, ch. 46; streets, sidewalks and certain other public places, ch. 74; utilities, ch. 82; vegetation, ch. 86; zoning, app. A.

ARTICLE I. IN GENERAL

Secs. 62-1—62-25. Reserved.

ARTICLE II. PLANNING COMMISSION[55]

Sec. 62-26. Created.

A village planning commission is created pursuant to Michigan Planning Enabling Act, being 2008 Public Act No. 33 (MCL 125.3801 et seq.), as amended. It shall be known as the village planning commission.

(Ord. No. 141, § 1, eff. 12-15-1959; Ord. No. 416, § 1, 1-31-2011)

Sec. 62-27. Membership.

(a) The planning commission shall consist of five members, who shall represent insofar as possible different professions or occupations. One member shall be a member of the village council, who shall be selected by resolution of the council to serve as a member ex officio, and four members shall be appointed by the village president, subject to the approval of the village council by majority vote. An appointed member shall not hold another municipal office, except that one appointed member may be a member of the zoning board of appeals.

(b) The appointed members of the planning commission shall have three-year staggered terms. A member shall hold office until his successor has been appointed. The term of the councilmember shall be determined by the council and included in its selection resolution, but the term shall not exceed the member's term of office as a councilmember.

(c) Vacancies occurring otherwise than through expiration of a term shall be filled for the unexpired term by the village president, subject to the approval of the village council.

(d) The village council member shall have full voting rights on the planning commission.

(e) All appointed members of the village planning commission, excluding the village councilmember, shall serve as such with compensation as the village council shall prescribe.

(Ord. No. 141, § 2, eff. 12-15-1959; Ord. No. 200, eff. 5-4-1977; Ord. No. 294, § 1, eff. 7-10-1994; Ord. No. 388, § 1, 5-29-2007; Ord. No. 469, § 1, 11-12-2018)

State law reference(s)—Similar provisions, MCL 125.33(3).

[55]Cross reference(s)—Boards and commissions, § 2-141 et seq.

State law reference(s)—Municipal planning, MCL 125.31 et seq.

Sec. 62-28. Removal of member.

After a public hearing, a member of the planning commission, other than the member selected by the council, may be removed by the mayor for inefficiency, neglect of duty, or malfeasance in office. The council may for like cause remove the member selected by the council.

(Ord. No. 141, § 3, eff. 12-15-1959)

State law reference(s)—Similar provisions, MCL 125.33(3).

Sec. 62-29. Officers, meetings and records.

(a) The planning commission shall annually elect its chairperson from among the appointed members and shall create and fill such other of its offices as it may determine.

(b) The planning commission shall hold at least four regular meeting each year. It shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which record shall be a public record and open to inspection in the village offices.

(Ord. No. 141, § 4, eff. 12-15-1959; Ord. No. 293, § 7, eff. 7-21-1994; Ord. No. 416, § 2, 1-31-2011)

State law reference(s)—Similar provisions, MCL 125.34.

Sec. 62-30. Powers and duties.

The planning commission shall have such powers concerning the preparation and adoption of a master plan or any part thereof; the making of surveys as a basis for such plan; the approval of public improvements; the carrying out of educational and publicity programs; the approval of plats; and such other rights, powers, duties and responsibilities as are provided in the Michigan Planning Enabling Act, being 2008 Public Act No. 33 (MCL 125.3801 et seq.), as amended.

(Ord. No. 141, § 6, eff. 12-15-1959; Ord. No. 416, § 3, 1-31-2011)

Sec. 62-31. Contracts for services; expenditures.

The planning commission may contract with city planners, engineers, architects, and other consultants for such specialized services as it may require. In addition, the services of regular city employees may be obtained as found necessary for its work. Provided, however, the planning commission shall not expend any funds or enter into any contracts or agreements for expenditures in excess of amounts appropriated for the purpose by the village council. The village council may appropriate such funds for village planning as it may deem advisable.

(Ord. No. 141, § 5, eff. 12-15-1959)

State law reference(s)—Similar provisions, MCL 125.35.

Sec. 62-32. Gifts.

The planning commission may receive gifts for purposes of carrying out its objectives and may expend any funds received in the form of a gift in such manner as it may deem proper.

(Ord. No. 141, § 7, eff. 12-15-1959)

State law reference(s)—Similar provisions, MCL 125.41.

Sec. 62-33. Reports and recommendations.

The planning commission shall make reports and recommendations to the village council; provided, however, that no such recommendation shall be binding upon the village council.

(Ord. No. 141, § 8, eff. 12-15-1959)

Secs. 62-34—62-60. Reserved.

ARTICLE III. RESIDENTIAL, UTILITY AND FIELD DRIVEWAYS[56]

Sec. 62-61. 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:

Arterial and major collector roadways means those roadways that are defined as such in the village's master plan, as amended.

Circle driveway means a private one-way driveway that enters and leaves private property at two points within the same frontage.

Field driveway means any driveway serving a farm yard, cultivated or uncultivated field, timberland or undeveloped land not used for industrial, commercial or residential purposes.

Private road means a road that is not under the jurisdiction of a public body and that serves more than two businesses or homes.

Property owner means a person or any other party having an interest in the land involved.

Residential driveway means a driveway serving a private one-family or two-family dwelling.

Utility structure driveway means any driveway serving a structure or utility installation, such as a pumphouse or substation, which operates automatically and requires only occasional access.

(Ord. No. 287, § 3, eff. 8-8-1993)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 62-62. Design definitions.

For the purposes of this article, the letter designations in parentheses in the following definitions are also used in the design dimension figures illustrated in appendices A and B following this section:

Driveway width (B) means the distance between driveway edges of the pavement or edges of the gravel surface, if applicable, at the point where the edges of the driveway become parallel.

[56]Cross reference(s)—Streets, sidewalks and certain other public places, ch. 74; utilities, ch. 82.

Entering radius (C) means the radius of the driveway edge curve on the right side of a vehicle entering the applicant's property.

Exiting radius (D) means the radius of the driveway edge curve on the right side of a vehicle exiting the applicant's property.

Intersection angle (A) means the clockwise angle from the road edge of the pavement or road centerline if unpaved to the driveway reference line (the centerline or edge of the driveway).

(Ord. No. 287, § 4, eff. 8-8-1993)

APPENDIX A

Add figure

Residential Driveway			
Design Features		Standard	Range
Intersecting angle	A	90°	70° to 110°
Driveway width	B	16′	10′ to 25′
Entering radius	C	10′	5′ to 15′
Exiting radius	D	10′	5′ to 15′
Total opening B + C + D	R	36′	20′ to 55′

Note: The standard dimension shall be used unless the village specifies or the applicant demonstrates technical justification for a different value. The range in dimensions indicates the working values for each design feature.

APPENDIX B

Add figure

Field Entrance and Utility Structure Driveways			
Design Features		Standard	Range
Intersecting angle	A	90°	70° to 110°
Driveway width	B	16′	12′ to 35′
Entering radius	C	10′	5′ to 35′
Exiting radius	D	10′	5′ to 35′
Total opening B + C + D	R	36′	22′ to 105′

Note: The standard dimension shall be used unless the village specifies or the applicant demonstrates technical justification for a different value. The range in dimensions indicates the working values for each design feature.

Cross reference(s)—Definitions generally, § 1-2.

Sec. 62-63. Purpose.

The purpose of this article is to regulate and control the construction, composition, and location of residential, utility and field driveways within the village, in order to promote the safety, public health and general welfare of the community.

(Ord. No. 287, § 1, eff. 8-8-1993)

Sec. 62-64. Enforcement.

The village president, the village manager, village ordinance enforcement officers, the county building department, or any village police officer may issue citations for violation of this article.

(Ord. No. 287, § 8, eff. 8-8-1993)

Sec. 62-65. Violations and penalties.

Violation of any section of this article shall, upon conviction, cause the violator to be punished as provided in section 1-12.

(Ord. No. 287, § 9, eff. 8-8-1993)

Sec. 62-66. Existing driveways; nonconformities.

This article shall not apply to driveways in use and existing prior to August 8, 1993. For a lot existing prior to August 8, 1993, one driveway shall be permitted for each separately owned parcel with less than 100 feet of frontage, provided that the parcel is wide enough for the minimum driveway width plus the required radii. All existing driveways in the areas governed by this article which do not conform to the specifications set forth in this article shall be considered nonconforming uses. No such nonconforming driveway shall be expanded or enlarged, and if a nonconforming driveway use is discontinued for 12 months or more, it shall not be reestablished.

(Ord. No. 287, § 2, eff. 8-8-1993)

Sec. 62-67. Dimensions.

(a) The dimensions of a residential driveway shall conform to those given in appendix A following section 62-62.

(b) Field entrances may be permitted for cultivated land, timberland, or undeveloped land. The dimensions of a field entrance and of a utility structure driveway shall conform to those given in appendix B following section 62-62.

(c) Clear vision areas, triangular in shape, shall be maintained on both sides of all residential, utility, and field drives. A clear vision area shall be determined using the following three points: the point of intersection of the sideline of a driveway projected to the roadway edge of the pavement, and two points 15 feet in distance from that point of intersection, one measured outward from the driveway along the edge of pavement, the other along the side driveway line leading onto the subject property.

(Ord. No. 287, § 5, eff. 8-8-1993)

Sec. 62-68. Driveway construction specifications.

(a) Driveways fronting on a hard-surface roadway shall be surfaced with a material which is equal to or better than the surface of the road which it joins.

(b) The following are the minimum standards for driveway surfaces:

(1) Bituminous driveways: six inches of MDOT 22A aggregate base with three inches of MDOT 1100 bituminous mixture.

(2) Concrete driveways: six inches of MDOT class II sand base with four inches or six inches of MDOT 36P concrete.

(3) Gravel driveways: six inches of MDOT 23A aggregate.

(Ord. No. 287, § 6, eff. 8-8-1993)

Sec. 62-69. Limitations; setbacks; culverts.

(a) One residential driveway shall be permitted for each platted lot or for an unplatted residential property with less than 100 feet of frontage.

(b) Additional residential driveways may be permitted along a local street for a residential property with more than 120 feet of frontage, provided that the sum of the driveway widths of these additional driveways does not exceed 15 percent of the frontage in excess of the first 100 feet.

(c) Two residential driveways may be permitted on the same property, in lieu of subsection (b) of this section, to serve as a one-way circle driveway if the frontage of the property is 100 feet or more along a local street.

(d) Utility and field entrance driveways will be reviewed on a case-by-case basis. The village review will take into account the proximity of adjacent driveways and intersecting streets, as well as traffic volumes along the roadway.

(e) Residential driveways shall be set back a minimum distance of 25 feet from any street intersection, measured from the closest point of the driveway approach to the closest right-of-way line of the intersecting street.

(f) Any driveways requiring culverts shall comply with the specifications and administrative rules regulating driveways, adopted by the county road commission, May 23, 1991, as amended, and any requirements for driveways adopted by the village in article III of chapter 46 pertaining to subdivisions and street regulations.

(Ord. No. 287, § 7, eff. 8-8-1993)

Secs. 62-70—62-95. Reserved.

ARTICLE IV. ROAD AND UTILITY CONSTRUCTION[57]

Sec. 62-96. Applicability.

This article shall apply to all construction of dedicated public roads and easements, sanitary sewers, water mains, storm sewers and the appurtenances to these utilities, when these roads and utilities are to be owned or maintained by the village and which are to be constructed by private developers.

(Ord. No. 204, eff. 3-27-1978)

Sec. 62-97. Authority of village engineer.

The village engineer or the village inspector, who shall be considered the representative of the village engineer, shall have the right of access to the property being developed, and the contractor shall assist in all

[57]Cross reference(s)—Streets, sidewalks and certain other public places, ch. 74; utilities, ch. 82.

reasonable ways with the inspection of the various materials or work. When, in the opinion of the inspector, any work or materials are not in accordance with the approved plans, he shall notify the contractor's representative on the job of the necessary corrections. If the contractor refuses to cooperate with the inspector, the inspector shall have the authority to stop the work in progress until the village engineer, the developer and the contractor reach agreement as to the necessary corrections in the work or material. The village engineer shall be the sole judge as to the acceptability of workmanship or materials.

(Ord. No. 204, § 3, eff. 3-27-1978)

Sec. 62-98. Submission of plans.

(a) Under this article, after preliminary plans for a given project have been approved by the planning commission and the village council, the developer shall submit to the village four copies of complete construction plans for review by the village engineer. The plans shall be prepared by a registered professional engineer in accordance with good engineering practice and shall be on standard 24-inch by 36-inch paper. Design requirements shall be in accordance with all applicable village codes and ordinances and in accordance with the village standards for street and utility construction and shall meet the requirements of the state department of environmental quality, wastewater section.

(b) When submitting the plans to the village for review, the developer shall pay a review fee equivalent to 1.5 percent of the estimated cost of the construction under review. The village may require adjustment in the amount of the initial fee paid if major changes or additions to the plans are made. The developer's estimate of the construction cost shall be subject to review by the village engineer.

(Ord. No. 204, § 1, eff. 3-27-1978)

Sec. 62-99. Plan review.

After review of the plans submitted pursuant to section 62-98, the village engineer shall notify the developer's engineer of approval of the plans or of any necessary changes required by the village. If changes are required before approval, the developer's engineer shall make the changes and resubmit revised plans for additional review for approval. No construction shall be started before final approval of the plans by the village engineer.

(Ord. No. 204, § 1, eff. 3-27-1978)

Sec. 62-100. Construction permit required.

After final approval of the construction plans pursuant to section 62-99, the developer shall request, by letter, a permit for construction of the proposed work. The developer shall furnish with the letter an inspection fee equivalent to two percent of the final estimated construction cost based on the approved plans and shall furnish payment of all water and sewer tap charges. Information contained in the letter shall include the names, addresses and phone numbers of all contractors who will be engaged in the work; the proposed starting dates of the various elements of the construction; and the estimated time schedule of construction. The developer shall also furnish as part of the request for the construction permit one full set of Mylar film reproducible drawings for record purposes.

(Ord. No. 204, § 2, eff. 3-27-1978)

Sec. 62-101. Issuance of construction permit; notice to inspector.

(a) Under this article, after receipt of the request for the construction permit, the fee, Mylar drawings, and any bonds which may be required and if there is compliance with all other requirements for development within the village, the village will authorize in writing a permit for construction of all work under the village jurisdiction in accordance with the approved plans. No changes shall be made in the approved plans or the actual work without approval by the village engineer. Revised plans shall be submitted to the village engineer for review and approval before incorporating any changes in the work.

(b) The village will notify the developer, in the letter of the permit, of the name and phone number of the village inspector for this project. The developer or the developer's contractor shall coordinate with and notify the inspector 24 hours in advance of any proposed work to be done. Notification to the inspector shall be on a continuing basis during the entire project, and the failure of such notification by the developer's contractors may result in a stoppage of any work under progress and uncovering and correcting any work which has not been properly inspected and approved by the inspector.

(Ord. No. 204, § 2, eff. 3-27-1978)

Sec. 62-102. As-built information.

During the progress of the work performed under this article, the contractor or the developer's engineer shall record all information necessary to prepare adequate as-built drawings. As-built drawings shall include the location of all sewer service leads, branch water lines, manholes, catchbasins, water valves and any other buried items. After completion of the work, the developer's engineer shall prepare and submit revised Mylar reproducible tracings with required as-built information. As-built drawings shall be submitted prior to final acceptance of the work.

(Ord. No. 204, § 4, eff. 3-27-1978)

Sec. 62-103. Final approval.

After all work performed pursuant to this article has been completed, a final inspection shall be made by the village engineer and a final punch list submitted to the contractor. Final approval of the construction shall not be given by the village engineer until all punch list items have been completed, and no portion or section of the completed construction shall be put in service until approved in writing by the village engineer.

(Ord. No. 204, § 3, eff. 3-27-1978)

Secs. 62-104—62-124. Reserved.

ARTICLE V. FLOODPLAIN MANAGEMENT

Sec. 62-125. Agency designated.

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

(Ord. No. 403, § 1, 9-15-2008)

Sec. 62-126. Code appendix enforcement.

Pursuant to the provisions of the state construction code, in accordance with Section 8b(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 County of Livingston.

(Ord. No. 403, § 1, 9-15-2008)

Sec. 62-127. Designation of regulated flood prone hazard areas.

The Federal Emergency Management Agency (FEMA) flood insurance study (FIS) entitled, Livingston County, Michigan, and dated September 17, 2008, are the flood insurance rate maps (FIRMS) panel numbers 26093C-; 0162D, 0164D, 0166D, and 0168D and dated September 17, 2008, are adopted by reference for the purposes of administration of the Michigan Construction Code, and declared to be 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. 403, § 1, 9-15-2008)

Secs. 62-128—62-150. Reserved.

ARTICLE VI. MUNICIPAL STANDARDS FOR PUBLIC IMPROVEMENTS[58]

Sec. 62-151. Purpose.

The purpose of this article is to provide a reasonable and proper basis for the design and construction of public improvements within the village.

(Ord. No. 368, § 1, 5-17-2004)

Sec. 62-152. Adoption by reference of current municipal standards.

The municipal standards for the Village of Fowlerville, Livingston County, Michigan, including amendments through June 13, 2004, are hereby approved, adopted, and ratified as the municipal design and construction standards for the village.

(Ord. No. 368, § 2, 5-17-2004)

[58]Editor's note(s)—Ord. No. 368, §§ 1—11, adopted May 17, 2004, did not specify manner of inclusion; hence, inclusion as article VI, §§ 62-151—62-161 is at the discretion of the editor.

Cross reference(s)—Special assessments, ch. 70; zoning, App. A.

Sec. 62-153. Amendments.

The village manager, village engineer, and the village planning commission may recommend amendments to the municipal standards for the village. Approved amendments shall become effective through a duly adopted resolution of the village council amending the municipal standards.

(Ord. No. 368, § 3, 5-17-2004)

Sec. 62-154. Compliance required.

All improvements within the village installed in public streets, public alleys, public rights-of-way or public easements, which are or will come under the ultimate jurisdiction of the village shall comply with all of the provisions and requirements of this article. Further, all public improvements to be dedicated to, and accepted by the village shall comply with the village's municipal standards.

(Ord. No. 368, § 4, 5-17-2004)

Sec. 62-155. Permits required.

(a) *Preliminary and final site inspection permits.* Application shall be made to the director of public works on forms prescribed by the director, and shall be accompanied by plans and other information required by this article and the adopted municipal standards. At time of application the required fees shall be paid. Application for this permit shall be made by the owner of the proposed development.

(b) *Permit to construct.* Application shall be made to director of public works on forms prescribed by the director, and shall be accompanied by information required by this article and the adopted municipal standards. At the time of application, the inspection deposit as required in the adopted municipal standards shall be made. Application for this permit shall be made by the contractor who will construct the work.

(Ord. No. 368, § 5, 5-17-2004)

Sec. 62-156. Procedures and requirements.

(a) All construction shall be in compliance with the procedural and substantive requirements of the village zoning ordinance, as amended, the village subdivision control ordinance, as amended, the Subdivision Control Act of 1967, Act No. 288 of the Public Acts of Michigan of 1967 (MCL 560.101, et seq.), as amended, the village's water and sewer ordinances, as amended, and all other applicable statutes and ordinances, in addition to the requirements contained in this article and the municipal standards adopted herein.

(b) A developer shall provide the village with the necessary easements to allow maintenance of any water mains, sanitary sewers or storm drains that are to be located on developed property and to be maintained by the village. The form of such easements shall be subject to the approval of the village. Sufficient evidence of title shall be provided by the grantor along with the easement in the form of a policy of title insurance, acceptable to the village, to show that the grantor of the easement is the owner of the property. All parties having a legal interest in the property shall execute and grant the easement. Easements shall be of a minimum 20-foot width, unless a more narrow width is approved by the village engineer. The village engineer may approve a narrower width upon a determination that strict adherence to the 20-foot standard will result in undue hardship to the developer, and that all necessary maintenance functions can be adequately and efficiently performed within a more narrow easement. All necessary off-site easements shall be executed and submitted to the village engineer for review and approval prior to approval of the final site

plan or subdivision engineering drawings. All necessary on-site easements shall be executed and submitted to the village engineer for review and approval prior to issuance of the construction permit.

(Ord. No. 368, § 6, 5-17-2004)

Sec. 62-157. Submittal and review.

For village approval of plans for improvements, the applicant shall furnish to the department of public works along with the application for a permit three sets of the project plans and specifications, including the general plan, for the system on which he desires approval. The village engineer shall review the plans for conformity to the standards set forth in this article, and certify that they are consistent with the overall utility plans of the village, after which he will return one of the three sets with appropriate comments. The applicant, after making any changes requested on the set of plans returned to him, shall then submit 11 sets of plans to the village engineer for final approval. The village engineer shall then review these revised plans for conformity to the comments mentioned above, and if they have been properly made, will forward additional plans as necessary for review to other agencies. The village engineer will submit one to the department of public works, and return one to the architect, engineer or surveyor who prepared the plans and one to the owner of the project. Prior to review of any proposed improvements, the developer shall establish an escrow account with the village pursuant to the village's escrow policy in the same manner as would be required under the village's escrow policy for platting a new subdivision.

(Ord. No. 368, § 7, 5-17-2004)

Sec. 62-158. General plan requirements.

All plans and drawings submitted to the village concerning public improvements shall conform to the requirements in the village's subdivision control ordinance, and water and sewer ordinances, and shall include:

(1) *Title sheet.* All plans shall provide such a sheet showing the following information:

a. Project title.

b. Location map with north indicator and graphic scale, showing locations of proposed project to surrounding area.

c. Sheet indexes.

d. Name, address and phone number of proprietor.

e. A statement that all work shall conform to the village's current standards and specifications.

(2) *Overall utility plan sheet.* Unless waived by the village engineer, all plans should provide a master utility and street layout plan sheet providing the following information for all sanitary sewer, storm sewer and water systems proposed:

a. Overall layout of the utility systems with manhole, catch basin, valve and hydrant numbers.

b. Direction-of-flow arrows for sanitary sewers and storms sewers.

c. Legend.

(3) *[Grading plan.]* The overall grading plan sheet.

(4) *[Soil erosion and sedimentation control.]* The overall soil erosion and sedimentation control plan.

(5) *Plan sheets.* Plan portion of sheets shall include at least the following:

a. Existing topographic information and location of all existing and proposed surface or underground improvements in the area pertinent to the design and construction activities.

b. Existing and proposed street names, street and easement widths, subdivision names and lot numbers in the area to be served by the system, and a north arrow indicator.

c. Location of each section of proposed pipe between structures.

d. Location and structure number of all structures and appurtenances including catch basins, manholes, valves and fire hydrants. Proposed finished grade for all castings or hydrants must be shown.

e. Dimensions from property lines, right-of-way lines or buildings to the pipes and structures.

f. "Miss Dig" note.

g. A tabulated list of quantities appearing on that sheet.

h. Plans shall be drawn to an appropriate standard engineering scale of 1"=20', 1"=30', 1"=40' or 1"=50', as appropriate for project size.

(6) *Profile sheets.* Profile portion of sheets shall include at least the following:

a. Size, length, slope, and type and class of pipe.

b. Limits of special backfill.

c. Profile over centerline of proposed pipe, of existing and proposed grade and any pavement surfaces.

d. Location and separation of existing or proposed utilities crossing the line of the pipe.

e. Both horizontal and vertical scales must be indicated. The standard engineering scales listed above should be utilized.

(7) *Detail sheets.*

a. Standard detail shall include the standard sheets and notes as provided by the village.

b. Any other detail sheets provided shall include complete details for all appurtenances and structures proposed.

c. Scales utilized for special details shall be selected to clearly portray intended construction and component or equipment arrangement. Scales shall be clearly identified.

(8) *General requirements.*

a. All plans, easements, descriptions, design computations, maps and sketches shall be prepared by a registered architect, registered engineer or registered land surveyor as is appropriate to the project. All such documents shall bear the seal of the person who prepared them.

b. Village standard details and specifications as adopted by resolution of the village council shall be incorporated as part of the plans by reference.

c. All sheets shall contain scale, sheet number, drawing date, revision date block and name or initials of person preparing sheet.

d. All elevations shall be on U.S.G.S. (N.A.D. -83) datum. Plans shall be prepared using the state plane coordinate system with a minimum of two ties to established section or quarter section corners. All property line dimensions shall be shown using this system.

e. Reference benchmarks established at intervals not greater than 1,200 feet and convenient to the proposed construction shall be noted on the plan and profile sheets with identification, location, description and established elevation listed. Generally, at least two benchmarks shall be noted on each sheet. At least one benchmark shall be a village established benchmark, a listing of which is available through the village engineer.

f. Sheet size shall be 24 inches by 36 inches.

g. Should metric measurements be used in plan development, conversion tables are available from the village to assist in the conversion of these standards.

(9) *Phased construction.* On all projects on which phasing of construction is intended a separate plan sheet shall be included in the construction drawings which breaks down all improvement quantities by item; including sidewalks, storm sewer, landscaping, aggregate base pavement leveling and wearing courses, and utilities for each phase. In the case of proposed subdivisions, site plans or plan unit developments, such phasing limits shall match those approved or to be approved by the planning commission.

(Ord. No. 368, § 8, 5-17-2004)

Sec. 62-159. Preconstruction meeting, inspection, testing and acceptance.

(a) After the requirements for issuance of the permit to construct have been met and it has been recommended for issuance by the village engineer and before construction is started the contractor shall request a preconstruction meeting. The village engineer shall arrange the meeting and at the meeting shall review with the contractor the plans for the improvements, village requirements, other utilities and any other items pertinent to the improvements.

(b) Proposed public improvements shall be inspected during construction by an inspector assigned by the village engineer and/or the department of public works to ensure compliance with the provisions of this article. All estimated costs incurred for inspection review services must be paid prior to the start of any construction, by the proprietor, owner, or developer of the project to be constructed. The contractor shall notify the village engineer at least 48 hours before commencing work so that inspections may be scheduled.

(c) The inspector will inform the village engineer as to the progress of the work, the manner in which it is being done, and the quality of the materials being used. The inspector will call to the attention of the contractor any failure to follow the approved plans and village standard details and specifications that he may observe. The inspector shall have the authority to reject materials or suspend the work until any questions on the performance of the work can be referred to and decided by the village engineer. The inspector shall have no authority to direct the contractor's operations or to change the plans or specifications.

(d) In no instance shall any action or omission on the part of the inspector release the contractor of the responsibility of completing the work in accordance with the plans and specifications.

(e) The village engineer shall have authority to ensure that the finished work will be in accordance with the plans and specifications. He shall also have authority to reject all work and material which do not conform to the plans and specifications.

(f) The village engineer shall require such testing of materials and workmanship as is in his opinion necessary to ensure proper completion of the work. This testing shall include but not be limited to testing of density of material used to backfill excavations.

(g) Upon satisfactory completion of the improvements and upon receipt of the following items the village engineer shall recommend to the village manager that the improvements be accepted by the village council.

(1) A warranty deed or executed easement from the developer for these improvements;

(2) A written certification from the engineers who designed the improvements indicating that the construction of these improvements has been completed in accordance with the approved plans and in conformance with the village's municipal standards;

(3) A letter from the engineers who designed the improvements indicating the final construction cost of these improvements;

(4) Two sets of reproducible MYLAR as-built drawings, two sets of paper copies, and the electronic files for the construction drawings in AUTOCAD format;

(5) Sworn statements from the contractors, indicating that all labor and materials have been paid in full;

(6) A one-year maintenance and guarantee bond on the village form in favor of the village in the amount of 100 percent of the final construction cost of these improvements.

(h) In the event a developer/owner seeks to dedicate to the village any public improvements which were previously constructed without adhering to the requirements of this article, the village shall require verification of compliance with the village's municipal standards in a manner consistent with recommendations of the village engineer prior to considering any acceptance. The developer/owner shall be responsible for all costs of confirming verification of compliance with the municipal standards and shall establish an escrow account pursuant to the village's escrow policy in the same manner as would be established for the platting of a new subdivision to cover any costs incurred by the village in this review process. The review process shall include review of core samples of concrete curb and gutter, and of roadway cross sections, televised testing of sewer systems, pressure testing of water lines, all other tests deemed appropriate by the village engineer, and confirmation of service and valve locations. In the case of streets or roadways, the developer/owner shall reimburse the village for the cost of initial street name signs, traffic-control signs, posts, etc., and installation of the same. Prior to acceptance of any public improvements under this subsection, the developer/owner must also provide to the village's satisfaction all the items specified in subsection (g).

(Ord. No. 368, § 9, 5-17-2004)

Sec. 62-160. Restoration.

The developer shall restore, at his/her own expense, any public and/or private property damaged as a result of any act or omission on his part or on the part of his employees, agents or subcontractors to a condition equal to that existing before such damage or injury was done. If the contractor fails to begin to repair or restore such damage or injury within 48 hours after ordered to do so by the office of the director of public works, the director may order village forces to do so or may hire another contractor to make required repair and restoration and deduct the cost thereof from the cash deposit required under this article.

(Ord. No. 368, § 10, 5-17-2004)

Sec. 62-161. Variances.

(a) *Procedures generally.*

(1) The planning commission may recommend to the village council a variance from this article upon a finding that undue hardship may result from strict compliance with specific sections or requirements of this article or that application of such section or requirement is impractical in the context of improvements in conjunction with the proposed development. The village manager may recommend to the village council a variance from this article upon a finding that undue hardship may result from strict compliance with specific sections or requirements of this article or that application of such

section or requirement is impractical in the context of any other public improvements subject to this article. However, financial hardships alone are not grounds for granting a variance. Recommendations for variances shall be made only when it is deemed necessary or desirable for the public interest. In making its findings, as required in this section, the planning commission or village manager, as applicable, shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed development, and the probable effect of the development upon traffic conditions in the vicinity. No variance shall be recommended unless the planning commission or village manager, as applicable, finds all the following:

a. There are such special circumstances or conditions affecting the property that the strict application of this article would clearly be impractical or unreasonable. In such cases, the owner shall first state his or her reasons in writing as to the specific provision or requirement involved and submit them to the planning commission.

b. The granting of the specified variance will not be detrimental to the public welfare or injurious to other property in the area in which the property is situated.

c. As confirmed by the village engineer, the granting of the specified variance will not be incompatible with the village's public utility systems and will not create any unreasonable safety hazard.

d. The variance will not violate the provision of the Land Division Act.

e. The variance will not have the effect of nullifying the intent and purpose of this article and the village master plan.

(2) The planning commission or village manager, as applicable, shall include their findings and the specific reasons therefor in the report of recommendations to the village council and, in the case of the planning commission, shall also record its reasons and actions in its minutes.

(b) *Environmental, safety, topographical or physical limitation variances.* Where, for a particular proposed development or public improvement, it can be shown that strict compliance with the requirements of this article would result in an environmental or safety hazard due to the specific physical conditions of the property involved, or an extraordinary hardship to the developer because of unusual topography, other physical conditions, or such other conditions that are not self-inflicted or that these conditions would result in inhibiting the achievement of the objectives of this article, the planning commission, village manager, or village engineer may recommend to the village council that variance modification or a waiver of this article be granted. This section shall expressly apply to situations in which the state department of environmental quality, the Livingston County drain commissioner, or a similar public entity has expressly indicated that strict compliance with the establish municipal standards may create environmental or safety hazard.

(c) *Applications required.* Under this article, application for any required public improvement variance or topographical variance shall be submitted in writing by the developer at the time when the preliminary plat is filed for the consideration of the planning commission in the case of proposed subdivisions; upon the submission of a proposed site plan in the case of site plans or planned unit developments; or upon request for approval of a proposed project plan in the case of other public improvements. The petition shall state fully the grounds for the application and all the facts relied upon by the petitioner.

(d) *Procedures.* The concurring vote of a majority of the village council shall be necessary to grant a variance.

(e) *Conditions.* When granting the variance, the village council may authorize a lesser variance than that requested or may prescribe conditions and safeguards to satisfy the intent of this article. A variance granted shall become null and void unless the final plat, site plan, or public improvement shall have been approved by the village. A variance request shall not be resubmitted within one year from the date of the village council's action, except on the grounds of new evidence or proof of changed conditions relating to the reasons for the denial of the original variance request found by the village council to be valid.

(Ord. No. 368, § 11, 5-17-2004)

Chapter 66 SOLID WASTE[59]

ARTICLE I. IN GENERAL

Secs. 66-1—66-25. Reserved.

ARTICLE II. COLLECTION AND DISPOSAL

DIVISION 1. GENERALLY

Sec. 66-26. 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:

Brush means tree trimmings and shrubbery trimmings.

Garbage means and includes all refuse or waste attendant to the preparation, dressing, cooking of, or dealing in food. Unwashed tin, paper and other types of combustible refuse food containers shall be disposed of in the same manner as garbage.

Rubbish means and includes ashes, dirt, tin cans if washed, washed food containers, wastepaper, leaves, grass and similar organic material, glass and other waste materials, except such as may accumulate as a result of erecting or repairing buildings.

(Ord. No. 160, § 1(A), (B), (D), eff. 4-29-1968; Ord. No. 272, eff. 12-2-1990; Ord. No. 275, eff. 7-1-1991)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 66-27. Purpose.

It is the purpose of this article to provide for the orderly handling and disposal of accumulations of garbage, refuse and rubbish normally accumulated by the normal residential and commercial operations within the village.

(Ord. No. 181, § 14, eff. 5-25-1973)

[59]Cross reference(s)—Buildings and building regulations, ch. 14; refuse building materials, § 14-1; environment, ch. 38; litter, § 38-156 et seq.; utilities, ch. 82.

State law reference(s)—Garbage disposal act, MCL 123.361 et seq.; authority to provide a sanitary means of disposal, MCL 324.4301 et seq.; hazardous waste management, MCL 324.11101 et seq.; solid waste management, MCL 324.11501 et seq.; waste management and resource recovery finance, MCL 324.11901 et seq.

Sec. 66-28. Collection schedule.

It shall be the duty of the superintendent of public works to provide for the collection and disposal of all garbage, rubbish, ashes, leaves and other waste material accumulating within the village. The superintendent of public works shall establish and publish at least once in a newspaper circulating within the village a schedule for the collection of garbage and rubbish throughout the village and shall provide the proper labor and equipment for carrying out such schedule as nearly as practicable. He shall change such schedule whenever he deems such change advisable, but shall publish notice of such change.

(Ord. No. 160, § 5, eff. 4-29-1968)

Sec. 66-29. Municipal civil infraction.

A person who violates any section of this article is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in section 50-38, plus costs and other sanctions, for each infraction. Repeat offenses under this article shall be subject to increased fines as provided by section 50-38.

(Ord. No. 160, § 11, eff. 4-29-1968; Ord. No. 302, § 28, 12-31-1995)

Sec. 66-30. Special collections.

(a) When any owner, proprietor, occupant or other person in charge of any premises permits rubbish or combustible material to accumulate in any public alley, street or other public place or on any private place outside of a storage or other approved building, the village department of public works director shall have authority to cause to be collected such rubbish or other material. The cost of such special collection shall be charged to the owners or occupants of the property permitting such rubbish or other material to accumulate.

(b) Whenever the village shall enter upon any lot or parcel of land in order to accomplish abatement of accumulated rubbish or other material, pursuant to provisions of this section, the village department of public works director is hereby authorized and directed to keep an accurate account of all expenses incurred, and, based upon these expenses, to issue a certificate determining and certifying the reasonable cost involved for the work with respect to each parcel of property.

(c) Within ten days after receipt of the certificate, the village treasurer shall forward a statement of the total charges assessed on each parcel of property to the person as shown by the last current tax roll and the assessment shall be payable to the village treasurer within 30 days from the date the statement was forwarded.

(d) If the owner of a lot, lots or premises fails to pay the bill within 30 days from the date the bill is mailed, the council may cause the amount of the expense incurred, together with a penalty and administrative fee of ten percent, to be levied by them as a special assessment upon the lot, lots or premises as provided in this Code for single lot assessments, or the amount thereof shall be collected by court action.

(Ord. No. 160, § 7, eff. 4-29-1968; Ord. No. 230, eff. 3-12-1985; Ord. No. 293, § 38, eff. 7-21-1994; Ord. No. 401, § 6, 2-10-2008)

Sec. 66-31. Owner's or occupant's duty.

It shall be the duty of the owner, occupant or the person in charge of each dwelling unit, store or other business establishment, manufacturing or industrial company or other building where garbage or rubbish

accumulates to provide suitable receptacles and cause to be placed therein any garbage, rubbish or other waste material created or accumulated on the premises owned or controlled by him.

(Ord. No. 160, § 6(A), eff. 4-29-1968; Ord. No. 230, eff. 3-12-1985)

Sec. 66-32. Transportation.

No person shall transport, cart, carry or convey through or over the village streets, alleys or other public places any garbage, unwashed refuse, unwashed food containers, animal carcasses or other decaying organic material unless transported in a watertight vehicle with a suitable covering.

(Ord. No. 160, § 8, eff. 4-29-1968)

Cross reference(s)—Traffic and vehicles, ch. 78.

Sec. 66-33. Accumulations brought into village.

No person shall bring into the village garbage, refuse or rubbish which has accumulated outside the village to be picked up and/or disposed of at public expense. No person shall knowingly permit others to bring into the village such accumulations of garbage, rubbish or refuse to have the garbage, rubbish or refuse picked up and/or disposed of by the village at public expense.

(Ord. No. 181, § 14, eff. 5-25-1973)

Sec. 66-34. Disposal of abandoned property by owners and other parties.

(a) *Mandatory use of mechanical containers for disposal of abandoned property.*

(1) An owner who lawfully recovers possession of real property shall place and use on the real property (or arrange for such placement and use) one or more mechanical containers as defined in subsection (b) to contain the abandoned property until the mechanical container is removed from the real property for disposal within the time limitations of this section. The mechanical containers must be located on a private portion of the property that contains the dwelling unit or principal building.

(2) An owner who uses a court officer's services to recover or obtain possession of real property under an order of eviction shall make prior arrangements (either by private contract or through a court officer) for the placement of one or more mechanical containers meeting the requirements of this section on the real property prior to having the court officer remove or dispose of the occupant's abandoned property.

(3) An occupant, owner, or court officer who uses a mechanical container in connection with the disposal of abandoned property shall tightly close all lids and side doors after depositing the abandoned property into the mechanical container to prevent spillage on the real property or neighboring properties.

(4) An owner shall remove a mechanical container that is used under this section to contain abandoned property from the real property within 48 hours of its placement, unless the mechanical container used for such disposal is authorized under the provisions of subsection (8).

(5) An owner shall pay the expenses of placement, removal, and disposal of the contents of mechanical containers used to dispose of abandoned property whether such placement was arranged by private contract or through a court officer. To the extent permitted by law, an owner who pays for the use of a

mechanical container may recover such expenses from the occupant who has vacated or been evicted from the real property.

(6) A court officer who agrees to arrange for placement and use of a mechanical container for an owner may require advance payment or an escrow deposit for the use of such equipment. To the extent permitted by law, the court officer shall have a lien against the real property to secure payment of any unpaid charges for the placement and use of a mechanical container under this section.

(7) A court officer may require indemnification from an owner using his or her services to obtain or recover possession of real property as a condition of arranging the furnishing of mechanical containers in connection with executing an order of eviction.

(8) Nothing contained in this section shall prevent an owner of real property that already uses containerized refuse receptacles as provided for in section 66-96 for regular, periodic pick-up and disposal from using such containerized refuse receptacles for containing abandoned property, provided the containerized refuse receptacles:

a. Have sufficient unused capacity to contain all of the abandoned property;

b. Meet the requirements of section 66-96, except removal from the real property within 48 hours; and

c. Are emptied and returned to their usual, lawful location within 48 hours of their placement for use under this section.

(b) *Requirements for mechanical containers used to dispose of abandoned property.* Except for mechanical containers used in accordance with the provisions of subsection (a)(8), mechanical containers used by an owner or court officer to dispose of abandoned property shall have wheels, side doors for access, and sufficient capacity to contain all of the abandoned property within them, including, but not limited to, furniture, appliances, clothing, refuse and the like items. All mechanical containers shall be made of watertight metal or plastic, with plastic or metal tightfitting lids.

(c) *Abatement remedies.*

(1) The village shall have the right to summarily abate any nuisance condition that violates the terms of this section, at the owner's expense, as provided for in section 66-30. Such remedies shall include, but not be limited to:

a. Removing any abandoned property located upon the real property that is not contained in a mechanical dumpster meeting the requirements of this section, and disposal of it as refuse, using the village's own personnel and resources, or contracting with a private company to furnish such equipment and perform such services;

b. Removing any mechanical container located on real property that contains abandoned property, and disposing of its contents.

(2) Additional nuisance conditions or violations not specifically set forth above may be addressed by the village through the nuisance abatement process set forth in chapter 38, by prosecution or other enforcement action in the district court, or by legal action in the circuit court with prior authorization from the village council.

(d) *Nuisance per se.* Any condition on real property that violates the regulations of this section constitutes a nuisance per se that shall be abated by a court of competent jurisdiction if the village elects to abate the nuisance by commencement of an action in a court of competent jurisdiction.

(e) *Penalties for violation.* A person who violates this section shall be subject to the civil infraction penalties set forth in chapter 1. Each day on which a violation of this section continues shall constitute a separate violation. The imposition of a fine and/or payment of the village's abatement costs shall not be construed to

excuse or to permit the continuation of any violation. A person who violates the provisions of this section shall also be subject to penalties for violation of the property maintenance code and the provisions of this Code and state law regulating blight and nuisance.

(Ord. No. 407, § 1, 8-31-2009)

Secs. 66-35—66-60. Reserved.

DIVISION 2. RECEPTACLE SERVICE

Sec. 66-61. Placement of garbage and rubbish for collection.

It shall be the duty of the owner, occupant or other person in charge of any single-family dwelling house, multiple-family residential building with four or less dwelling units, and any commercial building with four or less separate business units and not receiving containerized service, to place or cause to be placed, on the day scheduled for collection of garbage and refuse by the village from the premises, the receptacles containing such garbage and rubbish. The receptacles shall be placed in the right-of-way between the sidewalk line and curb line in front of the building so that such receptacles are in plain view within six feet of the curb or traveled portion of the roadway and so that such receptacles are readily accessible for collection. Garbage and rubbish containers shall not be set out for collection prior to 12:00 noon preceding the day scheduled for collection. After such receptacles are emptied, they shall be removed from the street on the same day collection is made. Garbage and rubbish receptacles may be placed at alternative locations for collection if approved by the superintendent of public works.

(Ord. No. 160, § 6(B), eff. 4-29-1968; Ord. No. 230, eff. 3-12-1985; Ord. No. 419, § 1, 3-28-2011)

Sec. 66-62. Preparation of garbage and rubbish.

(a) All garbage set out for pickup by the village shall be securely wrapped and placed in approved garbage receptacles as provided in section 66-63.

(b) Except for prohibited items or special pickup items, garbage and rubbish may be intermingled, provided that any receptacle containing garbage must be of the type approved for garbage.

(Ord. No. 160, § 3(A), (B), eff. 4-29-1968; Ord. No. 259, eff. 4-9-1989)

Sec. 66-63. Specifications for receptacles.

(a) For all single-family residential buildings, multiple-family residential buildings with four or less dwelling units, and any commercial building with four or less separate business units which do not require containerized services, as determined by the superintendent of public works, the following containers or receptacles shall be deemed suitable:

  (1) A refuse handling cart approved by the superintendent of public works, not to exceed 90 gallons or 100 pounds, designed for use with automated cart dumping equipment utilized by the village's contractor.

  (2) Plastic bags of not less than ten gallons or more than 30 gallons capacity, which shall be not less than 1" mil strength and the total weight of which shall not exceed 40 pounds.

  (3) Metal or plastic containers approved by the superintendent of public works of not less than 20 gallons or more than 35 gallons capacity which are watertight, with bales or substantial handles, and tightfitting lids. The weight of such container and its contents shall not exceed 60 pounds.

(4) Packages of rubbish, including brush, securely tied and bundled that do not exceed 60 pounds in weight and are less than four feet in length or width.

(5) Such other containers or receptacles as are approved by the superintendent of public works.

(b) Additional rubbish not larger in length or width than four feet or over 60 pounds in weight shall be picked up, if approved by superintendent of public works. In case of storm event that includes wind, ice, or snow which causes the loss of limbs from trees within the village, the superintendent of public works may authorize collection of brush or branches in excess of four feet in length or width bundle requirement and, if necessary, may then also lease a power chipper or contract with an outside contractor the work of disposing of the brush and branches.

(Ord. No. 160, § 2, eff. 4-29-1968; Ord. No. 230, eff. 3-12-1985; Ord. No. 259, eff. 4-9-1989; Ord. No. 265, eff. 7-2-1990; Ord. No. 419, § 2, 3-28-2011; Ord. No. 437, § 1, 1-27-2014)

Sec. 66-64. Limit on number of receptacles.

(a) The number of garbage and rubbish receptacles and packages set out for pickup by the village by single-family residential buildings, each dwelling unit of a multiple-residential building that does not exceed four dwelling units in one location, and each business unit in those commercial buildings with four or less separate business units not required to use containerized service, shall be limited to the following per regular weekly pickup schedule:

(1) Bags containing not more than a combined total of 90 gallons (i.e., not more than three 30-gallon bags);

(2) Three 30-gallon cans; or

(3) One approved cart.

(b) Additional bags, cans or carts may also be picked up when the appropriate fees are paid to the village manager and when the additional bags, cans or carts have an approved sticker or other marking attached that verifies that these fees have been paid or when the bags are marked bags sold by the village. The amount of the fees for additional bags, cans or carts shall be established by resolution of the village council.

(Ord. No. 160, § 2(C), eff. 4-29-1968; Ord. No. 230, eff. 3-12-1985; Ord. No. 259, eff. 4-9-1989; Ord. No. 265, eff. 7-2-1990; Ord. No. 293, § 37, eff. 7-21-1994; Ord. No. 419, § 3, 3-28-2011)

Sec. 66-65. Special pickup items.

(a) The village council may, by resolution, designate specific items of garbage or rubbish as special pickup items and may establish separate procedures and additional fees for picking up such items. The resolution establishing special pickup item procedures and fees shall be published prior to its effective date in a newspaper circulated in the village.

(b) When an item or type of material is designated as a special pickup item, it shall not be included in the regular village garbage or rubbish pickup. Intermingling special pickup items with the regular village garbage and rubbish or otherwise attempting to include prohibited special pickup items with the regular village garbage and rubbish pickup shall be a violation of this article. Special pickup items that may be designated by the council may include but are not limited to newspapers, grass, leaves, yard clippings, brush, glass items, metal cans and containers, plastic containers, electric motors, appliances, machinery, furniture and similar items.

(Ord. No. 160, § 3(C), eff. 4-29-1968; Ord. No. 259, eff. 4-9-1989)

Sec. 66-66. Prohibited items.

(a) Prohibited items or materials shall not be set out with the allowable items for village garbage and rubbish pickup, and such items will not be picked up by the village. Intermingling prohibited pickup items with the regular village garbage and rubbish or otherwise attempting to include prohibited pickup items with the regular village garbage and rubbish pickup shall be a violation of this article. It shall be the responsibility of the owner, proprietor or the person in charge of the premises where the prohibited items are located or the owner of such items or materials to cause the removal of such prohibited pickup items from the village.

(b) Prohibited pickup items shall include the following:

(1) Refuse building materials;

(2) Surplus construction material from a construction site;

(3) Motor oil, transmission oil, paint or solvents;

(4) Hazardous waste material, as defined by 11103 of Public Act No. 451 of 1994 (MCL 324.11103), as amended, and by other applicable federal, state or local laws, ordinances and regulations; and

(5) Such other prohibited items as may be designated by resolution of the village council.

(Ord. No. 160, § 3(D), eff. 4-29-1968; Ord. No. 259, eff. 4-9-1989)

Secs. 66-67—66-95. Reserved.

DIVISION 3. CONTAINERIZED REFUSE SERVICE

Sec. 66-96. Required for certain uses.

All manufacturing or industrial buildings, multiple-family residential dwellings which exceed four dwelling units at one location, commercial buildings which exceed four separate business units at one location, and all commercial buildings with four or less separate business units in one location for which the nature or volume of refuse exceeds that which may be accommodated by residential pickup, as determined by the superintendent of public works, shall be required to maintain containerized refuse service to be for arranged by the owners, proprietors or persons in charge of such buildings. All containerized refuse receptacles shall be made of watertight metal or plastic, with plastic or metal tightfitting lids, and shall be of sufficient capacity to meet the needs of such building.

(Ord. No. 160, § 2(D), eff. 4-29-1968; Ord. No. 230, eff. 3-12-1985; Ord. No. 259, eff. 4-9-1989; Ord. No. 265, eff. 7-2-1990; Ord. No. 419, § 4, 3-28-2011)

Sec. 66-97. Location and emptying of containers.

(a) It shall be a duty of the owner, proprietor, occupant or person in charge of any manufacturing or industrial building, multiple-residential dwelling which exceeds four dwelling units at one location, commercial buildings which exceed four separate business units at one location, and any commercial building with four or less separate business units serviced by containerized refuse service to locate and maintain the containerized refuse receptacle at such location on the premises as not to disturb adjacent owners and as approved by the superintendent of public works.

(b) Such containerized refuse receptacles shall be emptied with sufficient regularity to ensure that garbage and refuse accumulations from such premises shall not exceed that for which the receptacle's capacity can accommodate and, in any event, no less than once a week.

(Ord. No. 160, § 6(C), eff. 4-29-1968; Ord. No. 230, eff. 3-12-1985; Ord. No. 419, § 5, 3-28-2011)

Chapter 70 SPECIAL ASSESSMENTS[60]

ARTICLE I. IN GENERAL

Secs. 70-1—70-25. Reserved.

ARTICLE II. PUBLIC IMPROVEMENTS

Sec. 70-26. 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:

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

Local public improvement means any construction of or improvement upon public property which results in special benefit to the real property in the vicinity of such improvement.

(Ord. No. 191, § 1, eff. 2-23-1975)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 70-27. Authority to assess.

The entire 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 article.

(Ord. No. 191, § 2, eff. 2-23-1975)

[60]Cross reference(s)—Any ordinance relating to any specific local improvements saved from repeal, § 1-6(2); finance, § 2-161 et seq.

State law reference(s)—Township and village public improvement and public service act, MCL 41.411 et seq.; special assessment levy for police and fire protection authorized when village acting jointly with certain other local governments, MCL 41.801 et seq.; special assessment levy for public improvements authorized, MCL 68.31 et seq.; special assessment notices and hearings, MCL 211.741 et seq.; deferment for older persons, MCL 211.761 et seq.

Sec. 70-28. Initiation of projects.

(a) Proceedings for the making of local public improvements within the village may be commenced by resolution of the council, on its own initiative, or by an initiatory petition signed by property owners whose aggregate property in the proposed special assessment district was assessed for more than 60 percent of the total assessed value of the privately owned real property located therein, in accordance with the last preceding general assessment roll. However, for special assessments for paving or similar improvements which are normally assessed on a frontage basis against abutting property, such petition shall be signed by the owners of more than 60 percent of the frontage of property to be assessed.

(b) The petition shall be verified by the village manager that the signers are the owners referred to in subsection (a) of this section and that such signatures appear to be genuine.

(c) The petition shall be addressed to the council and filed with the village manager.

(d) All petitions shall be circulated and signed on blank forms to be furnished by the village.

(e) All petitions shall be referred to the village manager. The village manager shall check the petitions to determine whether they conform to the requirements of this section, and the manager shall report the findings to the village council.

(Ord. No. 191, § 3, eff. 2-23-1975; Ord. No. 293, § 1, eff. 7-21-1994)

Sec. 70-29. Survey and report.

(a) Before the council shall consider the making of any local public improvement, the consideration of the improvement shall be referred by resolution to the public works superintendent, directing him to prepare a report which shall include necessary plans, profiles, specifications and detailed estimates of costs; an estimate of the life of the improvement; a description of the assessment district; and 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 thereof should be paid by special assessments upon the property especially benefited and what part, if any, should be paid by the village at large.

(b) The council shall not finally determine to proceed with the making of any local public improvement until such report 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. 191, § 4, eff. 2-23-1975)

Sec. 70-30. Determination on project.

After the public works superintendent has presented the report required in section 70-29 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 adopted 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 benefitted; determining the benefits received by affected properties and what part, if any, shall be paid by the village at large; designating the limits of the special assessment district to be affected; designating whether to be assessed according to frontage or other benefits; placing the complete information on file in the village offices where the information shall be available 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 as provided in sections 70-39 and 70-40. The hearing required by this section may be held at any regular, adjourned or special meeting of the council.

(Ord. No. 191, § 5, eff. 2-23-1975; Ord. No. 293, § 2, eff. 7-21-1994)

State law reference(s)—Special assessment notices and hearings, MCL 211.741, MSA 5.3534(1); statement of right to file written appeal, MCL 211.746, MSA 5.3534(6).

Sec. 70-31. Objections.

If, at or prior to the public hearing as required in section 70-30 and before the adoption by the village council of the resolution to proceed with the making of the public improvement as provided in section 70-32, objections to the improvement have been filed by the owners of property in the district which, according to the public works superintendent's report, will be required to bear more than 50 percent of the cost thereof or by a majority of the owners of property to be assessed, no resolution determining to proceed with the improvement shall be adopted except by the affirmative vote of two-thirds of the full council.

(Ord. No. 191, § 6, eff. 2-23-1975)

Sec. 70-32. Hearing on necessity.

At the public hearing on the proposed public 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 manner as it shall deem to be in the best interest of the village as a whole. If the amount of work is substantially increased or additions are made to the district, another hearing shall be held pursuant to notice prescribed in sections 70-39 and 70-40. If the determination of the council shall be to proceed with the improvement, a resolution shall be adopted approving the necessary profiles, plans, specifications, assessment district and detailed estimates or costs and directing the assessor to prepare a special assessment roll in accordance with the council determination and report the roll to the council for confirmation.

(Ord. No. 191, § 7, eff. 2-23-1975)

Sec. 70-33. Deviation from plans and specifications.

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

(Ord. No. 191, § 8, eff. 2-23-1975)

Sec. 70-34. Limitations on preliminary expenses.

The council shall specify the provision and procedure for financing a local public improvement. Unless the village has available a revolving fund or otherwise, the money required for defraying the cost of the public improvement or at least that part of the improvement that will accrue before the special assessments for the improvement will be paid or moneys made available from the sale of bonds issued in anticipation of the collection of such special assessments, no contract or expenditure, except for the cost of the necessary legal procedure and engineering plans, specifications and estimates of cost, shall be made for the improvement, until the special assessments to defray the costs of the improvement have been levied.

(Ord. No. 191, § 9, eff. 2-23-1975)

Sec. 70-35. Addition of cost of condemned property.

Whenever any property is acquired by condemnation or otherwise for the purpose of a local public improvement, the cost thereof, exclusive of that part of such cost representing damages for or injury to improvements to such property, and the cost of the proceedings to acquire such property may be added to the cost of the improvement.

(Ord. No. 191, § 10, eff. 2-23-1975)

Sec. 70-36. Special assessment roll.

The village treasurer shall make a special assessment roll of all lots and parcels of land within the designated district benefited by the proposed local public improvement and shall assess to each lot or parcel of land the amount benefited thereby. The amount spread in each case shall be based upon the detailed estimate of the public works superintendent, as approved by the council. If the proceeds of the special assessment are not required to defray the expense of any public improvement prior to the completion thereof, the special assessment roll may be made within 60 days after the improvement is completed and shall be based upon the actual cost, as defined in section 70-26.

(Ord. No. 191, § 11, eff. 2-23-1975)

Sec. 70-37. Filing of special assessment roll.

When the village treasurer shall have completed the assessment roll for the local public improvement, he shall file the roll with the clerk for presentation to the council for review and certification by it.

(Ord. No. 191, § 12, eff. 2-23-1975)

Sec. 70-38. Meeting to review special assessment roll.

Upon receipt of the special assessment roll for the local public improvement, the council, by resolution, shall accept such assessment roll and order it to be filed in the village offices for public examination, shall fix the time and place the council will meet to review such special assessment roll, and shall direct the village clerk to give notice of a public hearing as provided in sections 70-39 and 70-40 for the purpose of affording an opportunity for interested persons to be heard.

(Ord. No. 191, § 13, eff. 2-23-1975; Ord. No. 293, § 3, eff. 7-21-1994)

Sec. 70-39. Notice by publication.

Notice of the public hearing shall be given by one publication in a newspaper published of general circulation within the village.

(Ord. No. 191, § 13, eff. 2-23-1975; Ord. No. 293, § 3, eff. 7-21-1994)

Sec. 70-40. Notice by mail.

(a) Notice of hearings in special assessment proceedings under this article shall be given to each owner of or party in interest in property to be assessed whose name appears upon the last local tax assessment records,

by mailing by first class mail addressed to that owner or party in interest at the address shown on the tax records, at least ten days before the date of the hearing. For purposes of this section, the last local tax assessment records means the last assessment roll for ad valorem tax purposes which has been reviewed by the local board of review, as supplemented by any subsequent changes in the names or addresses of such owners or parties listed on that roll.

(b) The notice of hearing shall include a statement that appearance and protest at the hearing in the special assessment proceedings is required in order to appeal the amount of the special assessment to the state tax tribunal and shall include a statement that the owner or any person having an interest in the real property may file a written appeal of the special assessment with the state tax tribunal within 30 days after the confirmation of the special assessment roll if that special assessment was protested at the hearing held for the purpose of confirming the roll.

(Ord. No. 191, § 13, eff. 2-23-1975; Ord. No. 293, § 3, eff. 7-21-1994)

State law reference(s)—Special assessment notices and hearings, MCL 211.741, MSA 5.3534(1); statement of right to file written appeal, MCL 211.746, MSA 5.3534(6).

Sec. 70-41. Hearing to review special assessment roll.

(a) The hearing required by section 70-38 may be held at any regular, adjourned or special meeting of the council. The village treasurer shall be present at every meeting of the council at which a special assessment is to be reviewed.

(b) At such meeting or a proper adjournment thereof, the council shall consider all objections.

(c) Any owner or party in interest or his agent may appear in person at the hearing to protest the special assessment or shall be permitted to file his appearance or protest by letter and his personal appearance shall not be required. Such objections shall specify in detail in what respect the objectors deem themselves aggrieved.

(d) The council shall maintain a record of parties who appear to protest at the hearing. If a hearing is terminated or adjourned for the day before a party is provided the opportunity to be heard, a party whose appearance was recorded is considered to have protested the special assessment in person.

(e) 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.

(f) 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 clerk, and directing the clerk to attach his warrant to a certified copy thereof within ten days, therein commanding the treasurer to spread the various sums and amounts appearing thereon on a special assessment roll for the full amounts or in annual installments, as may be 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 70-45.

(Ord. No. 191, §§ 13, 14, eff. 2-23-1975; Ord. No. 293, § 3, eff. 7-21-1994)

State law reference(s)—Appearance and protest at hearing required for appeal, MCL 211.741(3), (4), MSA 5.3534(1), (3), (4).

Sec. 70-42. Due date of special assessment.

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

(Ord. No. 191, § 15, eff. 2-23-1975)

Sec. 70-43. Partial payments.

(a) The council may provide for the payment of special assessments for local public improvements in annual installments. Such annual installments shall be determined by the village council but shall not exceed those authorized by law, the first installment being due upon confirmation of the roll or at such other time as shall be specified by council. Subsequent installments shall be due on the anniversary of the first installment. On all special assessments confirmed between January 1 and June 30 of any year, the second installment shall be due July 1 of the following year, and the remaining installments shall be due July 1 of each succeeding year. Interest shall be charged on all deferred installments at a rate permitted by law, commencing on confirmation and payable on the due date of each installment; the full amount of all or any deferred installments, with interest accrued thereon to the date of payment, may be paid in advance of the due dates thereof. Each property owner shall have at least 30 days from the date of confirmation to pay the full amount of the assessment or the full amount of any installments thereof, without interest or penalty. Following the 30 days prior to such further period as shall be specified by the council, the assessment or first installment thereof shall, if unpaid, be considered as delinquent, and the same penalties shall be collected on such unpaid assessments or unpaid first installments thereof as are provided in the village Charter, Public Act No. 3 of 1895 (MCL 61.1 et seq., MSA 5.1201 et seq.), or the General Property Tax Act, Public Act No. 206 of 1893 (MCL 211.1 et seq., MSA 7.1 et seq.), to be collected on delinquent general village taxes. Deferred installments shall be collected without penalty until 30 days after the due date thereof, after which time such installments shall be collected as are provided in the village Charter to be collected on delinquent general village taxes.

(b) 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 or excuse the payment of interest or penalties.

(Ord. No. 191, § 16, eff. 2-23-1975; amend. by Ord. No. 235, eff. 3-25-1986)

Sec. 70-44. Liens.

(a) Under this article, special assessments and all interest, penalties and charges thereon from the date of confirmation of the roll shall be and remain as a lien upon the property assessed of the same character and effect as the lien created by general law for county and school taxes, and by the village Charter for village taxes, until paid. The lands upon which the special assessments are a lien shall be subject to sale therefor the same as are lands upon which delinquent village taxes constitute a lien. If special assessments or installments thereof remain delinquent as of February 28, they shall be returned delinquent, with interest, penalties and charges added, to the county treasurer for collection in the same manner as are village, county and school taxes.

(b) If a parcel of real property assessed under one legal description is divided by the assessor for assessment purposes pursuant to section 53 of Public Act No. 206 of 1893 (MCL 211.53, MSA 7.97) and the owner of a part of the divided parcel elects to pay the full balance remaining of a special assessment for that owner's

portion of the divided parcel of property, including all interest, penalties and charges, the lien created pursuant to this section shall be discharged as to that portion of the original assessed parcel for which the payment is made.

(Ord. No. 191, § 17, eff. 2-23-1975; amend. by Ord. No. 246, eff. 8-4-1987)

State law reference(s)—Lien, status as a debt, collection, MCL 68.33.

Sec. 70-45. Additional assessments, refunds.

The public works superintendent shall, within 60 days after the completion of each local public improvement, compile the actual cost thereof and certify the cost to the council. 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. No additional assessment for any public improvement which exceeds 25 percent of the original assessment shall be made, unless such additional assessment is reviewed at a meeting of the council, for which meeting notices shall be published and mailed as provided for review of the original special assessment roll. However, no property shall be assessed in excess of benefits received. If the entire amount as finally collected on the assessment roll proves larger than necessary by five percent of the total cost of the improvement or more, the council shall make a refund of the excess thereof, pro rata, according to the assessments. If the entire amount as finally collected on the assessment roll proves larger than necessary by less than five percent of the total cost of the improvement, the council may transfer such excess to the general funds of the village or make a refund thereof, pro rata, according to assessments.

(Ord. No. 191, § 18, eff. 2-23-1975)

Sec. 70-46. Additional procedures.

If this article may prove to be insufficient to carry out fully the making of special assessments, the council shall provide by ordinance any additional steps or procedures required.

(Ord. No. 191, § 19, eff. 2-23-1975)

Sec. 70-47. Special assessment accounts.

Moneys raised by special assessment to pay the cost of any local public improvement shall be held in a special fund to pay such cost or to repay any moneys borrowed therefor. Each special assessment account must be used only for the improvement project for which the assessment was levied, except as otherwise provided in this article.

(Ord. No. 191, § 20, eff. 2-23-1975)

Sec. 70-48. Contested assessments.

An action to contest the collection of a special assessment shall be instituted under the Tax Tribunal Act, 1973 P.A. 186, MCL 205.701—205.779, MSA 7.650(1)—7.650(79).

State law reference(s)—Similar provisions, MCL 68.34.

Sec. 70-49. Reassessment for benefits.

Under this article, when 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 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 or not any part of the assessment has been collected. All proceedings on such reassessment and for the collection thereof shall be made in the manner as provided for the original assessment except with regard to the correction of the proceedings for the purpose of making the proceedings legal. 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 taxpayer.

(Ord. No. 191, § 22, eff. 2-23-1975)

Sec. 70-50. Combination of projects.

The council may combine several local public improvement districts into one project for the purpose of effecting a saving in the costs. However, for each district there shall be established separate funds and accounts to cover the cost of the improvements.

(Ord. No. 191, § 23, eff. 2-23-1975)

Sec. 70-51. Apportionment of uncollected assessments on divided parcels of land.

If any parcel of land is divided after a special assessment on the land for a local public improvement has been confirmed and before the collection of the assessment, the council may require the president to apportion the uncollected amounts between the several divisions thereof, and the report of such apportionment when confirmed by the council shall be conclusive upon all parties. If the interested parties do not agree in writing to such apportionment before such confirmation, notice of hearing shall be given to all interested parties, in accordance with the notice and hearing requirements in sections 70-39 and 70-40.

(Ord. No. 191, § 28, eff. 2-23-1975; amend. by Ord. No. 254, eff. 12-4-1988)

Sec. 70-52. Single lot assessments.

When any expense shall have been incurred by the village upon or in respect to any single premises, which expense is chargeable against said premises and the owner thereof under the provisions of this Code, the Village Charter, or law of the state, and is not of that class required to be pro-rated among the several lots and parcels of land in a special assessment district, an account of the labor, material and service for which such expense was incurred, verified by the village manager, with a description of the premises upon or in respect to which the expense was incurred, and the name of the owner, if known, shall be reported to the village treasurer, who shall immediately charge and bill the owner, if known. The treasurer at the end of each quarter shall report to the village council all sums so owing to the village and which have not been paid within 30 days after the mailing of the bill therefor. The council shall, at such times as it may deem advisable, direct the village treasurer to prepare a special assessment roll covering all such charges reported to it together with a penalty and administrative fee of ten percent. The roll shall be filed with the village clerk, who shall advise the council of the filing of the same, and the council shall then set a date for the hearing of objections to such assessment roll. The assessment roll shall be open to public inspection for a period of ten days before the council shall meet to review the roll and hear complaints. The village clerk shall give notice of the roll for public inspection and of the meeting of the council to

hear complaints to the owners of and persons having an interest in property affected by first class mail at their addresses as shown on the last tax roll of the village, at least ten full days prior to the date of the hearing. Such special assessments and all interest and charges thereon, shall, from the date of confirmation of the roll by the council, be and remain a lien upon the property assessed, of the same character and effect as a lien created by general law for state and county taxes, until paid. The same penalty and interest shall be paid on such assessments, when delinquent from such date after confirmation as shall be fixed by the council, as are provided by the Village Charter to be paid on delinquent general village taxes and such assessments, with penalties and interest, shall be added by the treasurer to the next general village tax roll and shall thereafter, be collected and returned in the same manner as general village taxes.

(Ord. No. 401, § 7, 2-4-2008)

Chapter 74 STREETS, SIDEWALKS AND CERTAIN OTHER PUBLIC PLACES[61]

ARTICLE I. IN GENERAL

Secs. 74-1—74-25. Reserved.

ARTICLE II. SIDEWALKS

DIVISION 1. GENERALLY

Secs. 74-26—74-50. Reserved.

DIVISION 2. CONSTRUCTION, REPAIR OR MAINTENANCE[62]

[61]Editor's note(s)—The publication Municipal Standards for the Village of Fowlerville which contains the design and construction standards for subdivision and land development is on file and available for inspection at the village's offices.

Cross reference(s)—Buildings and building regulations, ch. 14; property addressing and identification, § 14-61 et seq.; peddlers, solicitors and transient merchants, § 18-26 et seq.; cable communications, ch. 22; cemeteries, ch. 26; community development, ch. 30; environment, ch. 38; land division, ch. 46; parks and recreation, ch. 58; planning, ch. 62; residential, utility and field driveways, § 62-61 et seq.; road and utility construction, § 62-96 et seq.; traffic and vehicles, ch. 78; utilities, ch. 82; vehicles for hire, ch. 90; zoning, app. A; PL public lands district, app. A, ch. 7; franchises, app. B.

State law reference(s)—Streets and sidewalks, MCL 67.7 et seq.; paving and improvements, MCL 67.17 et seq.; street regulations, MCL 67.20 et seq.

[62]Editor's note(s)—The publication Municipal Standards for the Village of Fowlerville which contains the design and construction standards for subdivision and land development, is on file and available for inspection at the village's offices.

Sec. 74-51. Authority to build.

All sidewalks established within the limits of the public streets and all sidewalks existing within the public streets repaired or rebuilt shall be established rebuilt and repaired by the authority of the village council in form of a resolution, which must be approved by a two-thirds vote. The resolution shall set forth the dimensions and specifications of the sidewalk, together with a description of the abutting real estate adjacent to the sidewalk: it shall also determine the proportion of the expense to be borne by the village and the abutting property owners.

(Ord. No. 111, § 1, eff. 3-7-1927)

Sec. 74-52. Service of notice.

Upon the adoption of resolution by the council, as provided in section 74-52, the village manager shall cause to be served upon the owner, part owner, or occupant of any real estate abutting on the sidewalks a notice in writing, which shall specify the work to be performed and the particular manner of such establishing repairs and building. Such service may be by certified or registered mail or by delivering the notice to the owner, part owner or occupant of the real estate. Service may be made by the village manager or the village marshal.

(Ord. No. 111, § 2, eff. 3-7-1927; Ord. No. 219, eff. 11-9-1983; Ord. No. 293, § 34, eff. 7-21-1994)

Sec. 74-53. Time limit to comply with notice.

Upon receipt of the notice to build, repair or rebuild a sidewalk, the owner, part owner or occupant shall have ten days from and after the service of the notice within which to make the repairs or rebuild as specified in the notice. For establishment of a new sidewalk the work shall be done within 30 days from and after the service of the notice.

(Ord. No. 111, § 3, eff. 3-7-1927)

Sec. 74-54. Failure of owner to complete work.

(a) If any owner, part owner or occupant of any such real estate refuses or neglects to establish, rebuild or repair any sidewalk within the time prescribed by this division, the sidewalk committee shall cause the work to be performed in accordance with the resolution. The cost and expense of such work shall be and become a charge and lien upon the lands described in the resolution.

(b) Whenever the village shall establish, rebuild or repair any sidewalk pursuant to provisions of this division, the village department of public works director is hereby authorized and directed to keep an accurate account of all expenses incurred, and, based upon these expenses, to issue a certificate determining and certifying the reasonable cost involved for the work with respect to each parcel of property in accordance with the council resolution.

(c) Within ten days after receipt of the certificate, the village treasurer shall forward a statement of the total charges assessed on each parcel of property to the person as shown as the owner by the last current tax roll and the assessment shall be payable to the village treasurer within 30 days from the date the statement was forwarded.

(d) If the owner of a lot, lots or premises fails to pay the bill within 30 days from the date the bill is mailed, the council may cause the amount of the expense incurred, together with a penalty and administrative fee of ten percent, to be levied by them as a special assessment upon the lot, lots or premises as provided in this Code for single lot assessments, or the amount thereof shall be collected by court action.

(Ord. No. 111, § 4, eff. 3-7-1927; Ord. No. 401, § 8, 2-4-2008)

State law reference(s)—Failure of maintenance by abutting owner, work ordered by council, assessment, MCL 67.10.

Secs. 74-55—74-80. Reserved.

DIVISION 3. SNOW AND ICE REMOVAL[63]

Sec. 74-81. Snow removal required.

(a) All owners or occupants of any lot, lots or premises within the corporate limits of the village shall be required to remove all snow and ice from the sidewalks that are adjacent to and abutting upon such lot, lots or premises. The owner or occupant of the property shall also remove snow and ice from walks and ramps that lead to a marked or unmarked crosswalk. The snow and ice be removed within the following time frames:

(1) Within 24 hours after any snow or sleet storm shall cease, if the storm results in four or less inches of snow or precipitation.

(2) Within 48 hours after any snow or sleet storm shall cease, if the storm results in more than four inches of snow or precipitation.

(b) Notwithstanding subsection (a) of this section 74-81, in the case of a snow event of six inches or more, the Village of Fowlerville shall be responsible for clearing the sidewalks on North and South Grand Avenue and East and West Grand River Avenue to the Village of Fowlerville limits, and the sidewalks on North Hibbard Street from Grand River Avenue North to the Fowlerville School property.

(Ord. No. 345, § 1, 5-22-2000; Ord. No. 438, § 1, 1-27-2014; Ord. No. 478 , § 1, 2-1-2021)

Sec. 74-82. Neglect to remove snow; procedure.

Should any owner or occupant of lot, lots or premises neglect or refuse to remove the snow and ice from the sidewalks adjacent to and abutting upon such lot, lots or premises with the time limited in this division for the removal of the same, then the village manager or his designee remove, or cause to be removed all snow and ice at the expense of the owner or occupant and the amount of all expenses incurred thereby shall be billed to the owner.

(Ord. No. 345, § 1, 5-22-2000)

State law reference(s)—Failure of abutting owner to remove snow or ice, work ordered by council, assessment, MCL 67.10.

Sec. 74-83. Failure to pay; special assessment; lien.

(a) Whenever the village shall enter upon any lot or parcel of land in order to remove the snow and ice from the sidewalks, pursuant to provisions of this division, the village department of public works director is hereby

[63]Editor's note(s)—Ord. No. 345, § 1, adopted May 22, 2000, repealed the former division 3, §§ 74-81, 74-82, and enacted new provisions as set out herein. Formerly, division 3 pertained to similar subject matter and derived from Ord. No. 112, § 1, effective March 7, 1927.

authorized and directed to keep an accurate account of all expenses incurred, and, based upon these expenses, to issue a certificate determining and certifying the reasonable cost involved for the work with respect to each parcel of property.

(b) Within ten days after receipt of the certificate, the village treasurer shall forward a statement of the total charges assessed on each parcel of property to the person as shown by the last current tax roll and the assessment shall be payable to the village treasurer within 30 days from the date the statement was forwarded.

(c) If the owner of a lot, lots or premises fails to pay the bill within 30 days from the date the bill is mailed, the council may cause the amount of the expense incurred, together with a penalty and administrative fee of ten percent, to be levied by them as a special assessment upon the lot, lots or premises as provided in this Code for single lot assessments, or the amount thereof shall be collected by court action.

(Ord. No. 345, § 1, 5-22-2000; Ord. No. 401, § 9, 2-4-2008)

Sec. 74-84. Suit.

The village may, at the council's option, also collect the village's expenses for removal of the snow or ice and the penalty in a civil action, together with costs of the suit.

(Ord. No. 345, § 1, 5-22-2000)

Sec. 74-85. Penalty.

A person who violates this division is responsible for a civil infraction, punishable by a fine of $50.00 for the first violation, $50.00 for the second violation, $250.00 for the third violation, and $500.00 for the fourth or additional offenses.

(Ord. No. 345, § 1, 5-22-2000)

Secs. 74-86—74-110. Reserved.

ARTICLE III. OBSTRUCTIONS OR ENCROACHMENTS

Sec. 74-111. Municipal civil infraction.

A person who violates any section of this article is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in section 50-38, plus costs and other sanctions, for each infraction. Repeat offenses under this article shall be subject to increased fines as provided by section 50-38.

(Ord. No. 180, § 4, eff. 6-21-1972; Ord. No. 302, § 19, 12-31-1995)

Sec. 74-112. Blocking sidewalk.

No person shall block a sidewalk or assist or aid and abet in the blocking of a sidewalk in the village.

(Ord. No. 180, § 1, eff. 6-21-1972)

Sec. 74-113. Blocking entrance/exit.

No person shall block the entrance or exit of a store or other business establishment in the village.

(Ord. No. 180, § 2, eff. 6-21-1972)

Sec. 74-114. Obstructing traffic.

No person shall obstruct or assist in obstructing pedestrian traffic on the sidewalks or pedestrian or vehicular traffic in any street or alley in the village.

(Ord. No. 180, § 3, eff. 6-21-1972)

Secs. 74-115—74-119. Reserved.

ARTICLE IV. BLOCK PARTIES

Sec. 74-120. 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:

Applicant means the individual applying for a permit.

Block means both sides of a given street, from intersection to intersection. "Block" is not limited to through streets, but shall include courts and dead-end streets.

(Ord. No. 457, § 1, 7-10-2017)

Sec. 74-121. Permit required; application.

(a) No person shall hold a block party without first obtaining a permit therefor from the village. A permit may be obtained for a block party with the limitation of one permit, per block, per year. All applications shall be submitted 14 days prior to the event, to the chief of police. The chief of police shall review the application for compliance with the requirements of this article, recommend approval or disapproval, and forward same to the village manager. The village manager shall review the application, recommend approval or disapproval, and forward same to the village council for final approval or disapproval.

(b) A written petition requesting the block party must be submitted with the application, and it must be signed by 90 percent of all households on the block. Signatures will be spot-checked for authenticity.

(Ord. No. 457, § 1, 7-10-2017)

Sec. 74-122. Regulations.

(a) Block parties may only be held between Memorial Day and Labor Day, inclusive.

(b) No block party shall be held at any time other than between the hours of 4:00 p.m. and 8:00 p.m.

(c) The applicant shall not block the travel portion of the street between the end barricades.

(d) The applicant shall be responsible for any damage to village property.

(e) The applicant shall pay a fee for the permit as established by council resolution.

(f) The applicant shall be responsible for obtaining and returning the barricades or for designating a location where they may be stored prior to the event and returned afterwards for pickup by the village.

(Ord. No. 457, § 1, 7-10-2017)

Sec. 74-123. Bonds.

The applicant must post cash, personal or surety bond in the amount of $100.00 at the time the permit is issued, to recover any expenses incurred by the village in connection with the block party.

(Ord. No. 457, § 1, 7-10-2017)

Sec. 74-124. Major streets excluded.

All residents of designated major streets, under the major street program, and designated as such with the state or county, are excluded from applying for block parties.

(Ord. No. 457, § 1, 7-10-2017)

Chapter 76 TELECOMMUNICATIONS[64]

Sec. 76-1. Purpose.

The purposes of this chapter 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 No. 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. 360, § 1, eff. 4-13-2003)

Sec. 76-2. Conflict.

Nothing in this chapter shall be construed in such a manner as to conflict with the act or other applicable law.

(Ord. No. 360, § 2, eff. 4-13-2003)

[64]Editor's note(s)—Ord. No. 360, §§ 1—21, effective April 13, 2003, did not specify manner of inclusion; hence, inclusion as chapter 76, §§ 76-1—76-21 is at the discretion of the editor.

Sec. 76-3. Terms defined.

The terms used in this chapter 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.

Permit means a non-exclusive permit issued pursuant to the act and this chapter to a telecommunications provider to use the public rights-of-way in the village for its telecommunications facilities.

Village means the Village of Fowlerville.

Village council means the village council of the village 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.

All other terms used in this chapter 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 chapter only, a provider also includes all of the following:

(a) A cable television operator that provides a telecommunications service.

(b) Except as otherwise provided by the act, a person who owns telecommunication facilities located within a public right-of-way.

(c) A person providing broadband internet transport access service.

(Ord. No. 360, § 3, eff. 4-13-2003)

Sec. 76-4. 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 chapter.

(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 DPW director. Upon receipt, the village clerk shall make copies of the application and distribute a copy to the village engineer, and if directed by the village manager, to the village attorney. 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 chapter.

(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 chapter. 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 (d). 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. 360, § 4, eff. 4-13-2003)

Sec. 76-5. 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 subsection 76-4(b) of this chapter 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), 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. 360, § 5, eff. 4-13-2003)

Sec. 76-6. 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 as required under village's municipal standards, as amended, for construction within the public rights-of-way. No fee shall be charged for such a construction or engineering permit.

(Ord. No. 360, § 6, eff. 4-13-2003)

Sec. 76-7. 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 chapter does not give a telecommunications provider a right to use conduit or utility poles.

(Ord. No. 360, § 7, eff. 4-13-2003)

Sec. 76-8. 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 and electronic format unless and until the MPSC determines otherwise, in accordance with section 6(8) of the act.

(Ord. No. 360, § 1, eff. 4-13-2003)

Sec. 76-9. 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. 360, § 9, eff. 4-13-2003)

Sec. 76-10. Establishment and payment of maintenance fee.

In addition to the non-refundable application fee paid to the village set forth in subsection 76-44(d), 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. 360, § 10, eff. 4-13-2003)

Sec. 76-11. 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 right-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 chapter, 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. 360, § 11, eff. 4-13-2003)

Sec. 76-12. 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 76-11 shall be void from the date the modification was made.

(Ord. No. 360, § 12, eff. 4-13-2003)

Sec. 76-13. Use of funds.

Pursuant to 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 No. 51 of the Public Acts of 1951.

(Ord. No. 360, § 13, eff. 4-13-2003)

Sec. 76-14. 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. 360, § 14, eff. 4-13-2003)

Sec. 76-15. 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. 360, § 15, eff. 4-13-2003)

Sec. 76-16. Existing rights.

Pursuant to section 4(2) of the act, except as expressly provided herein with respect to fees, this chapter 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. 360, § 16, eff. 4-13-2003)

Sec. 76-17. Compliance.

The village hereby declares that its policy and intent in adopting this chapter 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:

(a) Exempting certain route maps from the Freedom of Information Act, 1976 PA 442, MCL 15.231—15.246, as provided in subsection 76-4(c) of this chapter;

(b) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with section 76-4(f) of this chapter;

(c) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the $500.00 application fee, in accordance with subsection 76-4(g) of this chapter;

(d) 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 subsection 76-5(a) of this chapter;

(e) Notifying the MPSC when the village has granted or denied a permit, in accordance with subsection 76-5(a) of this chapter;

(f) Not unreasonably denying an application for a permit, in accordance with section 76-5(a) of this chapter;

(g) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in section 76-5(b) of this chapter;

(h) 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 subsection 76-5(c) of this chapter;

(i) 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 subsection 76-5(d) of this chapter;

(j) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with subsection 76-6 of this chapter;

(k) Providing each telecommunications provider affected by the village's right-of-way fees with a copy of this chapter, in accordance with subsection 76-11 of this chapter;

(l) Submitting an annual report to the authority, in accordance with section 76-14 of this chapter; and

(m) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with section 76-15 of this chapter.

(Ord. No. 360, § 17, eff. 4-13-2003)

Sec. 76-18. Reservation of police powers.

Pursuant to section 15(2) of the act, this chapter 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. 360, § 18, eff. 4-13-2003)

Sec. 76-19. Severability.

The various parts, sentences, paragraphs, sections, and clauses of this chapter are hereby declared to be severable. If any part, sentence, paragraph, section, or clause of this chapter 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 chapter.

(Ord. No. 360, § 19, eff. 4-13-2003)

Sec. 76-20. 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 or municipal civil infraction violation notices for violations under this chapter as provided by this Code.

(Ord. No. 360, § 20, eff. 4-13-2003)

Sec. 76-21. Municipal civil infraction.

A person who violates any provision of this chapter or the terms or conditions of a permit is responsible for a municipal civil infraction, and shall be subject to civil infraction fines as provided in an section 50-38 of this Code. Nothing in this section shall be construed to limit the remedies available to the village in the event of a violation by a person of this chapter or a permit.

(Ord. No. 360, § 21, eff. 4-13-2003)

Chapter 78 TRAFFIC AND VEHICLES[65]

ARTICLE I. MICHIGAN VEHICLE CODE

Sec. 78-1. Adopted.

The Michigan Vehicle Code [also referred to as "state vehicle code"], being Act 300 of the Public Acts of 1949, MCL 257.1 to 257.923, as amended, now and in the future is hereby adopted by reference as an ordinance of the village.

(Ord. No. 392, § 1, 7-23-2007)

Sec. 78-2. References in the vehicle code.

Where necessary to the enforcement of the state vehicle code or the collection of fines, costs and penalties for violations as a village ordinance, references in the state vehicle code to "local authorities", "local authority", or "local authority having jurisdiction" shall mean the village council; references to "municipality" shall mean the village; references to "municipal charter" shall mean the village charter; references to "local ordinances" shall mean the village Code; and references to the "village" or "city" shall mean the Village of Fowlerville.

(Ord. No. 392, § 1, 7-23-2007)

Sec. 78-3. Copies.

Printed copies of the state vehicle code shall be kept on file in the office of the village clerk and made available to the public at all times the office is open.

(Ord. No. 392, § 1, 7-23-2007)

Sec. 78-4. Limitations.

Violations of the state vehicle code for which the maximum period of imprisonment is greater than 93 days shall not be enforced by the village as an ordinance violation.

---

[65]Cross reference(s)—Any ordinances prescribing traffic regulations, including through streets, speed limits, one-way traffic, limitations on load of vehicles or loading zones saved from repeal, § 1-6(10); responsibilities of drivers in public cemetery, § 26-257; recovery of certain emergency response costs for incidents involving drivers operating motor vehicle; dismantled, inoperable and unlicensed vehicles, § 38-91 et seq.; throwing litter from vehicles, § 38-166; truck loads, § 38-167; placing handbills on vehicles, § 38-170; offenses and violations, ch. 54; vehicles in parks, § 58-30; transportation of solid waste, § 66-32; streets, sidewalks and certain other public places, ch. 74; vehicles for hire, ch. 90.

State law reference(s)—Michigan Vehicle Code, MCL 257.1 et seq.; regulation by local authorities, MCL 257.605, 257.606, 257.610.

(Ord. No. 392, § 1, 7-23-2007)

Sec. 78-5. Penalties.

The penalties provided in the state vehicle code are adopted by reference subject to the limitations stated in section 78-4.

(Ord. No. 392, § 1, 7-23-2007)

Secs. 78-6—78-25. Reserved.

ARTICLE II. UNIFORM TRAFFIC CODE

Sec. 78-26. Adoption.

The Uniform Traffic Code for Cities, Townships, and Villages as promulgated by the director 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 of the Uniform Traffic Code when they are promulgated and effective in this state are incorporated by reference.

(Ord. No. 222, § 1, eff. 4-24-1984; Ord. No. 392, § 2, 7-23-2007)

Editor's note(s)—Ord. No. 392, § 2, adopted July 23, 2007, changed the title of section 78-26 from "Adopted" to "Adoption."

State law reference(s)—Authority to adopt Uniform Traffic Code by reference, MCL 257.951.

Sec. 78-27. References in code.

References in the Uniform Traffic Code for Cities, Townships and Villages to "governmental unit" shall mean the village; references in the code to "police department" shall mean the village police department; references in the code to "chief of police" shall mean the village chief of police, and references in the code to the "traffic engineer" shall mean the village manager, or such other person appointed to such office by the village president in accordance with the Village Charter.

(Ord. No. 222, § 2, eff. 4-24-1984; Ord. No. 240, § 2, eff. 10-28-1986; Ord. No. 292, § 2, eff. 6-13-1994; Ord. No. 392, § 2, 7-23-2007)

Sec. 78-28. Amendments to code.

The following sections and subsections of the Uniform Traffic Code are hereby amended or deleted as set forth and additional sections and subsections are added as indicated. Subsequent section numbers used in this ordinance shall refer to the like-numbered sections of the Uniform Traffic Code.

Sec. 159. Fowlerville Community Schools Traffic.

The board of education of the Fowlerville community schools, having enacted a resolution under the provisions of Act No. 75 of the Public Acts of Michigan of 1958 (MCL 257.961, MSA 9.2660), as amended, the driveways, roads and property of the Fowlerville community schools located within the Village shall be subject to the provisions of this code governing the operation, parking and speed of motor vehicles upon

such driveways, roads and property, and enforcement of violations of such code and the imposing of penalties for violations thereof shall be handled in the same manner as the code is enforced upon the public rights-of-way within the village.

Sec. 619. Temporary impoundment of bicycles of minors violating code.

In lieu of instituting a civil infraction proceeding against a minor violating any section of chapter 6 of this code involving operation of a bicycle, any law enforcement agency may temporarily impound the minor's bicycle as provided in Article IV of this Chapter of the Fowlerville Code of Ordinances.

Sec. 823. No parking during certain hours on certain streets.

The traffic engineer may determine and designate zones where parking is prohibited between the hours specified in a traffic order. Such zones shall be designated by posting proper signs which identify the prohibited parking times at such locations, and the distance between the signs shall not be more than 100 feet.

Sec. 824. Parking time limit on certain streets.

The traffic engineer may determine and designate zones where parking is prohibited for a period of time no longer than is posted. Such zones shall be designated by posting proper signs which identify the parking time limit at such locations, and the distance between the signs shall be not more than 100 feet.

Sec. 825. Parking restrictions in specified locations; violation civil infraction.

(1) When a traffic control order has been issued and signs erected giving notice thereof, no person shall park a vehicle at any time in a zone where parking has been prohibited.

(2) When a traffic control order has been issued and signs erected giving notice thereof, no persons shall park a vehicle between the hours specified on such signs, within a zone where parking between such hours has been prohibited.

(3) When a traffic control order has been issued and signs erected giving notice thereof, no persons shall park a vehicle for longer than the time prescribed thereon within a zone where parking longer than such time is prohibited.

(4) A person who violates this section is responsible for a civil infraction.

Sec. 826. Parking in private driveway or on private property; violation civil infraction.

(1) It is unlawful for any person to park or stand a vehicle, whether occupied or not, in a private driveway or on private property without the express or implied consent of the owners or person in lawful possession or control of such driveway or property.

(2) A person who violates this section is responsible for a civil infraction.

Sec. 827. Parking in front yard and on sidewalk of residential district prohibited.

(1) No person shall park a motor vehicle, trailer, or watercraft in a front yard within a residential district of the village, nor on any sidewalk.

(2) A "front yard" for the purpose of this section means that part of a lot, other than a driveway, between the curb or the street line and the front line of the main building on the lot, and for a corner lot, shall include the part of the lot between the side of the building and the curb or the street line.

(3) Vehicles may be parked temporarily in the front yard when loading and unloading, or pursuant to a handicapper permit issued for that purpose.

(4) A person who violates this section is responsible for a civil infraction.

Sec. 828. Motor vehicle left unattended; keys to be removed; motor stopped and brakes set; violation civil infraction.

(1) No person having control or charge of a motor vehicle shall allow such vehicle to stand on any street or highway unattended without first effectively setting the brakes thereon, stopping the motor of such vehicle and removing the ignition key therefrom, and when left standing upon any grade, without turning the wheels of such vehicle to the curb or side of the street or highway.

(2) A person who violates this section is responsible for a civil infraction.

Sec. 829. Prohibitive parking during a snow emergency; violation civil infraction.

(1) Whenever the traffic engineer or village president finds, on the basis of snow, sleet, freezing rain or other basis of a weather forecast, that conditions make it necessary to restrict parking for snow plowing or other purposes, the traffic engineer or village president may put into effect a parking prohibition on some or all village streets by providing notice in a manner prescribed by this section.

(2) Whenever a prohibition for parking on village streets is in effect, no person shall park a vehicle or permit a vehicle owned by him to remain parked on the village streets.

(3) The traffic engineer or village president shall cause each snow emergency made by him pursuant to this section to be publicly announced by means of broadcast or telecast by announcements over radio stations in the normal operating ranges covering the village, and by notification over the village cable television system. Each announcement shall describe the action taken by the traffic engineer or village president, including the time it became or will become effective, and shall specify the streets or portions of streets affected. The traffic engineer or village president shall make or cause to have made a record of each time or date when the snow emergency is announced to the public in accordance with this subsection.

(4) Whenever the traffic engineer or village president shall find that some or all of the conditions which gave rise to the parking prohibition in effect pursuant to this section no longer exist, he or she may declare this prohibition terminated, in whole or in part. This declaration shall take place through the form of a public announcement of the parking prohibition terminations, and will be effective immediately upon the announcement.

(5) Whenever a vehicle becomes disabled for any reason on any part of the village's streets during a snow emergency when a parking prohibition is in effect, the person operating such vehicle shall take immediate action to have the vehicle towed or pushed off the roadway. No person shall abandon or leave a vehicle in the roadway of the village's streets (regardless of whether indicated by raised hood or otherwise, that the vehicle is disabled), except for the purpose of securing assistance during the actual time necessary to go to a nearby telephone, or garage, gasoline station or other place of assistance and return without delay.

(6) Any provisions of this section, while temporarily in effect, shall take precedence over other conflicting provisions of the law normally in effect, except that it shall not take precedence over provisions of law relating to traffic accidents, emergency travel of authorized vehicles or emergency traffic directions by a police officer. However, nothing in this section shall be construed to permit parking at any time or place where it is forbidden by any other provision of the law.

(7) Police officers and other law enforcement officers are hereby authorized to remove or have removed a vehicle from a street to the nearest garage or other place of safety, including another place on the street, or to a garage designated or maintained by the police department, or otherwise maintained by the village, when:

(a) The vehicle is parked on a village street on which a parking prohibition is in effect.

(b) The vehicle was stalled on a part of a roadway of a village street on which there is a covering of snow, sleet or ice or on which there is a parking prohibition in effect and the person who was operating such vehicle does not appear to be removing it in accordance with the provisions of this section.

(c) The vehicle is parked in violation of any parking ordinance or provision of law and is interfering or about to interfere with snow removal operations. Removal of motor vehicles to a garage shall be in accordance with procedures within the applicable sections of the Michigan Motor Vehicle Code.

(8) A person who violates this section is responsible for a civil infraction.

Sec. 830. Fowlerville school property permit parking only areas.

(1) A person shall not park any motor vehicle on school property in areas designated for permit parking only, unless a permit has been issued by the appropriate village school authority permitting the parking of such vehicle in the designated location. This permit shall be prominently displayed on the front window of the vehicle. It shall be a violation of this section to park in a designated area any motor vehicle not displaying such permit in the manner set forth in this section and parked in any permit parking only area.

(2) A person who violates this section is responsible for a civil infraction.

Sec. 831. Recreational vehicle parking.

(1) No person shall park any recreational vehicle on any public street, highway, alley or other public right-of-way in the village for any purpose or length of time, excepting only for a period not to exceed a total of 48 hours during loading or unloading.

(2) For purposes of this section "recreational vehicle" shall include any motor vehicle or trailer designed and used as a travel trailer, tractor trailer, pickup camper, camper, camping trailer, motor home, travel coach, motorized dwelling, tent trailer, boat, boat trailer, snowmobile, snowmobile trailer, horse trailer, dune buggy and any other similar equipment.

(3) The provisions of this section shall not apply to commercial trailers parked while making actual deliveries or while engaged in construction, general repair, furniture moving, or other type of commercial work.

(4) Traffic control orders may be issued to modify or further regulate the parking of recreational vehicles in the village, provided that signs stating such modifications and regulations are duly posted in accordance with this Code.

(5) A person who violates this section is responsible for a civil infraction.

Sec. 832. Commercial vehicle parking.

(1) No person shall park any commercial vehicle on any public street, highway, alley or other public right-of-way in the village for any purpose or length of time, except when the making of emergency repairs, or at the direction of a police officer, or as otherwise provided in this Section 832.

(2) For the purpose of this section, "commercial vehicle" shall include any motor vehicle which:

(a) Displays any form of commercial advertising other than the make and model of the vehicle;

(b) Has more than two axles;

(c) Exceeds three-quarter-ton load-carrying capacity; or

(d) Has been modified by the addition of mechanical apparatus or equipment, such as ladders, roof tarring equipment, grass cutting equipment, snowplows or otherwise, attached to the vehicle or

exposed within any exterior bed of the vehicle, that appears to be for use in carrying on a trade or business, excepting only for pickup trucks that have been modified externally with a snowplow.

(e) Includes, but is not limited to, any truck having a trailer or semitrailer attached, truck tractor trailer, semitrailer, tractors, mobile machinery and equipment, or other vehicles registered and licensed for commercial use.

(3) The provisions of this Section 832 shall not apply when such commercial vehicles are actually engaged in loading or unloading furniture, supplies, merchandise and equipment for a period of not to exceed one hour, except that the time may be extended by application to the police department. Section 832 also shall not apply to pick-up trucks and vans, utilized as family vehicles or pleasure vehicles, and which bear no commercial message, logo or any symbol relating to a commercial or business venture, and shall not apply to authorized trucks and vehicles used in village street construction and maintenance, utility services, and fire and police use.

(4) Traffic control orders may be issued to modify or further regulate the parking of commercial vehicles in the village, provided that signs stating such modifications and regulations are duly posted in accordance with this Code.

(5) A person who violates this section is responsible for a civil infraction.

(Ord. No. 222, § 4, eff. 4-24-1984; Ord. No. 240, eff. 10-28-1986; Ord. No. 282, eff. 11-14-1992; Ord. No. 293, § 8, eff. 7-21-1994; Ord. No. 309, § 1, eff. 5-26-1996; Ord. No. 327, § 1, 12-8-1997; Ord. No. 392, § 2, 7-23-2007; Ord. No. 442, §§ 1, 2, 2-24-2014)

Secs. 78-29—78-50. Reserved.

ARTICLE III. STOPPING, STANDING AND PARKING[66]

DIVISION 1. GENERALLY

Secs. 78-51—78-70. Reserved.

DIVISION 2. PARKING VIOLATIONS BUREAU[67]

[66]Cross reference(s)—General off-street parking and loading, app. A, ch. 16.

State law reference(s)—Authority to regulate standing or parking of vehicles, MCL 257.606(1)(a).

[67]Cross reference(s)—Administration, ch. 2; municipal ordinance violation bureau, § 50-31 et seq.

State law reference(s)—Authority to establish parking violations bureau, MCL 600.8395.

Sec. 78-71. Established.

Pursuant to section 8395 of the Revised Judicature Act, as added by Public Act No. 154 of 1968 (MCL 600.8395), as amended, a parking violations bureau, for the purpose of handling alleged parking violations within the village, is established.

(Ord. No. 241, § 1, eff. 10-28-1986)

Sec. 78-72. Violations handled.

Only parking violations outlined in part 8 of the Uniform Traffic Code, as amended by section 78-28, and in the state vehicle code, as adopted as a village ordinance in section 78-1, that involve the parking or standing of a motor vehicle, being MCL 257.672—257.675d, shall be disposed of by the parking violations bureau. The fact that a particular violation is covered by this division does not automatically entitle the alleged violator to disposition of the violation at the bureau, and the person in charge of the bureau may refuse to dispose of such violation. If this occurs, any person having knowledge of the facts may issue a civil infraction citation before any court having jurisdiction of the offense as provided by law.

(Ord. No. 241, § 2, eff. 10-28-1986; Ord. No. 392, § 3, 7-23-2007)

Sec. 78-73. Powers.

No violation may be settled at the parking violations bureau except at the request of the alleged violator and when the alleged violator admits responsibility for the infraction. No civil fine for any infraction shall be accepted from any person who denies having committed the infraction, and in no case shall the person who is in charge of the bureau determine or attempt to determine the truth or falsity of any fact or matter relating to such alleged violation. No person shall be required to dispose of a parking violation at the parking violations bureau, and every person shall be entitled to have any such violation processed before a court having jurisdiction thereof if he so desires. The unwillingness of any person to dispose of any violation at the parking violations bureau shall not prejudice him or in any way diminish the rights, privileges and protections accorded to him by law.

(Ord. No. 241, § 3, eff. 10-28-1986)

Sec. 78-74. Parking violation notices.

The issuance of a parking violation notice for the violation of any parking provisions of this division by a police officer shall be deemed an allegation of a parking violation. Such parking violation notice shall indicate the length of time in which a person to whom the notice is 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 civil fine scheduled for the infraction for which the notice was issued, and shall advise that a civil infraction citation shall be issued to the person to whom the notice was issued if the person fails to respond within the time stated.

(Ord. No. 241, § 4, eff. 10-28-1986)

Sec. 78-75. Schedule of fines for parking violations.

(a) Any violation of Part 8 of the Uniform Traffic Code, as amended by section 78-28, or of the state vehicle code, as adopted as a village ordinance under article I, that involves the parking or standing of a motor vehicle, being MCL 257.672—257.675d, except for section MCL 257.674(1)(s), is punishable by a fine of

$15.00 if paid within 72 hours, excluding Saturday, Sunday and holidays; which shall be increased to $25.00 if paid after 72 hours, but prior to the issuance of a civil infraction citation.

(b) Any violation of MCL 257.674(1)(s), as adopted as a village ordinance under article I, concerning disabled parking violations, is punishable by a fine of $75.00 if paid within 72 hours, excluding Saturday, Sunday and holidays; which shall be increased to $100.00 if paid after 72 hours, but prior to the issuance of a civil infraction citation.

(c) Any violation of part 8 of the Uniform Traffic Code, as amended by section 78-28, or of the state vehicle code, as adopted as a village ordinance under article I, that involves the parking or standing of a motor vehicle, being MCL 257.672—257.675d, for which a civil infraction citation has been issued shall be processed as a civil infraction, and is punishable by a civil fine of not more than $100.00 and costs in accordance with section 907 of the Michigan Vehicle Code, Act No. 300 of the Public Acts of Michigan of 1949 (MCL 257.907), as amended; except for section MCL 257.674(1)(s), as amended.

(d) Any violation of MCL 257.674 (1)(s), as adopted as a village ordinance under Article I, concerning disabled parking violations, shall be processed as a civil infraction, and is punishable by a civil fine of not less than $100.00 and not more than $250.00 and costs in accordance with section 907 of the Michigan Vehicle Code, Act No. 300 of the Public Acts of Michigan of 1949 (MCL 257.907).

(Ord. No. 241, § 5, eff. 10-28-1986; Ord. No. 392, § 4, 7-23-2007)

Editor's note(s)—Ord. No. 392, § 4, adopted July 23, 2007, enacted provisions intended for use as subsections (1)—(4). To preserve the style of this Code, and at the discretion of the editor, said provisions have been redesignated as subsections (a)—(d).

Sec. 78-76. Director; fines.

The director of the parking violations bureau shall be appointed by the president, with the concurrence of the council. The director and such other employees designated by the president shall be authorized to collect fines for parking violations, which fines shall be payable during normal working hours at the village hall or in containers designated by the council.

(Ord. No. 241, § 6, eff. 10-28-1986; Ord. No. 293, § 9, eff. 7-21-1994)

Sec. 78-77. Deposit of fines.

All fines collected by the parking violations bureau shall be deposited with the village treasurer and credited to the general fund.

(Ord. No. 241, § 7, eff. 10-28-1986)

Secs. 78-78—78-100. Reserved.

ARTICLE IV. RESERVED[68]

[68]Editor's note(s)—Ord. No. 479 , § 5, adopted Feb. 1, 2021, repealed §§ 78-101—78-106, which pertained to bicycles and derived from Ord. No. 218, §§ 1—6, eff. 4-27-1983; Ord. No. 223, eff. 4-24-1984; Ord. No. 292, §§ 9—12, eff. 6-13-1994.

Secs. 78-101—78-130. Reserved.

ARTICLE V. RAILROADS

Sec. 78-131. Obstructing crossings.

A railroad shall not permit a train to obstruct vehicular traffic on a public street or highway for longer than five minutes at any one time. However, the obstruction shall not be considered a violation under the following circumstances:

(1) The train is continuously moving in the same direction at not less than ten miles per hour for not longer than seven minutes.

(2) The railroad can show that the incident occurred as a result of a verifiable accident, mechanical failure, or unsafe condition.

(Ord. No. 305, § 1, eff. 3-11-1996)

State law reference(s)—Similar provisions, MCL 462.391(1).

Sec. 78-132. Successive trains.

A railroad shall not permit successive train movements to obstruct vehicular traffic on a public street or highway until all vehicular traffic previously delayed by such train movements has been cleared.

(Ord. No. 305, § 2, eff. 3-11-1996)

State law reference(s)—Similar provisions, MCL 462.391(2).

Sec. 78-133. Active traffic control devices.

A railroad company shall not permit its employees to allow the activation of active traffic control devices at a railroad grade crossing for more than two minutes if there is no intention to move a train or track equipment through the crossing within 20 seconds to 60 seconds after the activation of the devices.

(Ord. No. 305, § 3, eff. 3-11-1996)

State law reference(s)—Similar provisions, MCL 462.391(3).

Sec. 78-134. Penalty.

Each offense under this article shall be a separate violation punishable by a municipal civil infraction fine as set forth in section 50-38. If the railroad is willfully, deliberately, and negligently blocking vehicular traffic, the fine shall be as set forth in section 50-38 and the costs of prosecution.

(Ord. No. 305, § 4, eff. 3-11-1996)

State law reference(s)—Similar provisions, MCL 462.391(4).

Sec. 78-135. Fines.

All fines, civil or otherwise, collected by the village in excess of $10,000.00 annually from the enforcement of this article shall be allocated as follows:

(1) Fifteen percent shall be retained by the village for costs of enforcement of this article.

(2) Eighty-five percent shall be deposited in a railroad grade crossing safety fund. The revenue collected in this fund shall be used solely for railroad grade crossing safety projects in the village.

(Ord. No. 305, § 5, eff. 3-11-1996)

State law reference(s)—Similar provisions, MCL 462.391(5).

Secs. 78-136—78-160. Reserved.

ARTICLE VI. RECREATIONAL VEHICLES[69]

DIVISION 1. GENERALLY

Sec. 78-161. 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:

Go-cart means a vehicle having three or four wheels, with a motor attached, used for recreational purposes, but excluding a tractor or motor-powered lawn mower.

Highway, street or road means the entire width between the boundary lines of every publicly maintained right-of-way when any part thereof is open to the use of the public for purposes of vehicular travel.

Motorcycle means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground and powered by a motor which produces five or more brake horsepower, including motorcycles with sidecars, but excluding a tractor.

Motor-driven cycle or minibike means every motorcycle, including every motor scooter, with a motor which produces five or less maximum brake horsepower, and every bicycle with a motor attached, except friction-drive motor-driven bicycles of one-brake horsepower or less.

Off-road vehicle means a motor driven off-road recreation vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. It includes but is not limited to a multitrack or multiwheel drive vehicle; an ATV; a motorcycle or related two-wheel vehicle, three-wheel vehicle or four-wheel vehicle; an amphibious machine; a ground effect air cushion vehicle; or other means of transportation deriving motive power from a source other than muscle or wind. The term "off-road vehicle" or "vehicle" does not include a registered snowmobile; a farm vehicle being used for farming; a vehicle used for military, fire, emergency, or law enforcement purposes; a vehicle owned and operated by a utility company or an oil and gas company when performing maintenance on its facilities or on property over which it has

[69]State law reference(s)—Operation of motorcycles, MCL 257.656 et seq.; off-road recreation vehicles, MCL 324.81101 et seq.; snowmobiles, MCL 324.82101 et seq.

an easement; a construction or logging vehicle used in performance of its common function; or a registered aircraft.

Recreation or recreational means any use which can be construed as being for the purpose of enjoyment or recreation of the rider or passenger, if permitted, as differentiated from transportation or business or work activity, including but not limited to racing, trail riding and hill climbing.

Snowmobile means any motor-driven vehicle designed for travel primarily on snow or ice of a type that utilizes sled-type runners or skis, or an endless belt tread or any combination of these or other similar means of contact with the surface upon which it is operated, but is not a vehicle that must be registered under the Michigan vehicle code, Public Act No. 300 of 1949 (MCL 259.1 et seq.).

Special-purpose motor vehicle means every motorcycle not included in the definitions of motorcycle, motor-driven cycle or minibike, or recreation or recreational in this section, including but not limited to dune bikes and drag bikes.

Unimproved private property means any parcel of land which contains no structure for human habitation or business or work activity.

Vacant private property means any parcel of land that contains structures for human habitation or business or work activity but that is not occupied or used.

Zoning administrator means the officer empowered by village ordinance to enforce the village zoning ordinance in appendix A to this Code.

(Ord. No. 266, § 3, eff. 7-16-1990; Ord. No. 267, eff. 8-26-1990)

Cross reference(s)—Definitions generally, § 1-2.

State law reference(s)—Motorcycle, defined, MCL 257.31; off-road recreation vehicle, defined, MCL 324.81101; snowmobile, defined, MCL 324.82101.

Sec. 78-162. Purpose.

In order to further secure and protect the general welfare and safety of the citizens and other persons within the village and to limit the loud, raucous noise, excessive dust, physical hazards and noxious odors that such persons are subjected to resulting from the uncontrolled use of such vehicles, the village council declares that the operation of motorcycles, motor-driven cycles, minibikes, off-road vehicles, snowmobiles, special-purpose motor vehicles and go-carts constitutes a public nuisance, as being injurious to the public health and safety when such operation is other than as provided in this article, and all such vehicles shall be subject to this article. This article is intended to regulate the operation of registered and unregistered motorcycles, motor-driven cycles, minibikes, off-road vehicles, snowmobiles, special-purpose motor vehicles and go-carts by all persons, whether used for transportation or for recreation and whether or not any such person possesses a valid operator's license or special restricted operator's license, upon private property and upon all public property in the village.

(Ord. No. 266, § 2, eff. 7-16-1990)

Sec. 78-163. Exceptions to article.

Any or all sections of this article may be waived by the village president or president pro tem in an emergency or a natural disaster.

(Ord. No. 266, § 11(A), eff. 7-16-1990)

Sec. 78-164. Impoundment authorized, redemption.

(a) Violation of this article is declared to be a nuisance and may be abated by the village president, the village manager, or the village police department by impoundment of the vehicle involved by removal to the motor vehicle pound to be returned as provided in this section.

(b) Before the owner or person in charge of such vehicle shall be permitted to remove the vehicle from the custody of the enforcing department, he shall furnish evidence of his identity and ownership; he shall sign a receipt; he shall pay a fee established by village council resolution to cover the cost of removal, if any, plus the cost of storage for not exceeding 24 hours; and he shall pay an additional daily storage fee established by village council resolution for each day or fraction of a day the vehicle is stored in the vehicle pound in excess of the first 24 hours the vehicle is impounded.

(Ord. No. 266, § 12, eff. 7-16-1990; Ord. No. 292, § 2, eff. 6-13-1994; Ord. No. 479 , § 6, 2-1-2021)

Sec. 78-165. Municipal civil infraction.

A person who violates this article is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in section 50-38, plus costs and other sanctions, for each infraction. Repeat offenses under this article shall be subject to increased fines as provided by section 50-38.

(Ord. No. 266, § 13, eff. 7-16-1990; Ord. No. 302, § 2, 12-31-1995)

Secs. 78-166—78-180. Reserved.

DIVISION 2. PERMIT FOR OPERATION ON PRIVATE PROPERTY

Sec. 78-181. Required.

(a) Any person desiring to operate a motorcycle, motor-driven cycle, minibike, off-road vehicle, snowmobile, special-purpose motor vehicle or go-cart on private property and any owner of private property desiring to allow a person to operate a motorcycle, motor-driven cycle, minibike, off-road vehicle, special-purpose motor vehicle or go-cart on his private property may do so upon first obtaining a permit from the zoning administrator. A permit shall be issued upon a determination that the owner of the real property concerned or the person in lawful possession of the property has consented in writing to the proposed operation and that the consent has been filed with the village.

(b) Any owner of property meeting the requirements of this section or his agent may, in writing, authorize the zoning administrator to issue permits for the operation of motorcycles, motor-driven cycles, minibikes, off-road vehicles, snowmobiles, special-purpose motor vehicles or go-carts on his property. Such authorization is to be in the form prescribed by the zoning administrator, it must describe the real property, it shall set forth the hours for such use in conformity with this article, and it may limit the authority to persons designated in the authorization. Any change of interest in ownership in the real property shall be deemed an automatic revocation of such authorization. All persons holding a title interest in and to a parcel of real property must join in the authorization.

(Ord. No. 266, § 4, eff. 7-16-1990)

Sec. 78-182. Contents; issuance.

(a) Each permit required under this division shall include the following:

(1) The name, birth date, and physical description of the permittee.

(2) A statement that the permittee shall not operate or cause to be operated a motorcycle, motor-driven cycle, minibike, off-road vehicle, snowmobile, special-purpose motor vehicle or go-cart on any real property except the real property set forth in the permit by description.

(3) A statement of the hours that the permit authorizes operation of the motorcycle, motor-driven cycle, minibike, off-road vehicle, snowmobile, special-purpose motor vehicle or go-cart, not to exceed the maximum hours permitted by this article.

(4) A statement that the permit shall be carried by the permittee at all times that he is operating a motorcycle, motor-driven cycle, minibike, off-road vehicle, snowmobile, special-purpose motor vehicle or go-cart on private property and that the permit shall be exhibited to any police officer upon demand.

(5) The date of expiration of the permit, in no event to exceed one year, unless sooner revoked or suspended.

(6) A statement that the permit is not an expression by the village that the proposed operation can be done with safety to the permittee or other persons or property, all of which risks are assumed by the permittee or property owner.

(b) At the time of the issuance of the permit, the zoning administrator shall provide the permittee with a copy of this article or a synopsis of the provisions of this article.

(c) There shall be no fee imposed for the issuance of a permit under this division.

(Ord. No. 266, § 5, eff. 7-16-1990)

Sec. 78-183. Suspension or revocation.

Any permit issued under this division is subject to suspension or revocation by the zoning administrator after notice to the permittee on any of the following grounds:

(1) The owner or agent of the real property has withdrawn his consent.

(2) Conditions concerning the real property covered by the permit have changed so that conditions exist which would be grounds for refusal to issue the permit.

(3) The permittee has violated any of the terms or conditions of the permit.

(Ord. No. 266, § 6, eff. 7-16-1990)

Secs. 78-184—78-200. Reserved.

DIVISION 3. REGULATIONS APPLICABLE TO OPERATION

Sec. 78-201. Equipment required.

No motorcycle, motor-driven cycle, minibike, off-road vehicle, snowmobile, special-purpose motor vehicle or go-cart shall be operated on any public property or right-of-way unless such vehicle shall be equipped with all equipment required by state law.

(Ord. No. 266, § 7, eff. 7-16-1990)

State law reference(s)—Equipment required for operation of motorcycle, MCL 257.658, 257.658a, 257.661a; equipment required for operation of off-road vehicle, MCL 324.81133; equipment required for operation of snowmobile, MCL 324.82122, 324.82123, 324.82126, 324.82131.

Sec. 78-202. Safe operation.

No motorcycle, motor-driven cycle, minibike, off-road vehicle, snowmobile, special-purpose motor vehicle or go-cart shall be operated on any public property or right-of-way in such a manner as to endanger the lives or property of the rider, passenger, or other persons in this village or contrary to the laws of the state or the provisions of the village's traffic code, as adopted by section 78-26, and as may be amended.

(Ord. No. 266, § 8, eff. 7-16-1990)

Sec. 78-203. Unlawful operation of motorcycles.

(a) No person shall operate a motorcycle:

(1) Upon any public sidewalk, walkway, parkway, public park, recreational area, school grounds, or upon any other publicly owned property, with the following exceptions:

a. Highways or streets within the village.

b. Paths or trails specially designated for the operation of such vehicles by the village council in the manner and during the time specified in such action.

c. Areas designated for the parking of motor vehicles for the sole purpose of normal ingress and egress.

(2) On any private property, except as provided in this article and except for normal ingress and egress or for the purpose of normal maintenance of the vehicle.

(3) With any passenger, except when such vehicle is equipped with a seat, saddle or sidecar that will safely accommodate a passenger.

(b) This section shall not apply to any publicly owned and operated motorcycle which is being operated in the performance of a governmental or public function.

(Ord. No. 266, § 9, eff. 7-16-1990)

State law reference(s)—Operation of motorcycles, MCL 257.656 et seq.

Sec. 78-204. Unlawful operation of other vehicles.

(a) No person shall operate a motor-driven cycle, minibike, off-road vehicle, snowmobile, special purpose motor vehicle or go-cart:

(1) Upon any public sidewalk, walkway, parkway, public park, recreational area, school grounds, highway or street or upon any other publicly owned property, with the following exceptions:

a. Paths or trails specially designated for the operation of such vehicles by the village council in the manner and during the time specified in such action.

b. Areas designated for the parking of motor vehicles for the sole purpose of normal ingress and egress.

(2) On any private property, except as provided in this article and except for normal ingress and egress or for the purpose of normal maintenance of the vehicle.

(3) With any passenger, except when such vehicle is equipped with a seat, saddle or sidecar that will safely accommodate a passenger.

(b) This section shall not apply to any publicly owned and operated motorcycle that is being operated in the performance of a governmental or public function.

(Ord. No. 266, § 10, eff. 7-16-1990)

State law reference(s)—Operation of off-road vehicle by child or by incompetent, requirements, MCL 324.81129; operation of off-road vehicle, prohibited acts, MCL 324.81133 et seq.; operation of snowmobiles prohibited, exceptions, MCL 324.82119, 324.82126 et seq.; supervision of child less than 12 years of age operating a snowmobile required, exception, conditions for operation of snowmobile by person 12 but less than 17 years of age, MCL 324.82120.

Sec. 78-205. Hours of operation.

(a) Motorcycles, motor-driven cycles, minibikes, off-road vehicles, snowmobiles, special-purpose motor vehicles or go-carts may be operated upon unimproved or vacant private property of ten acres or more in size between the hours of 10:00 a.m. and 8:00 p.m., inclusive, upon issuance of a permit by the zoning administrator, as provided in division 2 of this article; provided, however, that such vehicles shall not be operated within 100 feet of any dwelling.

(b) Motor-driven cycles, minibikes, off-road vehicles, snowmobiles, special-purpose motor vehicles, or go-carts may be operated on private property of more than five acres but less than ten acres in size between the hours of 10:00 a.m. and 8:00 p.m., upon the issuance of a permit by the zoning administrator, as provided in division 2 of this article; provided, however, that such vehicles shall not be operated within 100 feet of any dwelling.

(Ord. No. 266, § 11(B), (C), eff. 7-16-1990)

Secs. 78-206—78-240. Reserved.

ARTICLE VII. ROLLER SKATES, STREET SKATES AND SKATEBOARDS

Sec. 78-241. 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:

Roller skates, street skates means small wheels near the toe and the heel of a shoe or frame that would attach to a shoe, which are used for gliding on a hard surface such as a floor, sidewalk, etc., including what are commonly known as roller blades.

Skateboard refers to an item consisting of a short, oblong board with small wheels at each end, ridden on a hard surface such as a floor or sidewalk, and includes scooters and similar devices.

To roller skate means to skate on any type of roller skates or street skates.

(Ord. No. 279, § 2, eff. 10-1-1992)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 78-242. Municipal civil infraction.

A person who violates this article is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in section 50-38, plus costs and other sanctions, for each infraction. Repeat offenses under this article shall be subject to increased fines as provided by section 50-38.

(Ord. No. 279, § 10, eff. 10-1-1992; Ord. No. 302, § 14, eff. 12-31-1995)

Sec. 78-243. Impoundment of skateboards.

A law enforcement officer apprehending a person for violating this article may impound the skateboard. If a person is 18 years of age or older, the skateboard shall be released by the police department if the accused appears at the police department and provides identification. To obtain release of the skateboard, a person under the age of 18 years of age must appear at the police department with a parent or guardian; however, if no such parent or guardian resides in the village, the skateboard may be released if its owner provides a letter from a parent or guardian requesting that it be released. Law enforcement officers shall also have the right to impound as evidence any set of skates or a skateboard that is used contrary to this article, pending prosecution of such alleged violation of this article.

(Ord. No. 279, § 9, eff. 10-1-1992; Ord. No. 292, § 16, eff. 6-13-1994)

Sec. 78-244. Compliance required.

No person shall roller skate or ride a skateboard within the village without complying with this article.

(Ord. No. 279, § 3, eff. 10-1-1992)

Sec. 78-245. Skating or riding on sidewalks.

Whenever any person is roller skating or riding a skateboard upon a sidewalk or other paved surface intended for use by pedestrians, such person shall yield the right-of-way to any pedestrian and shall not approach, overtake or pass such pedestrian in a reckless or careless manner, and shall not pass such pedestrian except in a single file if such person is roller skating or riding a skateboard with other such skaters or riders.

(Ord. No. 279, § 4, eff. 10-1-1992)

Sec. 78-246. Skating or riding prohibited where posted.

The village council may by resolution designate locations and times in which skateboards, roller skates and street skates may not be operated on sidewalks or other public property. The restrictions contained in any such resolution shall be posted on signs within the area designated by the resolution. No person shall operate a skateboard contrary to the terms of the resolution.

(Ord. No. 279, § 5, eff. 10-1-1992)

Sec. 78-247. Skating or riding on certain devices or structures.

It shall be a violation to roller skate or ride on a skateboard on any bench, table, planter wall, retaining wall or other device or structure in the public business sector, which is not intended for pedestrian or vehicle traffic, or to jump or step on or off such devices or structures in the process of roller skating or riding a skateboard.

(Ord. No. 279, § 6, eff. 10-1-1992)

Sec. 78-248. Reckless or dangerous skating or riding.

No person shall roller skate or ride a skateboard on any sidewalk or other paved surface intended for pedestrians or for vehicle parking in a reckless or careless manner or in a manner that is likely to result in injury or harm to any person or property. No person shall ride on or in any manner use a skateboard or shall roller skate on any public sidewalk or other paved surface intended for pedestrians or for parking of vehicles with a sail or while being towed by any vehicle or animal.

(Ord. No. 279, § 7, eff. 10-1-1992)

Sec. 78-249. Skating or riding on private property without permission.

No person shall roller skate or ride a skateboard on private property without first obtaining and carrying on his person the written permission of the owner of the private property to allow such skating or riding. Failure of a person who has been roller skating or riding a skateboard on private property to produce such written permission, upon the request of any law enforcement officer, shall constitute prima facie evidence that the person is in violation of this section.

(Ord. No. 279, § 8, eff. 10-1-1992)

Chapter 82 UTILITIES[70]

ARTICLE I. IN GENERAL

[70]Cross reference(s)—Administration, ch. 2; buildings and building regulations, ch. 14; businesses, ch. 18; cable communications, ch. 22; community development, ch. 30; environment, ch. 38; land division, ch. 46; planning, ch. 62; residential, utility and field driveways, § 62-61 et seq.; road and utility construction, § 62-96 et seq.; solid waste, ch. 66; streets, sidewalks and certain other public places, ch. 74; franchises, app. B.

Secs. 82-1—82-25. Reserved.

ARTICLE II. WATER SERVICE

DIVISION 1. GENERALLY

Sec. 82-26. 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:

Attorney means the village attorney.

Cross connection means a connection or arrangement of piping or appurtenances through which water of questionable quality, waste or other contaminants can enter the public water supply system.

Debt service charge or debt retirement means the charge that users of the water system shall be required to pay, including principal and interest costs, for retiring local debt incurred for the construction of the village water supply, storage, treatment, transmission or distribution facilities.

Department means the village department of public works.

Developer means a person engaged in the development of one or more subdivisions within the village in accordance with article III of chapter 46 of this Code.

Dwelling unit means a room or group of rooms located within a dwelling forming a single habitable unit with facilities used or intended to be used by a single family for living, sleeping, cooking, and eating purposes.

May is permissive.

Meter means a device especially designed for measuring and recording the use of water from the village water system.

Meter equivalent charge means the monthly or quarterly charge set by the village council for unmetered users of the village water system in lieu of charges in accordance with water use registered on a meter.

Metered user means a user of the village water system who shall, by village ordinance, have installed a water meter and who shall pay monthly or quarterly water charges in accordance with water use registered on the meter.

Multiple residential user means a property supplied water from the village water system in which more than one residential dwelling unit is housed and includes row houses, mobile home parks, apartments or other permanent multifamily residences having more than one dwelling unit on the premises.

Nonresidential user means a commercial, industrial, institutional, governmental, or other nonresidential user of the village water system.

Operation, maintenance and replacement means the work, materials, equipment, utilities and other effort required to operate and maintain the water system and includes the cost for replacement, supply, storage, transportation and treatment of potable village water.

Owner or property owner means the person having legal title to premises, both within and outside the village, and includes, for a land contract sale, the land contract vendee, provided that the village has been furnished with a copy of the contract or assignment thereof.

Person means any individual, family, firm, association, public or private corporation, or public agency or instrumentality.

Planning commission means the commission appointed by the village president with approval of the village council pursuant to article II of chapter 62 of this Code.

Plumbing inspector means the appointed inspector of the village for inspection of building water services.

Potable water means water of such quality as may be safely utilized for drinking, cooking, bathing and other domestic purposes.

Premises means each lot or parcel of land, building or structure or part thereof having a connection to the village water system.

Private fire hydrant means a fire hydrant that is located on a parcel of privately owned property and is not located in the public right-of-way.

Private fire line means a water line located on private property that connects a private fire hydrant to the village water main.

Private water supply means any well and/or other facility intended or used for the supply, storage or transportation of water which is not from the village water system.

Public water supply means the system of supply, treatment, storage, transmission and distribution of potable water from the village water system.

Replacement means the obtaining and installing of equipment, accessories, and appurtenances that are necessary during the service life of the water system to maintain the capacity and performance for which the system was designed and constructed.

Replacement/improvement charge means a quarterly minimum charge set by the council for all users of the village water system, which shall be allocated to the replacement fund, the contract payment fund, and/or the improvement fund as deemed appropriate by the council.

Residential user means a user of the village water system whose premises are used only for human residency. Users include dwelling units that are detached or semidetached, row houses, mobile homes, apartments, or other permanent multifamily residences. For purposes of this article, transient lodging shall be considered to be a nonresidential use.

Service lead means that part of the water distribution system connecting the water main with the premises served, from the public service valve to the premises.

Shall is mandatory.

Unmetered user means a residential user of the village water system for whom no meter has been installed.

User means a residence; apartment; mobile home; commercial, institutional, or governmental establishment; industry; or other property or structure connected to and receiving water supply service from the village water system.

Village engineer or engineer means the registered engineer appointed by the village council for service as engineer to the village and to the village council.

Water means potable water supplied to users from the village water system.

Water capital connection charge means a charge to all new users of the village water system which shall be paid in cash at the time of application for a water connection permit for the privilege of indirectly using the facilities of such water system and receiving service therefrom. The amount of the water capital connection charge shall be as set forth in the fee schedule determined by the council.

Water commissioner means the director of the department of public works and an ex officio member of the water committee.

Water committee means a four-member committee comprised of the water commissioner and three members of the village council and charged with making recommendations to the council on operation, construction and other matters relating to the village water system.

Water connection means a three-fourths-inch or larger service connection from the village water system to a residential, commercial, institutional, governmental, industrial or other user of village water.

Water connection permit means a permit issued by the village for each new connection to the village water system.

Water distribution system means the village network of transmission and distribution water mains used to provide service and fire protection to water system users.

Water main means that part of the water distribution system located within an easement line or a street designed to supply more than one water connection within the village, and also including the public service valves and service leads from the main to the public service valves.

Water system means the complete potable water supply system owned and operated by the village and includes all dedicated property, rights and easements, water mains, hydrants, meters, valves, main extensions, wells, towers, treatment facilities and improvements thereto which may be acquired or constructed; storage facilities; and other such appurtenances as are used or useful in maintaining and distributing water for public use and consumption.

Water treatment means any arrangement of devices or structures used for the treatment of village water.

(Ord. No. 233, § 2, eff. 2-1-1986; Ord. No. 465, § 1, 6-11-2018)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 82-27. Administration.

(a) *Control of system.* The operation and maintenance of the water system shall be under the control of the village, subject to this article. Pursuant to terms of this article, the village has retained the exclusive right to establish, maintain, and collect rates and charges for water supply, treatment, transmission and debt service. In such capacity the village council may employ such persons as it deems useful and may make such rules and regulations as it deems advisable and necessary to ensure the efficient establishment, operation and maintenance of the system; to discharge its financial obligations; and to collect rates and charges as provided in this article and in article V of this chapter.

(b) *Water commissioner.* The water commissioner shall be the official director of the department of public works. The water commissioner shall have immediate authority and responsibility for operation of the water system, under direction of the village council.

(c) *Water committee.* The president of the village, with the consent of the council, shall appoint annually a water committee composed of three members of the council. The water commissioner shall be an ex officio member of the four-member water committee. The water committee shall meet as the council may direct. The water committee shall continuously review the operation of the water system and shall make recommendations to the council on system operational procedures, proposed improvement, user charges and financing.

(d) *Authority of council.* The overall rights, powers and duties with respect to the water system are reserved by law and the Charter in the village council, which shall have general operational responsibility for the water system. The council shall have authority to act on recommendations from the water committee and to set

and assess rates; to supervise construction and repairs to the system; to engage engineers for preparation of plans and specifications for system extensions and improvements; to let contracts for repairs, improvements and extensions as it deems necessary; and to take any other actions deemed necessary to operate, maintain, preserve, improve, or expand the system.

(Ord. No. 233, § 3, eff. 2-1-1986)

Sec. 82-28. Effect of state plumbing code.

This article does not supersede the state plumbing code, Public Act No. 451 of 1929 (MCL 338.901 et seq.), as amended, but is supplementary to it.

(Ord. No. 233, § 9(C), eff. 2-1-1986)

Sec. 82-29. Right of access.

Representatives of the village water system shall have the right to enter, at any reasonable time, any property served by the village water system for the purpose of inspecting the piping system thereof for reading, inspecting, repairing or removing water meters; and for making all necessary surveys and repairs to the water system. On request, the owner, lessee or occupant of any property so served shall furnish to the village any pertinent information regarding the piping system on such property.

(Ord. No. 233, § 4(F), eff. 2-1-1986)

Sec. 82-30. General appeals procedure.

Any person aggrieved by an order or determination of the water commissioner, as pertains to this article, may appeal the order or determination to the council, who shall examine the complaint and make a final determination on the matter.

(Ord. No. 233, § 9(A), eff. 2-1-1986)

Sec. 82-31. Declaration of emergency water shortage.

If at any time the village council shall determine that an emergency exists in connection with the village water supply arising through the unusual and abnormal consumption of water by inhabitants of the village, by breakdown of equipment or overworking thereof, by lack of sufficient water supply to meet all of the needs of the inhabitants, or other cause creating an emergency the council may, by resolution, declare that an emergency exists and may place limitation upon the purposes for which water may be used. Upon publication of such resolution or the substance thereof, in a newspaper circulated in the village, or by newsletter addressed to the residents of the village, such resolution shall become effective, and it shall be unlawful for any person to violate the resolution.

(Ord. No. 233, § 9(D), eff. 2-1-1986)

Sec. 82-32. System shutdown.

If it becomes necessary to shut off the water from any section of the village because of any accident or for the purpose of making repairs or extensions, the water department shall endeavor to give timely notice to the consumers affected thereby and shall, so far as practical, use its best efforts to prevent inconvenience and damage arising from any such causes. However, the failure to give notice shall not render the water department

responsible or liable in damages for any inconvenience, injury, or loss which may result from shutting off the water.

(Ord. No. 233, § 9(E), eff. 2-1-1986)

Sec. 82-33. System damage and liability.

A person shall, upon conviction, be punished as provided in section 1-12 if the person shall, without the authority of the water commissioner, perforate or bore or cause to be damaged any valve, water main or reservoir belonging to the water system; cause to be made any connection with transmission or distribution mains used for conducting water; mutilate, deface, meddle with or move any machinery, apparatus or fixtures of the system; turn on the water when the water shall be shut off by order or regulations of the council; or cause such to be done by any other person.

(Ord. No. 233, § 9(F), eff. 2-1-1986)

Sec. 82-34. Municipal civil infraction.

(a) *Violation.* Whenever, by any section of this article, the performance of any act is required or the performance of any act is prohibited, a failure to comply with such section shall constitute a violation of this article. In addition, the failure, neglect or refusal to comply with a cease and desist order of the enforcing agency shall constitute a violation of this article.

(b) *Municipal civil infraction.* A person who violates any section of this article is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in section 50-38, plus costs and other sanctions, for each infraction. Repeat offenses under this article shall be subject to increased fines as provided by section 50-38.

(c) *Civil procedures to compel compliance.* The village may bring a civil proceeding for a mandatory injunction or injunctive order or for such other remedial relief as will correct or remedy the violation, including damages for the costs or expenses thereof. The village may join in such action any number of property owners.

(Ord. No. 233, § 10(A), eff. 2-1-1986; Ord. No. 302, § 16, eff. 12-31-1995)

Sec. 82-35. Maintenance and protection of system components.

(a) *Village wells.* No person shall construct or permit to be constructed or maintain any source of possible contamination to a village well.

(b) *Water mains.* All water mains for the village shall be under the exclusive control of the village, and no person other than village agents or employees shall tap, change, obstruct, interfere, contaminate, or in any way disturb the system of water mains without prior approval of the council.

(c) *Hydrants.* No person, except a firefighter or authorized village employee in the performance of his duties, shall open or use any village fire hydrant, except in an emergency, without first securing a written permit from the village. Permits for a period not in excess of 15 days may be granted by the water commissioner, upon written application in such form as he shall prescribe and upon payment of the required fees. Permits may be granted only on such terms and fees as the council, by resolution, shall prescribe. No hydrant shall be opened or closed except with a hydrant wrench provided by the village. No person shall in any manner obstruct or prevent free access to any fire hydrant by placing or storing, temporarily or otherwise, any object or material of any kind within 20 feet of the fire hydrant.

(d) *Water meters.* The responsibility for the protection of installed water meters shall rest upon the owner of the premises served. Water meters shall remain the property of the village and shall be serviced by the village. No person except the water commissioner shall break or injure the meter seal or change the location of or alter or interfere in any way with any water meter. If such injury, relocation, alteration or interference occurs, the water commissioner shall be notified immediately, and it shall be the responsibility of the water commissioner to arrange for all necessary repairs and charge the costs of the repairs to the responsible party, as determined by the village council. If the user is the responsible party, the charge may be added to the user's next water bill. If injury or damage to a water meter is caused by the village water system, the necessary repairs to the meter shall be made at village expense.

(e) *Service leads.* Responsibility for the maintenance and repair of service leads extending from the public service valve to the premises being served shall rest upon the owner of the premises. All service leads and fixtures connected therewith shall be constructed to protect from frost and freezing and shall be kept in good repair, free from water leakage. The owner, upon being made aware of a water leak in the service lead from the public service valve to the premises being served, shall immediately repair the leak. If the water commissioner shall become aware of a water leak in the owner's service lead, he may order the property owner to repair the lead by written notice. Upon receiving notice the property owner shall have 48 hours to make the required repairs. If the owner of the premises fails to make the repairs in the time prescribed, the village may turn off the water to the premises until such time as the repairs are made by the owner. However, this subsection shall not limit the village from taking emergency actions deemed necessary as to water leaks when health and safety dictates the actions.

(f) *Leaks in public water pipes.* It shall be the duty of every person who, while excavating in any public street or alley or elsewhere, may discover or cause a leak or defect in any of the public water pipes or in any service pipe connected therewith to give notice forthwith to the person in charge of such excavating whose duty it shall be forthwith to give notice to the water commissioner. No person shall fill such excavation or suffer or cause the excavation to be filled until such pipe is repaired to the satisfaction of the water commissioner.

(g) *Owner inspection of a private fire hydrant.* An owner shall inspect and perform maintenance on a private fire line and private fire hydrant after each use and/or annually, whichever is the shortest amount of time, to ensure that it is in compliance with the standards set forth in the NFPA 25 guidelines. A copy of said guidelines shall be made available upon request to the inspector hired by owner to perform the inspection.

(1) An owner shall provide a copy of the inspection report to the village clerk by April 30 of each year or within seven days after the use of the fire hydrant.

(2) Failure to provide proof of inspection by April 30 or within seven days after the use of the fire hydrant shall be a municipal civil infraction.

(h) *Village inspection of private fire hydrant.* In lieu of arranging an inspection as required, an owner may contract with the village and authorize the village to complete the inspection.

(Ord. No. 233, § 4(G), eff. 2-1-1986; Ord. No. 459, § 1, 7-24-2017 ; Ord. No. 465, § 2, 6-11-2018)

Secs. 82-36—82-60. Reserved.

DIVISION 2. MAIN EXTENSIONS AND SYSTEM IMPROVEMENTS

Sec. 82-61. Construction procedures for main extensions.

Water main extensions shall be in accordance with one of the following plans:

(1) *Payment of entire cost in advance.* Any one or more property owners may request the council to determine the feasibility and the estimated cost of the construction of a proposed water main extension to serve the premises. If the council shall approve the proposed extension and determine the estimated construction costs, such property owner may deposit with the village a sum equal to such estimated cost, and the council shall thereupon proceed with the construction. Any surplus in the deposit amount over and above the construction costs shall be refunded to the owner or his agent. If the construction cost exceeds the deposit amount, the owner shall pay the excess amount, and no service connection shall be installed or water service rendered from the extension until the cost is paid in full.

(2) *Construction by owners.* In undedicated streets and new subdivisions, the council may permit developers or owners to construct new water mains and service connections in accordance with sections 82-62, 82-63 and 82-64.

(3) *Fifty-percent petition.* In an existing dedicated street, the council may construct a water main extension upon application of the owners of 50 percent of the abutting foot frontage to be served by the proposed extension, accompanied by payment per lineal abutting front foot of the property owned by the petitioners at a cost determined by the council. When a water main extension has been constructed in accordance with such a petition, water tap connections to such extension shall be permitted only to serve premises for which the front foot charge was collected at the time of filing the petition. The owners of other property may, however, be permitted by the council to make connections to the main upon payment of sums respectively equal to charges paid by the petitioners, in which event the monies so received shall be repaid to the original petitioners.

(4) *Special assessment.* Water main extensions may also be constructed upon the council's approval through special assessments pursuant to article II of chapter 70 of this Code or through other applicable law or ordinances.

(5) *Construction without petition.* Whenever the council shall determine that it is in the best interests of the village water system to construct a water main extension, it shall construct such extension without the filing of any petition therefor or requiring any advance payment or deposit. After the completion of any such connecting water main extension, the council may cause premises abutting the street or way in which such connecting extension is laid to be assessed at a cost sufficient to pay all or part of the cost of the main extension. No connecting tap shall be permitted to be made in any such extension until and unless the abutting front foot charge provided for in this section shall have been paid in full.

(6) *Construction outside village.* The entire cost of all mains constructed outside the village limits shall be paid by the water users served by such mains. The size, location and methods of construction shall be determined by the village council. If constructed by the village, advance payment must be made before the work will be started. If the construction is done by the owner or his agent, plans and specifications shall be furnished and shall be approved in accordance with section 82-62. All construction not performed by the village shall be under village supervision and inspection, and the cost of supervision and inspection shall be paid by those nonvillage water users affected.

(Ord. No. 233, § 5(A)(1), eff. 2-1-1986)

Sec. 82-62. Preparation of plans and specifications.

All plans and specifications for the construction of mains and/or modifications to the village water system shall be prepared by the village engineer or by an engineer registered in the state, and the plans and specifications shall be approved by the village engineer.

(Ord. No. 233, § 5(A)(2), eff. 2-1-1986)

Sec. 82-63. Plans and specifications for undedicated streets and subdivisions.

All plans for undedicated streets and subdivisions shall be submitted to the planning commission for review and recommendations in accordance with article III of chapter 46 of this Code. Plans shall then be submitted to the village manager in quintuplicate for review by the council and the engineer. Plans and specifications approved by the council and village engineer will be forwarded to the state department of public health for review, approval and issuance of a construction permit, with construction to be in accordance with standard village specifications, as provided by the engineer.

(Ord. No. 233, § 5(A)(3), eff. 2-1-1986; Ord. No. 293, § 32, eff. 7-21-1994)

Sec. 82-64. Payments to village for review and inspection of plans and specifications.

All plans and specifications submitted to the village in accordance with subsections 82-61(2) and (6) shall be accompanied by a check or money order in the amount of four percent of the estimated cost of construction, to be placed in escrow for the payment of costs for review and inspection by the village engineer. If review and inspection costs exceed four percent, the developer shall be responsible for all additional costs incurred by the village. Upon completion of construction and approval by the village, any monies remaining in the developer's interest-bearing escrow account shall be returned to the developer.

(Ord. No. 233, § 5(A)(4), eff. 2-1-1986)

Sec. 82-65. System improvements.

All water system improvements, except for construction of water mains as provided in this division, shall be exclusively by direction of the council and shall be paid for and financed as the council may determine.

(Ord. No. 233, § 5(B), eff. 2-1-1986)

Sec. 82-66. Required permits.

In addition to any village permits required by this article, all main extensions, connections, and system improvements shall require review and approval by the state department of public health when required by law.

(Ord. No. 233, § 5(C), eff. 2-1-1986)

Secs. 82-67—82-90. Reserved.

DIVISION 3. SERVICE CONNECTIONS

Sec. 82-91. Permit.

No person shall uncover, make any openings into, alter or disturb any village water main or appurtenances thereto without first obtaining a written connection permit from the village. No connection permit shall be issued unless the person making application for the permit shall have paid the appropriate capital connection charge, benefit charge and inspection fees; shall have paid the deposit for cost to the village water system for construction of the service lead if constructed by the village, and shall have complied with the requirements of Public Act No. 53 of 1974 (MCL 460.701 et seq.), as amended, commonly known as "Miss Dig".

(Ord. No. 233, § 6(A), eff. 2-1-1986; Ord. No. 286, eff. 5-30-1993)

Sec. 82-92. Installation of connections and service leads.

(a) All connections and service leads to the village water system shall be made by the department of public works or a licensed contractor or plumber registered with the village unless the council shall have specifically permitted construction of the connection by an owner.

(b) Service lines on private property shall be constructed by the owner with three-fourths-inch or larger copper or other pipe as approved by the village. Private service lines shall be properly bedded with a minimum five-foot depth, shall be laid separately from the building sanitary sewer, and shall be constructed to protect from frost or freezing. A separate stopcock and wastecock shall be placed just inside the building wall, with provision for the installation of a water meter.

(c) Service leads shall be constructed by the department of public works by cutting the street and/or sidewalk as may be required, trenching from the service lead property line to the village water main, tapping of the water main with installation of a corporation cock, placing a three-fourths-inch or larger copper or other approved service line from the corporation cock to a point near the sidewalk, and installation of a service valve and stop box at the sidewalk line. The service valve shall serve as a valve for turning water on and off for the building connected to the service lead.

(d) When construction of a service lead by an owner's contractor is approved by the council, the service lead construction shall be under the direction and with inspection from the water commission, and construction of the service leads shall be in accordance with village standards.

(e) All costs relating to the construction of service leads shall be at the expense of the property owner. For construction of service leads by the department of public works, the charge to the property owner shall be the actual cost to the water department for the construction, including the cost of labor, equipment, power and materials plus ten percent for administrative costs. Payment for service leads by the water department shall be as follows:

    (1) No less than 50 percent of the estimated cost shall be deposited with the village prior to commencement of construction; and

    (2) The balance of the costs and administrative fee shall be paid upon completion of construction and before water is turned on.

(Ord. No. 233, § 6(B), eff. 2-1-1986)

Sec. 82-93. Inspection.

Water service lines on private property between a service valve and a building shall be inspected by the water commissioner. No water service line on private property shall be covered until it has been inspected and approved by the water commissioner.

(Ord. No. 233, § 6(C), eff. 2-1-1986)

Sec. 82-94. Inspection fees.

In addition to any charges called for in division 2 of article V of this chapter, an inspection fee shall be paid for each inspection by the village required by this article. The charge shall be payable in cash upon application for the permit to connect the system or prior to any other required inspection being made. Inspection fees shall be in the amount set by resolution of the village council for each required inspection, except that the amount of the fees

to be paid for inspections required in division 2 of this article shall be set by the council prior to any such main extension. Each unit in a multiple commercial premises; each living unit in a duplex, apartment or housing project; and each mobile home space in a mobile home park shall be treated as a separate user and a separate inspection fee charge shall be made for each such user. However, such charge shall be made only once for each water service to each mobile home space in a mobile home park upon application for water service to the park.

(Ord. No. 233, § 6(D), eff. 2-1-1986; Ord. No. 286, eff. 5-30-1993)

Sec. 82-95. Registered contractors.

All licensed contractors and plumbers making connections and/or constructing service leads to the water system shall register with the village by filing a performance bond with the village manager in the amount of $25,000.00 or such amount as the village council shall require. In addition, the contractor or plumber shall provide the village manager with a copy of his plumber's or contractor's license from the state and a copy of his liability insurance prior to making any connection or constructing any service leads to the system. The bond shall indemnify the village against all losses or damages caused the village because of the contractor's or plumber's breach of this article or any rule or regulation relating thereto. The village council may, upon notice of a violation, revoke the connection permit issued by the village under section 82-91. The revocation shall become final unless the permit revocation is reversed by the village council.

(Ord. No. 233, § 6(E), eff. 2-1-1986; Ord. No. 293, § 33, eff. 7-21-1994)

Secs. 82-96—82-120. Reserved.

DIVISION 4. METERS[71]

Sec. 82-121. Installation required.

All commercial, industrial and institutional facilities, all apartments, mobile homes or multiple dwellings, all irrigation systems, and all new water or sewer services located within the village and/or such commercial, industrial and institutional facilities, apartments, mobile homes or multiple dwellings, all irrigation systems, and all new water or sewer services lying outside of the village, but utilizing village water or sewer services, shall be required to install one water meter for each tap to the village water distribution system and pay a meter charge equal to the cost of such meter when the meter is installed. All meters shall remain the property of the village and will, at all times, be under its control. The expense of installing the meter shall be borne by customer. Inspection of meter installations shall be made by the village at no cost to the property owner. Failure to install a meter shall result in water charges to be assessed by the village upon reasonable estimates of water consumption during the period of time no meter is installed upon the premises. Failure of a property owner to comply with this division shall allow the village to terminate water service to any user which fails to install a required meter upon giving notice of the termination to the property owner; or, at the village's option, the village may obtain an order requiring such installation through the circuit court for the county and costs allowed by the court to be assessed against the property owner.

[71]Editor's note(s)—Ord. No. 477 , § 1, adopted Jan. 18, 2021, amended Art. II, Div. 4 in its entirety to read as herein set out. Former Div. 4, §§ 82-121—82-129, pertained to similar subject matter, and derived from Ord. No. 233, §§ 4(A)(1)—(9), eff. Feb. 1, 1986; Ord. No. 286, eff. May 30, 1993; Ord. No. 293, § 31, eff. July 21, 1994; Ord. No. 452 , § 1, adopted Oct. 19, 2015.

(Ord. No. 477 , § 1, 1-18-2021)

Sec. 82-122. Reserved.

Sec. 82-123. Location and size.

The village reserves the right to determine the size, location, type and number of water meters required for any service. Required meter sizes for any connection, except a single-family dwelling unit, shall be determined by the department based on the number of water units assigned to any premises. When requesting connection to the water supply system, the user shall furnish information about the amount of the user's contemplated water demand and the type and size of meter to be installed. The type and size of meter shall be subject to approval by the village. The meter installation shall be on a pipe connecting to the village water line, which pipe shall be free from any tee or taps between the meter and the underground connection to the village water line, other than for fire protection systems and multiple-use buildings. All water meters shall be purchased through the village, and their installation shall be paid for by the property owner. If it is necessary to set the meter in a pit, such pit shall be built at the expense of the customer, as directed by, and subject to the approval of, the village engineer or DPW director. After a meter has once been installed, its location shall not be changed except by permit from the village, and the cost shall be borne by the customer.

(Ord. No. 477 , § 1, 1-18-2021)

Sec. 82-124. Reading.

All meters required under this article shall be read by the village employees at intervals designated by the water commissioner, and bills to customers will be rendered by the village in accordance with such reading and charges as provided in this chapter. A customer or property owner where a meter is located within the building shall not cover the meter or place obstructions that may prevent convenient access to the meter at any time by the employees of the department of public works for the purpose of reading or making repairs. If village employees are unable to make a meter reading or, if a meter shall have fully or partially failed to operate, water charges shall be assessed by the village upon reasonable estimates of water consumption.

(Ord. No. 477 , § 1, 1-18-2021)

Sec. 82-125. Reserved.

Sec. 82-126. Testing generally.

All water meters shall be tested before they are installed, and after their installation they shall be tested as frequently as the water commissioner shall deem advisable. The water commissioner has the right to remove and test a meter at any time and to substitute meters either temporarily or permanently as he deems advisable.

(Ord. No. 477 , § 1, 1-18-2021)

Sec. 82-127. Testing at customer's request.

If the customer, at any time, questions the accuracy of a water meter at his premises, upon the customer's written request accompanied by a deposit of an amount to be established by resolution of the village council for each meter in question, the customer's contractor shall remove the meter and the village will test the meter. If the

test shows that the meter has been over registering more than two percent, the deposit shall be returned to the customer and an accurate meter installed. Otherwise, the deposit shall be retained by the village to cover the cost of removing, testing and replacing the meter.

(Ord. No. 477 , § 1, 1-18-2021)

Sec. 82-128. Bill adjustments for inaccuracy.

If at any time upon the testing of a water meter it is found that such meter is over registering or under registering by more than two percent, an adjustment in billing shall be made. However, no adjustment shall be made in any billing for water used more than 12 months prior to testing of the meter.

(Ord. No. 477 , § 1, 1-18-2021)

Sec. 82-129. Right to require additional meters.

The village reserves the right to place a water meter on any existing water service, including any residential service, whether or not the service is currently metered and without application from the consumer, where such action shall be deemed necessary to prevent waste or to protect the interests of the water distribution system or to establish and further a policy of metering all consumers. The meters installed under this section shall be furnished and, notwithstanding section 82-122, paid for in the manner prescribed and approved by the village council. The meters shall remain the property of the village.

(Ord. No. 477 , § 1, 1-18-2021)

Secs. 82-130—82-155. Reserved.

DIVISION 5. WATER USE REGULATIONS

Sec. 82-156. Private wells.

No private well for water supply shall be constructed in the village without the prior formal authorization of the village council.

(Ord. No. 233, § 4(B), eff. 2-1-1986)

Sec. 82-157. Diverting water supplies.

No person shall take or use the village water from premises other than his own or from premises of which he has possession, and no person shall sell or give away water from his own premises or premises under his control without prior written permission from the water commissioner. No connection shall be made for transport of water from one property to another except as approved in advance on a temporary basis by the water commissioner or as approved in advance on a permanent basis by the village council.

(Ord. No. 233, § 4(C), eff. 2-1-1986)

Sec. 82-158. Restrictions on use.

(a) The water commissioner may regulate or limit the use of water for any purpose when he deems such limitation to be in the public interest. Such regulations may restrict water use during periods of fire, loss of all or part of the village water supply and similar emergencies or conditions for which the water commissioner deems restrictions to be important to public health, safety and welfare.

(b) The village council shall annually review availability of water for lawn sprinkling. If the council determines that the water supply is not adequate for unlimited lawn sprinkling, it may limit or control sprinkling on even-numbered and odd-numbered days of the month or in such other manner as it may deem to be fair and equitable to citizens of the village.

(Ord. No. 233, § 4(D), eff. 2-1-1986)

Sec. 82-159. Maintenance of water service pipes.

The user shall maintain all service pipes free from leaks at all times. Whenever a leak appears in a user's installation which allows water to escape without registering upon the meter, the village shall give the user written notice thereof and the user shall immediately proceed to repair the water service pipe. If the repairs have not been completed within 48 hours after notice has been given, the village may stop the service by shutting off the water at the curb stop or by excavating to and closing the corporation stop. The costs incurred by the village of excavating and shutting off the service shall be paid by the user or by the owner of the property before service is restored. If, in the determination of the village, any leak on the user's installation endangers public safety or constitutes a nuisance or a source of waste, the village may shut off or stop the service until the leak is repaired.

(Ord. No. 459, § 2, 7-24-2017)

Sec. 82-160. Surcharges and charges for water flow resulting from violations.

(a) In addition to prosecution and the imposition of penalties for violations, a person who violates a regulation or order issued under section 82-31, declaration of emergency water shortage, or division 6 cross connections of this article II, is subject to a surcharge to be determined and assessed by the water commissioner not to exceed $100.00 per day per violation. Each day a violation occurs is a separate violation. The water commissioner, in determining the amount of the surcharge, shall consider the frequency of violations by the user, the impact of the violation on the water treatment system and human health and public safety and welfare, the magnitude of the violation, and other factors believed appropriate by the water commissioner.

(b) In addition to prosecution and the imposition of penalties for violations, if the violation results in unauthorized flow detected by a detector check meter or evidenced by a tampered bypass valve and/or plumbing, the charge for such unauthorized water flow shall be calculated on the basis of full flow through the bypass and the bypassed plumbing at the provided service pressure for the full duration of time estimated by the public services area that the bypass violation condition existed. The duration of the violation may be calculated to include all time during the billing period when the flow detection was determined to have occurred or all time since the last physical inspection of the metering system up to a maximum of three years.

(c) In addition to prosecution and the imposition of penalties for violations and/or discontinuance of water service, the failure to maintain piping within a premise as required by section 82-159 is subject to a surcharge to be determined and assessed by the water commissioner, not to exceed $50.00 per day per violation during which the violation occurs.

(d) In addition to prosecution and the imposition of penalties for violations and/or discontinuance of water service, the failure to allow access to a meter for repair or replacement as required by section 82-121, installation required, section 82-124, reading, or section 82-126, testing generally, is subject to a surcharge to be determined and assessed by the water commissioner, not to exceed $50.00 per day per violation during which the violation occurs.

(Ord. No. 459, § 3, 7-24-2017)

Secs. 82-161—82-185. Reserved.

DIVISION 6. CROSS CONNECTIONS[72]

Sec. 82-186. Adoption of rules.

The Village of Fowlerville adopts by reference the Water Supply Cross Connection Rules of the Michigan Department of Environmental Quality being R 325.11401 to R 325.11407 of the Michigan Administrative Code, as amended.

(Ord. No. 424, § 1, 9-12-2011)

Sec. 82-187. Inspections.

It shall be the duty of the village to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply is deemed possible. The frequency of 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. 424, § 1, 9-12-2011)

Sec. 82-188. Right of access.

The representatives of the village and the county building department shall have the right to enter at any reasonable time any property served by a connection to the public water supply system of 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 the inspection agency 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. 424, § 1, 9-12-2011)

[72]Editor's note(s)—Ord. No. 424, § 1, adopted Sept. 12, 2011, amended Div. 6 in its entirety to read as herein set out. Former Div. 6, §§ 82-186—82-188, pertained to similar subject matter, and derived from Ord. No. 233, §§ 4(E), (F), 9(B), effective Feb. 1, 1986.

Sec. 82-189. Discontinued 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 division 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 division.

(Ord. No. 424, § 1, 9-12-2011)

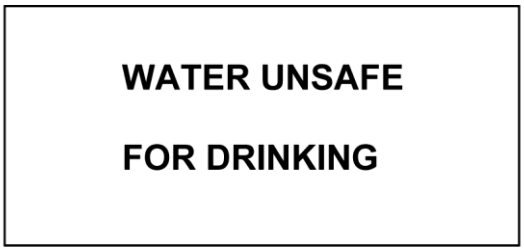
Sec. 82-190. Inspections.

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 village and in accordance with Michigan Department of Environmental Quality requirements. Only individuals that hold a valid Michigan plumbing license and have successfully passed an approved backflow testing class shall perform such testing. Each tester shall also be approved by the village. Individual(s) performing assembly testing shall certify the results of his/her testing.

(Ord. No. 424, § 1, 9-12-2011)

Sec. 82-191. Water unsafe for drinking.

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 division and by the state plumbing code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:



(Ord. No. 424, § 1, 9-12-2011)

Sec. 82-192. State Plumbing Code.

This division does not supersede the State Plumbing Code, but is supplementary to it.

(Ord. No. 424, § 1, 9-12-2011)

Sec. 82-193. Violations.

A person or customer who violates any section of this division is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in section 50-38, plus costs and other sanctions, for each infraction.

Repeat offenses under this article shall be subject to increased fines as provided by section 50-38. Each day upon which a violation of the provisions of this act shall occur shall be deemed a separate and additional violation for the purpose of this division.

(Ord. No. 424, § 1, 9-12-2011)

Secs. 82-194—82-215. Reserved.

ARTICLE III. SEWER SERVICE

DIVISION 1. GENERALLY

Sec. 82-216. 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:

Attorney means the village attorney.

Available public sanitary sewer system means a public sanitary sewer system located in a right-of-way, easement, highway, or public way that crosses, adjoins, abuts, or is contiguous to the realty involved and that passes not more than 200 feet at the nearest point from a structure in which sanitary sewage originates or, for all other real estate or land, that is located in a street, road, highway, right-of-way, easement, or public or private way, crossing, adjoining, abutting, or contiguous to any realty within a special assessment district created on which is located a structure in which sanitary sewage originates.

BOD means the biochemical oxygen demand which is the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five days at 20 degrees Celsius, expressed as milligrams per liter.

Building sewer means the sewer that connects the building or structure in which wastewater originates to the public sewer and that conveys the sewage from the building or structure to the public sewer.

Capacity charge means, in addition to any other assessments, costs, or levies under this article or article V of this chapter, a charge for capacity utilization and/or reservation levied for all residential multiple dwellings for each residential equivalent in excess of one residential equivalent. The amount of the charge shall be as set forth in article VI of this chapter. Premises other than single-family residences shall pay a connection charge in the amount of the capacity charge multiplied by the factor developed in the formula established by the table of unit factors pursuant to section 82-721.

Commercial user means any establishment being involved in a commercial enterprise, business or service which, based upon a determination by the village, discharges primarily segregated wastes or wastewater from sanitary conveniences.

Compatible pollutant means a substance amenable to treatment in a publicly owned wastewater treatment plant such as biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants identified in the NPDES permit of the publicly owned treatment works designed to treat such pollutants and which does in fact remove such pollutants to a substantial degree. Such additional pollutants may include but not be limited to chemical oxygen demand, total organic carbon, phosphorous and phosphorous compounds, nitrogen and nitrogen compounds, fats, oils, and greases of animal or vegetable origin.

Debt service charge means the charge assessed users of the system which is used to pay principal, interest, and administrative costs of retiring the debt incurred for the construction of the local portion of the system.

Direct connection means the connection of a premises wherein sanitary sewage originates directly to sewer lines constructed by the village.

Federal grant means the grant to be made for the construction of wastewater collection, transportation, and treatment works provided under PL 92-500, as amended.

Garbage means solid waste from the preparation, cooking, and dispensing of food and from the handling, storage, and sale of produce.

Governmental user means a facility connected to a sanitary sewer system and that is occupied by governmental offices or any other facility that provides governmental services at public expense.

Incompatible pollutant means any pollutant that is not a compatible pollutant.

Indirect connection means the connection of any premises to any sewer lines not originally comprising the sewer system constructed by the village but connecting thereto, e.g., premises served by subdivision and mobile home park sanitary sewers which in turn connect to public sewers.

Industrial user means any manufacturing or processing facility discharging wastewater to a public sanitary sewer system or any trade or process that discharges wastewater to a public sanitary sewer system and that may contain toxic or poisonous substances or may contain any substance which may inhibit or disrupt any sanitary sewer system, wastewater treatment system or disposal system for solid wastes which are generated in a publicly owned treatment works.

Industrial waste means the wastewater discharges from industrial, trade or business process as distinct from its employees' domestic waste or waste from sanitary conveniences.

Institutional user means a hospital, detention facility, medical care facility, church or school that has or provides care or services for persons but is not a residential user.

Major contributing industry means an industrial user of the publicly owned sewage works that:

(1) Has a flow of 50,000 gallons or more per average workday;

(2) Has a flow greater than five percent of the flow carried by the municipal system receiving the waste;

(3) Has in its waste a toxic pollutant in toxic amounts as defined in standards issued under section 307(a) of the Water Pollution Control Act; or

(4) Is found by the permit issuance authority in connection with the issuance of an NPDES permit to the publicly owned sewage works receiving the waste to have significant impact, either singly or in combination with other contributing industries, on the treatment works or upon the quality of effluent emanating from the treatment works.

May is permissive.

Mg/l means milligrams per liter.

Multiple residential dwelling means a residence in which more than one family resides.

Natural outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

Normal domestic strength wastewater means a sewage or other wastewater effluent which shall be a compatible pollutant, as defined in this section, and with BOD of 300 milligrams per liter or less, suspended solids of 350 milligrams per liter or less, and total phosphorous of 12 milligrams per liter or less.

NPDES permit means a permit issued pursuant to the National Pollution Discharge Elimination System prescribed in PL 92-500.

O & M charge means the charge assessed to users of the system for the cost of operation and maintenance, including the cost of replacement of the system pursuant to section 204b of PL 92-500.

Operation and maintenance (O & M) means all work, materials, equipment, utilities and other efforts required to operate and maintain the system, including the cost of replacement, wastewater collection, transportation, and treatment of effluent consistent with adequate treatment of wastewater to produce an effluent in compliance with the NPDES permit and other county, state and federal regulations, if any.

Person means any individual, firm, company, partnership, association, society, group, or corporation.

pH means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Plumbing inspector means the appointed village inspector.

Private sewage disposal system means any septic tank, lagoon, cesspool, or other facility intended or used for the disposal of sanitary sewage other than via the public sanitary sewer.

Properly shredded garbage means the waste from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in the public sewers with no particle greater than one-half inch in any dimension.

Property owner means the person having legal title to the premises according to the village's tax records and includes, in a land contract sale, the land contract vendee, provided that the village has been furnished with a copy of the land contract or assignment thereof.

Public sewer or *public sanitary sewer* means a sanitary sewer constructed, used, or intended for use by the public for the collection and transportation of sanitary sewage from building sewers for treatment or disposal and owned or operated or controlled by the village and in which all owners of abutting properties have equal rights, and as the term "public sanitary sewer system" is defined pursuant to section 12751 of Public Act No. 368 of 1978 (MCL 333.12751).

Replacement means the obtaining and installing of any equipment, accessories, and appurtenances which are necessary during the service life of the system to maintain the capacity and performance to which such system was designed and constructed and to preserve its financial integrity.

Residential equivalent or *equivalent unit* means the factor representing a ratio of the estimated sewage generated by each user class to that generated by the normal single-family residential user. The designation "RE" means residential equivalent.

Residential user means the user of the system whose premises are or whose building is used primarily as a residence for one or more persons, including dwelling units such as detached dwellings, semidetached dwellings, row houses, mobile homes, apartments, or permanent multifamily dwellings. For purposes of this article a transient lodging shall be considered to be a commercial use.

Sanitary sewage means the liquid or water-carried waste discharge from sanitary conveniences of dwellings including apartment houses, motels and hotels; office buildings; factories; or institutions.

Sanitary sewer means the sewer that carries sanitary sewage and industrial waste or either of them and into which stormwater, surface waters and groundwaters are not intentionally admitted.

Sewage means any combination of sanitary sewage, stormwater, industrial waste, and uncontaminated industrial waste or any of them.

Sewage treatment plant means any arrangement of devices or structures used for the treating of sewage.

Sewer means a pipe or conduit and appurtenances for transmitting or carrying sanitary sewage, including any devices necessary for pumping, lifting or collecting such sewage.

Sewer service charge means the charge to users of the village sewage collection and treatment system and shall be the sum of the O & M charge plus debt service charge.

Shall is mandatory.

Special assessment district means the special assessment district for the village wastewater collection system which was established by resolution of the village council for the purpose of defraying, in whole or in part, the cost of the system.

Storm sewer means a sewer intentionally designed for receiving and conveying stormwater, surface water and groundwater and into which sanitary sewage shall not be admitted.

Structure in which sanitary sewage originates means a building in which a toilet, kitchen, laundry, bathing or other facilities that generate water-carried sanitary sewage are used or are available for use for household, commercial, industrial, or other purposes.

Superintendent means the superintendent of the village wastewater collection and treatment system, including all sewers, pumps, lift stations, treatment facilities or other facilities and appurtenances used or useful in the collection, transportation, treatment and disposal of domestic, commercial or industrial wastes; and all easements, rights and land for the system and including all extensions and improvements thereto which may be acquired or constructed.

Surcharge means the additional charge that a user discharging wastewater having strength in excess of the limits set by the village for transmission and treatment within the sanitary sewer system will be required to pay to meet the cost of treating such excessively strong wastewater.

Suspended solids means solids that either float on the surface of or that are in suspension in the water, sewage or other liquids and that are removable by laboratory filtration.

System means the complete village wastewater collection system.

Table of unit factors means that table included in section 82-721 and adopted by the village and utilized to identify the various classifications of sewer users and stating as residential equivalents or RE the ratio of such use of the system to that of a single-family residence.

User charge means the charge levied on users of the system for the cost of operation and maintenance of such work pursuant to section 204b of PL 92-500, which charge shall also include cost of replacement.

User class means the kind of user connected to the sanitary sewers, including but not limited to commercial, governmental, industrial, institutional, and residential users as defined under this section.

Wastewater means water which contains or, prior to treatment, has contained pollutants such as sewage and/or industrial wastes.

Watercourse means an open channel, either natural or artificial, in which a flow of water occurs, either continuously or intermittently.

(Ord. No. 214, § 2, eff. 10-22-1982)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 82-217. Administration.

The village manager or the village president is charged with the responsibility of administering the system and enforcing this article.

(Ord. No. 214, § 11(D), eff. 10-22-1982; Ord. No. 219, eff. 11-9-1983)

Sec. 82-218. Operation, maintenance and control.

The operation and maintenance of the wastewater system shall be under the supervision and control of the village subject to this article and/or to any county-village contract which shall be agreed upon between the village and the county. Pursuant to the terms of this article and such contracts, the village has retained the exclusive right to establish, maintain, and collect rates and charges for sewage collection, treatment, transmission and debt service, and in such capacity the village council may employ such persons in such capacities as it deems advisable and may make such rules or regulations as it deems advisable and necessary to ensure the efficient establishment, operation, and maintenance of the system, to discharge its financial obligations, and collection of rates and charges.

(Ord. No. 214, § 3, eff. 10-22-1982)

Sec. 82-219. Municipal civil infraction.

A person who violates any section of this article is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in section 50-38, plus costs and other sanctions, for each infraction. Repeat offenses under this article shall be subject to increased fines as provided by section 50-38.

(Ord. No. 214, § 12, eff. 10-22-1982; Ord. No. 302, § 18, eff. 12-31-1995)

Sec. 82-220. Maintenance of public sanitary sewers and building sewers.

The village shall clean and maintain public sanitary sewers, but shall not clean and maintain building sewers. Building sewers shall extend from buildings to public sanitary sewers and shall include wyes or tees for connection to public sanitary sewers.

(Ord. No. 214, § 11(C), eff. 10-22-1982; Ord. No. 219, eff. 11-9-1983)

Sec. 82-221. Power and authority of inspectors.

(a) Duly authorized village employees bearing proper credentials and identification shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with this article.

(b) Duly authorized village employees may enter at all reasonable times in or upon private or public property for the purpose of inspecting and investigating conditions or practices which may be in violation of this article or detrimental to the system.

(c) Duly authorized village employees shall inspect the on-site work occurring because of any system permit. Any such employee shall have the right to issue a cease and desist order on the site upon finding a violation of the permit or of this article. The order shall contain a statement of the specific violation and the appropriate means of correcting the violation and the time within which correction shall be made.

(Ord. No. 214, § 11(E), eff. 10-22-1982; Ord. No. 219, eff. 11-9-1983; Ord. No. 317, § 1, eff. 10-27-1996)

Sec. 82-222. Deposits of human excrement, garbage or objectionable waste.

Without prior consent of the village council, no person shall place, deposit, or permit to be deposited upon any public or private property within the village or any area under its jurisdiction any human excrement, garbage, or other objectionable waste.

(Ord. No. 214, § 5(1), eff. 10-22-1982)

Sec. 82-223. Discharges to natural outlets.

It shall be a violation to discharge to any natural outlet any sanitary sewage, industrial waste, or other polluted water except where suitable treatment has been provided in accordance with this article.

(Ord. No. 214, § 5(2), eff. 10-22-1982)

Sec. 82-224. Protection from damage.

No person shall maliciously, wilfully or negligently break, damage, destroy, uncover, deface or tamper with the wastewater system or any component thereof.

(Ord. No. 214, § 11(A), eff. 10-22-1982; Ord. No. 219, eff. 11-9-1983)

Sec. 82-225. Septic tanks.

All septic tanks installed within the village shall, if the operation of the system on the site shall constitute a menace to the health and safety of the village, be disconnected from the septic field, if any, on the premises and shall be pumped dry and backfilled with sand or gravel so as to prevent further accumulation of waste within the tank.

(Ord. No. 214, § 7(E), eff. 10-22-1982; Ord. No. 270, eff. 11-18-1990)

Sec. 82-226. Floor drains prohibited where hazardous materials stored; secondary containment required.

Floor drains shall not be permitted in any part of a building where hazardous, flammable, or explosive materials are stored, including motor vehicle maintenance and parking areas. Secondary containment shall be provided in areas where these materials are stored.

(Ord. No. 296, § 1(7(G)), eff. 2-5-1994; Ord. No. 317, § 1, eff. 10-27-1996)

Secs. 82-227—82-255. Reserved.

DIVISION 2. PRIVATE SEWAGE DISPOSAL

Sec. 82-256. Prohibited.

Except as provided in this division, it shall be a violation to construct any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage or industrial waste.

(Ord. No. 214, § 5(3), eff. 10-22-1982)

Sec. 82-257. Authorized.

Where a public sanitary sewer is not available under section 82-286, the building sewer shall be connected to a private sanitary sewage disposal system which shall be approved by the county health department.

(Ord. No. 214, § 5(4), eff. 10-22-1982)

Sec. 82-258. Connection to public sewer.

At such time as the public sanitary sewer system becomes available to premises served by a private sanitary sewage disposal system, connection to the public system shall be made in compliance with this article, and any septic tank, cesspool and similar private disposal facility located thereon shall be abandoned and discontinued for sanitary sewage disposal use.

(Ord. No. 214, § 5(5), eff. 10-22-1982)

Sec. 82-259. Maintenance.

All private sanitary sewage disposal systems maintained in compliance with this article shall be maintained in a sanitary manner at all times at the sole expense of the owner thereof.

(Ord. No. 214, § 5(6), eff. 10-22-1982)

Sec. 82-260. Abandonment.

Every abandoned private sanitary sewage disposal system shall be completely filled with earth, sand, gravel, concrete or other approved material. Upon the abandonment or discontinuation of use of a septic tank or privy, the sewage and sludge contents shall be completely removed and disposed of by a septic tank cleaner who is duly licensed under Public Act No. 451 of 1994 (MCL 324.11701 et seq.). The tank or the privy pit shall be treated with at least ten pounds of chlorinated lime or other chemical disinfectant acceptable to the county health department. The tank or pit shall be completely backfilled with approved material and made safe from the hazard of collapse or entrapment.

(Ord. No. 214, § 5(7), eff. 10-22-1982)

Secs. 82-261—82-285. Reserved.

DIVISION 3. CONNECTIONS

Subdivision I. In General

Sec. 82-286. Mandatory connection required.

(a) Each and every owner of property on which is located a structure in which sanitary sewage originates, shall, at his own expense, install suitable toilet facilities in the structure and shall cause such facilities to be connected to the available public sanitary sewer system.

(b) Connection procedures shall be as follows:

(1) Such connection shall be completed promptly but in no case later than 90 days from the date of the occurrence of the last of the following events:

a. Publication of a notice by the village clerk of the availability of the public sanitary sewer system in a newspaper of general circulation within the village, and the mailing of written notice indicating the availability of the public sanitary sewer to the owner or any one of the owners of a co-ownership of the property in question.

b. Modification of a structure so as to become a structure where sanitary sewage originates.

(2) If the owner of property on which is located a structure in which sanitary sewage originates does not complete connection to an available sanitary sewer within the 90-day period described in subsection (b)(1) of this section, the village clerk shall notify the person by written notice that connection to the system is required forthwith. The giving of such notice shall be made by first class or certified mail to the owner of the property on which the structure is located or by posting such notice on the property. Notice shall provide the owner with the approximate location of the public sanitary sewer system which is available for connection of the structure involved and shall advise the owner of the requirements and the enforcement provisions of this article and section 12754 of Public Act No. 368 (MCL 333.12754), as amended.

(3) If the property owner is unable to connect to the system within the time prescribed by this section due to or on account of inclement or adverse weather conditions, the property owner may appeal to the village council to allow the person additional time in which to connect without penalty and without civil and criminal proceedings being initiated against him. This appeal shall be made in writing within ten days of notice of sanitary sewer availability as set forth in this section.

(c) Enforcement of this section shall be accomplished as follows:

(1) *Penalties for late connection.* Failure or refusal to connect to the system within the time prescribed in this section shall result in the property being charged a penalty of $300.00 for each single-family residential unit multiplied by the number of units and/or multiplying factors as established by the table of residential equivalents.

(2) *Civil penalties to compel connection.* When any structure in which sanitary sewage originates is not connected to the system 90 days after the date of mailing or otherwise serving notice to connect as set forth in this section, the village may bring an action for mandatory injunction or injunctive order in any court of competent jurisdiction in the county to compel the owner of the property on which the structure is located to connect to the system. The village may charge in such action any number of owners of such properties to compel the persons to connect to the system.

(3) *Municipal civil infraction.* A person who violates this section is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in section 50-38, plus costs and other sanctions, for each infraction. Repeat offenses under this section shall be subject to increased fines as provided by section 50-38.

(Ord. No. 214, § 4(A)—(C), eff. 10-22-1982; Ord. No. 302, § 17, eff. 12-31-1995)

State law reference(s)—Authority to require connection to public sanitary sewer system, MCL 333.12753.

Sec. 82-287. Voluntary connections.

(a) Voluntary connections to the public sewer for owners or premises outside the village will be allowed subject to the capacity of the village collection and treatment system to transport and treat such wastewater. The connection shall be made in compliance with the following:

(1) The owner shall pay the actual cost of all pipe, risers, stubs, wyes or other apparatus and the costs of all labor necessary to accomplish the connection and, in addition, shall pay a permit-inspection fee as established by resolution of the village council and an indirect connection charge.

(2) The connection to and use of the system by such premises shall be by gravity flow except by prior approval of the village.

(3) The surface of any disturbed right-of-way shall be returned to the condition at least equal to that existing before any excavation was undertaken.

(4) The owner shall obtain prior approval from the village of all plans and specifications and materials to be utilized to accomplish the connection.

(5) All wyes, stubs, pipe, risers or other apparatus not owned by the village shall, after installation and inspection, become, for purposes of operation and maintenance, the responsibility of the owner. The responsibility of the village for operation and maintenance shall be limited to sewer mains, manholes, lift stations and the wastewater treatment plant located within the village.

(6) Upon voluntary connection as set forth in this subsection, the owner and premises shall be subject to all ordinances, resolutions, rules and charges relating to use of the system.

(b) The village may deny the application of any person for sanitary sewer use under this section. Criteria for denial shall include but not be limited to the following:

(1) Compliance with relevant village sewer and land use ordinances, regulations and plans.

(2) The effect of such proposed use upon the village sewer system as a whole.

(3) The current sewer transmission and treatment capacity.

(4) Prior commitments for sewer availability.

(5) Litigation or other contingency requirements which may result in additional sewer use.

(6) Immediate or emergency health considerations.

(Ord. No. 214, § 8(B), (C), eff. 10-22-1982; Ord. No. 238, eff. 8-19-1986; Ord. No. 256, eff. 1-1-1989; Ord. No. 258, eff. 2-12-1989; Ord. No. 286, eff. 5-30-1993; Ord. No. 289, eff. 12-12-1993)

State law reference(s)—Voluntary connection to system permissible if the operator of the system agrees, MCL 333.12758.

Sec. 82-288. Privately constructed sanitary sewer systems.

(a) Before any sanitary sewer system constructed by private funding, as distinguished from public funding, referred to as the "private sanitary sewer," shall be permitted to connect to the system, the owner of system, referred to as the "developer," shall:

(1) Provide the village with the developer's plans and specifications for construction, an estimate of the cost of construction, and a performance bond and deposit with the village the sum of one percent of

the cost of construction to cover the cost of hiring a registered professional engineer to review plans and specifications, which moneys shall be placed by the village in an escrow account in the name of the developer.

(2) Obtain approval of the village council of the plans and specifications.

(3) Secure all necessary permits for construction.

(4) Upon commencement of construction of the private sanitary sewer, deposit with the village, in the escrow account referred to in subsection (a)(1) of this section, a sum of four percent of the cost of construction to cover the anticipated cost of inspection of construction and payment of connection charges.

(b) Upon completion of construction of the private sanitary sewer to the system, the performance bond, upon recommendation of the village engineer and approval of the village council, shall be released, and any monies remaining in the developer's escrow account shall be returned to the developer. Any additional expenses incurred by the village in ensuring the village that the private sanitary sewer is properly operating shall be deducted therefrom or charged directly to the developer, at the option of the village.

(Ord. No. 214, § 11(B), eff. 10-22-1982; Ord. No. 219, eff. 11-9-1983)

Secs. 82-289—82-315. Reserved.

Subdivision II. Building Sewers

Sec. 82-316. Required; costs.

(a) A separate and independent building sewer (lead) shall be provided for every building in which sanitary sewage originates.

(b) All costs and expenses incident to the installation of the building sewer and the connection of the building sewer to the public sewer shall be borne by the property owner.

(Ord. No. 214, § 6(A)(1), eff. 10-22-1982)

Sec. 82-317. Permit.

(a) No person shall uncover, make any connections with or openings into, alter or disturb any public sewer, building sewer, or appurtenance thereto without first obtaining a written connection permit from the village.

(b) The fee, if any, for the connection permit shall be an amount established by ordinance or resolution of the village council.

(c) The owner or contractor applying for a connection permit will receive three copies of the permit, one copy each for the contractor and the property owner, with the third copy to be returned to the village with a sketch of the installation on the back showing all dimensions, directions, and other important information concerning the installation. The latter copy will remain the property of the village.

(d) No connection to the system will be permitted unless there is capacity available in all downstream sewers, lift stations, force mains, and the sewage treatment plant, including capacity for treatment of BOD and suspended solids.

(Ord. No. 214, § 6(B)(1)—(4), eff. 10-22-1982)

Sec. 82-318. Work by licensed contractor or plumber.

(a) All connections of the building sewer and/or repairs to the wastewater system will be made by a licensed contractor or plumber registered with the village; provided, however, that a property owner may make his own installation and connection so long as he has secured a connection permit.

(b) Every licensed contractor or plumber making connections and/or repairs to the system shall file a performance bond with the village in the amount of $25,000.00 or such amount as the village shall require. In addition the contractor or plumber shall provide the village with a copy of his plumber's or contractor's license from the state and a copy of his liability insurance prior to performing any connections or repairs to the system. The bond shall indemnify the village against all losses or damages caused the village because of the contractor's or plumber's breach of this article or any rule or regulation relating thereto. The village council may, upon notice of a violation, revoke the connection permit issued by the village under section 82-317. The revocation shall become final unless the permit revocation is reversed by the village council.

(Ord. No. 214, § 6(B)(5), (6), eff. 10-22-1982)

Sec. 82-319. Standards generally.

(a) All building sewers (leads) shall meet or exceed all requirements of this article.

(b) Building sewers installed shall consist of pipes and fittings of the following types and sizes:

(1) The pipe must be of sufficient diameter to carry the estimated volume of discharge. Minimum pipe size permitted is six inches inside diameter on private property and six inches inside diameter within the public right-of-way;

(2) Pipe must be one of the following materials and cannot be mixed in the connection lines to include the fittings:

a. Cast iron with rubber-type gaskets;

b. Cast iron NH pipe with neoprene stainless couplings;

c. Ductile iron with rubber-type gaskets, slip joints or mechanical joints;

d. Vitrified clay tile with ASTM C425 joints;

e. Reinforced concrete with ASTM C443 joints;

f. PVC or ABS plastic, schedule 40 or better;

(3) No tees, double tees, or crosses, or double hub pipes shall be permitted; and

(4) All changes in grades shall be made with appropriate one-eighth bends.

(c) Cleanouts shall be installed every 90 feet of straight run and at each 90-degree direction change (two 45-degree connections). All cleanouts shall be plugged and shall be accessible at any time.

(d) All lines shall be laid at a minimum one-eighth-inch-per-foot grade and a maximum one-half-inch-per-foot grade for six-inch building sewers.

(e) The method to be used in excavating, placing of pipe, jointing, testing, and backfilling the trench shall conform to the requirements of the plumbing code rules (part 7) issued by the state department of labor construction code commission.

(f) No building sewer shall be laid within three feet of the outside bearing wall of a building. The depth shall be sufficient to afford protection from frost.

(g) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by a pumping system and discharged to the building sewer.

(Ord. No. 214, § 6(A)(3)—(9), eff. 10-22-1982)

Sec. 82-320. Excavations.

All excavations for building sewer installation, connection and repair shall be pursuant to appropriate permits and shall be adequately guarded by barricades and lighting to protect the public from hazard. Streets, sidewalks, alleys, parkways and other property disturbed in the course of the installation and construction work shall be restored in a manner satisfactory to the village.

(Ord. No. 214, § 6(A)(10), eff. 10-22-1982)

Sec. 82-321. Air testing of multiple-residence units.

All building sewers servicing a building containing more than two residential units shall, in addition to the other requirements of this article, be air tested and approved by the village.

(Ord. No. 214, § 6(A)(11), eff. 10-22-1982)

Sec. 82-322. Drainage into system.

No person shall connect roof downspouts, foundation drains, areaway drains, swimming pool drains, or any sources of surface water or groundwater to a building sewer which in turn is connected to the sanitary sewage collection system.

(Ord. No. 214, § 6(B)(7), eff. 10-22-1982)

Sec. 82-323. Open trench inspections.

It being the intention of the village to adopt a policy of open trench inspection of building sewers, no building sewer shall be covered until after it has been inspected and approved by authorized village personnel.

(Ord. No. 214, § 6(B)(8), eff. 10-22-1982)

Sec. 82-324. Charges for construction and connection of sewer in right-of-way.

Any construction of a sanitary sewer within the public right-of-way which is required after completion and acceptance of the public system described in this article shall be charged to the property owner requesting connection. The charge shall be the actual cost of such construction plus ten percent thereof for administrative expense. Payment shall be made as follows:

(1) Not less than 50 percent of the estimated cost shall be deposited with the village prior to commencement of construction; and

(2) The balance, if any, of the costs and administrative fee shall be paid upon completion of construction.

(Ord. No. 214, § 6(B)(9), eff. 10-22-1982)

Secs. 82-325—82-350. Reserved.

DIVISION 4. SEWER USE REGULATIONS

Sec. 82-351. Discharge of stormwater, groundwater and unpolluted water.

(a) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, or roof water to any sanitary sewer.

(b) Stormwater, groundwater and all other unpolluted drainage, including noncontact industrial cooling water, shall be discharged into storm drains or into a natural outlet suitable for the purpose.

(Ord. No. 214, § 7(A), eff. 10-22-1982; Ord. No. 270, eff. 11-18-1990)

Sec. 82-352. Prohibited discharges.

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

(1) Liquid or vapor having a temperature higher than 150 degrees Fahrenheit.

(2) Water or waste which may contain more than 100 milligrams per liter, by weight, of fat, oil or grease.

(3) Gasoline, benzine, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

(4) Garbage that has not been properly shredded.

(5) Ashes, cinders, sand, mud, straw, shaving metal, glass, rags, feathers, tar, plastics, wood, paunch manure or any other solid or viscous substance capable of causing obstruction to flow in sewers or other interference with the proper operation of the sewer works.

(6) Waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process or to constitute a hazard to humans or animals or to create any hazard in the receiving waters to the treatment facility.

(7) Noxious or malodorous gas or substance capable of creating a public nuisance.

(8) Industrial waste that may cause a deviation from the NPDES permit requirements, pretreatment standards, and all other state and federal regulations.

(9) Waters or wastes having a pH lower than 5.5 or higher than 9.0 or having any other corrosive properties capable of causing damage or hazard to structures, equipment and personnel of the sewer works.

(Ord. No. 214, § 7(B), eff. 10-22-1982; Ord. No. 270, eff. 11-18-1990)

Sec. 82-353. Grease, oil and sand interceptors.

(a) Grease, oil and sand interceptors (traps) shall be provided at the expense of the property owner when liquid wastes may contain grease, oil and sand in excessive amounts. 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. Grease, oil and sand interceptors shall be constructed of impervious materials capable of withstanding

abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which when bolted into place shall be gastight and watertight.

(b) Where installed, all grease, oil and sand interceptors (traps) shall be maintained by the owner, at his expense, in continuously efficient operation at all times.

(Ord. No. 214, § 7(C), eff. 10-22-1982; Ord. No. 270, eff. 11-18-1990)

Sec. 82-354. Preliminary treatment.

(a) The admission of the following into the public sewers shall be subject to review and approval for acceptance by the village, including any waters or wastes:

(1) Containing a five-day BOD greater than 300 mg/l or containing more than 350 mg/l of suspended solids;

(2) Containing any quantity of substances having the characteristics described in section 82-352;

(3) Having a chlorine demand of more than 15 milligrams per liter;

(4) Having any average daily flow greater than two percent of the average daily flow tributary to the village wastewater treatment facility; or

(5) Containing a total phosphorous concentration greater than 12 milligrams per liter as phosphorous.

(b) Preliminary treatment shall be provided, at no expense to the village, as may be necessary to reduce the BOD to 300 mg/l and suspended solids to 350 mg/l or to reduce objectionable characteristics of the effluent to within the maximum limits provided for in section 82-352 or to control the quantity and rates of discharges of such waters or wastes. On direction of the village, a person may be required to remove, exclude, or require pretreatment of any industrial waste in whole or in part for any reason deemed to be in the village's interest. Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained in satisfactory and effective operation at no expense to the village. Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for approval to the village, and no construction of such facility shall be commenced until the approvals are obtained in writing. The village may elect to treat industrial wastes discharged in excess of normal domestic concentrations on a basis prescribed by written agreement and for an established charge to cover the added cost. All such preliminary treatment or pretreatment shall be in accordance with federal and state laws and regulations.

(Ord. No. 214, § 7(D), eff. 10-22-1982; Ord. No. 270, eff. 11-18-1990)

Secs. 82-355—82-380. Reserved.

ARTICLE IV. INDUSTRIAL PRETREATMENT

DIVISION 1. GENERALLY

Sec. 82-381. 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 or *the act* means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

Approval authority means the state.

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-making or decision-making functions 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, 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 highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his 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 for the company, and the written authorization is submitted to the village.

Biochemical oxygen demand or BOD means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees Celsius, usually expressed as a concentration (e.g., mg/l).

Categorical pretreatment standard or categorical standards means any regulation containing pollutant discharge limits promulgated by the Environmental Protection Agency 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 405—471.

Department of public works supervisor means the person designated by the village council to supervise the operation of the POTW and who is charged with certain duties and responsibilities by this article, or his duly authorized representative.

Environmental Protection Agency or EPA means 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 Environmental Protection Agency 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.

Grab sample means a sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed 15 minutes.

Indirect discharge or discharge means the introduction of pollutants into the POTW from any nondomestic source regulated under section 307(b), (c), or (d) of the act.

Instantaneous maximum allowable discharge limit means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composted sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference means a discharge which, alone or in conjunction with a discharge 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 NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/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.

Medical waste means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

New source means:

(1) 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 (1)c of this definition but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a new source 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; or

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.

Noncontact cooling water means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

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 a discharge from other sources, is a cause of a violation of any requirement of the village NPDES permit, including an increase in the magnitude or duration of a violation.

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 representatives, 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 process; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

Pretreatment requirements means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

Pretreatment standards or standards means prohibited discharge standards, categorical pretreatment standards, and local limits.

Prohibited discharge standards or prohibited discharges means absolute prohibitions against the discharge of certain substances. These prohibitions appear in section 82-586.

Publicly owned treatment works or POTW means 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, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

Septic tank waste means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

Sewage means human excrement and gray water (household showers, dishwashing operations, etc.)

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 wastestream 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.

(3) Upon a finding that a user meeting the criteria in subsection (2) of this definition has no reasonable potential for adversely affecting the POTW's operation or for 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.

Sludge load or sludge means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in section 82-586.

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 the total suspended matter that floats on the surface of or is suspended in water, wastewater, or other liquid and which is removable by laboratory filtering.

User or industrial user means a source of indirect discharge.

Village means the village or the village council.

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 or treatment plant means that portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

(Ord. No. 316, § 1.4, eff. 10-27-1996)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 82-382. Abbreviations.

The following abbreviations, when used in this article, shall have the designated meanings:

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. 316, § 1.3, eff. 10-27-1996)

Sec. 82-383. Purpose, objectives and applicability.

(a) This article sets forth uniform requirements for uses of the publicly owned treatment works for the village and enables the village to comply with all applicable state and federal laws, including the Clean Water Act (33 USC 1251 et seq.) and the general pretreatment regulations (40 CFR 403).

(b) The objectives of this article are to:

(1) Prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation;

(2) Prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters, or that will otherwise be incompatible with the publicly owned treatment works;

(3) Protect both publicly owned treatment works 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 publicly owned treatment works;

(5) Provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the publicly owned treatment works; 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 publicly owned treatment works is subject.

(c) This article shall apply to all users of the publicly owned treatment works. This article 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 article.

(Ord. No. 316, § 1.1, eff. 10-27-1996)

Sec. 82-384. Administration.

Except as otherwise provided in this article, the department of public works supervisor shall administer, implement, and enforce this article. Any powers granted to or duties imposed upon the department of public works supervisor may be delegated by the department of public works supervisor to other village personnel.

(Ord. No. 316, § 1.2, eff. 10-27-1996)

Sec. 82-385. Confidential information.

Under this article, information and data on a user obtained from reports, surveys, the wastewater discharge permit application, wastewater discharge permits, and monitoring programs and from the department of public works supervisor's inspection and sampling activities shall be available to the public without restriction, unless the user specifically requests and is able to demonstrate to the satisfaction of the department of public works supervisor 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 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, but shall be made 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. 316, § 8, eff. 10-27-1996)

Sec. 82-386. Pretreatment charges and fees.

(a) The village may adopt reasonable fees for reimbursement of costs of setting up and operating the village pretreatment program, which may include the following:

(1) Fees for the wastewater discharge permit application, including the cost of processing such application;

(2) Fees for monitoring, inspection, and surveillance procedures, including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;

(3) Fees for reviewing and responding to accidental discharge procedures and construction;

(4) Fees for filing appeals; and

(5) Other fees as the village may deem necessary to carry out the requirements contained in this article.

(b) These fees relate solely to the matters covered by this article and are separate from all other fees, fines, and penalties chargeable by the village.

(Ord. No. 316, § 15.1, eff. 10-27-1996)

Sec. 82-387. Wastewater treatment rates.

Wastewater treatment rates shall be established by the village council by resolution.

(Ord. No. 316, § 14, eff. 10-27-1996)

Sec. 82-388. Public nuisances.

A violation of any section of this article, a wastewater discharge permit, an order issued under this article, or any other pretreatment standard or requirement is declared a public nuisance and shall be corrected or abated as directed by the department of public works supervisor. Any person creating a public nuisance shall be subject to the section of chapter 50 governing such nuisance, including reimbursing the village for any costs incurred in removing, abating, or remedying the nuisance.

(Ord. No. 316, § 12.4, eff. 10-27-1996)

Sec. 82-389. Injunctive relief.

When the department of public works supervisor finds that a user has violated or continues to violate any section of this article, a wastewater discharge permit, or order issued under this article, or any other pretreatment standards or requirement, the department of public works supervisor may petition the 53rd district court through the village attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this article on activities of the user. The department of public works supervisor may also seek such other action as is appropriate for legal and equitable relief, including a requirement for the user to conduct environmental

remediation. A petition for injunctive relief shall not be a bar against or a prerequisite for taking any other action against a user.

(Ord. No. 316, § 11.1, eff. 10-27-1996)

Sec. 82-390. Penalties.

(a) A user who violates sections 82-546 through 82-552 or division 4 of this article, a wastewater discharge permit, or order issued under this article, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable as provided in section 1-12.

(b) A user who knowingly makes any false statements, representations, or certificates in any application, records, report, plan or other documentation filed or required to be maintained pursuant to this article, a wastewater discharge permit or order issued under this article or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be guilty of a misdemeanor punishable as provided in section 1-12.

(c) A user who violates any other section of this article is responsible for municipal civil infraction, subject to payment of a fine as set forth in section 50-38, plus costs and other sanctions, for each infraction. Repeat offenses under this article shall be subject to increased fines as provided in section 50-38.

(d) The village may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the village.

(e) Filing a suit for civil penalties shall not be a bar against or a prerequisite for taking any other action against a user.

(Ord. No. 316, § 11.2, eff. 10-27-1996)

Sec. 82-391. Criminal prosecution.

(a) A user who willfully or negligently violates any section of this article, a wastewater discharge permit, an order issued under this article, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable as provided in section 1-12.

(b) A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and punished as provided in section 1-12. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(c) A user who knowingly makes any false statements, representations, or certificates in any application, records, report, plan or other documentation filed or required to be maintained pursuant to this article, a wastewater discharge permit or an order issued under this article or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished as provided in section 1-12.

(Ord. No. 316, § 11.3, eff. 10-27-1996)

Sec. 82-392. Remedies nonexclusive.

The remedies provided for in this article are not exclusive. The department of public works supervisor may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment

violations will generally be in accordance with the village enforcement response plan. However, the department of public works supervisor may take other action against any user when the circumstances warrant. Further, the department of public works supervisor is empowered to take more than one enforcement action against any noncompliant user.

(Ord. No. 316, § 11.4, eff. 10-27-1996)

Secs. 82-393—82-415. Reserved.

DIVISION 2. ENFORCEMENT

Subdivision I. In General

Sec. 82-416. Right of entry for inspection and sampling.

(a) The department of public works supervisor shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this article and any wastewater discharge permit or order issued under this article. Users shall allow the department of public works supervisor 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) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the department of public works supervisor will be permitted to enter without delay for the purposes of performing specific responsibilities.

(c) The department of public works supervisor shall have the right to set up on the user's property or require installation of such devices as are necessary to conduct sampling and/or metering the user's operations.

(d) The department of public works supervisor may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated quarterly to ensure its accuracy.

(e) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the department of public works supervisor and shall not be replaced. The costs of clearing such access shall be born by the user.

(f) Unreasonable delays in allowing the department of public works supervisor access to the user's premises shall be a violation of this article.

(Ord. No. 316, § 7.1, eff. 10-27-1996)

Sec. 82-417. Search warrants.

If the department of public works supervisor has been refused access to a building, structure, or property or any part thereof and is able to demonstrate probable cause to believe that there may be a violation of this article or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the village designed to verify compliance with this article or any permit or order issued under this article or to protect the overall public health, safety and welfare of the community, the department of public works supervisor may seek issuance of a search warrant from the county 53rd district court.

(Ord. No. 316, § 7.2, eff. 10-27-1996)

Sec. 82-418. Publication of users in significant noncompliance.

The department of public works supervisor shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements of this article. The term significant noncompliance shall mean:

(1) Chronic violation of wastewater discharge limits, defined as those in which 66 percent or more of wastewater measurements taken during a six-month period exceeded the daily maximum limits or average limits for the same pollutants parameter by any amount;

(2) Technical review criteria (TRC) violations, defined 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 limits 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 the department of public works supervisor 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 that has resulted in the department of public works supervisor's exercise of his emergency authority to halt or prevent such a discharge;

(5) Failure to meet, within 90 days of the scheduled date, a compliance schedule 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 department of public works supervisor determines will adversely affect the operations or implementation of the local pretreatment program.

(Ord. No. 316, § 9, eff. 10-27-1996)

Sec. 82-419. Performance bonds.

The department of public works supervisor may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any section of this article, a previous wastewater discharge permit, an order issued under this article, or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to the village, in a sum not to exceed a value determined by the department of public works supervisor to be necessary to achieve consistent compliance.

(Ord. No. 316, § 12.1, eff. 10-27-1996)

Sec. 82-420. Liability insurance.

The department of public works supervisor may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any section of this article, a previous wastewater discharge permit, an order issued under this article, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurance sufficient to restore or repair damage to the POTW caused by its discharge.

(Ord. No. 316, § 12.2, eff. 10-27-1996)

Sec. 82-421. Water supply severance.

Whenever a user has violated or continues to violate any section of this article, a wastewater discharge permit, an order issued under this article or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

(Ord. No. 316, § 12.3, eff. 10-27-1996)

Secs. 82-422—82-450. Reserved.

Subdivision II. Affirmative Defenses to Discharge Violations

Sec. 82-451. Upset.

(a) For the purposes of this section, the term "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical 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.

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (c) of this section are met.

(c) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:

(1) An upset occurred and the user can identify the causes of the upset;

(2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operations and maintenance procedures; and

(3) The user has submitted the following information to the department of public works supervisor within 24 hours of becoming aware of the upset; if this information is provided orally, a written submission must be provided within five days:

a. A description of the indirect discharge and cause of noncompliance;

b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(d) In any enforcement proceedings, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(e) 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.

(f) 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, lost, or fails.

(Ord. No. 316, § 13.1, eff. 10-27-1996)

Sec. 82-452. Prohibited discharge standards.

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in subsection 82-586(a) or the specific prohibitions in subsections 82-586(b)(3) through (4) 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 for interference, was in compliance with applicable sludge use or disposal requirements.

(Ord. No. 316, § 13.2, eff. 10-27-1996)

Sec. 82-453. Bypass.

(a) 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:

Bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility.

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.

(b) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is also for essential maintenance to ensure efficient operations. These bypasses are not subject to subsections (c) and (d) of this section.

(c) (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the department of public works supervisor at least ten days before the date of the bypass, if possible.

(2) A user shall submit oral notice to the department of public works supervisor of any 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 department of public works supervisor may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(d) (1) Bypass is prohibited, and the department of public works supervisor may take an enforcement action against a user for a bypass, unless:

a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

b. There were no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal period 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 period of equipment downtime or preventive maintenance; and

c. The user submitted notices as required under subsection (c) of this section.

(2) The department of public works supervisor may approve an anticipated bypass, after considering its adverse effects, if the department of public works supervisor determines that it will meet the three conditions listed in subsection (d)(1) of this section.

(Ord. No. 316, § 13.3, eff. 10-27-1996)

Secs. 82-454—82-480. Reserved.

Subdivision III. Administrative Enforcement Remedies

Sec. 82-481. Notice of violation.

When the department of public works supervisor finds that a user has violated or continues to violate any section of this article, a wastewater discharge permit or order issued under this article or any other pretreatment standard or requirement, the department of public works supervisor may serve upon that user a written notice of violation. Within ten days of the receipt of this notice, and 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 department of public works supervisor. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the department of public works supervisor to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(Ord. No. 316, § 10.1, eff. 10-27-1996)

Sec. 82-482. Consent orders.

The department of public works supervisor may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance with this article. Such documents will include specific action to be taken by the user to correct the 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 sections 82-484 and 82-485 and shall be judicially enforceable.

(Ord. No. 316, § 10.2, eff. 10-27-1996)

Sec. 82-483. Show cause hearing.

The department of public works supervisor may order a user which has violated or continues to violate any section of this article, a wastewater discharge permit or order issued under this article, or any other pretreatment standard or requirement to appear before the department of public works supervisor 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, 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 ten 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.

(Ord. No. 316, § 10.3, eff. 10-27-1996)

Sec. 82-484. Compliance orders.

When the department of public works supervisor finds that a user has violated or continues to violate any section of this article, a wastewater discharge permit or order issued under this article, or any other pretreatment standard or requirement, the department of public works supervisor 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 specified, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements 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 extend 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.

(Ord. No. 316, § 10.4, eff. 10-27-1996)

Sec. 82-485. Cease and desist orders.

(a) When the department of public works supervisor finds that a user has violated or continues to violate any section of this article, a wastewater discharge permit or order issued under this article, or any other pretreatment standard or requirement or that the user's past violations are likely to recur, the department of public works supervisor 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 need to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(b) Issuance of a cease and desist order shall not be a bar against or a prerequisite for taking any other action against the user.

(Ord. No. 316, § 10.5, eff. 10-27-1996)

Sec. 82-486. Administrative fines.

(a) When the department of public works supervisor finds that a user has violated or continues to violate any section of this article, a wastewater discharge permit or order issued under this article, or any other pretreatment standard or requirement, the department of public works supervisor may fine such user in an amount not to exceed $500.00. Such fines shall be assessed on a per-violation, per-day basis. For monthly or other longterm average discharge limits, fines shall be assessed for each day during the period of violation.

(b) Unpaid charges, fines, and penalties shall, after 30 calendar days, be assessed an additional penalty of ten percent of the unpaid balance, and interest shall accrue thereafter at a rate of 1.8 percent per month. A lien against the user's property will be sought for unpaid charges, fines, and penalties.

(c) A user desiring to dispute such fines must file a written request for the department of public works supervisor to reconsider the fine along with full payment of the fine amount within ten days of being notified of the fine. Where a request has merit, the department of public works supervisor may convene a hearing on the matter. If the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The department of public works supervisor may add the costs of preparing administrative enforcement actions, such as notices and others, to the fine.

(d) Issuance of an administrative fine shall not be a bar against or a prerequisite for taking any other action against the user.

(Ord. No. 316, § 10.6, eff. 10-27-1996)

Sec. 82-487. Emergency suspension.

(a) The department of public works supervisor may immediately suspend a user's wastewater discharge, after informal notice to the user, wherever 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 department of public works supervisor may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW or that presents or may present an endangerment to the environment.

(b) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. If a user fails to immediately comply voluntarily with the suspension order, the department of public works supervisor may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individual. The department of public works supervisor may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the department of public works supervisor that the period of endangerment has passed, unless the termination proceedings in section 82-488 are initiated against the user.

(c) 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 department of public works supervisor prior to the date of any show cause or termination hearing under section 82-483 or 82-488. Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(Ord. No. 316, § 10.7, eff. 10-27-1996)

Sec. 82-488. Termination of discharge.

(a) In addition to section 82-558, 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 sections 82-586 through 82-589.

(b) Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under section 82-483 why the proposed action should not be taken. Exercise of this option by the department of public works supervisor shall not be a bar to or a prerequisite for taking any other action against the user.

(Ord. No. 316, § 10.8, eff. 10-27-1996)

Secs. 82-489—82-545. Reserved.

DIVISION 3. WASTEWATER DISCHARGE PERMITS

Sec. 82-546. Wastewater analysis.

When requested by the department of public works supervisor, a user must submit information on the nature and characteristics of its wastewater within ten days of the request. The department of public works supervisor is authorized to prepare a form for this purpose and may periodically require users to update this information.

(Ord. No. 316, § 4.1, eff. 10-27-1996)

Sec. 82-547. Required.

(a) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the department of public works supervisor, except that a significant industrial user that has filed a timely application pursuant to section 82-548 may continue to discharge for the time period specified therein.

(b) The department of public works supervisor may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this article.

(c) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this article and subjects the wastewater discharge permittee to the sanctions set out in sections 82-419 through 82-422 and subdivisions III and IV of division 2 of this article. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.

(Ord. No. 316, § 4.2, eff. 10-27-1996)

Sec. 82-548. Continuation of discharge.

Any user required to obtain a wastewater discharge permit shall not cause or allow discharges to the POTW to continue except in accordance with a wastewater discharge permit issued by the department of public works supervisor.

(Ord. No. 316, § 4.3, eff. 10-27-1996)

Sec. 82-549. New connection.

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 section 82-550, must be filed at least five days prior to the date upon which any discharge will begin or recommence.

(Ord. No. 316, § 4.4, eff. 10-27-1996)

Sec. 82-550. Application contents.

(a) Every user required to obtain a wastewater discharge permit must submit a permit application. The department of public works supervisor may require all users to submit as part of an application the following:

(1) All information required by subsection 82-621(b);

(2) A 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;

(3) The number and type of employees, hours of operation, and proposed or actual hours of operations;

(4) Each product produced by type, amount, process, and rate of production;

(5) The type and amount of raw materials processed (average and maximum per day);

(6) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

(7) Time and duration of discharges; and

(8) Any other information as may be deemed necessary by the department of public works supervisor to evaluate the wastewater discharge permit application.

(b) Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

(Ord. No. 316, § 4.5, eff. 10-27-1996)

Sec. 82-551. Application signatories and certification.

Every wastewater discharge permit application and user report must be signed by an authorized representative of the user and shall 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. 316, § 4.6, eff. 10-27-1996)

Sec. 82-552. Issuance or denial.

The department of public works supervisor will evaluate the data furnished by the user on the wastewater discharge permit application and may require additional information. Within 30 days of receipt of a complete wastewater discharge permit application, the department of public works supervisor will determine whether or not to issue a wastewater discharge permit. The department of public works supervisor may deny any application for a wastewater discharge permit.

(Ord. No. 316, § 4.7, eff. 10-27-1996)

Sec. 82-553. 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 of less than five years, at the discretion of the department of public works supervisor. Each wastewater discharge permit will indicate a specific date upon which it will expire.

(Ord. No. 316, § 5.1, eff. 10-27-1996)

Sec. 82-554. Contents.

(a) A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the department of public works supervisor to prevent pass through or interference, to protect the quality of the water body receiving the treatment plant's effluent, to protect worker health and safety, to facilitate sludge management and disposal, and to protect against damage to the POTW.

(b) Wastewater discharge permits must contain the following:

(1) A statement that indicates the wastewater discharge permit duration, which shall not exceed five years;

(2) A statement that the wastewater discharge permit is nontransferable without prior notification to the village in accordance with section 82-557, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(3) Effluent limits based on applicable pretreatment standards;

(4) 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

(5) 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.

(c) Wastewater discharge permits may contain but need not be limited to the following conditions:

(1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(2) Requirements for the installation of pretreatment technology, pollution control or construction of appropriate containment devices designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(3) 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;

(4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(5) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

(6) Requirements for installation and maintenance of inspection and sampling facilities and equipment;

(7) 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

(8) Other conditions as deemed appropriate by the department of public works supervisor to ensure compliance with this article and state and federal laws, rules, and regulations.

(Ord. No. 316, § 5.2, eff. 10-27-1996)

Sec. 82-555. Appeals.

(a) The department of public works supervisor shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, can petition the department of public works supervisor to reconsider the terms of a wastewater discharge permit within 15 days of notice of its issuance.

(b) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(c) In the petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

(d) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

(e) If the department of public works supervisor fails to act within 30 days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

(f) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the 53rd district court.

(Ord. No. 316, § 5.3, eff. 10-27-1996)

Sec. 82-556. Modification.

The department of public works supervisor 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 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, 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.

(Ord. No. 316, § 5.4, eff. 10-27-1996)

Sec. 82-557. Revocation.

(a) The department of public works supervisor may revoke a wastewater discharge permit for a good cause, including but not limited to the following reasons:

(1) Failure to notify the department of public works supervisor of significant changes to the wastewater prior to the changed discharge;

(2) Failure to provide prior notification to the department of public works supervisor of a changed condition pursuant to section 82-625;

(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 department of public works supervisor 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 article.

(b) Wastewater discharge permits shall be violable 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. 316, § 5.5, eff. 10-27-1996)

Sec. 82-558. Reissuance.

A user with an expiring wastewater discharge permit shall apply for a wastewater discharge permit reissuance by submitting a complete permit application, in accordance with section 82-550, a minimum of 60 days prior to the expiration of the user's existing wastewater discharge permit.

(Ord. No. 316, § 5.6, eff. 10-27-1996)

Sec. 82-559. Waste received from other jurisdictions.

(a) If another municipality or user located within another municipality contributes wastewater to the POTW, the department of public works supervisor shall enter into an intermunicipal agreement with the contributing municipality.

(b) Prior to entering into an agreement required by subsection (a) of this section, the department of public works supervisor shall request the following information from the contributing municipality:

(1) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;

(2) An inventory of all users located within the contributing municipality that are discharging to the POTW; and

(3) Such other information as the department of public works supervisor may deem necessary.

(c) An intermunicipal agreement, as required by subsection (a) of this section shall contain the following conditions:

(1) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this article and local limits which are at least as stringent as those set out in section 82-589. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to this article or local limits;

(2) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;

(3) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the department of public works supervisor; and which of these activities will be conducted jointly by the contributing municipality and the department of public works supervisor;

(4) A requirement for the contributing municipality to provide the department of public works supervisor with access to all information that the contributing municipality obtains as part of its pretreatment activities;

(5) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;

(6) Requirements for monitoring the contributing municipality's discharge;

(7) A provision ensuring the department of public works supervisor access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the department of public works supervisor; and

(8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

(Ord. No. 316, § 5.7, eff. 10-27-1996)

Secs. 82-560—82-585. Reserved.

DIVISION 4. SEWER USE REGULATIONS

Sec. 82-586. Prohibited discharge standards.

(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 requirement.

(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 to the POTW, including but not limited to wastestreams 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 less than 5.0 or more than 9.0, or otherwise causing corrosive structural damage to the POTW or equipment.

(3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, but in no case solids greater than three inches or 7.62 centimeters in any dimension.

(4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW.

(5) Wastewater having a temperature greater than 130 degrees Fahrenheit (50 degrees Celsius), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater that causes the temperature at the introduction into the treatment plant to exceed 104 degrees Fahrenheit (36 degrees Celsius).

(6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.

(7) Pollutants which 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 department of public works supervisor in accordance with section 82-593.

(9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life or to prevent entry into the sewers for maintenance or repair.

(10) Wastewater that imparts color which cannot be removed by the treatment process, such as but not limited to dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the village's NPDES permit.

(11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations.

(12) Surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, dioized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the department of public works supervisor.

(13) Sludges, screening, or other residues from the pretreatment of industrial wastes.

(14) Medical wastes, except specifically authorized by the department of public works supervisor in a wastewater discharge permit.

(15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.

(16) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW.

(17) Fats, oil, or greases of animal or vegetable origin in concentrations greater than 100 mg/l.

(18) Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW or at any point in the POTW of more than five percent or any single reading over 20 percent of the lower explosive limits of the meter.

(c) *Protection of pollutants from discharge.* Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

(Ord. No. 316, § 2.1, eff. 10-27-1996)

Sec. 82-587. National categorical pretreatment standards.

(a) The categorical pretreatment standards found at 40 CFR 405—471 and pretreatment standards of the state, if any, are incorporated in this article.

(b) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the department of public works supervisor may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

(c) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the department of public works supervisor shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

(d) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factor considered by the Environmental Protection Agency when developing the categorical pretreatment standard.

(e) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

(Ord. No. 316, § 2.2, eff. 10-27-1996)

Sec. 82-588. Right of revision.

The village reserves the right to establish, by ordinance or in wastewater discharges permits, more stringent standards or requirements on discharges to the POTW.

(Ord. No. 316, § 2.3, eff. 10-27-1996)

Sec. 82-589. Dilution.

No user shall ever increase the use of process water or in any way attempt to dilute a wastewater 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 department of public works supervisor 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. 316, § 2.4, eff. 10-27-1996)

Sec. 82-590. Pretreatment facilities.

Users shall provide wastewater treatment as necessary to comply with this article and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in section 82-586 within the time limitations specified by the Environmental Protection Agency, the state, or the department of public works supervisor, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the department of public works supervisor for review and shall be acceptable to the supervisor before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the village under this article.

(Ord. No. 316, § 3.1, eff. 10-27-1996)

Sec. 82-591. Additional pretreatment measures.

(a) Whenever deemed necessary, the department of public works supervisor may require users to restrict their discharge during peak flow periods, may designate that certain wastewater be discharged only into a specific sewer, may relocate and/or consolidate points of discharge, may separate sewage wastestreams from industrial wastestreams, and may impose such other conditions as may be necessary to protect the POTW and determine the user's compliance with this article.

(b) The department of public works supervisor may require any person discharging into the POTW to install and maintain, on the person's property and at the person's expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(c) Grease, oil, and sand interceptors shall be provided for the proper handling of wastewater containing excessive amounts of grease and oil, or sand, except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the department of public works supervisor and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at his expense.

(d) A user with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(Ord. No. 316, § 3.2, eff. 10-27-1996)

Sec. 82-592. Accidental discharge/sludge control plans.

At least once every two years, the department of public works supervisor shall evaluate whether each significant industrial user needs an accidental discharge/sludge control plan. The department of public works supervisor may require any user to develop, submit for approval, and implement such a plan. Alternatively, the department of public works supervisor may develop such a plan for any user. An accidental discharge/sludge control plan shall address, at a minimum, the following:

(1) A description of discharge practices, including nonroutine batch discharges;

(2) A description of stored chemicals;

(3) Procedures for immediately notifying the department of public works supervisor of any accidental or sludge discharge, as required by section 82-626; and

(4) Procedures to prevent adverse impact from any accidental or sludge 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 a containment structure or equipment, measures for containing toxic organic pollutants including solvents, and/or measures and equipment for emergency response.

(Ord. No. 316, § 3.3, eff. 10-27-1996)

Sec. 82-593. Hauled wastewater.

(a) Septic tank waste may be introduced into the POTW only at locations designated by the department of public works supervisor and at such times as are established by the department of public works supervisor. Such waste shall not violate sections 82-586 through 82-589 or any other requirements established by the village. The department of public works supervisor may require septic tank waste haulers to obtain wastewater discharge permits.

(b) The department of public works supervisor shall require haulers of industrial waste to obtain wastewater discharge permits. The department of public works supervisor may require generators of hauled industrial waste to obtain wastewater discharge permits. The department of public works supervisor also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this article.

(c) Industrial waste haulers may discharge loads only at locations designated by the department of public works supervisor. No load may be discharged without prior consent of the department of public works supervisor. The department of public works supervisor may collect samples of each hauled load to ensure compliance with applicable standards. The department of public works supervisor may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, the permit number, truck identification, names and addresses of sources of wastes, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

(Ord. No. 316, § 3.4, eff. 10-27-1996)

Secs. 82-594—82-620. Reserved.

DIVISION 5. REPORTING REQUIREMENTS

Sec. 82-621. Baseline monitoring reports.

(a) *Required.* Within either 180 days after the effective date of a categorical pretreatment standard or the final administrative decision on a categorical determination under 40 CFR 403.6(a)(4), whichever is later, categorical users discharging to or scheduled to discharge to the POTW shall submit to the department of public works supervisor a report which contains the information listed in subsection (b) 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 department of public works supervisor a report which contains the information listed in subsection (b) 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.

(b) *Information required.* Users described in subsection (a) of this section shall submit the following information:

(1) *Identifying information.* The name and address of the facility, including the name of the operator and owner.

(2) *Environmental permits.* A list of any environmental control permits held by or for the facility.

(3) *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.

(4) *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 wastestream formula set out in 40 CFR 403.6(e).

(5) *Measurement of pollutants.*

a. The categorical pretreatment standards applicable to each regulated process.

b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the department of public works supervisor, 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 section 82-630.

c. Sampling must be performed in accordance with procedures set out in section 82-631.

(6) *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 (O & M) and/or additional pretreatment will be required to meet the pretreatment standards and requirements.

(7) *Compliance schedule.* If additional pretreatment and/or O & M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O & M. The completion date in this schedule shall not be later than the

compliance date established for the applicable pretreatment standards. A compliance schedule pursuant to this section must meet the requirements set out in section 82-622.

(8) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with section 82-551.

(Ord. No. 316, § 6.1, eff. 10-27-1996)

Sec. 82-622. Compliance schedule progress reports.

The following conditions shall apply to the compliance schedule required by subsection 82-621(b)(7):

(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 conduction routine operation;

(2) No increment referred to in subsection (1) of this section shall exceed nine months;

(3) The user shall submit a progress report to the department of public works supervisor 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 establish schedule; and

(4) In no event shall more than nine months elapse between such progress reports to the department of public works supervisor.

(Ord. No. 316, § 6.2, eff. 10-27-1996)

Sec. 82-623. Reports on compliance with categorical pretreatment standard deadline.

Within 90 days following the date for final compliance with applicable categorical pretreatment standards or for 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 department of public works supervisor a report containing the information described in subsections 82-621(b)(4)—(6). 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 82-551.

(Ord. No. 316, § 6.3, eff. 10-27-1996)

Sec. 82-624. Periodic compliance reports.

(a) All significant industrial users shall, at a frequency determined by the department of public works supervisor 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 82-551.

(b) 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.

(c) If a user subject to the reporting requirement in this division monitors any pollutants more frequently than required by the department of public works supervisor, using the procedures prescribed in section 82-631, the results of this monitoring shall be included in the report.

(Ord. No. 316, § 6.4, eff. 10-27-1996)

Sec. 82-625. Reports of changed conditions.

(a) Each user must notify the department of public works supervisor 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 15 days before the change.

(b) The department of public works supervisor 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 82-550.

(c) The department of public works supervisor may issue a wastewater discharge permit under section 82-552 or may modify an existing wastewater discharge permit under section 82-556 in response to changed conditions or anticipated changed conditions.

(d) For the purposes of this section, significant changes include but are not limited to flow increase of 20 percent or greater and the discharge of any previously unreported pollutants.

(Ord. No. 316, § 6.5, eff. 10-27-1996)

Sec. 82-626. Reports of potential problems.

(a) For any discharge, including but not limited to accidental discharges, discharges of a nonroutine episodic nature, a noncustomary batch discharge, or a sludge load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the department of public works supervisor of the incident. This notification shall include the location of the discharge, the type of waste, the concentration and volume, if known, and corrective actions taken by the user.

(b) Within five days following such discharge, the user shall, unless waived by the department of public works supervisor, submit a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to persons or property, nor shall such notification relieve the user of any fines, penalties, or other liabilities which may be imposed pursuant to this article.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call if a discharge described in subsection (a) of this section occurs. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

(Ord. No. 316, § 6.6, eff. 10-27-1996)

Sec. 82-627. Reports from unpermitted users.

Every user not required to obtain a wastewater discharge permit shall provide appropriate reports to the department of public works supervisor as the supervisor may require.

(Ord. No. 316, § 6.7, eff. 10-27-1996)

Sec. 82-628. Notice of violation; repeat sampling and reporting.

Under this article, if sampling performed by a user indicates a violation, the user must notify the department of public works supervisor 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 department of public works supervisor within 30 days after becoming aware of the violation. The user is not required to resample if the department of public works supervisor monitors at the user's facility at least one a month, or if the department of public works supervisor samples between the user's initial sampling and when the user receives the results of this sampling.

(Ord. No. 316, § 6.8, eff. 10-27-1996)

Sec. 82-629. Discharge of hazardous waste.

Under this article, the discharge of any hazardous waste is prohibited.

(Ord. No. 316, § 6.9, eff. 10-27-1996)

Sec. 82-630. Analytical requirements.

All pollutants 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 Environmental Protection Agency.

(Ord. No. 316, § 6.10, eff. 10-27-1996)

Sec. 82-631. Sample collecting.

(a) Except as indicated in subsection (b) of this section, the user must collect wastewater samples using flow proportional composite collection techniques. If flow proportional sampling is infeasible, the department of public works supervisor may authorize the use of time proportional sampling or a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(b) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(Ord. No. 316, § 6.11, eff. 10-27-1996)

Sec. 82-632. Timing.

Written reports required under this division will be deemed to have been submitted on the date postmarked. For reports that are not mailed postage prepaid into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(Ord. No. 316, § 6.12, eff. 10-27-1996)

Sec. 82-633. 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 by the department of public works supervisor.

(Ord. No. 316, § 6.13, eff. 10-27-1996)

Secs. 82-634—82-660. Reserved.

ARTICLE V. RATES, CHARGES AND BILLING PROCEDURE[73]

DIVISION 1. GENERALLY

Secs. 82-661—82-685. Reserved.

DIVISION 2. WATER RATES AND CHARGES

Sec. 82-686. Authority to establish; review.

The village council is authorized to establish rates and charges for the support of maintenance, operation and improvements to the village water system as it deems reasonable and necessary. Water use charges shall be periodically reviewed by the council for determining whether such charges are in accordance with requirements for operation, maintenance and replacement of the system and for necessary system improvements.

(Ord. No. 233, § 7(A), eff. 2-1-1986)

[73]Cross reference(s)—Finance, § 2-161 et seq.

Sec. 82-687. Use charges.

Water use charges, including metered use charges, meter equivalent charges, and replacement improvement charges, shall be in such amounts as established by resolution of the village council.

(Ord. No. 233, § 7(B), eff. 2-1-1986; Ord. No. 286, eff. 5-30-1993)

Sec. 82-688. Connection charges.

(a) *Capital connection charges.* All new connections to the village water system shall be charged a water capital connection charge. Water capital connection charges for services within the village limits shall be an amount established by resolution of the village council for each residential dwelling unit. For other uses the capital connection charge shall be an amount equal to the residential dwelling unit charge for each residential equivalent unit factor, as calculated pursuant to the table of unit factors for the village water system, which table is incorporated in this chapter by reference and is on file and available for inspection at the village offices. The table shall set forth and identify the user class and all applicable factors to be multiplied by an amount equal to the residential dwelling unit charge for each residential equivalent unit factor, which is designated as a residential equivalent (RE). The table of unit factors may be modified or amended from time to time by resolution of the village council. The water capital connection charges for any nonresidential user not expressly set forth in the table of unit factors shall be set by the council for each tap. In no case will the charge be less than an amount equal to the residential dwelling unit charge for any one tap. The water capital connection charge shall be paid in advance of a permit being issued or a connection being installed; provided, however, when the water capital connection charges exceed $5,000.00, the time for paying the charge may be extended under the terms that may be established by resolution of the village council.

(b) *Benefit charges.* Any person owning land in direct proximity to a village water main constructed after January 1, 1989, whose land has not been subjected to a special assessment to pay for the construction of the main and who makes connection to the water main shall pay a benefit charge for the privilege of each connection to the main, in addition to all other charges required by article II of this chapter or this division. The benefit charge shall be established from time to time by resolution of the village council. The benefit charge shall be paid in cash or installments with interest and penalties, all as shall be established and provided from time to time by resolution of the village council.

(Ord. No. 233, § 7(C), eff. 2-1-1986; Ord. No. 237, eff. 7-29-1986; Ord. No. 255, eff. 1-1-1989; Ord. No. 286, eff. 5-30-1993)

Sec. 82-689. Charges outside village.

All water charges, surcharges, and fees for property outside of the village limits receiving water service shall be the same as that paid by system users within the village limits.

(Ord. No. 233, § 7(D), eff. 2-1-1986; Ord. No. 255, eff. 1-1-1989; Ord. No. 391, § 1, 7-9-2007)

Sec. 82-690. Contractual rates.

The sections of this division relating to water rates shall not be construed as prohibiting any special agreement or arrangement between the village and the users or class of users, provided that such agreement or arrangement does not result in charges less than called for in this division.

(Ord. No. 233, § 7(E), eff. 2-1-1986)

Sec. 82-691. Turnoff charges.

The council may establish by resolution charges to be assessed the property owner each time that user requests to have the village turn off the user's water service and each time the water service is turned off for delinquent payment of water charges or noncompliance with article II of this chapter.

(Ord. No. 233, § 7(F), eff. 2-1-1986)

Secs. 82-692—82-720. Reserved.

DIVISION 3. SEWER RATES AND CHARGES

Sec. 82-721. Established.

Charges for sewage transmission and treatment and disposal and debt service to each user connected to the system shall be as follows:

(1) *Single-family premises.* For each single-family residential premises or single-family residential equivalent served by the sanitary sewer system (15,000 gallons per quarter) there shall be a sewer service charge of an amount established by resolution of the village council.

(2) *Schools.* In lieu of debt service charges, schools shall be charged as set forth in the table of unit factors on file and available for inspection at the village offices, plus metered charges per 1,000 gallons.

(3) *Table of unit factors.* For all other users of the system and except as otherwise provided in article III of this chapter and this division, the village adopts a table of factors for the village wastewater collection and treatment system, which table is incorporated by reference and is on file and available for inspection at the village offices. The table shall set forth and identify the user class and all applicable factors to be multiplied by the quarterly charge established for single-family residential premises, which is designated as a residential equivalent (RE). The table may be modified or amended from time to time by resolution of the village council.

(4) *Metered users.* Commercial or other users may, at their request, install a water meter for measurement of actual water use. A user shall install a meter for measuring wastewater discharge to village wastewater treatment facilities. Meters shall be read monthly or at such other period as may be determined by the village. The sewer service charge for metered users shall be an amount established by resolution of the village council.

(5) *Rules for interpreting table of unit factors.* Rules for interpreting the table of unit factors shall be as follows:

   a. The minimum equivalent factor for all users shall be one residential equivalent.

   b. Equivalent units for users not originally contained in the table may be added thereto from time to time by resolution of the village council.

   c. Where multiple metered businesses exist at one location, the various businesses shall be combined for determining the sewer service charge.

(6) *Revision or modification of equivalent units.* The equivalent units of a user having an equivalent unit factor of more than one residential equivalent shall be reviewed by the village at least once each year. Unless the equivalent unit factor of such user is changed by resolution of the village council on or before the 15th day of the last month preceding the commencement of the system fiscal year, the

equivalent unit factor of such user shall remain the same as it was for the preceding fiscal year. Failure to specifically review as provided in this subsection shall not cause the factor to be omitted and shall not be considered grounds for discontinuance of the factor.

(7) *Appeal.* A property owner having an equivalent unit factor of more than one or a metered user may, upon written request, appeal to the village council.

(8) *Effective dates for application of equivalent units.* Where equivalent units are used to determine the connection, service and other charges of a property owner, the equivalent unit which shall be used in the calculation of such charges shall be the equivalent unit factor assigned to such factor as of the following dates:

a. For calculating a direct connection charge, the date the property owner applies for the permit or the last day of the period during which he is required by article III of this chapter to connect to the system, whichever comes first.

b. For calculating the operation, maintenance and replacement service charge, the date the property owner's available sanitary sewer becomes operational and thereafter on the first day of the last month preceding the commencement of the system fiscal year.

(9) *Village use.* For the reasonable cost value of sewage disposal services rendered to the village and its various departments by the wastewater system, the village shall pay according to the amounts set forth in the table of unit factors.

(10) *Operation and maintenance surcharge.* The rates and charges set forth in this division notwithstanding, if the character of the sewage of any user shall impose an unreasonable or additional burden upon the village sewage disposal and/or transmission system, an additional charge shall be made over and above the rates established in this division. Effluent in excess of the maximum limitations imposed by article III of this chapter shall be deemed prima facie subject to surcharge. If necessary to protect the system or any party thereof, the village shall deny the right of any user to empty such sewage into the system. Surcharges required by this subsection shall be computed as the prorated share of the annual cost of operation and maintenance, including replacement, attributable to treating the substance multiplied by the ratio of weight of surchargeable excess of the discharged substance multiplied by the ratio of weight of surchargeable excess of the discharged substance to the total weight of such substance that is treated in that year. This amount shall be collected on the basis of estimated surchargeable amounts with each periodic billing and shall be adjusted annually to reflect actual operation, maintenance and replacement costs. Surcharge rates shall be established by resolution of the village council. Surcharge applicable to industrial users shall be as set forth in section 82-726.

(11) *Inspection fees.* The cost of connecting private premises to the village sewer shall not be paid from the proceeds of the bond issue or from the revenues of the system but shall be paid by the property owners. In addition, premises connecting to the facilities of the system shall pay a charge for the inspection of such connection. Such charge shall be payable in cash upon application for a permit to connect the system and shall be in the amount established by resolution of the village council for each sewer connection. Each unit in a multiple commercial premises and each mobile home space in a mobile home park shall be treated as a separate user, and a separate inspection charge shall be made for each such user; provided, however, that such charge shall be made only once for each sewer service to each mobile home space in a mobile home park upon application for sewer service to such park.

(12) *Capacity charge (indirect connection charge).* There shall be paid for each single-family residential premises or single-family residential equivalent (RE) connecting to any sewer lines, in cash, at the time of application for the connection permit for the privilege of indirectly using the facilities of such sewer system and receiving service therefrom, the amount established by resolution of the village council, plus such other charges as may be levied. For all multiple residential dwellings, whether connecting

directly or indirectly to the sanitary sewer system, there shall be paid, in cash, for all sewage treatment and transmission capacity, the sum equal to that established by the council for a single-family dwelling for each residential equivalent (RE). Premises subject to the capacity charge (indirect connection charge) and all other premises other than single-family residences and multiple residential dwellings connecting directly to the sanitary sewer system shall pay the amounts multiplied by the factor developed in the formula established by the table of unit factors pursuant to subsection (3) of this section. When the capacity charge (indirect connection charge) exceeds $5,000.00, the time for paying the charge may be extended under the terms that may be established by resolution of the village council.

(13) *Charges and rates outside village.* All sewer charges, surcharges, and fees for property outside of the village limits receiving sewer service shall be the same as that paid by system users within the village limits.

(14) *Benefit charges.* A person owning land in direct proximity to a village sewer main constructed after January 1, 1989, whose land has not been subjected to a special assessment to pay for the construction of the main and who makes connection to the sewer main shall pay a benefit charge for the privilege of each connection to the main in addition to all other charges under article III of this chapter and this division, which benefit charge shall be established from time to time by resolution of the village council. The benefit charge shall be paid in cash or in installments with interest and penalties, all as shall be established and provided from time to time by resolution of the village council.

(Ord. No. 214, § 8(A), eff. 10-22-1982; Ord. No. 238, eff. 8-19-1986; Ord. No. 256, eff. 1-1-1989; Ord. No. 258, eff. 2-12-1989; Ord. No. 286, eff. 5-30-1993; Ord. No. 289, eff. 12-12-1993; Ord. No. 367, § 1, 3-22-2004; Ord. No. 390, § 1, 7-9-2007)

Sec. 82-722. Contractual rates.

Section 82-721 relating to rates shall not be construed as prohibiting any special agreement or arrangement between the village and the user or class of users whereby the sanitary wastes of unusual strength or character of such user or class of users may be accepted into the system, subject to payment therefor by the user or class of users.

(Ord. No. 214, § 8(D), eff. 10-22-1982; Ord. No. 238, eff. 8-19-1986; Ord. No. 256, eff. 1-1-1989; Ord. No. 258, eff. 2-12-1989; Ord. No. 286, eff. 5-30-1993; Ord. No. 289, eff. 12-12-1993)

Sec. 82-723. Revision.

The rates established by this division shall be reviewed at least annually and are estimated to be sufficient to provide revenue for the payment of the operation and maintenance costs, debt service charges and such other charges and expenditures for the wastewater system. Such rates shall be revised from time to time as required to maintain the fiscal integrity of the system, and the rates may be revised and fixed by resolution of the village council as may be necessary to produce the amounts required to pay such charges and expenditures and provide the funds necessary for the maintenance of the financial integrity of the system.

(Ord. No. 214, § 8(E), eff. 10-22-1982; Ord. No. 238, eff. 8-19-1986; Ord. No. 256, eff. 1-1-1989; Ord. No. 258, eff. 2-12-1989; Ord. No. 286, eff. 5-30-1993; Ord. No. 289, eff. 12-12-1993)

Sec. 82-724. Deferring charges.

No free service shall be furnished to any user of the wastewater system, and there shall be no waiver or forgiveness of charges levied pursuant to this division. Any resident eligible for deferment of payment of such fees pursuant to state laws shall be afforded ample opportunity to request such deferment or partial payment in accordance with state law.

(Ord. No. 214, § 8(F), eff. 10-22-1982; Ord. No. 238, eff. 8-19-1986; Ord. No. 256, eff. 1-1-1989; Ord. No. 258, eff. 2-12-1989; Ord. No. 286, eff. 5-30-1993; Ord. No. 289, eff. 12-12-1993)

Sec. 82-725. Special assessments.

Nothing contained in article III of this chapter or in this division shall be construed as limiting, modifying or amending the special assessment levied against certain properties within the village in connection with the construction of sanitary sewers, which special assessment charges shall be due and payable according to the terms of the resolutions and actions of the village council.

(Ord. No. 214, § 8(G), eff. 10-22-1982; Ord. No. 238, eff. 8-19-1986; Ord. No. 256, eff. 1-1-1989; Ord. No. 258, eff. 2-12-1989; Ord. No. 286, eff. 5-30-1993; Ord. No. 289, eff. 12-12-1993)

Sec. 82-726. Operation and maintenance surcharge.

(a) Pursuant to article III of this chapter, cost recovery surcharges for BOD and suspended solids are established as follows:

	BOD	Suspended Solids	Phosphorous
Operation and maintenance (including replacement)	$0.10 per lb.	$0.10 per lb.	$1.00 per lb.

(b) The rates established in this section for the cost recovery surcharge may be revised by resolution of the village council, and the village council by resolution shall establish when such rates shall be billed and paid.

(c) In addition to requiring the industrial user to install a manhole to monitor the strength of its industrial waste pursuant to article III of this chapter, the industrial user may be required by the village, at its sole discretion, to install at the user's expense an approved meter to register accurately all water flowing to the system for purposes of implementing the rates and the service charges established under this division.

(Ord. No. 214, § 9, eff. 10-22-1982; Ord. No. 317, § 1, eff. 10-27-1996)

Secs. 82-727—82-755. Reserved.

DIVISION 4. BILLING AND COLLECTION PROCEDURE

Sec. 82-756. Billings for water and sewer charges.

(a) Water use charges and replacement/improvement charges and, if applicable, capital recovery charges and benefit charges shall be billed by the village clerk quarterly, or as the council may otherwise determine by resolution.

(b) Sewer charges, including operation, maintenance and replacement charges and debt service charges, and any applicable surcharges, capital recovery charges or benefit charges shall be billed by the village clerk quarterly, or as the council may otherwise determine by resolution.

(c) Bills shall become due and payable on the date specified on the bills. If not paid on or before the due date, a ten percent penalty shall be added to all charges billed. If not paid prior to 30 calendar days after the due date, an additional penalty of $10.00 shall be added to all charges billed.

(Ord. No. 214, § 8(H), eff. 10-22-1982; Ord. No. 233, § 7(G), eff. 2-1-1986; Ord. No. 238, § 8(H), eff. 8-19-1986; Ord. No. 256, § 8(H), eff. 1-1-1989; Ord. No. 257, § 7(G), eff. 2-12-1989; Ord. No. 258, § 8(H), eff. 2-12-1989; Ord. No. 286, §§ 7(B), 8(H), eff. 5-30-1993; Ord. No. 289, §§ 7(G), 8(H), eff. 12-12-1993; Ord. No. 361, § 1, eff. 6-1-2003)

Sec. 82-757. Collections.

Water and sewer charge collections may be enforced as follows:

(1) *Discontinuance of service.*

a. If any water or sewer charges established pursuant to this article remain delinquent for a period in excess of 30 calendar days, the village shall have the right to shut off and discontinue water and/or sewer service to such user.

b. If water and sewer charges are not paid by the 30th day following the due date, notice of nonpayment shall be delivered or sent by first class mail to the owner or tenant made responsible therefore or shall be posted upon the premises receiving such services, the method of serving notice to be in the discretion of the clerk. The failure to receive such notice shall not affect the right of the village to charge penalties or discontinue services for nonpayment. If the charges and penalties are not paid in full within ten days of the mailing, delivering or posting as provided in this subsection, water services to the premises to which the charges apply may be discontinued. Service, if so discontinued, shall not be restored until all sums then due and owing shall be paid, together with any turn-off and turn-on charges.

c. The notice of nonpayment shall state the amount of the delinquent charges and penalties and shall include the following statement:

"Village ordinance provides that water service may be discontinued if sewer and water charges are not paid on or before (the date which is the 30th day following the first day of the quarter). Water service so discontinued shall not be restored until all sums due and owing shall be paid together with any turn-off and turn-on charges as set by resolution of the village council. If for any reason you claim this bill is not due and payable, you must file a written notice of your objection to such billing with the clerk not later than ten days after the mailing, delivery or posting. All such objections shall be considered at the next regular village council meeting, and you will have an opportunity to present your objections and be heard thereon at that time."

d. If a statement of objections shall have been filed with the clerk on or before the date specified in the notice of nonpayment so mailed, delivered or served, water services for the premises to which the objected billing applies shall not be discontinued until the objecting owner or tenant has had an opportunity to present his objections to the village council. Such objections shall be

presented to the village council at its next regular meeting following the deadline set forth in the notice of nonpayment for the filing of objections. At that meeting, the council shall review any objections filed or presented and either sustain or deny the objection. If the objection is denied, water services for the affected premises may be discontinued on the second day following such meeting unless payment of all charges and penalties shall have been made.

e. Service shall not be reestablished until all delinquent charges, penalties and a charge for the discontinuance of such service shall be paid. The turn-off and turn-on charges shall be established by resolution of the village council.

(2) *Litigation.* In addition to discontinuing service to a delinquent user, the village shall have the option of collecting all such delinquencies and penalties due by legal proceedings in a court of competent jurisdiction.

(3) *Enforcement of lien*. Charges for water and sewer service, including penalties thereon, to property within the village, constitute a lien on the property served upon the provision of the water and/or sewer service. During April of each year, the clerk shall certify any such delinquent charges which, as of March 31st to the village tax assessing officer. The tax assessing officer shall enter the delinquent charges upon the village tax roll of that year against the premises to which such service shall have been rendered, and the charges shall be collected and the lien shall be enforced in the same manner as provided in respect to taxes assessed upon such roll. However, when a tenant is responsible for the payment of any such charges against any premises by a legally executed lease and the village clerk or village council is so notified of the lease by an affidavit of the owner, no such charge shall become a lien against such premises during the term of the lease from and after the date of such notice. If such affidavit is filed, no further service shall be rendered by the system to such premises until a cash deposit equal to three times the average quarterly charge to such premises shall have been made as security for payment of charges thereto.

(Ord. No. 214, § 8(I), eff. 10-22-1982; Ord. No. 233, § 7(H), eff. 2-1-1986; Ord. No. 238, § 8(I), eff. 8-19-1986; Ord. No. 256, § 8(I), eff. 1-1-1989; Ord. No. 257, § 7(H), eff. 2-12-1989; Ord. No. 258, § 8(I), eff. 2-12-1989; Ord. No. 286, § 8(I), eff. 5-30-1993; Ord. No. 289, § 8(I), eff. 12-12-1993; Ord. No. 361, § 2, eff. 6-1-2003; Ord. No. 477 , § 1, 6-22-2020)

Secs. 82-758—82-790. Reserved.

ARTICLE VI. DRAINS, SEWERS AND WATERCOURSES

Sec. 82-791. Authority to establish.

The village council may establish, construct, and maintain sewers, drains and watercourses whenever and wherever necessary. These improvements shall be of such dimensions and materials, and under such regulations as the council considers proper for the drainage of the village. Private property may be taken therefor in the manner provided by this act for taking private property for public use. But in all cases where the council shall consider it practicable, such sewers, drains, and watercourses shall be constructed in the public streets and grounds.

(Ord. No. 114, § 1, eff. 5-16-1927)

State law reference(s)—Similar provisions, MCL 67.24.

Sec. 82-792. Method of payment of construction expenses.

The expense of constructing sewers, drains, and watercourses may be paid by general tax upon the taxable property in the village; or the expenses may be defrayed by special assessment upon the lands and premises benefited in proportion to the benefits resulting to each lot or parcel of land, respectively; or such part of the expense as the council shall determine may be defrayed by special assessment, and the remainder may be paid by general tax.

(Ord. No. 114, § 2, eff. 5-16-1927)

State law reference(s)—Similar provisions, MCL 67.25.

Sec. 82-793. Maps; hearing notice.

(a) Before proceeding to the construction of any sewer, drain, or watercourse, all or part of the expense of which is to be defrayed by special assessment, the council shall cause a map to be made of those lands and premises which in its opinion will be benefited and which it intends to assess for the cost. Those lands shall constitute a special assessment district; and the map shall show the boundaries and divisions of all the lots and premises in the district, the proposed route and location of the improvement through the district, and the depth, grade, and dimensions of the improvement. The map, with an estimate of the cost of the proposed work, shall be deposited with the clerk, and notice shall be given by publication in a newspaper of the village for two weeks or by posting copies of such notice for two weeks, in three public places in the village, of the intention to construct the improvement, and where the map and estimates can be found, and appointing a time when the council will meet to hear any suggestions and objections from persons interested or liable to be assessed for the work.

(b) The special assessments shall be made in the manner provided by law.

State law reference(s)—Similar provisions, MCL 67.26.

Sec. 82-794. Special assessments on lands benefitted.

(a) The part of the expense of providing ditches and improving watercourses, as the council shall determine, may be defrayed by special assessment upon the lands and premises benefited thereby in proportion to such benefits.

(b) If the council shall declare that the expense of a sewer, drain or watercourse or any part of such expense shall be paid by special assessment upon the lands and premises benefitted, such special assessment shall be made in accordance with chapter 70 of this Code.

(Ord. No. 114, §§ 3, 12, eff. 5-16-1927)

Sec. 82-795. Private drains.

Whenever the council shall deem it necessary for the public health, it may require the owners and occupants of lots and premises to construct private drains therefrom to connect with some public sewer or drain, thereby draining such lots and premises, and to keep such private drains in repair and free from obstruction and nuisance. If such private drains are not constructed and maintained according to such requirement, the council may cause the work to be done at the expense of such owner or occupant, and the amount of such expense shall be a lien upon the premises drained and may be collected by special assessment to be levied thereon.

(Ord. No. 114, § 9, eff. 5-16-1927)

Sec. 82-796. Connection to public sewers and drains.

The owners and occupants of lots and premises shall have the right to connect the premises, at their own expense, by means of private drains with the public sewers and drains under such rules and regulations as the council shall prescribe.

(Ord. No. 114, § 10, eff. 5-16-1927)

Sec. 82-797. Charges for connection to public sewers.

The council may charge and collect annually from persons whose premises are connected by private drains with the public sewers a reasonable sum in proportion to the amount of drainage through the private drain. The charge shall be a lien upon the premises and may be collected by special assessment.

(Ord. No. 114, § 11, eff. 5-16-1927)

Sec. 82-798. Expenses for repairs.

The expenses of repairing public sanitary sewers, drains, ditches, storm water systems, water supply systems and watercourses may be paid by general tax. The expenses of reconstructing these improvements may be defrayed in the manner prescribed in this division for paying the expenses of constructing such improvements.

(Ord. No. 114, § 13, eff. 5-16-1927)

Chapter 86 VEGETATION[74]

ARTICLE I. IN GENERAL

Secs. 86-1—86-25. Reserved.

ARTICLE II. GRASS AND WEED CONTROL[75]

Sec. 86-26. 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:

Improved street means any public right-of-way which is open to the use of the public as a matter of right for purposes of public travel.

[74]Cross reference(s)—Buildings and building regulations, ch. 14; ; environment, ch. 38; land division, ch. 46; parks and recreation, ch. 58; planning, ch. 62; zoning, app. A; landscape and buffers, app. A, ch. 15.

[75]State law reference(s)—Control and eradication of noxious weeds, MCL 247.61 et seq.

Poisonous or *injurious weeds* includes those species and varieties designated as noxious by section 2 of Public Act No. 359 of 1941 (MCL 247.62), as amended. In addition, the following species and varieties of plants are designated as injurious weeds and declared to be a common nuisance: ragweed (any species of ambrosia), poison ivy (Rhus radicans), poison sumac (Toxicodendron vernix), poison oak (Toxicodendron quercifolia), marijuana (Cannabis sativa) and belladonna (Amaryllis belladonna). The village council is empowered to designate and declare by resolution additional species and varieties of plants as injurious, within the meaning of this article, on the basis of implication of such species or varieties as actually or potentially injurious to the public health. All such weeds are also declared to be a public nuisance.

(Ord. No. 221, art. III, § 1, eff. 1-2-1984; Ord. No. 310, § 1, eff. 6-30-1996)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 86-27. Exceptions.

Nothing in this article shall apply to lots or parcels of land devoted to flower gardens, plots of shrubbery, vegetable gardens or to any lots or parcels devoted to growing corn or small grains such as wheat, oats, barley or rye.

(Ord. No. 221, art. III, § 2, eff. 1-2-1984; Ord. No. 310, § 1, eff. 6-30-1996)

Sec. 86-28. Municipal civil infraction.

A person who violates any section of this article is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in section 50-38, plus costs and other sanctions, for each infraction. Repeat offenses under this article shall be subject to increased fines as provided by section 50-38.

(Ord. No. 221, art. IV, § 4, eff. 1-2-1984; Ord. No. 302, § 30, eff. 12-31-1995)

Sec. 86-29. Growth of certain weeds and brush prohibited.

It shall be unlawful for any owner, occupant, agent or other person having control or management of (i) any lot along any improved street in common usage, for a depth of 132 feet or the depth of a lot, whichever is the lesser, or (ii) any subdivided land in any subdivision in which buildings have been erected on 60 percent of the lots included in that subdivision, or (iii) lands that are not subdivided but are contiguous to subdivided lands in which subdivision buildings have been erected on 60 percent of the lots included in that subdivision, for a depth of 132 feet or the depth of a lot, whichever is lesser, within the village to allow the presence thereon or on any portion thereof of the following:

(1) Poisonous or injurious weeds.

(2) Other weeds or grasses of any species or variety exceeding six inches in height.

(3) Wild growing brush or underbrush exceeding six inches in height.

(Ord. No. 221, art. III, § 2, eff. 1-2-1984; Ord. No. 310, § 1, eff. 6-30-1996; Ord. No. 432, § 1, 6-3-2013)

Sec. 86-30. Abatement.

(a) If the owner, occupant, agent or other person having control or management of any land allows the presence thereon or on any portion thereof of any weeds or brush in violation of section 86-29, the village manager, or the manager's designee, shall notify by first class mail, and by posting the notice on the

premises, or by personal service of the owner, occupant, agent or person having control of the land, as reflected upon the village's tax records, on which noxious weeds, grass and/or brush are growing to abate the violation within five calendar days.

(b) Upon the failure, neglect or refusal of any such owner, occupant, agent or other person to abate the stated violations within the stated time, the village may assign such employees or agents to enter upon the land and to destroy such weeds or growth by spraying, cutting or by other acceptable methods or enter into a contract for the destruction of the weeds. The village may abate, destroy or remove the weeds or brush in violation of section 86-29 as many times as are necessary during the months of May, June, July, August, September, or October of the notice year and charge the cost to the person responsible for the property.

(c) Whenever the village shall enter upon any lot or parcel of land in order to destroy such weeds or growth, pursuant to provisions of this article, the village department of public works director is hereby authorized and directed to keep an accurate account of all expenses incurred, and, based upon these expenses, to issue a certificate determining and certifying the reasonable cost involved for the work with respect to each parcel of property.

(d) Within ten days after receipt of the certificate, the village treasurer shall forward a statement of the total charges assessed on each parcel of property to the person as shown as the owner by the last current tax roll and the assessment shall be payable to the village treasurer within 30 days from the date the statement was forwarded.

(e) If the owner of a lot, lots or premises fails to pay the bill within 30 days from the date the bill is mailed, the council may cause the amount of the expense incurred, together with a penalty and administrative fee of ten percent, to be levied by them as a special assessment upon the lot, lots or premises as provided in this Code for single lot assessments, or the amount thereof shall be collected by court action.

(Ord. No. 221, art. III, § 3, eff. 1-2-1984; Ord. No. 278, eff. 2-9-1992; Ord. No. 293, § 42, eff. 7-21-1994; Ord. 383, § 1, 3-19-2007; Ord. 401, § 10, 2-4-2008; Ord. No. 421, § 1, 7-5-2011)

Sec. 86-31. Publication of notice to abate.

In lieu of the notice required by section 86-30, the village, through the village manager, or the manager's designee, may publish a notice twice in a newspaper of general circulation in the county prior to May 1 of each year, with the first such publication being during the month of March. The published notice shall state that weeds or brush in violation of section 86-29 must not be permitted to exist on property in the village and must be abated, cut, destroyed or removed by the person responsible for the property beginning May 1 and continuing throughout the months of May, June, July, August, September, and October of that year. The published notice shall state that failure to comply with section 86-29 will result in the village causing the abatement, cutting, destruction or removal of the weeds or brush in violation of section 86-29, and the cost thereof charged against the person responsible for the property. The village may abate, cut, destroy or remove the weeds or brush in violation of section 86-29 as many times as are necessary during the months of May, June, July, August, September, and October of the notice year and charge the cost to the person responsible for the property.

(Ord. No. 221, art. III, § 4, eff. 1-2-1984; Ord. No. 293, § 42, eff. 7-21-1994; Ord. No. 383, § 2, 3-19-2007)

Secs. 86-32—86-55. Reserved.

ARTICLE III. TREES

DIVISION 1. GENERALLY

Sec. 86-56. 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:

Public trees means those trees located on any property belonging to the village and include all trees located on the public right-of-way of all streets located within the village limits.

(Ord. No. 209, § 1, eff. 3-19-1980)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 86-57. Municipal civil infraction.

A person who violates any section of this article is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in section 50-38, plus costs and other sanctions, for each infraction. Repeat offenses under this article shall be subject to increased fines as provided by section 50-38.

(Ord. No. 209, § 8, eff. 3-19-1980; Ord. No. 302, § 20, eff. 12-31-1995)

Secs. 86-58—86-85. Reserved.

DIVISION 2. REGULATIONS APPLICABLE ON PUBLIC PROPERTY

Sec. 86-86. Duty of village.

It shall be the duty of the village, through the department of public works, to cut, prune, or remove any tree bordering or within any public right-of-way on any street within the boundaries of the village in accordance with this division.

(Ord. No. 209, § 2, eff. 3-19-1980)

State law reference(s)—Authority to provide for and regulate the trimming of trees in or that overhang public highways, streets, avenues, MCL 67.21.

Sec. 86-87. Planting by private owners.

Before the planting of any tree in the village right-of-way by any property owner or person owning or occupying real property bordering any street of the village, the property owner or occupant shall apply for and receive the permission of the village manager or the village council with regard to the planting of the tree and its species.

(Ord. No. 209, § 3, eff. 3-19-1980)

State law reference(s)—Authority to regulate the planting of trees in public highways, streets and avenues, MCL 67.21.

Sec. 86-88. Abuse or mutilation of public trees.

Unless specifically authorized by the village council, no person shall intentionally do any of the following to a public tree:

(1) Damage, cut, carve, transplant or remove such tree;

(2) Attach any rope, wire, nails, advertising posters, or other contrivance to any such tree;

(3) Allow any gaseous liquid or solid substance which is harmful to such tree to come in contact with it; or

(4) Set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree.

(Ord. No. 209, § 7, eff. 3-19-1980)

Secs. 86-89—86-115. Reserved.

DIVISION 3. REGULATIONS APPLICABLE ON PRIVATE PROPERTY

Sec. 86-116. Duty of private owners for cutting and pruning.

(a) It shall be the duty of any person owning or occupying real property bordering any street, upon which property there may be trees not in the public right-of-way, to prune such trees in such manner that they will not obstruct or shade the streetlights, obstruct the passage of pedestrians on sidewalks, or obstruct vision of traffic signs.

(b) The minimum clearance of any tree overhanging a portion of a street shall be ten feet over sidewalks and 12 feet over all streets except truck routes, which shall have a clearance of 16 feet.

(Ord. No. 209, § 4, eff. 3-19-1980)

State law reference(s)—Authority to provide for and regulate the trimming of trees in or that overhang public highways, streets, avenues, MCL 67.21.

Sec. 86-117. Notification by village to cut or prune.

If any person owning real property bordering on any street not in the public right-of-way fails to prune trees in accordance with the minimum clearances as provided in this division, the council shall order such person to prune such trees within 15 days after receipt of written notice by the person. Notification shall be sent to the last known address of the property owner by certified mail, return receipt requested.

(Ord. No. 209, § 5, eff. 3-19-1980)

Sec. 86-118. Failure to correct or comply.

(a) If the owner or occupant of real property, when required to prune, cut or remove trees according to this division, shall fail to comply within the specified time, it shall be lawful for the village to prune, cut or remove such trees. The exact costs of pruning, cutting or removing such trees shall be assessed to the owner.

(b) Whenever the village is required to prune, cut or remove trees pursuant to provisions of this division, the village department of public works director is hereby authorized and directed to keep an accurate account of all expenses incurred, and, based upon these expenses, to issue a certificate determining and certifying the reasonable cost involved for the work with respect to each parcel of property in accordance with the council resolution.

(c) Within ten days after receipt of the certificate, the village treasurer shall forward a statement of the total charges assessed on each parcel of property to the person as shown as the owner by the last current tax roll and the assessment shall be payable to the village treasurer within 30 days from the date the statement was forwarded.

(d) If the owner of a lot, lots or premises fails to pay the bill within 30 days from the date the bill is mailed, the council may cause the amount of the expense incurred, together with a penalty and administrative fee of ten percent, to be levied by them as a special assessment upon the lot, lots or premises as provided in this Code for single lot assessments, or the amount thereof shall be collected by court action.

(Ord. No. 209, § 6, eff. 3-19-1980; Ord. No. 401, § 11, 2-4-2008)

Chapter 90 VEHICLES FOR HIRE[76]

ARTICLE I. IN GENERAL

Secs. 90-1—90-25. Reserved.

ARTICLE II. TAXICABS

DIVISION 1. GENERALLY

Sec. 90-26. 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:

Taxicab includes all motor vehicles used and driven for hire and engaged in the transportation of passengers for hire in the village.

(Ord. No. 182, § 10, eff. 12-5-1973)

Cross reference(s)—Definitions generally, § 1-2.

[76]Cross reference(s)—Businesses, ch. 18; streets, sidewalks and certain other public places, ch. 74; traffic and vehicles, ch. 78.

Sec. 90-27. Municipal civil infraction.

A person who violates any section of this article is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in section 50-38, plus costs and other sanctions, for each infraction. Repeat offenses under this article shall be subject to increased fines as provided by section 50-38.

(Ord. No. 182, § 15, eff. 12-5-1973; Ord. No. 302, § 10, eff. 12-31-1995)

Sec. 90-28. Authority to limit number of vehicles.

The village council shall have the power to limit the number of vehicles licensed under this article to operate in the village to such a number as shall be determined in the best interest of the public health, safety and welfare, and the village council shall have the right to refuse to issue further licenses whenever the number of licenses already issued shall be adequate and sufficient to serve the inhabitants of the village.

(Ord. No. 182, § 8, eff. 12-5-1973)

Sec. 90-29. Location of taxicab stands.

The village council shall have the power by resolution to direct and locate public taxicab stands at any point on the streets in the village.

(Ord. No. 182, § 9, eff. 12-5-1973)

Secs. 90-30—90-55. Reserved.

DIVISION 2. LICENSE

Sec. 90-56. Required.

No person shall engage in or conduct the business or occupation of running or driving any taxicab or any motor vehicle for conveying persons from place to place for hire without first having obtained a license and paid the license fee therefor.

(Ord. No. 182, § 2, eff. 12-5-1973)

Sec. 90-57. Application.

Any applicant desiring a license required by this division shall submit a written application to the village giving the following information:

(1) The names and addresses of the applicant and of all owners of the vehicle.

(2) The make, model, year and serial number of each vehicle to be licensed and a statement of the number of passengers for which the vehicle is built, exclusive of the driver.

(3) A statement as to whether the applicant has been convicted of any criminal offense in the preceding five years.

(Ord. No. 182, § 4, eff. 12-5-1973)

Sec. 90-58. Fees.

(a) The application for the license required by this division shall be accompanied by the license fee, which will be established by resolution of the village council for each vehicle to be licensed.

(b) All license fees shall be paid annually in advance.

(Ord. No. 182, §§ 5, 6, eff. 12-5-1973)

Sec. 90-59. Safety inspections.

Before any vehicle shall be licensed under this division, the vehicle shall be subject to a safety inspection by the village president, the village marshal or the police department, and a certificate of fitness shall be secured from the village president, the village marshall or the police department prior to the original license and annually whenever the license shall be renewed. The village president, the village marshal or the police department shall have the right to have the vehicle examined by a competent mechanic, and the applicant shall pay the cost of the inspection in addition to the license fees prescribed in this division.

(Ord. No. 182, § 7, eff. 12-5-1973; Ord. No. 219, eff. 11-9-1983; Ord. No. 292, § 7, eff. 6-13-1994)

Sec. 90-60. Term.

All licenses required by this division shall be issued for one year only.

(Ord. No. 182, § 6, eff. 12-5-1973)

Sec. 90-61. Cancellation.

(a) The village council may, after notice to the licensee and after a hearing thereon, cancel any license issued under this division for any of the following reasons:

(1) The licensee has violated any section of this article.

(2) The licensee is found to have made charges other than those filed with the village.

(3) The cancellation of the license is found to be in the best interests or the public health, safety and welfare.

(b) If a cancellation of such license occurs, a refund shall be made of the unused prorated portion of the license fee.

(Ord. No. 182, § 14, eff. 12-5-1973; Ord. No. 293, § 19, eff. 7-21-1994)

Secs. 90-62—90-90. Reserved.

DIVISION 3. OPERATING REQUIREMENTS

Sec. 90-91. Insurance.

Each vehicle licensed under division 2 of this article shall have in full force and effect at all times while the vehicle is licensed an insurance policy covering personal injury and property damage in such minimum amounts as

shall be approved by the village council. Duplicate copies of such insurance policies shall be on file in the village offices, together with a certificate that the premiums thereon have been paid. Failure to comply with this section shall cause an automatic revocation of the license.

(Ord. No. 182, § 11, eff. 12-5-1973; Ord. No. 293, § 16, eff. 7-21-1994)

Sec. 90-92. Right to substitute vehicles; consent.

The holder of any license issued under this article shall have the right to substitute another vehicle for a licensed vehicle with the written consent of the village manager and upon compliance with all sections of this article concerning such substituted vehicles.

(Ord. No. 182, § 12, eff. 12-5-1973; Ord. No. 293, § 17, eff. 7-21-1994)

Sec. 90-93. Rate schedules.

Each applicant for a license required by this article shall be required to furnish the village with a schedule of rates to be charged for the hire of the vehicle. The schedule of rates shall be on file in the village offices for inspection by the public.

(Ord. No. 182, § 13, eff. 12-5-1973; Ord. No. 293, § 18, eff. 7-21-1994)

APPENDIX A ZONING[77]

CHAPTER 1. SHORT TITLE

Sec. 101. Short title.

This Ordinance No. 346 shall be known and may be cited as the "Zoning Ordinance of the Village of Fowlerville, Michigan."

---

[77]Editor's note(s)—Ordinance No. 346, §§ 101—103, 201—205, 301—310, 401—419, 501—508, 601—636, 701—707, 801—807, 901—907, 1001—1007, 1101—1107, 1201—1206, 1301—1309, 1401—1411, 1501—1509, 1601—1610, 1701—1710, 1801—1814, 1901—1909, 2001—2007, 2101—2111, 2201—2208, 2301—2325, 2401—2412, App. A, repealed Appendix A and enacted new provisions as set out herein. Formerly, appendix A pertained to similar provisions and derived from Ord. No. 246, effective June 21, 1990; Ord. No. 268, §§ 1—4, adopted Nov. 4, 1990; Ord. No. 274, §§ 1—10, adopted June 17, 1991; Ord. No. 295, §§ 1—4, adopted Feb. 6, 1995; Ord. No. 297, § 1, adopted May 16, 1995; Ord. No. 298, §§ 1, 2, adopted Oct. 2, 1995; Ord. No. 299, §§ 1(2001)—1(2012), adopted Nov. 6, 1995; Ord. No. 304, §§ 1(1301A)—1(1304A), 2(1401A)—2(1408A), adopted Dec. 25, 1995; Ord. No. 319, § 1, adopted Oct. 27, 1996; Ord. No. 335, § 1, adopted Jan. 18, 1999; Ord. No. 339, § 1, adopted March 15, 1999; Ord. No. 340, § 1, adopted March 15, 1999; Ord. No. 343, § 1, Nov. 11, 1999; Ord. No. 344, § 1, adopted April 10, 2000.

Cross reference(s)—Any ordinance pertaining to zoning or rezoning saved from repeal, § 1-6(12); buildings and building regulations, ch. 14; community development, ch. 30; environment, ch. 38; land division, ch. 46; planning, ch. 62; streets, sidewalks and certain other public places, ch. 74; vegetation, ch. 86.

State law reference(s)—Authority to regulate land use, MCL 125.581 et seq.

(Ord. No. 346, § 101, 6-19-2000)

Sec. 102. Adoption of this zoning ordinance and repeal of present zoning ordinance.

Ordinance Nos. 145 and 264 and all amendments thereto, are hereby repealed on the effective date of this ordinance; however, if this zoning ordinance as a whole shall subsequently be judicially determined to have been unlawfully adopted, such judicial determination shall then automatically reinstate the Village Zoning Ordinance 264 and all of its amendments to their full effect.

(Ord. No. 346, § 102, 6-19-2000; Ord. No. 364, § 1, 11-17-2003)

Sec. 103. Effective date.

This Ordinance No. 346 shall become effective 20 days after publication of the notice of adoption in accordance with the requirements of the City and Village Zoning Act, Public Act 207 of 1921.

(Ord. No. 346, § 103, 6-19-2000)

CHAPTER 2. MISCELLANEOUS PROVISIONS

Sec. 201. Objectives.

In order to implement the purposes of zoning as set forth in Public Act No. 207 of 1921 (MCL 125.581 et seq.), as amended for the maximum benefit of the people of Fowlerville, the objectives of this ordinance are to:

1. Achieve the goals represented in the Fowlerville Master Plan of current adoption by establishing standards for community development in accordance with these goals.
2. Realize optimum economy in the expenditure of public funds for facilities and services.
3. Allow each use of land to develop with the assurance that it may be carried on without facing the possibility of detrimental influence from the use on any other parcel in the zoning district.
4. Provide for orderly physical development by encouraging the use of land in accordance with its character, adaptability, and suitability for particular purposes and by encouraging an arrangement of land uses which will recognize the best use and location of land in order to maximize economic benefit for the community as a whole.
5. Provide for an intensity of land uses which will allow full utilization of land without overcrowding, without overtaxing of utility services, and without interfering with the functions of streets and highways.
6. Eliminate to the maximum extent possible potential dangers to life, health and welfare from all uses of the land.
7. Lessen congestion in the public streets by providing for off-street parking of motor vehicles and for off-street loading and unloading of commercial vehicles.
8. Provide for the conservation of social and economic stability, property values, and the general character and trend of community development by encouraging the maintenance and strengthening of those features of the village's development which contribute to the citizens' welfare.

9. Encourage all uses of the land to conform to all applicable provisions of this ordinance and encourage discontinuance of existing uses that are not permitted as new uses under the provisions of this ordinance.

(Ord. No. 346, § 201, 6-19-2000)

Sec. 202. Interpretation.

The provisions of this ordinance shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare. It is not intended by this ordinance to repeal, abrogate, annul, or in any way impair or interfere with any existing provisions of law or ordinance or any rules, regulations, or permits previously adopted or issued pursuant to law, relating to the uses of buildings or premises. Nor is it intended by this ordinance to interfere with, abrogate, or annul any easements, covenants or other agreements between parties. Where this ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger yards, courts or other open spaces than are imposed or required by such existing provision of law or ordinance, or by such rules, regulations or permits, or by such easements, covenants or agreements, the provisions of this ordinance shall control. Where provisions of any other ordinance or regulation of the Village of Fowlerville impose requirements for lower height of buildings or less percentage of lots that may be occupied, or require wider or larger courts or deeper yards than are required by this ordinance, the provisions of the other ordinance or regulation shall govern.

(Ord. No. 346, § 202, 6-19-2000)

Sec. 203. Provisions held invalid.

If a court of competent jurisdiction finds any provision of this ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this ordinance shall continue to be separately and fully effective.

(Ord. No. 346, § 203, 6-19-2000)

Sec. 204. Application of provisions held invalid.

If a court of competent jurisdiction finds the application of any provision of this ordinance to any zoning lot, building, structure, or tract of land to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to the person, property, or situation immediately involved in the controversy and shall not affect any other person or situation.

(Ord. No. 346, § 204, 6-19-2000)

Sec. 205. Zoning—Not a vested right.

The fact of any portion of the written text or districting on the map of this zoning ordinance is a function of the lawful use of the police power and shall not be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities in this ordinance, and are subject to possible future change, amendment or modification as may be necessary to the present and future protection of the public health, safety and welfare of the village.

(Ord. No. 346, § 205, 6-19-2000)

CHAPTER 3. DEFINITIONS

Sec. 301. Definitions.

For the purposes of this ordinance, certain words and terms used herein shall be defined and interpreted as follows:

1. Words used in the present tense include the future.
2. The singular number includes the plural, and the plural includes the singular.
3. The word "building" includes the word "structure.
4. The word "lot" includes the word "plot" or "parcel."
5. The word "person" shall include any individual, firm, partnership, corporation, company, association, club, joint venture, estate, trust or any other group or combination acting as a unit, and the individuals consisting of such group or unit and the plural as well as the singular number; the singular masculine pronoun shall include the feminine, neuter and plural unless the intention to give a more limited meaning is disclosed by the context.
6. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."
7. The word "shall" or "is" or "are" is always mandatory, not directory.
8. Any word or term not defined herein shall be used with a meaning of common or standard utilization.

(Ord. No. 346, § 301, 6-19-2000)

Sec. 302. Definitions (A, B).

1. *Accessory building.* A detached supplemental and subordinate building or structure on the same lot as the main building but not part of the main building, which is used exclusively for an accessory use.
2. *Accessory use.* A use naturally and normally incidental and subordinate to the principal use or building located on the same lot as the principal use or building.
3. *Adult care facility.*
    a. *Adult day care facility.* A facility other than a private residence, which provides care for more than six adults for less than 24 hours a day.
4. *Adult foster care facility.* Any structure constructed for residential purposes that is licensed by the State of Michigan pursuant to Public Act 218 of 1979. These acts provide for the following types of residential structures:
    a. *Adult foster care small group home.* A facility with the approved capacity to receive 12 or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for 24 hours a day, five or more days a week, and for two or more consecutive weeks for compensation.
    b. *Adult foster care large group home.* A facility with approved capacity to receive at least 13 but not more than 20 adults to be provided supervision, personal care, and protection in addition to room and

board, for 24 hours a day, five or more days a week, and for two or more consecutive weeks for compensation.

c. *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 24 hours a day 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.

d. *Adult foster care congregate facility.* Residence for more than 20 adults.

5. *Adult uses.* Establishments with the following characteristics, known by a variety of titles.

a. *Adult bookstore.* An establishment having as a substantial or significant portion of its stock and [in] trade, books, magazines, videotapes, films, recordings, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" or any other "sexually explicit matter," as hereinafter defined, or an establishment with a segment or section devoted to the sale or display of such material.

b. *Adult motion picture theater.* An enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" or any other "sexually explicit matter," as hereinafter defined, for observation by patrons therein.

c. *Adult mini-motion picture theater.* An enclosed building with a capacity of less than 50 persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" or any other "sexually explicit matter," as hereinafter defined, for observation by patrons therein.

d. *Cabaret.* A business establishment which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators or similar entertainers.

e. *Bathing establishments.* Any place of business which, in exchange for a fee, provides as its principal function, bathing facilities, sauna baths, steam rooms or Turkish baths.

f. *Nude and/or topless services.* An establishment which features or offers as a portion of its business the services of models, masseurs, masseuses, employees, etc., who are nude, seminude, or topless when performing their services.

g. *Adult novelty business.* An establishment which has as a principal activity the sale of devices for the stimulation of the human genitals or devices designed for sexual stimulation.

h. *Adult personal service business.* An establishment having as a principal activity a person, while nude or partially nude, providing personal services for any 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, individual theatrical performance. It does not include activities performed by persons pursuant to and in accordance with licenses issued to such persons by the State of Michigan.

i. *Escort services.* An establishment which provides the services of escorting members for payment of a fee.

6. *Alley.* A public thoroughfare which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

7. *Auto carwash or auto laundry, automatic.* An establishment providing facilities for the mechanical washing or waxing of automobiles. Such service to be provided without labor to the customer and should it offer gasoline for sale, all requirements to automobile service stations must be met.

8. *Auto carwash or auto laundry, self-service.* An establishment offering facilities for the washing of automobiles by customers at the site. Should gasoline be offered for sale, all requirements pertaining to automobile service stations must met.

9. *Automobile circulation area.* Space provided on a lot for automobile maneuvering, parking, or storage.

10. *Automobile service station.* Any establishment used for supplying gasoline, oil and minor accessories at retail directly to the customer and which performs motor vehicle minor repairs on motor vehicles when the repairs are conducted wholly within a completely enclosed building.

11. *Basement.* That portion of a building partly below grade, but so located that the vertical distance from the grade level to the basement floor is greater than the vertical distance from the grade level to the basement ceiling. A basement shall not be included as a story for height measurement nor [shall it be] counted in floor area measurements.

12. *Bed and breakfast operation.* A use which is subordinate to the principal use of a single-family residence and is a use in which transient guests are provided a sleeping room and board in return for payment.

13. *Berm.* A landscaped earthen undulation which gently blends into surrounding terrain, with slopes not to exceed a 1:5 gradient. The planning commission may allow a gradient no steeper than 1:3 if it appears that there shall be no erosion, maintenance, or related problems.

14. *Block.* The property abutting one side of a street and lying between the two nearest intersecting or intercepting streets, or between the nearest intersecting or intercepting street and a physical barrier such as a right-of-way, park, river, or undivided acreage.

15. *Boardinghouse.* A building other than a hotel where, for compensation and by prearrangement for definite periods, meals, or lodgings and meals, are provided for three or more persons.

16. *Buffer.* A landscaped area composed of living plant material, a wall or berm, or a combination thereof for the purpose of visual screening and/or noise reduction between noncompatible land uses and/or between a thoroughfare and an existing land use.

17. *Buffer planting.* Living vegetation designed and maintained to enclose activities, use, light, noise and materials within the specified lot or area.

18. *Building.* An independent structure, either temporary or permanent, having a roof supported by columns or walls.

19. *Building area.* That portion of the lot exclusive of required yard space (front, side and rear).

20. *Building, height of.* The vertical distance measured from the mean elevation of the finished grade line of the ground about the front of the building to the highest point of flat roofs, to the deck line of mansard roofs, or to the average height between eaves and ridge for gable, hip, and gambrel roofs. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall.

Height of Building

21. *Building line.* The required horizontal distance measured from the front, side and rear lot line, as the case may be, which describes an area, termed the required setback on a lot or parcel. For the purposes of this appendix, a minimum building line is the same as the setback line.

22. *Building, principal.* A building or, where the context so indicates, a group of buildings which exist to serve the primary or chief purpose for which a lot is used.

23. *Business and professional offices.* Concerns engaged in service activities of a customarily professional nature (not offering personal services required by the general public frequently for hygienic and grooming purposes), and business concerns of a headquarters of district staff operation activity.

24. *Business Center.* Any two or more businesses (other than within the C-2 district) which:

    a. Present the appearance of a single, contiguous business area; and

    b. Are located on contiguous property or are developed in immediate proximity to each other and present the appearance of a single, contiguous business area; and

    c. At least one of the businesses must be at least 50,000 square feet in size.

25. *Business school.* An educational or training establishment designed and operated for learning specific business office skills.

(Ord. No. 346, § 302, 6-19-2000; Ord. No. 353, § 1, eff. 5-5-2002; Ord. No. 400, § 1, 2-4-2008; Ord. No. 411, §§ 1—3, 1-18-2010)

Sec. 303. Definitions (C, D).

1. *Cellar.* That portion of a building below the first story having more than one-half of its height belowgrade. A cellar is not counted as a story for height regulations.

1A. *Changeable message sign.* A sign on which the message is changed mechanically, electronically or manually, including time/temperature signs; also called menu board, reader board or bulletin board.

2. *Child care organization.* A facility for the care of children under 18 years of age, as licensed and regulated by the state under Act No. 116 of the Public Acts of 1973 and the associated rules promulgated by the State Department of Social Services. Such care organizations are classified below:

    a. *Child care center or day care center.* A facility other than a private home, receiving more than six preschool or school age children for group day care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility which provides care for not less than two consecutive weeks, regardless of the number of hours of care per day.

    The facility is generally described as a child care center, day care center, day nursery, preschool, nursery school, parent cooperative preschool, play group, or drop-in center. "Child care center" or "day care center" does not include a Sunday school conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.

    b. *Child caring institution.* A child care facility which is organized for the purpose of receiving minor children for care, maintenance, and supervision, usually on a 24-hour basis, in a building maintained for that propose, and operates throughout the year. It may include a maternity home for the care of unmarried mothers who are minors, an agency group home, and institutions for mentally retarded or emotionally disturbed minor children. It does not include hospitals, nursing homes, boarding schools, or adult foster care facility in which a child has been placed.

    c. *Foster family home.* A private home in which at least one but not more than four minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.

    d. *Foster family group home.* A private home in which more than four but less than seven children, who are not related to an adult member of the household by blood, marriage, or adoption, are provided

care for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.

e. *Family child care home.* A private home in which one but less 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. It includes a home that gives care to an unrelated child for more than weeks during a calendar year.

f. *Group child care home.* A private home in which more than six but not more than 12 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. It includes a home that gives care to an unrelated child for more than four weeks during a calendar year.

3. *Clinic.* An establishment where human patients who are not lodged overnight are admitted for examination and treatment by physicians, dentists, or similar professionals.

4. *Club.* An organization of persons for special purposes or for the promulgation of agriculture, sports, arts, science, literature, politics, or the like, but not operating for profit.

5. *Community development plan or master plan.* The adopted and/or amended plan for the future development of the Fowlerville area.

6. *Condominiums.*

a. *Building envelope.* Refers to the principal structure intended for a building site, together with any attached accessory structures.

b. *Building site.* Means the condominium unit, including the building envelope and contiguous limited common elements under and surrounding the building envelope, and it shall be equivalent to "lot" as used in this ordinance.

c. *Business condominium unit.* A condominium unit within any condominium project intended to be used for other than residential or recreational purposes.

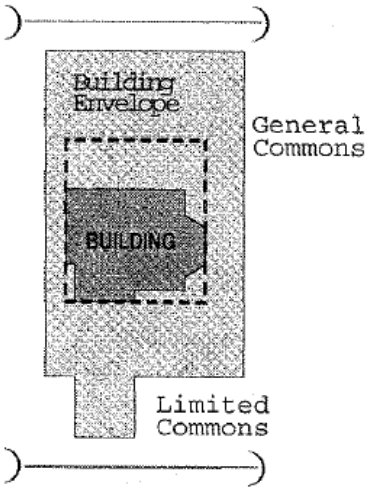
d. *Condominium project.* A plan or project consisting of not less than two condominium units if established and approved in conformance with the Condominium Act, Public Act No. 59 of 1978 (MCL 559.101 et seq.), as amended, and the administrative rules promulgated thereunder.

e. *Condominium subdivision plan.* A document that shall be an exhibit to the master deed of the condominium project. Contents shall conform with the Condominium Act, Public Act No. 59 of 1978 (MCL 559.101 et seq.), its promulgated rules, and the provisions in this ordinance.

f. *Condominium unit.* That portion of the condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, or any other type of use.

g. *General common elements.* The common elements other than the limited common elements.

h. *Limited common elements.* A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.



i. *Master deed.* The condominium document recording the condominium project, to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan for the project. The master deed shall include all of the following:

(1) An accurate legal description of the land involved in the project.

(2) A statement designating the condominium units served by the limited common elements and clearly defining the rights in the limited common elements.

(3) A statement showing the total percentage of value for the condominium project and the separate percentages of value assigned to each individual condominium unit identifying the condominium units by the numbers assigned in the condominium subdivision plan.

j. *Single-family detached condominium unit.* In a condominium subdivision, an individual building site, or envelope, which is defined by a volume of air space and horizontal and vertical boundaries.

k. *Site condominium project.* A condominium project with a condominium subdivision plan, planned and regulated as a subdivision. Said subdivision shall be equivalent to a subdivision as used in this ordinance and in the Village of Fowlerville [Subdivision] Control Ordinance. The subdivision may consist entirely of single-family detached condominium units.

7. *Construction.* The putting together of materials to build a new structure or to restore, reconstruct, extend, enlarge or repair an existing structure.

8. *Court.* An unoccupied open space, other than a yard, on the same lot with a building, which is bounded on two or more sides by the walls of such building.

9. *Court, open.* A court enclosed on not more than three sides by exterior walls of a building or by exterior walls and lot lines with one side or end open to a street, way, alley, or yard.

10. *Coverage.* The ratio of gross floor area of the first floor of a building or of a group of buildings on the same lot to the area of the lot, expressed as a percentage.

11. *Crawl space.* An unfinished, accessible space below the first floor generally less than full story height.

12. *Cul-de-sac.* A street with only one outlet having sufficient space at the closed end to provide vehicular turning area.

13. *Density of land use.* A ratio relating the total floor area of buildings to a unit of land area.

14. *Density of population.* A ratio expressed as either the number of persons or the number of families per gross acre or net acre of land.

15. *Discontinuance.* The failure to pursue customary operations.

16. *Drive-in.* A structure and/or vehicle circulation area partially or wholly oriented and designed to accommodate vehicle-borne customers who generally plan to remain in the vehicle.

17. *Dump.* An area, either public or private, utilized for the deposit of collected materials of very low or nonexistent value. Generally regarded as the terminal deposit for unwanted matter, but not including organic garbage.

18. *Dwelling, multifamily.* A building containing three or more separate dwelling units.

19. *Dwelling, one-family (attached).* Three or more one family dwelling units, each having its own entrance on the first floor and sharing common walls, but not having a common floor/ceiling. Such dwelling may also be termed townhouses or rowhouses.

20. *Dwelling, one-family (detached).* A detached building containing a single dwelling unit designed for and occupied exclusively by one family.

21. *Dwelling, two-family.* A building on a single lot, containing two separate dwelling units.

22. *Dwelling unit.* A room or rooms, connected together, constituting a separate, independent house-keeping establishment for one family occupancy, physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, bathroom, and sleeping facilities. In no case shall a motor home, trailer, automobile chassis, tent, or portable building be considered a dwelling. In the case of mixed occupancy, the part of a building occupied as a dwelling shall be deemed the dwelling unit and shall comply with all applicable provisions of this ordinance for dwellings.

(Ord. No. 346, § 303, 6-19-2000; Ord. No. 411, § 4, 1-18-2010; Ord. No. 422, § 1, 7-18-2011)

Sec. 304. Definitions (E—G).

1. *Easement.* A nonpossessing interest held by one person in land of another person whereby the first person is accorded partial use of such land for a specific purpose. An easement restricts but does not abridge the rights of the fee owner to the use and enjoyment of the easement holder's rights. Easements fall into three broad classifications: surface easements, subsurface easements, and overhead easements.

2. *Ecological Significance.* The presence of natural features on a parcel of property which require special consideration in the development process. Such features shall include: wetlands, lakes, ponds, streams, endangered species habitat, 100 year flood plain, slopes with a grade in excess of 3:1, and woodlots as defined in section 2402.4.h. of this ordinance.

3. *Essential services.* The erection, construction, alteration or maintenance by public utilities or municipal or state departments or commissions, of overhead, surface or underground gas, electrical, steam, or water distribution or transmission systems; collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, tunnels, wires, cables, fire alarm boxes, police callboxes, traffic signals, hydrants, towers, poles, signs, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission or for the public health or safety or general welfare. The term "essential services" shall not include wireless communication towers, unless located on public property and used as part of a municipal communications network.

4. *Extension.* An addition to the floor area of an existing structure, an increase in the intensity of use, an enlargement of land area utilized by a specific use, or an increase in the activity of a use.

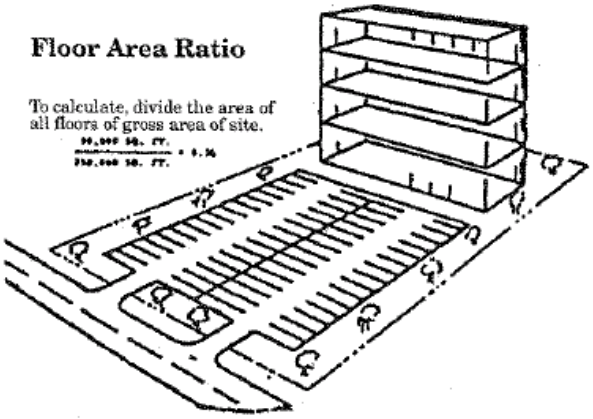
5. *Excavation.* Any breaking of ground except for agricultural purposes, ground care and landscaping.

6. *Family.* A family consists of an individual or a group of two or more persons related by blood, marriage, or adoption, together with not more than two other persons as roomers; or two or more persons whose domestic relationship is of a continuing, non-transient character and who reside together as a single housekeeping unit in a single dwelling unit. "Family" does not include a collective number of individuals occupying a motel, fraternity, sorority, society, club, boarding, or lodging house, or any other collective number of individuals whose domestic relationship is of a transient or seasonal nature, or whose occupancy is for the purpose of rehabilitation or special care.

7. *Fill.* The permanent depositing or dumping of any matter upon or into the ground, except for agricultural purposes, ground care or landscaping.

8. *Floor area.* For the purpose of computing the minimum allowable floor area, the sum of the horizontal areas of each story of a building shall be measured from the interior faces of the exterior walls. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, or space used for off-street parking, breezeways, and enclosed and unenclosed porches, elevators or stair bulkheads, common hall areas (included with residential dwellings), and accessory structures.

9. *Floor area ratio (FAR).* The ratio between the maximum amount of floor area permitted on all floors in a building or group of buildings and the total lot area or total site area. For example, a FAR of 2.0 would allow a maximum floor area equal to twice the lot area (a two-story building covering the entire lot or a four-story building covering half the lot). A FAR of 0.5 would allow a maximum floor area equaling one-half the lot area, or a two-story building covering one-fourth of the lot.



10. *Front setback line.* The line delineating the minimum required depth of the front yard as measured from the road right-of-way.

11. *Garage.* An accessory structure for the storage of motor vehicles.

12. *Greenbelt.* An open landscaped area intended to act as a transition between a right-of-way and/or thoroughfare and an existing or proposed development.

13. *Gross floor area.* The total floor area, as measured to the outside surfaces of exterior walls, but not including the following spaces: crawl spaces, unfinished and nonhabitable portions of the building, garages and open porches, balconies and terraces.

14. *Gross site area.* An area proposed for development, including portions of it which may subsequently be devoted to public facilities or rights-of-way.

(Ord. No. 346, § 304, 6-19-2000; Ord. No. 411, § 5, 1-18-2010)

Sec. 305. Definitions (H, I).

1. *Home occupations.* An occupation, business or service customarily engaged in by residents in their dwelling, provided there is strict conformance with the requirements set forth in section 625 of this ordinance.
2. *Hotel.* A building designed for occupancy as the more or less temporary abiding place of transient individuals who are lodged with or without meals, in which there are more than 15 sleeping rooms usually occupied singly and in which no provision is made for cooking in any individual room or suite.
3. *Household pets.* Domestic animals or fowl ordinarily permitted on the premises, and kept for company or pleasure, such as, but not limited to, dogs, cats and canaries.
4. *Human care institution.* A facility which (1) provides nursing services on a continuing basis, (2) admits the majority of the occupants upon advice of physicians as ill or infirm persons requiring nursing services, (3) provides for physicians' services or supervision, and (4) maintains medical records.
5. *Incinerator.* A mechanical device and/or enclosing structure for the burning of refuse, collected or produced on the site.
6. *Industry.* An extraction, production, processing, testing, cleaning, repair, storage, or distribution of commodities.
7. *Intensity of use.* The amount of activity associated with a specific use. Intensity of use shall be determined by the zoning administrator, based on but not limited to the following criteria:
    a. The amount of vehicular traffic generated;
    b. The amount of pedestrian traffic generated;
    c. Noise, odor and air pollution generated;
    d. Potential for litter or debris;
    e. Type and storage of materials connected with the use;
    f. Total residential units and density, if residential; and
    g. Total structure coverage and structure height on the parcel.

(Ord. No. 346, § 305, 6-19-2000)

Sec. 306. Definitions (J—L).

1. *Junk/salvage yard.* A place where waste, discarded, or salvaged materials including but not limited to scrap iron, bottles, rags, paper, rubber tires, and metals are stored, bought, sold, exchanged, baled, packed, disassembled or handled. Auto wrecking yards; storage or salvaging of dismantled, partially dismantled or inoperable motor vehicles; house wrecking yards; used lumber yards; and places or yards for storage of salvaged house wrecking and structural steel materials and equipment are included in this definition. The following are not included in this definition: (1) the sale of used vehicles in operable condition, and (2) the sale of salvaged materials incidental to manufacturing operations.
2. *Kennel.* A building, pen or enclosure used for keeping, sheltering, maintaining or boarding of four or more dogs, or for the keeping or boarding of any number of dogs as a regular business. The term "kennel" shall not include the keeping or maintaining of puppies less than four months old when born by dogs which are legal accessory household pets.

3. *Light source.* Any device or fixture producing artificial light including those parts and surfaces of reflectors, refractors, globes, baffles, shades, and hoods upon which the light falls.

4. *Loading dock/area.* A facility used and/or designed for receiving cargo from or discharging cargo into a vehicle.

5. *Lot.* A parcel of land occupied or capable of being occupied by a land use, building, structure, or group of buildings together with such yards, open spaces, lot width and lot area.

6. *Lot area.* The total horizontal area within the lot lines of the lot.

7. *Lot, corner.* A lot at the junction of and fronting on two or more intersecting street rights-of-way.

8. *Lot coverage.* That part or percent of the lot occupied by buildings, including accessory buildings.

9. *Lot, depth.* The mean horizontal distance between the rear and front lot lines.

10. *Lot, double frontage.* Any interior lot having frontages on two, more or less parallel, streets as distinguished from a corner lot. In the case of a row of double frontage lots, all yards of said lots adjacent to streets shall be considered frontage, and front yard setbacks shall be provided as required.

11. *Lot frontage.* The legal line of demarcation between a lot or parcel and a road right-of-way or easement. See also Lot, Lot lines.

12. *Lot, interior.* Any lot other than a corner lot.

13. *Lot lines.* The lines bounding a lot as defined herein:

    a. *Front lot line.* In the case of an interior lot, that line separating said lot from the right-of-way line of the abutting street. In the case of a corner lot, "front lot line" shall mean that line separating said lot from the right-of-way line of that street which is designated as the front street in the plat and in the application for a land use permit. See also Lot frontage.

    b. *Rear lot line.* That lot line opposite and most distant from the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line not less than ten feet long farthest from the front lot line and wholly within the lot.

    c. *Side lot line.* Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

14. *Lot of record.* A lot which is part of a subdivision, the map of which is recorded in the office of the register of deeds in Livingston County, Michigan, or a parcel or lot described by metes and bounds, the deed of which has been recorded in the office of the register of deeds in Livingston County, Michigan.

15. *Lot, width.* The horizontal straight-line distance between the side lot lines, measured at the two points where the front setback line intersects the side lot lines.

(Ord. No. 346, § 306, 6-19-2000)

Sec. 307. Definitions (M, N).

1. *Main residential building.* One or more individual dwelling structures, each having all of its parts connected in a substantial manner by common walls and completely enclosed rooms or garages, and each dwelling structure containing one or more

2. *Medical and dental clinic.* A facility organized and operated for the primary purpose of providing health service in medical or dental specialty for outpatient medical or dental care of the sick or injured human

patients and including related facilities such as laboratories and other service facilities operated in connection with the clinics.

3. *Ministorage.* A building or group of buildings in a controlled access and fenced area that contains varying sizes of individual, compartmentalized and controlled access storage stalls for the dead storage of the customers property. No retail, wholesale, fabrication, manufacturing, or services activities may be conducted from the storage stalls by the lessees of the stalls.

4. *Mixed use.* The intermingling of land uses or activities within a single zoning lot, such as residential and commercial.

5. *Mobile home.* A structure transportable in one or more sections, which is built on a chassis and designed to be used as a one-family dwelling with or without a permanent foundation, when connected to the required utilities, and which includes the plumbing, heating, air conditioning and electrical systems contained in the structure. The "mobile home" does not include recreational vehicles.

6. *Mobile home park.* A parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any buildings, structures, enclosures, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home and which is not intended for use as a temporary trailer park.

7. *Modular home.* A fabricated, transportable building unit designed to be incorporated at a building site into a structure on a permanent foundation to be used for residential uses.

8. *Motel.* A business comprised of a series of attached, semidetached, or detached rental units for the overnight accommodation of transient guests, each unit containing bedroom, bathroom, and closet space, with each unit having its own entrance from the parking area.

9. *Motor vehicle, commercial rated.* As defined in the Michigan Uniform Traffic Code for cities, villages, and townships means every vehicle which is used for the transportation of passengers for hire or which is constructed or used for the transportation of goods, wares, or merchandise. The term also means a motor vehicle which is designated and used for drawing other vehicles and which is not constructed to carry any load thereon, either independently or as any part of the weight of a vehicle or load so drawn.

10. *Motor vehicle major repair.* That repair on a vehicle which includes bumping, painting, replacement of body parts; engine repair other than normal tuneup repair, including work on the engine block, head and internal parts; engine replacement; work on the transmission case and internal parts; replacement of the transmission; work on torque converters, drive train; steam cleaning; and similar repairs.

11. *Motor vehicle major repair station.* Any lot on which, in addition to automotive minor repairs, as defined in section 307(12), any automotive major repairs are also performed.

12. *Motor vehicle minor repairs.* Repair on a vehicle which includes an engine tuneup, alternator/generator replacement, rustproofing, battery replacement, fan belt replacement, radiator hose replacement, radiator repair or replacement, tire repair or replacement, wheel balancing, muffler and exhaust system replacement, or front end alignment.

12A. *Multi-tenant Commercial Use.* Any two or more businesses which:

   a. Are located on a single parcel of property;

   b. Are connected by common walls, partitions, canopies, or other structural members to form a continuous building or group of buildings;

   c. Share a common parking area; or

   d. Otherwise present the appearance of a single, contiguous business area.

13. *Net site area.* The total area within the property lines of a project less street rights-of-way, utility easements, and lands considered to be ecologically significant.

14. *Nonconformity.* A building, structure, or use of land lawfully existing at the time of enactment of this ordinance or amendment thereto which does not conform to the regulations of the district or zone in which it is situated.

15. *Nursing or convalescent home.* A facility which (1) provides nursing services on a continuing basis, (2) admits the majority of the occupants upon advice of physicians as ill or infirm persons requiring nursing services, (3) provides for physicians' services or supervision, and (4) maintains medical records. Such establishments shall not contain equipment for or provide care in maternity cases or for psychotics or other unruly, mentally handicapped persons, nor for surgical or medical cases commonly treated in hospitals, and shall be licensed as a nursing home by the State of Michigan.

(Ord. No. 346, § 307, 6-19-2000; Ord. No. 400, § 2, 2-4-2008)

Sec. 308. Definitions (O—Q).

1. *Occupancy of land.* The ownership and exercise on a permanent or temporary basis of that right of property which includes the use of land.

2. *Off-street parking.* An area not in the public right-of-way having capacity for more than three motor vehicles.

3. *Opacity.* The state of being impervious to sight. This state will be measured by observation of any two square yard area of landscape screen between one foot above the established grade of the area to be concealed and the top or the highest point of the required screen. The plantings must meet this standard based upon reasonably anticipated growth over a period of three years.

4. *Open air business.* A use or uses operated for profit substantially in the open air, including, but not limited to:

    a. Bicycle, utility truck or trailer, motor vehicle, boats, or home equipment sale, repair, rental, or storage services.

    b. Outdoor display and sale of garages, motor homes, mobile homes, snowmobiles, farm implements, swimming pools, and similar activities.

    c. Retail sale of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.

    d. Tennis courts, archery courts, shuffleboard, horseshoe courts, rifle ranges, miniature golf, golf driving ranges, children's amusement park, or similar recreation uses (transient or permanent).

5. *Open space.* Common open space designed and developed for use by the occupants and lot owners of the planned unit development, or by others, for recreation (whether commercial, private or public), courts or gardens, which space is effectively separated from automobile traffic and off-street parking and is readily accessible. The term shall not include space devoted to streets, driveways, utility easements, and off-street parking lots.

6. *Parcel.* An area of land defined by property lines; a parcel need not be in single ownership.

7. *Park.* Any lot, site, field or tract of land used for active or passive recreation purposes, primarily out-of-doors.

8. *Parking.* The temporary storage of registered motor vehicles.

9. *Parking space.* An area set aside and designated for parking of a motor vehicle.

10. *Physical development.* The arranging of land for human use, including the subdivision of land, the provision of facilities for communication and transportation, and the placement and erection of structures.

11. *Planning commission.* The Village of Fowlerville Planning Commission.

12. *Playfield.* Any area of open space utilized for active recreation and designed to accommodate over 15 persons at one time.

13. *Playground.* Any open space area utilized for children's recreation and designed to accommodate recreational equipment including but not limited to swings, slides and monkey bars.

14. *Principal use.* The main use for which the premises are devoted and the principal purpose for which the premises exist.

15. *Private school.* An educational institution not supported in any direct manner by general taxation, assessment, or other forms of public revenue.

16. *Property.* Real estate.

17. *Public housing.* Dwelling units owned and/or operated by a public agency.

18. *Public school.* An educational institution partially or wholly supported by general taxation, assessment, or other forms of public revenue.

19. *Public utility.* A person, firm, or corporation, municipal department, board or commission duly authorized to furnish to the public under federal, state or municipal regulations, gas, steam, electricity, sewage disposal, communication (excluding wireless communications), transportation, or water; provided this definition shall not include any person, firm, or corporation engaged in radio or television broadcasting.

(Ord. No. 346, § 308, 6-19-2000)

Sec. 309. Definitions (R, S).

1. *Recreational vehicle.* A vehicle primarily designed and used for the temporary living quarters for recreational, camping or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle.

2. *Religious institution.* Churches or other places of worship, including related plant, administrative and living facilities, such as: parsonage, vicarage, rectory, staff living quarters, Sunday school and day school buildings or other religious education buildings, including preschool, parish house or place of public assemblage, operated and maintained in each case as an adjunct of an adjacent or nearby church.

3. *Residence.* A place used for human habitation other than on a transient basis.

4. *Right-of-way.* A street, alley, or other thoroughfare or easement permanently established for the passage of persons or vehicles or the location of utilities. The right-of-way is delineated by legally established lines or boundaries.

5. *Roof line.* The top edge of a roof or parapet wall, whichever is higher, but excluding any cupolas, chimneys, or other minor projections.

6. *Roominghouse.* A building other than a hotel or motel where lodging only is provided for compensation for three or more persons, but not including premises with separate private cooking facilities for the roomers. Rooms with private cooking facilities shall be considered separate dwelling units.

7. *Row structure.* A building containing two or more dwelling units, each of which is structurally independent of the others.

8. *Satellite dish antenna.* An antenna in the shape of a parabolic dish with associated electronic equipment usually attached to a base with a support pole. The purpose of such an antenna is to send or receive electronic or microwave signals to or from a satellite or other distant transfer station.

9. *School.* A public or private institution providing education pursuant to the laws concerning compulsory education of the State of Michigan.

10. *Screen.* A visual barrier which surrounds a potentially offensive activity.

11. *Seasonal mobile home park.* A parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual or temporary basis but occupied on a temporary basis only, and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.

12. *Sexually explicit matter.* All matter defined as being sexually explicit under the provisions of Public Act No. 33 of 1978 (MCL 722.671 et seq.), as amended, which definitions are hereby adopted and included herein by reference.

12A. *Setback.* The required horizontal distance measured from the front, side or rear lot line, as the case may be, which describes an area termed the required setback on a lot or parcel.

13. *Sign.* Any display, figure, painting, drawing, placard, poster or other device visible from the public way which is designed, intended or used to convey a message, advertise, inform or direct attention to a person, institution, organization, activity, place, object or product. It may be a structure or part thereof painted on or attached directly or indirectly to a structure.

    a. *Awning:* A retractable or fixed shelter constructed of non-rigid materials on a supporting framework that projects from the exterior wall of a building.

    b. *Awning sign:* A sign affixed flat against the surface of an awning.

    c. *Balloon sign:* A sign composed of a non-porous bag of material filled with air.

    d. *Banner sign:* A fabric, plastic, or other sign made of non-rigid material without an enclosing structural framework.

    e. *Billboard:* Any structure, including the wall of any building, on which lettered, figured or pictorial matter is displayed for advertising a business, service, or entertainment which is not conducted on the land upon which the structure is located or products not primarily sold, manufactured, processed or fabricated on such land.

    f. *Blade/bow flag:* A temporary freestanding flag sign, generally lightweight with a tall thin shape, that is supported by a vertical post, either rigid or flexible.

    g. *Business center sign:* A freestanding sign identifying the name of a business center and/or one or more individual businesses within the center.

    h. *Construction sign:* A temporary sign which identifies the owners, financiers, contractors, architects, and engineers of a project under construction.

    i. *Directional sign:* A sign which gives directions, instructions, or facility information for the use on the lot on which the sign is located, such as parking or exit and entrance signs.

    j. *Freestanding sign:* A sign, not attached to a building or wall, supported on poles or supports with a minimum ground clearance of eight feet.

    k. *Government sign:* A temporary or permanent sign erected by the village or its subdivision.

    l. *Ground sign:* A sign, the bottom of which is no more than 24 inches from the ground, which rests directly on the ground or is supported by short poles or a base, and is not attached to a building or wall.

m. *Highway sign:* A temporary or permanent sign erected within or adjacent to the road right-of-way by the Village of Fowlerville, Livingston County, the State of Michigan, or federal government for the purpose of directing or controlling traffic on a public street, road, or highway.

n. *Institutional bulletin board:* A ground sign upon which is displayed the name of a church, school, library, community center or similar public or quasi-public institution located on the property and which may contain a space for a reader board to announce its services, events, or activities.

o. *Marquee:* A permanent structure constructed of rigid materials that projects from the exterior wall of a building.

p. *Marquee sign:* A sign affixed flat against the surface of a marquee.

q. *Memorial sign:* A non-illuminated sign, tablet, or plaque commemorating a person, event, structure, or site.

r. *Mural:* A design or representation painted or drawn on a wall which does not advertise an establishment, product, service, or activity.

s. *Off-premises sign:* A sign which relates to or advertises an establishment, product, merchandise, good, service or entertainment which is not located, sold, offered, produced, manufactured or furnished at the property on which the sign is located (including, but not limited to billboards).

t. *Placard:* A sign not exceeding two square feet which provides notices of a public nature, such as "No Trespassing", "No Hunting", "closed", or "open" signs.

u. *Political sign:* A temporary sign used in connection with an official local government, school district, county, state, or federal election or referendum.

v. *Projecting sign:* A double-faced sign attached to a building or wall that extends more than 12 inches but not more than 48 inches from the face of the building or wall.

w. *Reader board:* A portion of a sign on which copy is changed manually.

x. *Real estate sign:* A non-illuminated, temporary sign pertaining to the sale, rent, or lease of the property upon which the sign is located.

y. *Residential subdivision sign:* A permanent ground sign identifying a recognized platted subdivision, site condominium project, multi-family development, or other residential development, which has been approved by the village.

z. *Roof sign:* A sign erected above the roof line of a building.

aa. *Sandwich board:* Two signs of equal size, resting on the ground, whose faces are back-to-back but hinged together at the top and separated at the base a sufficient distance to solidly support the sign in an upright position.

bb. *Special event sign:* Temporary signs containing public messages concerning special events sponsored by governmental agencies or non-profit organizations.

cc. *Temporary sign:* A display, informational sign, or other advertising device with or without a structural frame and intended for a limited period of display, including seasonal produce sales, and decorative displays for holidays, or public demonstrations.

dd. *Wall sign:* A sign painted or attached directly to and parallel to the exterior wall of a building extending no greater than 12 inches from the exterior face of the wall to which it is attached.

ee. *Window sign:* A sign installed inside a window and intended to be viewed from the outside.

ff. *Sign permit:* A permit issued by the zoning administrator to permit the installation of a sign in compliance to this ordinance.

14. *Special land use.* A use which typically exhibits certain characteristics related to its operation or installation, such as noise, traffic, odor, hours of operation, etc., which may not in all circumstances be compatible with other uses in the zoning district in which it is permitted and, as a result, is subject to a special review process and requirements or standards not applicable to other uses in the same zoning district.

15. *Special land use permit.* The permit issued for a special land use after review and approval by the planning commission.

16. *Specified anatomical areas.*

    a. Less than completely and opaquely covered: (1) human genitals, pubic region, (2) buttock and (3) female breast below a point immediately above the top of the areola; and

    b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

17. *Specified sexual activities.*

    a. Human genitals in a state of sexual stimulation or arousal;

    b. Acts of human masturbation, sexual intercourse or sodomy;

    c. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

18. *Standard dwelling structure.* Any building, or portion of building, for which a certificate of occupancy for dwelling purposes has been issued and which conforms to all applicable health and building codes and the provisions of this ordinance.

19. *Story.* That part of a building included between the surface of one floor and the surface of the next floor, or if there is not a floor above, then the ceiling next above. A story thus defined shall not be counted as a story when more than 50 percent, by cubic content, is below the height level of the adjoining ground.

Story

20. *Story, half.* An uppermost story lying under a sloping roof having an area of at least 200 square feet with a clear height of seven feet six inches. For the purpose of this ordinance, the usable floor area is only that area having at least four feet clear height between floor and ceiling.

21. *Street.* A dedicated and accepted public thoroughfare, other than a public alley, open to public travel, whether designated as a road, avenue, highway, boulevard, drive, lane, circle, place, court, terrace or any similar designation, or a permanently unobstructed private easement of access having a right-of-way at least 30 feet in width and a roadway suitable for vehicular travel at least 12 feet wide which affords the principal means of vehicular access to abutting property. (See also Thoroughfare.)

22. *Street line.* The dividing line between the street right-of-way and a lot.

23. *Structural alteration.* Any change in the supporting members of a building such as bearing walls, columns, girders or beams, or any substantial changes in the roof and exterior walls.

24. *Structure.* Anything constructed or erected, the use of which requires more or less permanent location on the ground or attachment to something having a permanent location on the ground, excepting utility poles.

(Ord. No. 346, § 309, 6-19-2000; Ord. No. 353, § 2, eff. 5-5-2002; Ord. No. 355, § 1, eff. 5-5-2002; Ord. No. 411, § 6, 1-18-2010; Ord. No. 436, § 1, 12-16-2013)

Sec. 310. Definitions (T—Z).

1. *Temporary building.* A building or structure permitted by the planning commission to exist during periods of construction of the main building.
2. *Thoroughfare.* Local and regional traffic flows depend on the smooth operation of the existing thoroughfare system. It is useful to define Fowlerville's road and street systems in terms of the following classifications:
    a. *Collector street.* A route that connects separate parts of the village and provides access to the community's residential areas. West Frank (between Grand and Detroit), Church (between Grand and Second), Power, Hibbard, North, Second, Hale (between Grand and Second), Cedar River, Van Riper, and Ann are classified as collector streets.
    b. *Local streets.* Thoroughfares which provide access to individual residential properties with traffic movement a secondary consideration. All streets not specifically mentioned above are classified as local streets in Fowlerville.
    c. *Major thoroughfare.* Main thoroughfare for regional movement. Access to local activity centers is secondary function. Grand River Avenue and Grand Avenue are classified as major thoroughfares in Fowlerville.
    d. *Minor thoroughfare.* Minor thoroughfare for regional movement with access to local activity centers is a primary function. Also serves as a regional thoroughfare, but is most important for providing access to local destinations. In the village, Ann Street is classified as a minor thoroughfare.
3. *Trade.* Actions or business involving the exchange of commodities by barter or trade, including necessary activities attendant thereto, but not including the production, processing or consumption of commodities.
4. *Traffic.* Vehicles in motion, unless otherwise modified (e.g., pedestrian traffic).
5. *Usable open space.* Yard space exclusive of the required front and side yards on a residential lot reserved for and devoted to the admittance of light and air and semi-private outdoor activities, and effectively separated from automobile circulation and parking.
6. *Use:*
    a. The purpose for which land or buildings thereon are designed, arranged or intended to be occupied or used, or for which they are occupied or maintained; or
    b. Any activity, occupation, business or operation carried on in a structure or on a lot.
7. *Variance.* A modification in the literal provisions of this ordinance granted by the board of appeals when strict enforcement would cause undue hardship or practical difficulties owing to circumstances unique to the property on which the modification is granted.
8. *Water body.* Any natural or artificial impoundment of water, whether permanent or temporary (exceeding two weeks in duration) in nature. Artificial water bodies created by manmade intervention in watercourses, surface drainage, or groundwater aquifers are regulated by this ordinance. A minor water body has a water surface area of less than one acre. A major water body has a water surface area of more than one acre. The term "water body" shall not include swimming pools.
9. *Yard.* A space on the same lot with a building, unoccupied and unobstructed from the ground upward, except for certain specified building projections.
    a. *Yard, front.* A yard extending across the full width of the front of a lot between the side lot lines and being the minimum horizontal distance between the road right-of-way and the nearest point of the main building or any projection thereof.

b. *Yard, rear.* A yard extending across the full back of a lot between the side lot lines and being the minimum horizontal distance between the rear lot line and the nearest point of the rear line of the main building and/or any projection thereof.

c. *Yard, side.* A yard between the main building and the sideline of the lot, and extending from the front yard or street line if there is no front yard required, to the rear yard, or the rear lot line if there is no rear yard required, and being the minimum horizontal distance between a side lot line and the nearest point of the side of the main buildings or any projections thereof.

10. *Zoning Administrator.* The person designated by the village council to administer and reinforce the provisions of this zoning ordinance.

11. *Zoning lot.* A single tract of land, located within a single block, which at the time of filing for a land use permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. A zoning lot may be subsequently subdivided into two or more zoning lots. A zoning lot, therefore, may or may not coincide with a lot as shown on any recorded subdivision plat or deed.

(Ord. No. 346, § 310, 6-19-2000)

CHAPTER 4. ADMINISTRATION, ENFORCEMENT, VIOLATION PENALTIES, AND AMENDMENT PROCEDURES

Sec. 401. Compliance and responsibility.

1. No land or building within the Village of Fowlerville shall be occupied or used except in compliance with the provisions of this ordinance. No building within the Village of Fowlerville shall be erected, altered, repaired or moved except in compliance with the provisions of this ordinance. No person shall use or occupy any land or building within the Village of Fowlerville, nor shall any person erect, alter, repair or move any building within the Village of Fowlerville except in compliance with this ordinance.

2. The prohibition of any act in this ordinance, in any amendment thereof and in any rule or regulation adopted hereunder shall include the causing, securing, aiding or abetting of another person to do said act.

3. It shall be the duty of all architects, contractors, subcontractors, builders and other persons having charge of the establishment of any use of land or the erecting, altering, changing or remodeling of any building or structure, before beginning or undertaking any such work, to see that all proper and necessary permits have been applied for and obtained, including a land use permit, certificate of occupancy, building permit and all other permits required by either this ordinance or any of the building code laws or ordinances of the village, county or state. It shall also be the duty of such parties to see that such work does not conflict with and is not in violation of the terms of this ordinance, and any such architect, contractor, subcontractor, builder or other person doing or performing any such work or erecting, repairing, altering, changing or remodeling without such a permit or permits having been issued or in violation of or in conflict with the terms of this ordinance or allowing any building erected to be occupied without a certificate of occupancy having first been issued shall be guilty of a violation of this ordinance in the same manner and to the same extent as the owner of the premises or the person or persons for whom such building was or is erected, altered, changed, repaired or remodeled or the use of land established or a building occupied in violation hereof and shall be subject to the penalties herein prescribed for such violation.

(Ord. No. 346, § 401, 6-19-2000)

Sec. 402. Violation nuisance per se.

Buildings erected, altered, razed or converted, or uses carried on in violation of any provision of this ordinance are hereby declared to be a nuisance per se. The court having jurisdiction shall order such nuisances abated and the owner and/or agent in charge of such building or land shall be adjudged guilty of maintaining a nuisance per se.

(Ord. No. 346, § 402, 6-19-2000)

Sec. 403. Penalty.

Any person, persons, firm or corporation, or any others acting on behalf of said person, persons, firm or corporation violating or failing to comply with any of the provisions of this ordinance or any of the regulations adopted in pursuance hereof, or who shall hamper, impede or interfere with the performance of the duties of any official or agent of the zoning administrator or other officer under the provisions of this ordinance shall be guilty of a civil infraction, subject to payment of a civil fine or fines, in accordance with the chapter 50 of the Village Code of Ordinances. For zoning violations, such fine shall be not less than $100.00, plus costs and other sanctions, for each violation. Fines for repeat offenses 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 not less than $500.00, plus costs and other sanctions.

(Ord. No. 346, § 403, 6-19-2000)

Sec. 404. Other remedies.

In addition to all other remedies, including the penalties provided in section 403 of this ordinance, the Village of Fowlerville may commence and prosecute appropriate actions in the circuit court for the County of Livingston or any other court having jurisdiction to restrain or prevent any noncompliance with or violation of any of the provisions of this ordinance, or to correct, remedy or abate such noncompliance or violation.

(Ord. No. 346, § 404, 6-19-2000)

Sec. 405. Establishment of zoning administrator.

The provisions of this chapter shall be administered by the village president or he may delegate this administration to any official of the village subordinate to him. Such official shall be known for the purposes of this ordinance as the zoning administrator. The village shall provide the zoning administrator with funds and equipment sufficient for the effective administration of this ordinance, as determined by the village council.

(Ord. No. 346, § 405, 6-19-2000)

Sec. 406. Duties and powers—Administration.

There is hereby vested in the zoning administrator the duty of administering this ordinance and the power necessary for such administration. The zoning administrator shall:

1. Review all applications for land use permits and approve or disapprove such applications based on compliance or noncompliance with the provisions of this ordinance and issue certificates when there is compliance with this ordinance.
2. Receive all applications for special use permits; conduct field inspections, surveys and investigations; prepare maps, charts, and other pictorial materials when necessary or desirable; and otherwise process applications so as to formulate recommendations; report to the planning commission with recommendations; and notify the applicant, in writing, of any decision of the commission.
3. Receive all applications for appeals, variances or other matters which the board of zoning appeals is required to decide under this ordinance; conduct field inspections, surveys and investigations; prepare maps, charts and other pictorial materials when necessary or desirable, and otherwise process applications so as to formulate recommendations; refer such applications with recommendations to the board for determination; and notify the applicant, in writing, of any decision by the board.
4. Receive all applications for amendments to this ordinance; conduct field inspections, surveys and investigations; prepare maps, charts and other pictorial material when necessary or desirable, and otherwise formulate recommendations; report to the planning commission and village council with recommendations; and submit to the village council all such applications together with the recommendations of the planning commission.
5. Propose and recommend the enactment of amendments of this ordinance for the purpose of improving the administration or enforcement of this ordinance.
6. Interpret the provisions of this ordinance and determine the location of any district boundaries where there is any uncertainty, contradiction, or conflict as to the intent of such provisions or boundaries.
7. When the provisions of this ordinance or the state law require a hearing on an application for an appeals action, a special use permit, or an amendment of the zoning ordinance, give notice of such hearing in the manner prescribed by this ordinance.
8. When the provisions of this ordinance require a hearing on an application for a special use permit or amendment to the zoning ordinance, give notice of time and place of such hearing, in accordance with the requirements of this ordinance and the provisions of the City and Village Zoning Act.
9. Evaluate proposals for uses in all districts as to compliance with performance standards in those districts.
10. Maintain a map or maps showing the current zoning classifications of all land in the village.
11. Maintain a record of the legal nonconforming uses and structures in the village.
12. Maintain written records of all actions taken by the zoning administrator and keep custody of all records of the planning commission and board of appeals.
13. Be responsible for providing forms necessary for the various applications to the planning commission or board of appeals as required by this ordinance and shall be responsible for determining what information is necessary on such forms for the effective administration of this ordinance, subject to the general policies of the planning commission and board of appeals.

(Ord. No. 346, § 406, 6-19-2000)

Sec. 407. Duties and powers—Enforcement.

There is vested in the zoning administrator the duty of enforcing this ordinance and the power necessary for such enforcement. In implementing this duty the zoning administrator shall:

1. Conduct investigations to determine compliance or noncompliance with the provisions of this ordinance and of any requirements or conditions in connection with any action taken by the planning commission, board of appeals or the village council under this ordinance.
2. Order correction, in writing, of all conditions found to be in violation of this ordinance, and of any requirements or conditions in connection with any action taken by the planning commission, board of appeals or village council. These written orders shall be served personally or by registered mail upon the person, firm or corporation deemed by the zoning administrator to be violating the provisions of this ordinance. If such person, firm or corporation is not the owner of the land on, or the structure in which the violation is deemed to exist or have occurred, a copy of the order shall be sent by registered mail to the owner of such land or structure. The date of mailing shall be deemed the date of service of any order served by registered mail.
3. All violations shall be corrected within a period of five days after the order to correct is issued or in such longer period of time, not to exceed six months, as the zoning administrator shall determine necessary and appropriate. A violation not corrected within this period shall be reported to the village attorney, who is hereby authorized to and shall initiate procedures to eliminate such violation.
4. The provisions of this ordinance may also be enforced by the Livingston County Health Department, Livingston County Building Department, the village police department, Livingston County Sheriff's Department, village marshal, the village attorney, the village zoning administrator, and/or the Livingston County Prosecutor.

(Ord. No. 346, § 407, 6-19-2000)

Sec. 408. Land use permit required.

No land shall be changed in use, except changes in agricultural crops, and no structure or building or structure erected, altered, extended, or changed in use until a land use permit shall have been issued by the zoning administrator stating that the building and/or land and its proposed use complies with the provisions of this ordinance. Land use permits shall also be required prior to erecting, altering, or changing any sign when required under chapter 17 of this ordinance. A land use permit shall be applied for at least ten days before contemplated change in use of land, structure or building. The land use permit shall become null and void if work for which the permit was issued is not started within six months after the date of the issuance of the permit by the zoning administrator, or if a certificate of occupancy is not issued for the proposed use within 18 months after the date of issuance of the permit by the zoning administrator. The zoning administrator may issue an extension of up to 90 calendar days as to time limits specified in this section when the zoning administrator determines the extension is warranted and that work on the proposed use is proceeding meaningfully toward completion. Further extensions of up to 180 calendar days may be granted when deemed appropriate by the Fowlerville Planning Commission.

(Ord. No. 346, § 408, 6-19-2000)

Sec. 409. Building permit required.

A land use permit shall be issued by the village before a building permit is issued by the county building department.

(Ord. No. 346, § 409, 6-19-2000)

Sec. 410. Application requirements.

1. The zoning administrator may require, if he deems the purpose and intent of this ordinance to be served thereby, that there shall be submitted with all applications for land use permits a site layout or plot plan, drawn to scale, showing the location, shape, area, and dimensions of the lot; the location, dimensions and height of any structures; the yard, open area, and parking space dimensions; the proposed number of sleeping rooms, dwelling units, occupants, employees and other users; and the existing and intended uses plus any additional information deemed necessary to the uses plus any additional information deemed necessary to the zoning administrator to determine and provide for the enforcement of this ordinance.
2. All applications for permits shall include, with submission, the payment of the appropriate permit fee as set in this ordinance, and evidence of ownership or contract right to ownership to the property covered by the permit.

(Ord. No. 346, § 410, 6-19-2000)

Sec. 411. Occupancy permit.

A zoning compliance certificate shall be required to be completed by the village zoning administrator prior to partial or final occupancy of a site or a premise to assure all zoning ordinance and planning commission requirements for the use of the site or the premise have been completed and, when applicable, in accordance with the approved site plan. The certificate of occupancy shall not be issued by the Livingston County Building Department until the structure complies with all applicable provisions of this ordinance, as well as all other village, county, and state codes, regulations, ordinances, and laws, and the structure is ready for occupancy.

(Ord. No. 346, § 411, 6-19-2000)

Sec. 412. Issuance of permit.

No permit shall be issued by the village or the county, or any official thereof, for the erection, alteration, placing or moving of any building or other structure upon any parcel of land or for the use of any building or structure or land unless such structure or land is designed and the proposed location on its lot is arranged to conform with the provisions of this ordinance and such use of structure or land conforms with the use and location requirements of this ordinance. In the event a permit is issued in violation of this ordinance, it is "void ab initio" (void from the beginning).

(Ord. No. 346, § 412, 6-19-2000)

Sec. 413. Temporary buildings, and structures and uses.

1. Construction buildings and structures, including trailers, incidental to construction work on a lot, may be placed on such lot, subject to the following restrictions:
    a. Construction buildings and structures may only be used for the storage of construction materials, tools, supplies and equipment, for construction management and supervision offices, and for temporary on-site sanitation facilities, related to construction activity on the same lot. An enclosed structure for temporary sanitation facilities shall be required on all construction sites.
    b. No construction building or structure shall be used as a dwelling unit.
    c. A permit shall be issued by the zoning administrator prior to installation of a construction building or structure.

d. Construction buildings and structures shall be removed from the lot within 15 days after an occupancy permit is issued by the zoning administrator for the permanent structure on such lot, or within 15 days after the expiration of a building permit issued for construction on such lot.

2. Sales offices or model homes may be placed on a lot subject to the following conditions:

   a. A permit shall be issued by the zoning administrator prior to installation or construction. Such permit shall specify the location of the office and shall be valid for a period of up to one year. A temporary permit may be renewed by the zoning administrator for up to two successive one-year periods or less, at the same location if such office is still incidental and necessary.

   b. Only transactions related to the development in which the structure is located shall be conducted within the structure. General offices for real estate, construction, development or other related businesses associated with the project shall not be permitted.

3. Temporary uses or seasonal events may be established on a lot subject to the following conditions:

   a. A proposed temporary use or seasonal event shall be located on a lot with a permitted principal building or on a vacant lot when the minimum required setbacks for the district are met.

   b. When a temporary use or seasonal event is located on a lot with an existing building, it shall be a minimum ten feet from the building.

   c. Goods and display materials must be stored inside during non-business hours, excluding Christmas tree sales.

   d. The temporary use or seasonal event shall not eliminate or negatively impact required parking for the building or underlying use. Additional parking may be required upon a finding that the proposed used increases the need for parking.

   e. All equipment, materials, goods, poles, wires and other items associated with a seasonal event shall be removed from the premises within five days of the event's end date.

(Ord. No. 346, § 413, 6-19-2000; Ord. No. 380, §§ 1, 2, 9-18-2006)

Editor's note(s)—Ord. No. 380, § 1, adopted September 18, 2006, changed the title of § 413 from "Temporary buildings and structures" to "Temporary buildings, and structures and uses."

Sec. 414. Revocation of permits.

Any permit issued under the provisions of this ordinance may be revoked by the zoning administrator at any time whenever the holder thereof:

1. Shall have made any false or fraudulent statement in the application for such permit or in the exercise of such permit;

2. Shall have violated any of the provisions of this ordinance;

3. Shall have failed to satisfy the requirements of this ordinance or of any rules adopted pursuant thereto; or

4. Shall have caused, created or maintained, in the exercise of such permit, a menace or danger to the public health, safety or welfare.

(Ord. No. 346, § 414, 6-19-2000)

Sec. 415. Amendments.

The regulations and provisions stated in the text of this ordinance and the boundaries of zoning districts shown on the zoning district map may be amended, supplemented or changed by ordinance of the village council.

(Ord. No. 346, § 415, 6-19-2000)

Sec. 416. Procedure for initiating and processing an amendment.

1. An application to amend, supplement, or change the regulations or boundaries of districts may be made by any of the following persons:
    a. A person having legal or equitable ownership in the property.
    b. The village council.
    c. The village planning commission.
2. Proceedings to amend this ordinance or the zoning map of the Village of Fowlerville shall be initiated or commenced by any one or more of the following methods:
    a. By resolution of the council wherein a question of whether or not a particular amendment should be made is referred by council, on its own motion, to the village planning commission and wherein such commission is requested to hold a public hearing on the question and to, thereafter, make recommendations to council.
    b. By resolution of the village planning commission wherein such commission, on its own motion, provides a public hearing on a question of whether or not a particular amendment should be made and for a report and recommendation thereon to council.
    c. By written application of the legal or equitable owners of a parcel of property for an amendment submitted to the village manager.
3. All requests to amend this ordinance by an application by a property owner or owners shall be submitted in writing on a form provided through the village zoning administrator and, without limiting the right to file additional material, shall include at least the following information:
    a. The petitioner's name, address, interest in the petition, as well as the name, address and interest of every person having a legal or an equitable interest in the land covered by the petition.
    b. The nature and effect of the proposed amendment.
    c. The existing zoning classification of such property.
    d. The change or amendment desired.
    e. A complete legal and common description of the property sought to be rezoned.
    f. Such other information as the zoning administrator may require in the application form.

All such applications must be filed with the village zoning administrator with the appropriate filing fee in accordance with the duly adopted schedule of fees. Upon receipt of such and application, the village zoning administrator, within the next two business days, shall forward copies of the application to the planning commission. Additionally, copies of the application will be submitted to council with its next agenda for the next regular village council meeting.

4. The planning commission will decline to entertain any application for an amendment to this ordinance which the village council has denied at any time within the preceding 12 months, except on grounds of newly

discovered evidence or proof of changed conditions found upon inspection by the planning commission to be valid.

5. The planning commission shall conduct at least one public hearing thereon. Not less than 15 days prior to said hearing, notice of the hearing shall be given to all owners of the property in question. Notice shall contain the time, place and object of the hearing. Said notice shall be given by the village zoning administrator or the administrator's designee to the parties making the request for amendment and to all owners of property within 300 feet of the property in question and shall be addressed to the respective owners at the address given on the last assessment roll. Notice shall also be printed at least once in a paper of general circulation within the Village of Fowlerville not less than 15 days prior to such hearing. Notice shall also be mailed to each public utility company and each railroad company owning or operating a public utility or railroad within the districts or zones affected, if such utility or railroad has registered its name and mailing address with the village for the purpose of receiving notice.
6. A summary of the comments submitted at the public hearing shall be transmitted with the report of the commission to the village council. The village council may hold additional public hearings if they consider it necessary.
7. An amendment to the zoning ordinance may be passed only by a two-thirds vote of the village council if a protest against the proposed amendment is presented to the village council, prior to any final legislative action on such amendment and the protest is duly signed by:
    a. The owners of at least 20 percent of the area of land included in the proposed change; or
    b. The owners of at least 20 percent of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change, excluding public rights-of-way.

Publicly owned land will be excluded in calculating the 20-percent land area requirements in this subsection.

(Ord. No. 346, § 416, 6-19-2000)

Sec. 417. Special use permit administration.

Procedures required in administering a special use permit application may be found in chapter 23.

(Ord. No. 346, § 417, 6-19-2000)

Sec. 418. Permit and fee schedule.

All fees required by this ordinance, being the Zoning Ordinance of the Village of Fowlerville, Michigan, as amended, or otherwise required to administer this ordinance, shall be as provided in the zoning ordinance fee schedule. The zoning ordinance fee schedule shall be established by and revised as deemed necessary by resolution of the village council.

(Ord. No. 346, § 418, 6-19-2000)

Sec. 419. Performance guarantees.

1. As a condition of approval of a site plan review, special use permit, or planned unit development, the planning commission or village council, whichever is designated as the approving authority, may require a financial guarantee of sufficient sum to assure the installation of those features or components of the approved activity or construction which are considered necessary to protect the health, safety, and welfare

of the public and of users or inhabitants of the proposed development. Such features or components, hereafter referred to as "improvements," may include, but shall not be limited to, roadways, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, driveways, utilities, and similar items.

2. Performance guarantees shall be processed in the following manner:

   a. Prior to the issuance of a land use permit, the applicant shall submit an itemized estimate of the cost of the required improvements which are subject to the performance guarantee, which shall then be reviewed by the zoning administrator. The amount of the performance guarantee shall be 100 percent of the cost of purchasing materials and installing the required improvements, plus the cost of necessary engineering and a reasonable amount for contingencies, not to exceed a 125 percent of the estimated construction cost.

   b. The required performance guarantee may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the village.

   c. Upon receipt of the required performance guarantee, the zoning administrator shall issue a land use permit for the subject development or activity, provided it is in compliance with all other applicable provisions of this ordinance and other applicable ordinances of the village.

   d. The zoning administrator, upon the written request of the obliger, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvements.

   e. When all of the required improvements have been completed, the obliger shall send written notice to the zoning administrator of completion of said improvements. Thereupon, the zoning administrator shall inspect all of the improvements and approve, partially approve, or reject the improvements with a statement of the reasons for any rejections. If partial approval is granted, the cost of the improvement rejected shall be set forth. Where partial approval is granted, the obliger shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.

   f. A record of authorized performance guarantees shall be maintained by the zoning administrator.

(Ord. No. 346, § 419, 6-19-2000)

CHAPTER 5. BOARD OF APPEALS

Sec. 501. Board of appeals.

1. The village council, or such board appointed by the village council of the Village of Fowlerville shall act as the Fowlerville Board of Appeals in accordance with the City and Village Zoning Act, Public Act No. 207 of 1921 (MCL 125.581 et seq.), as amended, of the State of Michigan.

2. The village president shall serve as the chairperson of the board of appeals and the president pro tem shall serve as the board of appeal's vice-chairperson.

(Ord. No. 346, § 501, 6-19-2000)

Sec. 502. Jurisdiction, powers, and duties.

1. *Jurisdiction and powers of board.* The zoning board of appeals shall have all powers and authority granted by the state law together with such other powers and duties as are given to such board by the provisions of this ordinance, including the following specific powers:

    a. *Administrative review.* To hear and decide appeals where it is alleged by the applicant that there is an error in any order, requirement, permit, decision, or refusal made by the zoning administrator or any other administrative official in enforcing the provisions of this ordinance.

    b. *Variances.* To authorize upon an appeal filed by the legal or equitable owner of property, a variance of this ordinance in accordance with this ordinance and state law.

    c. *Interpretation.* To provide interpretations of this ordinance, including the power to:

        (1) Interpret, upon request, the provisions of this ordinance in such a way as to carry out the intent and purposes of this ordinance.

        (2) Determine the precise location of the boundary lines between zoning districts when there is dissatisfaction with a decision made by the zoning administrator.

        (3) Classify a use which is not specifically mentioned as a part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district.

    d. *Other powers.* To hear and decide all matters referred to it by the village council or upon which such board is required to pass under this ordinance.

    e. *Rules.* To adopt and enforce rules of procedure consistent with the statutes of the State of Michigan, the Charter of the Village of Fowlerville and the provisions of this ordinance.

2. *Authority transferred.* When the zoning board of appeals is reviewing an order, requirement, decision or determination of the planning commission, the zoning administrator, or any other official or body, the board shall have all of the powers of the officer or body from whom the appeal is taken.

3. *Limitations.* The board of appeals, notwithstanding any terms herein to the contrary, shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms or intent of this ordinance, nor to prohibit a use which is permitted in this ordinance, nor may it determine the validity of this ordinance.

(Ord. No. 346, § 502, 6-19-2000)

Sec. 503. Meetings, records, and procedures.

1. *Meetings.* The zoning board of appeals shall hold its regular meetings on the same date and immediately prior to the first regular village council meeting of each month, unless other dates and times are established as regular meetings by the board of appeals by resolution. Meetings shall be open to the public and in accordance with state law.

2. *Records.* Minutes of all proceedings shall be taken. The minutes shall contain evidence and data relevant to each case considered, together with the separate votes of the members and the final disposition of each case. Minutes shall accompany and be attached to the standard form required of the person appealing as a part of the board's permanent records.

3. *Notice.* The zoning administrator shall assure that notice of the meeting involving any appeal or variance request for a specific parcel of property is sent by first class mail or personal delivery to 1) the owners of

property for which approval is being considered; 2) all persons to whom real property is assessed on the last village assessment roll, within 300 feet of the boundary of the property in question; and 3) the occupants of all structures within 300 feet of the boundary of the property in question. 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 be given not less than five and not more than 15 days before the meeting at which the appeal will be considered.

4. *Decisions.* Board of appeals shall return a decision upon each case within a reasonable time period after a request or appeal has been filed with the board.

5. *Fee.* Any appeal to the board of appeals shall be accompanied with a payment of a fee as established by the Village council. The fee shall be paid to the zoning administrator at the time of filing of the appeal. The purpose of the fee is to cover, in part, expenses related to necessary investigations, advertisements and other expenses incurred by the board of appeals in connection with the appeal.

6. *Voting.*

    a. Interpretations and dimensional (nonuse) variance requests. A concurring vote of a simple majority or 51 percent of the board membership shall be necessary to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor or the applicant a matter upon which the board is required to pass, or to effect a variation in the ordinance; excepting requests seeking use variances.

    b. Use variance request. A concurring vote of two thirds of the membership of the board shall be necessary to grant a variance from uses of land permitted in the ordinance.

7. *Counsel.* The village attorney shall act as legal counsel for the board of appeals and shall be present at all meetings upon request by the board of appeals.

(Ord. No. 346, § 503, 6-19-2000)

Sec. 504. Proper application for appeal.

1. *Time limit.* Any appeal from a ruling of the zoning administrator concerning the enforcement of the provisions of this ordinance shall be made to the board of appeals through the zoning administrator within 21 days after the date of the zoning administrator's decision or other administrative action which is the basis of the appeal. Any appeal shall be in writing on standard forms provided by the village clerk.

2. *Duties of zoning administrator.* The zoning administrator shall transmit to the board all documents, or direct copies thereof, constituting the record from which the appealed action was taken.

3. *Who may appeal.* Appeals to the board may be taken by any person aggrieved, or by any officer, department, or board of the village. In the case of a variance request, the legal or suitable owners must join in any appeal. Any party may appear in person or by agent or by attorney at a hearing considering his request or appeal.

4. *Stays all proceedings.* An appeal stays all proceedings, and thereupon all changes in the status quo of the property concerned shall constitute a violation of this ordinance; except that the zoning administrator may certify to the board of appeals after the notice of the appeal shall have been filed that for reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In which case,

proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of appeals or on application to the circuit court when due cause can be shown.

(Ord. No. 346, § 504, 6-19-2000)

Sec. 505. Variances—Basic requirements.

The board of appeals may have the power to authorize, upon proper application of appeal, specific variances from such dimensional requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations, as specified in this ordinance, provided all the basic requirements listed herein and any one of the special requirements listed thereafter can be satisfied. The variances granted from this ordinance:

1. Will not be contrary to the public interest and will not be contrary to the purpose and intent of this ordinance.
2. Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.
3. Will relate to specific conditions particular to a property which are so unique that development of a general regulation for the conditions is not reasonable or practical.
4. Will relate only to property which is under the stated ownership and control of the applicant.
5. Affects only property subject to exceptional or extraordinary circumstances or conditions that do not generally apply to other property or uses in the vicinity.

(Ord. No. 346, § 505, 6-19-2000)

Sec. 506. Special requirements for nonuse variance.

When all of the basic requirements in section 505 can be met, a nonuse variance may be granted when one of the following special requirements can be demonstrated clearly:

1. There are practical difficulties or unnecessary hardships applied to the use of applicant's land which prevent carrying out the strict letter of this ordinance. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of that particular parcel of land.
2. Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape or topography of the property involved, or to the intended use of the property, that did not generally apply to other property or uses in the same zoning district. Such circumstances or conditions shall not have resulted from any act of the applicant subsequent to the adoption of the ordinance.
3. Where such variance is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.

(Ord. No. 346, § 506, 6-19-2000)

Sec. 507. Use variances requirements.

The board of appeals shall also have the power to authorize, upon application of appeal, specific use variances providing the petitioner establishes: 1) an unnecessary hardship exists, including that the specific property at issue cannot reasonably be put to any use conforming to the zoning district in which it is located; and

2) all of the basic requirements in section 505 and all of the special requirements in section 506 can be clearly demonstrated by the petitioner as being applicable to the property at issue.

(Ord. No. 346, § 507, 6-19-2000)

Sec. 508. Approval conditions.

The zoning board of appeals, in granting any appeal or variance request, may attach any reasonable conditions to its approval which it finds necessary to accomplish the reasonable application of the basic and special requirements described in this chapter, and are consistent with the zoning enabling laws. The conditions may include conditions necessary to insure [ensure] that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure [ensure] compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall do all of the following:

1. Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
2. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
3. Be necessary to meet the intent and purpose of the zoning regulations; be related to the basic and special conditions for variances established in this ordinance for the land use or activity under consideration; and be necessary to insure [ensure] compliance with those standards.

The conditions imposed with respect to the approval of a land use or activity shall be recorded in the minutes of the approval action and shall remain unchanged except upon the mutual consent of the board and the landowner. The board shall maintain a record of changes granted in conditions. All approved variances shall also expressly be conditioned upon the variance being used within one year of the date it is approved, whether or not it is reflected in the board's minutes. If construction has not commenced and proceeded meaningfully toward completion by the end of this one-year period, or if a certificate of occupancy is not issued for the proposed use for which the variance was requested within 18 months after the date of approval of the variance by the zoning board of appeals, the variance shall become null and void. The zoning administrator may issue an extension of up to 90 calendar days as to the time limits provided in this section when the zoning administrator feels the extension is warranted and the work on the proposed use is proceeding meaningfully toward completion, as determined by the zoning administrator. Further extensions may be granted when deemed appropriate by the Fowlerville Zoning Board of Appeals.

(Ord. No. 346, § 508, 6-19-2000)

CHAPTER 6. GENERAL AND SUPPLEMENTARY REGULATIONS

Sec. 601. Establishment of districts.

In order to carry out the objectives of this ordinance, the Village of Fowlerville is hereby divided into districts of different types, each type being of such number, shape, kind and area, and of such common unity of purpose and adaptability of use that are deemed most suitable to carry out the objectives of this ordinance.

(Ord. No. 346, § 601, 6-19-2000)

Sec. 602. Types of districts.

PL district	Public lands
CR district	Conservation/Recreation
R-1 district	Medium density residential
R-2 district	Village core residential
R-3 district	High density residential
R-4 district	Mobile home park residential
O district	Office
BC district	Business center
GB district	General business
I district	Industrial
LRI district	Limited Research/Industrial
PUD district	Planned Unit Development

(Ord. No. 346, § 602, 6-19-2000)

Sec. 603. Adoption of zoning map.

The boundaries of the zoning districts established in section 602 are established as shown upon the official Zoning Map of the Village of Fowlerville, dated October, 2003 which map, together with all notations, references and other information shown thereon, are hereby approved and adopted. Such map, together with all amendments which may be hereinafter made thereto, shall be known and cited as the "Zoning Map of the Village of Fowlerville" for all purposes. The Zoning Map of the Village of Fowlerville is hereby made a part of this ordinance with the same effect as if all matters and information set forth in said map were fully set forth herein.

(Ord. No. 346, § 603, 6-19-2000; Ord. No. 365, § 1, 11-17-2003)

Sec. 604. Interpretation of district boundaries.

Where, due to scale, lack of detail, or illegibility, of the zoning map accompanying this ordinance, there is an uncertainty, contradiction or conflict as to the intended location of any zoning district boundary as shown thereon, interpretation concerning the exact location of zoning district boundary lines shall be determined by the zoning board of appeals. The zoning board of appeals, in arriving at a decision on these matters, may seek a recommendation from the planning commission. In making its determination, the ZBA shall also apply the following standards:

1. Where district boundaries are indicated as approximately coinciding with the centerlines of streets or highways, street lines or highway right-of-way lines, such centerlines, street lines or highway right-of-way lines shall be construed to be said boundaries.
2. Where district boundaries are so indicated that they approximately coincide with lot lines, such lot lines shall be construed to be said boundaries.
3. Where district boundaries are so indicated that they approximately parallel the centerlines or street lines of streets, or the centerlines or right-of-way lines of highways, such district boundaries shall be construed as being parallel to and at such distance as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on the zoning map.

4. In unsubdivided property, or where a zoning district divides a recorded lot, the location of any such boundary, unless the boundary is indicated by dimensions shown upon the zoning map, shall be determined by the use of the scale shown on the zoning map.

5. Where district boundaries are indicated as approximately following railroad lines, the line between the main track shall be construed to be such boundaries.

6. Where the boundary of a district follows stream or drain, the district boundary line shall be interpreted as following the approximate centerline between the two banks.

(Ord. No. 346, § 604, 6-19-2000)

Sec. 605. Zoning of annexed territory.

1. All territory which is annexed to the village shall be given an interim zoning, by the zoning administrator, with a district enumerated in section 602, which most closely resembles the zoning which the territory maintained prior to annexation. This interim zoning shall only be effective until rezoning pursuant to this section is completed.

2. The planning commission shall, within 180 days after territory is annexed, and pursuant to the procedures described in this ordinance for rezoning, review and recommend to the village council, the appropriate zoning of territory, with consideration being given to existing land use and the land use policies of the master plan. This section shall not preclude a person from at any time seeking a boundary amendment by submitting the appropriate application for rezoning pursuant to this ordinance.

(Ord. No. 346, § 605, 6-19-2000)

Sec. 606. Zoning of vacated areas.

Whenever any road, alley or other public way is vacated by official action, the zoning district adjoining each side of such public way shall automatically be extended to the center of such vacation, and all area included therein shall henceforth be subject to all appropriate regulations of that district within [which] such area is located.

(Ord. No. 346, § 606, 6-19-2000)

Sec. 607. District regulations.

Each district, as created in this chapter, shall be subject to the regulations contained in this ordinance. Uses not expressly permitted are prohibited. Uses for enterprises or purposes that are contrary to federal, state or local laws or ordinances are prohibited. Special uses, because of their nature, require special restrictions and some measure of individual attention in order to determine whether or not such uses will be compatible with uses permitted by right in the district and with the purposes of this ordinance. Special uses, therefore, are prohibited uses unless this prohibition is waived by the village planning commission reviewing and approving a special use request as provided in this ordinance.

(Ord. No. 346, § 607, 6-19-2000; Ord. No. 413, § 1, 4-26-2010)

Sec. 608. General performance standards applying to all districts.

With the exception of essential services as herein defined, and activities by the Village of Fowlerville deemed to be a necessary part of the exercise of its governmental function, all uses established for the exercise of its municipal functions, all uses established for the residential districts and all uses in all districts placed into operation

after the effective date of this ordinance shall comply with the following standards. No use in existence on the effective date of this ordinance shall be so altered or modified as to conflict or further conflict with these standards:

1. *Fire and explosion hazards.* All buildings, storage and handling of flammable materials and other activities shall conform to village building and fire ordinances and to any applicable state and federal regulations or requirements. No use or building shall in any way represent a fire or explosion hazard to a use on adjacent property or to the public on a public street. Any activity involving the use or storage of flammable material shall be protected by adequate firefighting and fire suppression equipment and by such safety devices as are normally used in the handling of any such material.
2. *Vibration.* No use shall cause earth vibrations or concussions detectable beyond the lot lines without the aid of instruments with the exception of that vibration produced as a result of construction or demolition activity pursuant to a building permit.
3. *Smoke.* It shall be unlawful for any person, firm, or corporation to permit the emission of smoke greater than that emitted by properly operating domestic heating equipment.
4. *Dust, dirt, and fly ash.* No person, firm, or corporation shall operate or cause dirt, dust, or fly ash of any kind to escape beyond its lot line.
5. *Noxious matter.* No person, firm, or corporation shall discharge across its lot lines noxious, toxic or corrosive matter, fumes or gases.
6. *Noise.* No use shall create any annoying sound or noise at or beyond its lot lines of an intensity greater than sound produced in normal domestic activities.
7. *Heat.* No use shall produce heat perceptible without instruments from any point along its lot lines.
8. *Glare.* Any light source illuminating vehicular ways, parking or service areas, or which is a part of or are illuminated signs, shall be so shaded, shielded or directed that the light intensity or brightness will not be objectionable beyond the lot line on which it is located.
9. *Traffic.* No use shall hinder the function of residential streets through its generation of nonresidential type or volume of traffic.
10. *Waste disposal.* All solid, liquid, and sanitary waste shall be treated and disposed of in accordance with the standards of the Village of Fowlerville, Livingston County Health Department, Michigan Department of Natural Resources and Michigan Department of Public Health and other applicable agencies.

(Ord. No. 346, § 608, 6-19-2000)

Sec. 609. Minimum lot frontage.

The front lot lines of all lots shall abut a public or approved private street and shall:

1. Have a contiguous permanent frontage at the front lot line for the required width.
2. Maintain the minimum contiguous permanent frontage for the minimum required lot depth.

(Ord. No. 346, § 609, 6-19-2000)

Sec. 610. Access to a street.

Any lot of record created after the effective date of this ordinance shall have access to and frontage on a public or approved private street, except as may be approved as a planned unit development, site condominium, or approved plat in accordance with the provisions of this ordinance or the land division act, Public Act No. 288 of 1967 (MCL 560.101 et seq.), as amended.

(Ord. No. 346, § 610, 6-19-2000)

Sec. 611. One dwelling per lot.

Unless otherwise provided in this ordinance, only one single-family detached dwelling will be allowed to be erected on a lot.

(Ord. No. 346, § 611, 6-19-2000)

Sec. 612. Fences, walls and screens.

No fence, wall or structural screen, other than plant materials, that encloses residential property shall exceed six feet in height. No fence, wall or hedge plantings shall exceed a height of three feet within any residential front yard within an area closer than 20 feet to the street right-of-way line. On any corner lot or parcel, no fence or planting shall exceed a height of three feet within 20 feet of any corner so as not to interfere with traffic visibility across a corner. No fence, wall or hedge planting shall encroach upon a public right-of-way or sidewalk.

(Ord. No. 346, § 612, 6-19-2000)

Sec. 613. Use exceptions.

Nothing in this ordinance shall be construed to prohibit the following accessory or incidental uses:

1. The renting of rooms to not more than two nontransient persons in a dwelling unit which is otherwise occupied in a manner permitted in the district in which it is located.
2. Customary refreshment and service uses and buildings in any public park or recreational area incidental to the recreational use of such area.
3. Essential services as defined.
4. Garden, garden ornaments and usual landscape features within required yard space, in accordance with section 612.
5. Fences within required yard space, in accordance with section 612.
6. Retaining walls and public playgrounds.
7. Off-street parking for motor vehicles as specified in chapter 20. Use of premises as a voting place in connection with local, state, or national elections.
8. Garage sales, rummage sales, and similar activities. Garage sales, rummage sales, yard sales, moving sales, and similar activities shall be considered temporary accessory uses within any residential zoning district subject to the following conditions:

a. Any garage sale, rummage sale, or similar activity shall be allowed for a period not to exceed three consecutive days, and shall require a permit from the zoning administrator. In no instance shall more than three garage sales, rummage sales, or similar activities be held in any one location within any calendar year, and this shall be conditioned upon a period of at least 30 days elapsing between each sale. Provided, however, this subsection shall not apply to a village or downtown development authority (DDA) sponsored garage sale event, and any such village or DDA sponsored garage sale event shall not count toward a property owner's annual limit as to the number of authorized garage sales provided for under this subsection.

b. All such sales shall be conducted in a manner so as not to create a traffic hazard or a nuisance to neighboring properties.

c. All such sales shall be conducted on the property owner's premises and behind the public right of line. No goods or personal property may be publicly displayed or exhibited for a period of more than 72 consecutive hours.

d. Signs advertising a garage sale, rummage sale or similar activity shall be in compliance with chapter 21.

(Ord. No. 346, § 613, 6-19-2000; Ord. No. 384, § 1, 3-19-2007; Ord. No. 386, § 1, 5-1-2007; Ord. No. 427, § 1, 5-21-2012)

Sec. 614. Buildings relocated.

No building or structure shall be moved from one lot or premises to another unless such building or structures are made to conform to all the provisions of this ordinance relative to buildings or structures erected upon the lot or premises to which buildings or structures shall have been moved. It shall be the responsibility of the person or persons requesting a land use permit and building permit for such relocation to show that said relocated building or structures will not adversely impact existing residences in the area of the site upon which said building or structure is moved because of its appearance, condition, or design. In order to assure compliance with these provisions, no land use permit shall be issued until the applicant has posted a cash bond in an amount of no less than $500.00, the proceeds of which shall accrue to the village if the total work is not accomplished within six months of the issuance of the permit.

(Ord. No. 346, § 614, 6-19-2000)

Sec. 615. Adult and child care facilities.

1. An adult or child care facility existing prior to the effective date of this ordinance (February 15, 2010), that has been operating under a valid state license and is registered with the village no later than 60 days following the effective date of this ordinance (February 15, 2010), shall be considered an approved special land use, provided such use conforms with the conditions of this section. Any change in class of the use to a larger care facility shall require approval in accordance with the requirements of this ordinance.
2. Adult and child care facilities, as defined in article 2, definitions, are allowed only as provided for in the following table. Applicable conditions are listed as footnotes to the table.

Adult and Child Care Facilities Regulations					
Type of Facility	Zoning District				
	R-1, R-2	R-3, R-4, PL	O, BC, GB	LIR	I

Adult day care facilities	SLU	SLU	SLU	SLU	NA
Adult foster care family home (6 or fewer adults 24 hours per day) (1, 2, 3, 4)	P	P	NA	NA	NA
Adult foster care small group home (12 or fewer adults 24 hours per day) (1, 2, 3, 4)	SLU	SLU	NA	NA	NA
Adult foster care large group home (13 to 20 adults 24 hours per day) (1, 2, 3, 4)	NA	SLU	NA	NA	NA
Adult foster care congregate facility (more than 20 adults 24 hours per day) (1, 2, 3, 4)	NA	SLU	SLU	SLU	NA
Foster family home (4 or fewer children 24 hours per day)	P	P	NA	NA	NA
Foster family group home (5 to 6 children 24 hours per day) (1, 2, 3, 4)	P	P	NA	NA	NA
Family child care home (6 or fewer children less than 24 hrs. per day) (1, 2, 3, 4, 5, 6, 7, 8)	P	P	NA	NA	NA
Group child care home (7 to 12 children less than 24 hours per day) (1, 2, 3, 4, 5, 6, 7, 8)	SLU	SLU	NA	NA	NA
Child care center or day care center (more than 6 children less than 24 hours per day) (1, 2, 3, 4, 5, 6, 7, 8)	SLU as accessory	SLU	SLU	SLU	NA
Child caring institution (1, 2, 3, 4, 5, 6, 7, 8)	NA	SLU	SLU	SLU	NA

P:	Permitted use
SLU:	May be allowed upon review and approval of a special land use, in accordance with the general standards in Article 23 Special Land Uses.
SLU as accessory:	May be allowed as an accessory to an approved use, such as a church, school, office, or other place of employment, upon review and approval of a special land use.
NA:	Not allowed in zoning district.

Footnotes:

1. Documentation of a valid license, as required by the state, shall be provided to the village clerk's office.
2. Since the state law preempts in this area, the facility shall be brought into compliance with all state building and fire codes pursuant to state licensing rules R400.1831-R400.1835. Documentation of such compliance with state requirements shall be provided.
3. The site shall comply with the sign provisions of article 21, signs.
4. Off-street parking shall be provided for the maximum number of employees on-site at any one time.
5. Documentation of sufficient indoor classroom, crib, or play area meeting state requirements shall be provided. Documentation of approved areas, as licensed by the state, shall be provided.
6. There shall be sufficient outdoor play area to meet state regulations. All required outdoor play areas shall be fenced and located away from heavily traveled roads or other uses that could pose a safety hazard.
7. There shall be sufficient drop-off parking spaces to allow maneuvers without creating a hazard to traffic flow.
8. The facility shall operate not more than 16 hours per day.

(Ord. No. 411, § 7, 1-18-2010)

Editor's note(s)—Ord. No. 411, § 7, adopted January 18, 2010, amended section 615 in its entirety to read as herein set out. Formerly, section 615 pertained to day care facilities and foster care facilities, and derived from Ord. No. 346, § 615, adopted June 19, 2000.

Sec. 616. Livestock and poultry raising and other similar uses.

Livestock and poultry raising and other similar uses shall not take place on any parcel in the village unless permitted by General Ordinance #124 of the Village of Fowlerville, as amended.

(Ord. No. 346, § 616, 6-19-2000)

Sec. 617. Condominium developments.

Concurrently with notice required to be given the village pursuant to section 71 of Public Act No. 59 of 1978 (MCL 559.171), as amended, a person, firm or corporation intending to develop a condominium project shall provide the following information with respect to the project:

1. *Required information.*
    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 appropriate tax identification numbers.
    c. The acreage content of the land on which the condominium project will be developed (acreage to be dedicated as public right-of-way shall be noted).
    d. The purpose of the project (for example, residential, commercial, industrial, etc.).
    e. Approximate number of condominium units to be developed on the subject parcel.
    f. Building floor plans, and cross section plans where applicable.
    g. Description of water system proposed.
    h. Description of wastewater treatment system proposed.
    i. A floodplain plan, when appropriate.
    j. A site plan showing the location, area and dimensions of all building envelopes, building sites (limited commons area, and general commons areas), and other requirements listed in section 66 of the Condominium Act, Public Act No. 59 of 1978 (MCL 559.166), as amended, and chapter 20 of this ordinance.
    k. Stormwater management plan, including all conduits, swales, county drains, detention basins, and other related facilities, with documentation.
    l. Draft copies of the master deed, bylaws and other restrictive covenants.

m. All requirements in administrative rules 401 (R 559.401) and 402 (R 559.402) promulgated by the Condominium Act, Public Act No. 59 of 1978 (MCL 559.101 et seq.), and amendments thereto shall be met.

2. *Streets.* All building sites shall have direct access to a public or private street right-of-way. All streets shall be constructed to standards issued by the village council.

3. *Amendments; changes in project.* Amendments or changes in a condominium project, as described in section 67 of the Condominium Act, Public Act No. 59 of 1978 (MCL 559.167), as amended, shall conform to all design standards for the zoning district where the project is located and shall be reviewed in accordance with the requirements of section 2407 of this ordinance. Any changes to an approved site condominium development shall be made part of the bylaws and recorded as part of the master deed.

4. *Delineation of condominium units.* All individual condominium units shall conform to the design standards for minimum lot width, lot area, and building setback requirements. The units shall be approved by the planning commission, and those requirements shall be made part of the bylaws and recorded as part of the master deed.

5. *Design requirements.* All residential condominium developments shall be required to follow the design standards (Division 4) and required improvements (Division 5) of Chapter 46, Land Division, Article III, Subdivisions, of the Village of Fowlerville Code of Ordinances.

6. *Mobile home condominium project* Mobile home condominium projects shall conform to all requirements of this ordinance and the mobile home commission rules, and shall be located only in the R-4 mobile home park district.

7. *Monumentation required.* All condominium projects, which consist in whole or in part of condominium units that are building sites, mobile home sites, or recreational sites, shall be marked with monuments as provided herein.

   a. With respect to the minimum requirements for the survey of a proposed condominium project, monuments shall be located in the ground according to the following requirements:

      (1) Monuments consisting of iron or steel bars, or pipes not less than one-half inch in diameter and 36 inches in length shall be placed at all major boundary corners of project area.

      (2) Monuments shall be located in the ground at all angles in the boundaries of the condominium project boundary; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature, and angle points in the sidelines of streets and alleys; and at all angles of an intermediate traverse line.

      (3) If a location of a monument is clearly impractical, it is sufficient to place a reference monument nearby and the precise location thereof shall be clearly indicated on the survey plan of the condominium subdivision plan and referenced to the true point.

      (4) If a point required to be monumented is on a bedrock outcropping or other hard surface, a steel rod, not less than one-half inch in diameter, shall be drilled and grouted into sod material to a minimum depth of eight inches and clearly labeled on the survey plan.

      (5) All required monuments shall be placed flush with the ground, where practical, in accordance with the final grade.

      (6) All building sites shall be monumented in the field by iron or steel bars of pipes at least 18 inches long and one-half inch in diameter, or other approved markers.

      (7) The village planning commission 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 running to the Village of Fowlerville, whichever the proprietor selects, in an amount not less than $25.00 per monument and not less than $500.00 in total. 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.

(Ord. No. 346, § 617, 6-19-2000; Ord. No. 473 , § 1, 12-23-2019)

Sec. 618. Buildings under construction.

Any building or structure for which a building permit has been issued and the construction of the whole or a part of which has been started, or for which a contract or contracts have been entered into pursuant to a building permit issued prior to the effective date of this ordinance, may be completed and used in accordance with the plans and application on which said building permit was granted.

(Ord. No. 346, § 618, 6-19-2000)

Sec. 619. Application to lots of record.

Where two or more abutting lots of record are held under one ownership and where one or more of such lots are nonconforming, the provisions of this ordinance relating to lot size in the district in which such lots are located shall be observed. Such nonconforming lots shall not be avoided by any sale or conveyance of all or any portion of any such lots after the effective date of this ordinance. However, wherever a clear majority of the lots in the same subdivision in which such nonconforming lots are located have already been developed, with dwellings and as building sites, of the same size, or smaller, than the said abutting lots of record, each of such nonconforming lots may be developed as separate building sites of a size and area consistent with the majority of the developed lots.

(Ord. No. 346, § 619, 6-19-2000)

Sec. 620. Supplementary dwelling regulations.

All single family dwellings located outside of the R-4 district must satisfy the following standards designed to assure that each dwelling will be compatible with other housing existing in the village:

1. It complies with the minimum square footage and all other dimensional requirements of this ordinance for the zone in which it is located.
2. The dwelling shall have a roof overhang of not less than six inches on all sides, or alternatively, window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling.
3. The pitch of the main roof shall not be less than one foot of rise for each four feet of horizontal run. The main roof shall be shingled, or shall appear to be shingled, except for those portions of the roof where alternate energy devices are installed. The roof shall be supported by the structure and not by any external support
4. The exterior of the dwelling shall be faced with weather resistant siding. Reflection from such exterior shall not be greater than from siding coated with clean, white, gloss, exterior enamel.
5. The main body of the dwelling shall be a rectangle, having a width of not less than 24 feet, as measured across the narrowest section, and, a minimum interior height of eight (8) feet.

6. The dwelling shall be connected to the public sewer and water supply, unless they are unavailable at such location, in which case the dwelling shall be connected to private water and septic facilities approved by the county health department.

7. The dwelling shall contain storage area in a basement located under the dwelling, in an attic area, in closet areas or in a separate structure of standard construction, similar in exterior appearance to the principal dwelling. Such storage area shall be in addition to the space for the storage of automobiles and shall contain a floor area not less than 15 percent of the minimum floor area required for that district.

8. It is firmly attached to a permanent foundation constructed on the site in accordance with the building code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. In the event that the dwelling is a mobile home, as defined in chapter 3, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the site by an anchoring system or device approved by the building code and complying with the rules and regulations of the Michigan Mobile Home Commission and shall have a perimeter wall as required above.

9. The dwelling shall be certified by the manufacturer or builder to be:

    a. Designed only for erection or installation on a site-built permanent foundation;

    b. Not designed to be moved once so erected or installed;

    c. Designed and manufactured to comply with the Uniform Building Code, as adopted by the County of Livingston.

10. In the event that a dwelling is a mobile home as defined in chapter 3, each mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage, or chassis.

11. The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity. The compatibility of design and appearance shall be determined in the first instance by the zoning administrator upon review of the plans submitted for a particular dwelling, subject to appeal by an aggrieved party to the zoning board of appeals. The appeal, if taken, must be taken within 21 days from the receipt of notice of zoning administrator decision. Any determination of compatibility shall be based upon the standards set forth herein, as well as the character, design, and appearance of one or more residential dwellings located outside of mobile home parks within 300 feet of the subject dwelling where such area is developed with dwellings to the extent of not less than 20 percent of the lots situated within said area; or, where said area is not so developed, by the character, design and appearance of one or more residential dwellings located outside of mobile home parks throughout the village. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.

12. The dwelling shall have not less than two exterior doors, which shall be located on separate sides of the dwelling.

13. The dwelling shall have permanently attached steps connected to the door areas where a difference in elevations requires the same.

14. Any additions of rooms or other areas shall be constructed with similar materials, and are to be similar in appearance, and similar in quality of workmanship as in the original structure. All such additions, excepting uncovered porches and decks, shall be permanently attached to the original structure, including the foundation, and shall satisfy the same roof requirements as the principal structure.

15. The dwelling shall be property maintained against deterioration and damage from the elements and the passage of time by prompt and appropriate repairs, surfacing, coating and other protective measures, as necessary.

16. The dwelling shall comply with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus, and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow loads and strength requirements.

17. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in the ordinances of the village pertaining to such parks.

18. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable building code provisions and requirements.

(Ord. No. 346, § 620, 6-19-2000)

Sec. 621. Supplementary yard regulations.

1. *Permitted yard encroachments.*

   a. Decks, terraces, patios, and uncovered porch areas shall not be subject to yard requirements, provided:

      (1) The area is unroofed and without walls or other forms of solid continuous enclosure that links the area to the principal building.

      (2) The highest finished elevation of the area is not over three feet above the average surrounding finished grade area. No portion of any area is closer than five feet to any lot line or projects into any front yard setback area.

      (3) Such areas may have noncontiguous wind breaks or walls not over six feet high and not enclosing more than one-half the perimeter of the paved area.

   b. Unenclosed porches, roofed or unroofed, may project into a required side or rear yard area, provided:

      (1) The porch is unenclosed and no higher than one story and is erected on supporting piers. The porch shall not be closer than eight feet to any side or rear lot line.

   c. Enclosed porches shall be considered an integral part of the building and shall be subject to all yard setback and area dimensional requirements established for principal buildings.

   d. Special structural elements such as cornices, sills, chimneys, gutters, and similar structural features may project into any yard setback up to a maximum of two feet.

   e. Fire escapes, outside stairways, and balconies, if of open construction, may project into yard setback areas up to a maximum of five feet.

   f. Signs may encroach into yard setback areas but no sign, or portion thereof, shall be closer to any lot line or street right-of-way than ten feet.

2. *Yard exceptions.*

   a. In cases where less than a 66 foot right-of-way width has been deeded or dedicated for a street, the building setback on any properties abutting thereon, shall be measured from a point 33 feet from the centerline of such road right-of-way.

3. *Conformance to established setbacks.*

    a. Where the established front yards for existing main buildings in the vicinity of, and in the same zoning district as, a subject lot are less than the required front yard for the zoning district of the subject lot, the required front yard for the subject lot shall be the average front yard of existing main buildings on the same side of the street and entirely or partially within 200 feet of the side lot lines of the subject lot, subject to subsection b. below.

    b. The front yard reduction permitted in subsection a. above shall only be permitted if there are two or more lots occupied by main buildings within the area described for computing the average front yard.

4. *Use of yards.* In any residential district, no part of any required front yard shall be used for any detached garage or accessory building. Attached garages or vehicle storage structures are permitted upon compliance with applicable ordinance provisions. The front yard of a residential lot shall be used for landscaping purposes only, and nothing shall be placed thereon except trees, shrubs, or other items of a similar nature, fences to the extent permitted by this ordinance, and required driveways or sidewalks.

5. *Use of yards for calculations.* No portion of a lot used in complying with the provisions of this ordinance for yard sizes, lot area, lot coverage, density requirements, or similar calculations required by this ordinance, in connection with an existing or proposed building or structure, shall be again used as part of the lot required in connection with any other building or structure existing or intended to exist at the same time.

(Ord. No. 346, § 621, 6-19-2000; Ord. No. 349, § 1, 1-15-2001; Ord. No. 353, § 3, eff. 5-5-2002)

Sec. 622. Supplementary height regulations.

1. *Permitted exceptions for structural appurtenances.* The following kinds of structural appurtenances shall be permitted to exceed the height limitations for permitted uses:

    a. Ornamental in purpose, such as church steeples, belfries, cupolas, domes, ornamental towers, and flagpoles, provided that such structural elements do not exceed 20 percent of the gross roof area.

    b. Appurtenances to mechanical or structural functions, such as chimneys and smokestacks, water tanks, elevator and stairwell penthouses, ventilators, radio or television towers, aerials and fire towers, not exceeding a height of 75 feet from the ground.

2. *Permitted exceptions, residential districts.*

    a. Residential structures may be permitted to exceed height limitations only if a variance is granted by the zoning board of appeals.

    b. Principal church structures may be permitted to exceed height limitations with a maximum height limit of 75 feet provided each front, side and rear yard requirement is increased by one foot for each one foot of additional height above the district requirement.

3. *Permitted exceptions, business and industrial districts.*

    a. In any business or industrial district, any principal building may be erected to a height in excess of that specified for the district, provided each front, side and rear yard minimum is increased one foot for each one foot of additional height above the district maximum.

(Ord. No. 346, § 622, 6-19-2000)

Sec. 623. Accessory buildings and structures.

1. *Required yards.* No detached accessory building or structure shall be permitted in any front yard. Accessory buildings may be allowed in the side or rear yards not closer than five feet from any lot line.

2. *Detached accessory buildings.* In any residential or commercial district, detached accessory buildings shall comply with the following regulations:

    a. They shall not be used in any part for dwelling purposes.

    b. They shall not be more than one story or 15 feet in height.

3. *Detached accessory buildings in residential districts.*

    a. No more than two detached accessory buildings shall be permitted on any lot.

    b. The total area of all accessory buildings shall not exceed 50 percent of the gross floor area first floor living area of the principal dwelling on the lot or 660 square feet, whichever is less.

    c. All detached accessory buildings in excess of 100 square feet located in any R-1, R-2, or R-3 district shall be designed and constructed to be compatible with the established and intended character of the surrounding residential area with respect to exterior building materials and roof line. In no case shall such accessory building contain corrugated, unfinished or raw metal siding. Residential grade aluminum siding and other similar materials are acceptable.

    d. No accessory building shall be permitted on a lot which does not contain a principal building.

4. *Detached accessory buildings and structures in non-residential districts.*

    a. No more than one detached accessory building shall be permitted on any lot.

    b. The total area of accessory buildings shall not exceed 50 percent of the ground floor gross floor area of the principal building on the lot but in no case shall exceed 250 square feet.

    c. All detached accessory buildings in non-residential districts over 100 square feet must be designed and constructed to be compatible with the established and intended character of the surrounding area with respect to exterior building materials and roof line. The accessory building must have a permanent foundation and solid wall construction.

    d. No accessory building shall be permitted on a lot which does not contain a principal building.

5. *Temporary moving and storage containers.* Temporary moving and storage containers may be permitted if compliant with the following:

    a. No more than one such container shall be allowed on an occupied residential lot.

    b. Temporary containers shall be placed on residential driveway or similar durable surface.

    c. Setbacks. Temporary containers shall be setback at least five feet from the front building line.

    d. Timeframe. Temporary storage containers may be placed in a side or rear yard of an occupied lot for up to 21 days. The container may be located on a durable surface/driveway in the front yard for a period not to exceed 48 hours.

(Ord. No. 346, § 623, 6-19-2000; Ord. No. 353, §§ 4, 5, eff. 5-5-2002; Ord. No. 423, § 1, 7-18-2011; Ord. No. 439, § 1, 1-27-2014)

Sec. 624. Private swimming pools accessory to residential development.

Outdoor swimming pools, erected or installed, shall be permitted and regulated by General Ordinance #210 of the Village of Fowlerville, as amended.

(Ord. No. 346, § 624, 6-19-2000)

Cross reference(s)—Swimming pools generally, § 14-151 et seq.

Sec. 625. Home occupations.

It is the intent of this section to permit residents of the village a broad choice in the use of their residences as places of livelihood and the production or supplementation of personal and family income, while establishing criteria for the conduct of home occupations in dwellings units in residential districts to protect neighboring residential land uses from adverse impacts of activities associated with home occupations, to maintain and protect the character of residential neighborhoods and to ensure the compatibility of home occupations with other uses permitted in residential districts. The home occupation must satisfy all of the following conditions in the residential districts:

1. The nonresidential use shall be only incidental to the primary residential use.
2. The occupation shall be contained on one floor, not to exceed 25 percent of said floor.
3. Only normal domestic or household equipment shall be used to accommodate the home occupation.
4. The home occupation shall involve no employees other than members of the immediate family residing on the premises.
5. All activities shall be carried on indoors, only in the principal building. No outdoor activities, display, or storage shall be permitted.
6. No alterations, additions or changes to the building shall be permitted in order to accommodate or facilitate a home occupation.
7. Home occupations shall not generate traffic in volumes greater than that level normally associated with residential land uses.
8. No stocking of goods produced as a result of the home occupation shall be permitted on the premises.
9. No repetitive servicing by truck of supplies, or products or materials shall be required by the home occupation.
10. That no article or service is sold or offered for sale on the premises except such as is produced by the home occupation.
11. There shall be no external evidence of such occupations except a small announcement or identification sign not exceeding two square feet in area as permitted in chapter 17.
12. Restaurants, clinics, hospitals, tearooms, animal hospitals and veterinary offices shall not, in any case, be construed as a home occupation.

(Ord. No. 346, § 625, 6-19-2000; Ord. No. 349, § 2, 1-15-2001)

Sec. 626. District boundary exceptions.

When a district boundary line, as established by this ordinance, is adopted or subsequently amended and divides a lot (with single ownership), the use permitted in the less restricted portion of said lot may be extended to the entire lot, subject to the following conditions:

1. That one-half or more of the area of said lot shall be in the less restrictive district.
2. That any part of a less restricted use extended beyond a district boundary under the terms of this section shall be housed entirely within an enclosed building and such building shall conform to any applicable yard and area requirements in the more restrictive district.
3. The ordering of districts proceeding from most restrictive to least restrictive is herein established as follows: PL, CR, R-1, R-2, R-3, R-4, O, BC, GB, LRI, and I.

(Ord. No. 346, § 626, 6-19-2000)

Sec. 627. Approval of plats.

No proposed plat of a new or redesigned subdivision shall hereafter be approved by the Village of Fowlerville unless the lots within the plat equal or exceed the minimum size and width requirements of this ordinance and all other applicable codes or ordinances.

(Ord. No. 346, § 627, 6-19-2000)

Sec. 628. Zoning of plats.

All plats shall be subject to the use provisions of the district within which they are located. Any zoning district changes which may be necessary to accommodate a proposed plat use or uses shall be made according to amendment procedure prescribed by this ordinance.

(Ord. No. 346, § 628, 6-19-2000)

Sec. 629. Conformance of lots and parcels to the land division act.

All uses permitted in any district shall be located on lots or parcels of land subdivided in accordance with the provisions of the land division act, Public Act No. 288 of 1967 (MCL 560.101 et seq.), as amended, and the subdivision regulation of the Village of Fowlerville adopted and in effect at the time.

(Ord. No. 346, § 629, 6-19-2000)

Editor's note(s)—The subdivision control act of 1967 was renamed the land division act by Public Act No. 591 of 1996.

Sec. 630. Use of financial guarantee to temporarily delay construction requirements.

If in the judgment of the planning commission, during the course of site plan review procedure, it appears prudent to permit the delay of constructing certain provisions, such as landscaping or paving, as required in this zoning ordinance, the planning commission may grant such a delay to a specific future date provided that the applicant/owner submit a satisfactory financial guarantee to the village council. The financial guarantee shall remain in effect prior to or coincident with the issuance of the zoning permit and shall remain in effect until the requirements so delayed are fully completed and approved by the zoning administrator.

(Ord. No. 346, § 630, 6-19-2000)

Sec. 631. Noncommercial satellite dish antennas and amateur radio antennas.

1. *Ground mounted.* In residential and business districts, the following restrictions shall apply to all ground-mounted antennas or other similar devices including satellite dish antennas over 24 inches in diameter:
    a. Antennas shall not be located between the principal building and the front lot line.
    b. Installations shall comply with yard requirements of the zoning district.
    c. Dish antennas shall not exceed 12 feet in height above existing grade. Other antennas shall not exceed 30 feet in height above maximum building height.
    d. All installations shall be located to prevent obstruction of a dish antenna's reception window by potential permitted development on adjoining properties.
    e. Antennas including dish antennas shall be screened from adjoining lots by the installation and maintenance of a completely planted visual barrier, consisting of a combination of evergreen trees, low-level shrubbery and narrow canopied deciduous trees. In order to reduce the height of the required plant materials, berms may be employed in conjunction with landscaping.
    f. Only one satellite dish antenna shall be permitted per lot.
2. *Roof mounted.* In the business and industrial districts, the following criteria shall apply to roof-mounted antennas or other similar devices, including satellite dish antennas with a diameter greater than twenty-four inches:
    a. Demonstration by the applicant that compliance with the applicable yard and height restrictions would result in the obstruction of the antenna's reception window; furthermore, such obstruction involves factors beyond the applicant's control.
    b. The height of the proposed installation does not exceed the maximum height restriction imposed for principal uses within the district; except that existing buildings that are built up to their maximum height may be permitted a rooftop installation so long as the diameter of the antenna does not exceed 24 feet or 33 percent of the existing height of the building, whichever is less.
    c. All applications must include certification by a registered engineer that the proposed installation complies with those standards in the appropriate sections of the BOCA Basic Building Code currently in effect in Michigan. Furthermore, written documentation of such compliance, including load distributions within the building's support structure, shall be furnished.

(Ord. No. 346, § 631, 6-19-2000)

Sec. 632. Oil wells, gas wells or natural underground storage fields.

No oil well, natural gas well or natural underground storage field shall be drilled, established or maintained in the Village of Fowlerville, nor may any drilling rig or similar equipment be erected or constructed for the purpose of drilling, establishing or maintaining an oil well, gas well or natural underground storage field without the approval of the village planning commission.

(Ord. No. 346, § 632, 6-19-2000)

Sec. 633. District site development regulations.

Each district created under this chapter shall be subject to certain site development regulations, as more fully set forth in the applicable chapters in this ordinance. Some of these site development regulations shall be summarized in a "Schedule of Regulations," which shall be labeled "Appendix A," and shall be attached to and incorporated into this ordinance, as if fully set forth in this section.

(Ord. No. 346, § 633, 6-19-2000)

Sec. 634. Essential services.

The erection, construction, alteration or maintenance of essential public services shall be permitted in any zoning district; it being the intention thereof to exempt such erection, construction, alteration or maintenance from the application of this ordinance.

(Ord. No. 346, § 634, 6-19-2000)

Sec. 635. I-96 Corridor.

All non-residential buildings constructed on parcels abutting the I-96 right-of-way shall be constructed so the building's front elevation faces I-96; or the structure shall be so designed as to give the appearance of a front elevation along I-96. In all cases the abutting property shall be landscaped in such a way as to provide an attractive foreground and effective screening of parking, loading, and storage areas.

(Ord. No. 346, § 635, 6-19-2000)

Sec. 636. Commercial rated vehicle parking and storage.

The off-street parking or storage of a commercial rated motor vehicle in any zoning district shall be subject to the following regulations:

A. Except as otherwise permitted herein, no person shall store a commercial rated motor vehicle on any off-street parking lot in any zoning district, nor shall the registered owner of a commercial rated motor vehicle permit to be parked or stored, any commercial rated vehicle on any residential zoned property for any purpose or for any length of time, except for the expeditious loading, delivery, pick-up or unloading of materials, goods or merchandise, or when the parking or storage of such motor vehicle is a recognized and necessary function of a principal permitted use on the property.

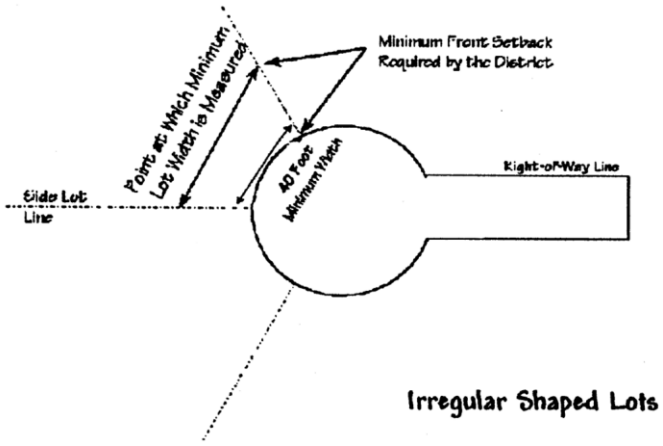
B. The owner of a residential zoned property shall not permit a commercial rated vehicle to remain on the property in violation of this zoning ordinance, except, nothing in this ordinance shall prevent a commercial rated vehicle that is not a dump truck, stake truck, flatbed truck, or semi-trailer tractor, and which is owned or registered to the occupant of the residential zoned property, and which is that occupant's principal means of transportation in the conduct of that resident's employment, or is that resident's sole means of motor vehicle transportation, from being parked on the premises.

C. The owner and occupant of a residential zoned property may keep a commercial rated vehicle that is a dump truck, stake truck, flatbed truck, or semi-trailer tractor, which is owned or registered to the owner and occupant of the residential zoned property, and which the occupant must consistently use in an occupation which is that resident's principle means of employment and income, so long as any such vehicle is kept in a fully enclosed building on the property, and in which building no mechanical maintenance or body repair of any kind is conducted.

D. In any proceeding for a violation of this section, where the owner of a motor vehicle alleged to be in violation of this section possesses a commercial vehicle registration for the vehicle, or the vehicle displays commercial license registration, either or both, shall constitute prima-facie presumption that it is a commercial vehicle at the time of any alleged violation.

(Ord. No. 346, § 636, 6-19-2000)

Sec. 637. Minimum lot width for irregular-shaped lots.



Irregular Shaped Lots

(Ord. No. 353, § 6, eff. 5-5-2002)

Sec. 638. Dumpsters and waste receptacles.

Dumpsters, including waste receptacles and compactors, shall be designed, constructed and maintained according to the standards of this section. Dumpster location and details of construction shall be shown on site plans. A change in dumpster location or size shall require modification to the enclosure, as warranted by this section.

1. *Location.* Dumpsters shall be located in the rear yard or non-required side yard, unless otherwise approved by the planning commission. For commercial and industrial sites adjoining a residential district, the waste receptacle enclosure shall be as far as practical, and in no case less than 20 feet from any adjacent residential district.
2. *Access.* Dumpsters shall be easily accessed by refuse vehicles without potential to damage automobiles parked in designated parking spaces.
3. *Base.* The dumpster base shall be at least nine feet by nine feet, constructed of six inches of reinforced concrete pavement. The base shall extend six feet beyond the dumpster pad or gate to support the front axle of a refuse vehicle.
4. *Screening.* Dumpsters shall have an enclosing lid or cover and be enclosed on three sides with a wood gate on the fourth side. Gates and lids shall remain closed when the dumpster is not being accessed. The enclosure shall be a berm or constructed of brick or decorative concrete material with a maximum height of six feet or at least one foot higher than the dumpster and spaced at least three feet from the

dumpster. The planning commission may approve a wooden enclosure provided the lumber is treated to prevent decay or is determined to be durable and suitable for outdoor use.

(Ord. No. 380, § 3, 9-18-2006)

Sec. 639. Non-residential design requirements.

The following design requirements for non-residential buildings shall be applied during site plan review as outlined in chapter 24:

a. *Exterior building design.*

1. Buildings shall possess architectural variety, but enhance the overall cohesive community character. All buildings shall provide architectural features, details, and ornaments such as archways, colonnades, cornices, recesses, projections, wall insets, arcades, window display areas, peaked roof lines, or towers.

2. Building walls and roofs over 50 feet in length shall be broken up with varying building lines, windows, gables, and/or architectural accents such as pilasters, columns, dormers, and awnings.

3. Window area shall make up at least 20 percent or more of the exterior wall area facing the front yard. This requirement may be modified by the planning commission upon a finding that this requirement is excessive due to the nature of the use and surrounding land uses, the location of the site, or architectural incompatibility.

4. In addition, a portion of the on-site landscaping shall abut the walls so that the vegetation combined with the architectural features significantly reduce the visual impact of the building mass as viewed from the street. Additional landscaping requirements of this ordinance must also be satisfied.

5. Overhead doors shall not face a public street or residential district. The planning commission can modify this requirement upon a determination that there is no reasonable alternative and the visual impact will be moderated through use of building materials, architectural features and landscaping beyond that required.

6. Additions to existing buildings must complement the current building design with regard to height, proportions, scale, materials, and rhythm of openings.

b. *Building materials.*

1. Durable building materials which provide an attractive, quality appearance must be utilized.

2. The predominant building materials should be quality materials that are characteristic of Michigan such as earth-toned brick, decorative tilt-up panels, wood, native stone, and tinted/textured concrete masonry units and/or glass products.

3. Other materials such as smooth-faced concrete block, undecorated tilt-up concrete dryvit panels, or pre-fabricated steel panels should only be used as accents and not dominate the building exterior of the structure.

4. Metal roofs may be allowed if deemed by the planning commission to be compatible with the overall architectural design of the building.

c. *Building and sign colors.*

1. Exterior colors shall be of low reflectance, subtle, neutral, or earth tone colors. The use of high intensity colors such as neon, metallic, or fluorescent for the facade and/or roof of the building are prohibited except as approved by the planning commission for building trim.

2. The use of trademark colors not meeting this requirement shall be approved by the planning commission.

3. Mechanical and service features such as gutters, ductwork, service doors, etc. that cannot be screened must be of a color that blends in with the color of the building.

d. *Roof design.*

1. Roofs should be designed to reduce the apparent exterior mass of a building, add visual interest, and be appropriate to the architectural style of the building.

2. Variations in architectural style are highly encouraged. Visible roof lines and roofs that project over the exterior wall of a building enough to cast a shadow on the ground are highly encouraged, with a minimum overhang of 12 inches.

3. Architectural methods shall be used to conceal flat roof tops and mechanical equipment.

4. Overhanging eaves, peaked roofs, and multiple roof elements are highly encouraged.

e. *Customer entrances.* Clearly defined, highly visible customer entrances may be included in the design. Features such as canopies, porticos, arcades, arches, wing walls, and integral planters are highly encouraged to identify such entrances.

f. *Community amenities.* Community amenities such as patio/seating areas, water features, art work or sculpture, clock towers, pedestrian plazas with park benches, or other features located adjacent to the primary entrance to the building(s) are highly encouraged.

g. *Signs.* Signs shall be in accordance with chapter 21. All sign bases shall be constructed of materials compatible with the architecture of the building(s) located on the premises.

h. *Natural features.* Buildings shall be sited to protect existing natural areas such as steep natural grades, trees, significant groupings of healthy vegetation (shrubs and trees), and rock outcroppings. To the extent practical, these areas shall be incorporated into the overall site plan.

(Ord. No. 380, § 4, 9-18-2006)

Sec. 640. Lighting.

All lighting must comply with the following standards:

a. *Freestanding pole lighting.*

1. Exterior lighting shall be fully shielded and directed downward to prevent off-site glare. Fixed, downward directed, metal halide shoebox fixtures shall be used in an effort to maintain a unified lighting standard throughout the city [village] and prevent "sky glow."

2. The intensity of light within a site shall not exceed ten footcandles within any site or one footcandle at any property line, except where it abuts a service drive or other public right-of-way. Footcandles abutting a residential district or use can be a maximum of 0.5 footcandles at the property line. The only exception is for gas station canopy and automobile dealership lighting, where a maximum of 20 footcandles is permitted within the site but the above standards shall apply to intensity at the property line.

3. The planning commission may approve decorative light fixtures as an alternative to shielded fixtures when it can be proven that there will be no off-site glare and the proposed fixtures are necessary to preserve the intended character of the site.

4. The maximum height of parking lot light fixtures shall be 20 feet, except that the planning commission may permit a maximum height of 30 feet within commercial, industrial, and office zoning districts and for institutional uses in residential districts when the poles are no closer than one hundred 150 feet to a residential district or use.

5. Parking lot poles shall be located in parking lot islands or in the periphery parking lot area. Light poles shall be prohibited in parking spaces.

6. Except where used for security purposes, all outdoor lighting fixtures, existing or hereafter installed and maintained upon private property within non-residential zoning districts shall be turned off between 11:00 p.m. and sunrise, except where such use continues after 11:00 p.m. but only for so long as such use continues.

b. *Building-mounted lighting.*

1. Building-mounted lighting shall be fully shielded and directed downward to prevent off-site glare. Fixed, downward directed, metal halide fixtures shall be used in an effort to maintain a unified lighting standard throughout the city [village] and prevent "sky glow."

2. The intensity of light within a site shall not exceed ten footcandles within any site or one footcandle at any property line, except where it abuts a service drive or other public right-of-way. Footcandles abutting a residential district or use can be a maximum of 0.5 footcandles at the property line.

3. The planning commission may approve decorative light fixtures as an alternative to shielded fixtures when it can be proven that there will be no off-site glare and the proposed fixtures will improve the appearance of the site.

4. Luminous tube and exposed bulb fluorescent lighting is prohibited as an architectural detail on all buildings, e.g. along the roof line and eaves, around windows, etc. The planning commission may approve internally illuminated architectural bands when it can be shown that the treatment will enhance the appearance of the building or is necessary for security purposes.

(Ord. No. 380, § 5, 9-18-2006)

Sec. 641. Accessory outdoor dining areas.

Accessory outdoor dining areas are permitted by right when accessory to a permitted or special land use subject to the following:

1. Outdoor dining may be permitted as an accessory to another permitted dining use, and shall at no time be used for retail display or sales.

2. Outdoor dining requests shall require site plan review by the planning commission in compliance with chapter 24, site plan review and impact assessment. Instead of a formal site plan, the zoning administrator may allow submittal of a sketch plan if it is drawn to scale and shows all relevant items of the site needed to review the request. Additional information, or a formal site plan may be requested by either the zoning administrator or planning commission.

   Once initial approval has been granted by the planning commission, it shall be valid for one year and may be renewed annually by the zoning administrator, provided that it continues to comply with the original planning commission approval. The zoning administrator may defer decision to the planning commission, if they feel additional review is needed due to existing or reoccurring violations, or the existence of other unforeseen conditions.

3. Outdoor dining is permitted between April 15 and October 31. All furniture and fixtures must be removed immediately after October 31.

4. Outdoor dining areas shall not be the primary seating of the restaurant.

5. Outdoor dining areas shall be located in a manner to maintain a minimum pathway width of five feet (clear of structures such as light poles, trees and hydrants) along the sidewalk so as not to interfere with pedestrian traffic.

6. Chairs and tables shall be of quality durable material such as metal or wood.

7. Waste receptacles shall be provided in instances where wait staff does not clear all tables. In cases where outdoor dining areas are provided for general use by more than one business, such as for shopping plazas and multi-tenant businesses, it shall be the responsibility of the property owner to ensure the area is maintained in a clean and orderly fashion.

8. Outdoor dining areas shall be required to be enclosed in instances where there is wait staff or alcohol service. Enclosures shall consist of metal railing, wood railing, brick walls or other suitable material approved by the planning commission.

9. Outdoor dining that extends into areas located within the public right-of-way shall require approval by department of public works. Such requests may be permitted in the BC, business center zoning district only, and shall adhere to the following:

    a. Commercial general liability insurance must be procured and maintained on an "occurrence basis" with limits of liability not less than $1,000,000.00 per occurrence combined single limit, personal injury, bodily injury and property damage. This coverage shall include an endorsement naming the city, including all elected and appointed officials, all employees, all boards, commissions and/or authorities and board members, as an additional insured. This coverage must be primary and any other insurance maintained by the additional insureds shall be considered to be excess and noncontributing with this insurance, and shall include an endorsement providing for a 30-day advance written notice of cancellation or non-renewal to be sent to the zoning administrator.

    b. A license agreement in a form deemed acceptable to the village attorney's office shall be required.

    c. An elevated, ADA compliant platform may be erected on a street adjacent to an eating establishment to create an outdoor dining area if the planning commission determines there is sufficient space available for this purpose given parking and traffic conditions. Such platform shall be constructed according to the following:

        1. Platforms shall be enclosed by a metal railing, wood railing or other suitable material approved by the planning commission. Railing height must be at least 42 inches in height.

        2. All platforms must be removed no later than November 7th and may not be stored outdoors during the winter months.

        3. Platform edges closest to the travel portion of the roadway shall include reflective surfaces or other elements to draw attention to motorists.

(Ord. No. 406, § 1, 2-2-2009)

Sec. 642. Parking and storage of recreational vehicles in residential districts.

1. For the purposes of this section, the term "recreational vehicle" shall mean any motor vehicle or trailer designed and used as a travel trailer, tractor trailer, pickup camper, camper, camping trailer, motor home,

travel coach, motorized dwelling, tent trailer, boat, boat trailer, snowmobile, snowmobile trailer, horse trailer, dune buggy and any other similar equipment.

2. No recreational vehicle shall be parked or stored outside a building in any residential zone district, as described in Section 602 of the Zoning Ordinance of the Village of Fowlerville, except in accordance with the following regulations:

   a. No more than one recreational vehicle shall be parked or stored on any lot in a residential district at any given time, except in an enclosed garage.

   b. No recreational vehicle shall be parked or stored outside a building in the front yard in any residential zone district, except a recreational vehicle may be parked on a front driveway for a period not to exceed a total of 48 hours during loading or unloading. Parking during loading or unloading is prohibited in between the curb and sidewalk sections along public rights-of-way, or in a manner that blocks a public sidewalk. Under extraordinary circumstances the village manager may issue a temporary permit allowing the parking of a recreational vehicle on a front driveway on private property not to exceed a period of one week. For purposes of this subsection, on a corner residential lot, each yard adjoining a street shall be considered a front yard.

   c. No recreational vehicle shall be parked or stored on lawns or other unpaved areas on residential lots, with the exception of a valid nonconforming gravel driveway.

   d. Parking or storage of recreational vehicles shall be done in such a manner that no portion of the recreational vehicle shall be closer than ten feet to the nearest house.

   e. No recreational vehicle shall have fixed connections to electricity, water, gas or sanitary sewer facilities; and at no time shall this equipment be used for living, sleeping or housekeeping purposes.

   f. All recreational vehicles must be parked or stored in such a manner that they do not create a dangerous or unsafe condition on the property where parked or stored, or to surrounding properties.

   g. No recreational vehicle shall be parked or stored unless it has been licensed by the state for operation during the current year or the year preceding the parking or storage.

   h. No recreational vehicle shall be parked or stored on a vacant lot in a residential zone district, except where such lot is contiguous and adjacent to the residential lot occupied by the owner. No recreational vehicle parked or stored on such vacant lot shall be located in the portion of the lot extending from the front lot line for a distance equal to the depth of the front yard of the owner's adjacent residence.

(Ord. No. 440, § 1, 1-27-2014)

CHAPTER 7. PL PUBLIC LANDS

Sec. 701. Purpose.

The public lands district is designed to classify public owned uses as well as certain privately owned uses and lands which are intended for major use in a recreational or institutional setting by the public.

(Ord. No. 346, § 701, 6-19-2000)

Sec. 702. Uses permitted by right.

No building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this ordinance:

1. Municipal or other governmental buildings such as but not limited to: offices, fire stations, police stations, post offices and libraries.
2. Outdoor public owned recreational uses including but not limited to: playgrounds, playfields, golf courses, boating areas, fishing sites, parks and parkways.
3. Public utility transformer stations and substations, public utility gas regulator stations, utility pumping stations, and water towers.
4. Vendors approved by the village council or operating with the consent of organizations sponsoring events approved by the village council may engage in the temporary business of selling and delivering goods, including outdoor merchandise display and sales.
5. Adult and child residential care facilities in accordance with section 615, adult and child care facilities.

(Ord. No. 346, § 702, 6-19-2000; Ord. No. 363, § 1, eff. 8-21-2003; Ord. No. 411, § 8, 1-18-2010)

Sec. 703. Uses permitted by special use permit.

The following uses of land and structures may be permitted in the PL district by the application for and the issuance of a special use permit when specified procedures and requirements as outlined in chapter 23 are met:

1. Recreational residential uses such as public and private clubs or associations providing outdoor recreational uses for their members including but not limited to: golf clubs, country clubs, swim clubs, tennis clubs and riding clubs.
2. Facilities such as licenses [licensed] restaurants and bars may be permitted when occupying an integral part of the main building considered incidental to a permitted use or an approved special use. However, the structure and associated parking facilities must be sited and landscaped so as to protect the views of adjacent existing residential uses and districts.
3. Public, parochial and private schools.
4. Cultural and religious institutions such as but not limited to museums and churches.
5. Adult and child residential care facilities in accordance with section 615, adult and child care facilities.
6. Commercial transmitting and receiving towers.

(Ord. No. 346, § 703, 6-19-2000; Ord. No. 411, § 9, 1-18-2010)

Sec. 704. Site development requirements.

1. *Minimum yard dimensions.*
    a. *Front yard.* There shall be a front yard of not less than 35 feet as measured from the road right-of-way.
    b. *Side yard.* Every lot in the PL district shall have two side yards, neither of which shall be less than ten feet in width.
        (1) *Corner lots.* Interior side yard regulations shall be the same as for interior lots, and the remaining street side yard shall be no less than 35 feet.
    c. *Rear yard.* There shall be a rear yard of not less than 15 feet as measured from the rear lot line.
2. *Maximum lot coverage.* No lot shall be occupied by buildings covering more than 25 percent of the lot.

3. *Height of structure.* No structure shall be erected or altered to a height exceeding two stories or 30 feet, subject to supplementary height regulations.

(Ord. No. 346, § 704, 6-19-2000)

Sec. 705. Off-street parking and loading.

See chapter 20.

(Ord. No. 346, § 705, 6-19-2000)

Sec. 706. Signs.

See chapter 21.

(Ord. No. 346, § 706, 6-19-2000)

Sec. 707. Site Plan Review.

See chapter 24.

(Ord. No. 346, § 707, 6-19-2000)

CHAPTER 8. CR CONSERVATION/RECREATION DISTRICT

Sec. 801. Purpose.

It is the purpose of this district to protect the sensitive natural features of this area from degradation due to intensive development. The regulations contained herein are also intended to protect the owners of such property from the effects of flooding and the excessive costs of building in such areas, while still permitting a reasonable use of the property.

(Ord. No. 346, § 801, 6-19-2000)

Sec. 802. Uses permitted by right.

1. Golf course.
2. Public parks and playgrounds.
3. Landscape nursery or greenhouse, not requiring permanent structures.

(Ord. No. 346, § 802, 6-19-2000)

Sec. 803. Uses permitted by special use permit.

1. Outdoor commercial recreation facilities such as, but not limited to golf driving ranges, mini-golf courses, and archery ranges.
2. Campgrounds.

3. Agricultural and forestry operations, excluding the raising or keeping of animals.

(Ord. No. 346, § 803, 6-19-2000)

Sec. 804. Site development requirements.

1. *Minimum yard dimensions.*
   a. *Front yard.* There shall be a front yard of not less than 35 feet, as measured from the road right-of-way.
   b. *Side yard.* Every lot in the CR district shall have two side yards, neither of which shall be less than ten feet in width. On corner lots, the interior side yard shall be the same as for interior lots, and the remaining street side shall be no less than 35 feet.
   c. *Rear yard.* There shall be a rear yard of not less than 15 feet, as measured from the rear lot line.
2. *Maximum lot coverage.* No lot shall be occupied by buildings covering more than ten percent of the lot.
3. *Height of structure.* No structure shall be erected or altered to height exceeding two stories or 30 feet, subject to supplementary height regulations.

(Ord. No. 346, § 804, 6-19-2000)

Sec. 805. Off-street parking and loading.

See chapter 20.

(Ord. No. 346, § 805, 6-19-2000)

Sec. 806. Signs.

See chapter 21.

(Ord. No. 346, § 806, 6-19-2000)

Sec. 807. Site plan review.

See chapter 24.

(Ord. No. 346, § 807, 6-19-2000)

CHAPTER 9. R-1 LOW DENSITY RESIDENTIAL DISTRICT

Sec. 901. Purpose.

It is the purpose of the R-1 district to encourage a predominance of dwelling structures located on individual parcels of land housing only one family or one household group. The requirements for this district are designed to protect and stabilize the essential character of these areas and to promote and encourage a suitable and safe environment for family life. It is recognized that a desirable living environment includes many nonresidential uses of land and buildings. In order to insure [ensure] compatibility and protect against potentially injurious effects upon residential property, certain minimum requirements are set forth for these uses, whether permitted by right or permitted by special use permit.

(Ord. No. 346, § 901, 6-19-2000)

Sec. 902. Uses permitted by right.

The following uses are permitted in the R-1 district subject to all applicable regulations of this ordinance:

1. One-family dwellings.
2. Adult and child residential care facilities in accordance with section 615, adult and child care facilities.
3. Home occupations.
4. Accessory uses and buildings.

(Ord. No. 346, § 902, 6-19-2000; Ord. No. 411, § 10, 1-18-2010)

Sec. 903. Uses permitted by special use permit.

The following uses of land and structures may be permitted in the R-1 district by the application for and the issuance of a special use permit when specified procedures and requirements as outlined in chapter 23 are met:

1. Public utility transformer stations and substations, public utility gas regulator stations, and utility pumping stations.
2. Public and private schools, K—12.
3. Religious institutions.
4. Adult and child residential care facilities in accordance with section 615, adult and child care facilities.
5. Commercial transmitting and receiving towers.
6. Planned unit residential development.

(Ord. No. 346, § 903, 6-19-2000; Ord. No. 375, § 1, 5-16-2005; Ord. No. 411, § 11, 1-18-2010)

Sec. 904. Site development requirements.

1. *Minimum lot area.* No dwelling shall be erected on a lot of less than 11,616 square feet of lot area.
2. *Minimum lot width.* Eighty-eight feet along the street upon which the lot principally fronts. All corner lots created after the adoption of this ordinance shall have a minimum width of 100 feet. For corner and interior lots, the minimum lot width may be measured at the building line. For culs-de-sac lots, refer to section 637.
3. *Minimum yard dimensions.*
    a. *Front yard.* There shall be a front yard of not less than 35 feet as measured from the road right-of-way.
    b. *Side yard.* Every lot in the R-1 district shall have two side yards, neither of which shall be less than ten feet in width.
        (1) *Corner lots.* Interior side yard regulations shall be the same as for interior lots, and the remaining street side yard shall be no less than 35 feet.
    c. *Rear yard.* There shall be a rear yard of not less than 15 feet as measured from the rear lot line.
4. *Maximum lot coverage.* No lot shall be occupied by buildings or structures covering more than 35 percent of the lot.

5. *Height of structure.* No structure shall be erected or altered to a height exceeding two stories or 30 feet, subject to supplementary height regulations.

6. *Minimum floor area.* Each dwelling unit shall have a minimum of 1,050 square feet of living area. Dwelling units of more than one story shall have a minimum of 950 square feet of living area on the ground floor.

7. *Permitted encroachment into the rear yard.* See section 621, Supplementary Yard Regulations.

(Ord. No. 346, § 904, 6-19-2000; Ord. No. 353, § 7, eff. 5-5-2002)

Sec. 905. Off-street parking and loading.

See chapter 20.

(Ord. No. 346, § 905, 6-19-2000)

Sec. 906. Signs.

See chapter 21.

(Ord. No. 346, § 906, 6-19-2000)

Sec. 907. Site plan review.

See chapter 24.

(Ord. No. 346, § 907, 6-19-2000)

CHAPTER 10. R-2 VILLAGE CORE RESIDENTIAL DISTRICT

Sec. 1001. Purpose.

The R-2 district is established as a high density single-family residential district. The purpose of this district is to protect the stability and soundness of the developed neighborhoods by prohibiting incompatible uses which would be destructive to the quality and character of this residential area. The R-1 and R-2 districts are very similar except, in the R-2 district a higher population density is permitted.

(Ord. No. 346, § 1001, 6-19-2000)

Sec. 1002. Uses permitted by right.

All uses permitted by right in the R-1 district shall be permitted in the R-2 district subject, to all specific regulations of this chapter.

(Ord. No. 346, § 1002, 6-19-2000)

Sec. 1003. Uses permitted by special use permit.

The following uses of land and structures may be permitted in the R-2 district by application for and the issuance of a special use permit when specified procedures and requirements as outlined in chapter 23 are met:

1. All uses permitted by special use permit within the R-1 district.
2. Institutions for mentally impaired or physically handicapped.
3. Human care institutions.
4. Two-family dwellings resulting from the conversion of a single-family dwelling.
5. Planned unit residential development.

(Ord. No. 346, § 1003, 6-19-2000; Ord. No. 375, § 2, 5-16-2005)

Sec. 1004. Site development requirements.

1. *Minimum lot area.* No dwelling shall be erected upon a lot of less than 8,712 square feet.
2. *Minimum lot width.* Sixty-six feet along the street upon which the lot principally fronts. All corner lots created after the adoption of this ordinance shall have a minimum width of 100 feet. For corner and interior lots, the minimum lot width may be measured at the building line. For culs-de-sac lots, refer to section 637.
3. *Minimum yard dimensions.*
    a. *Front yard.* There shall be a front yard of not less than 35 feet as measured from the road right-of-way. For established neighborhoods where 50 percent or more of the lot frontage in a block is occupied by existing buildings, in the R-1 and R-2 districts, the average of the existing front yard setbacks of the principal buildings within 300 feet of either side of the lot in question shall establish the minimum front yard setback. However, in no case shall a front yard setback required under this subsection be less than 20 feet nor more than 50 feet.
    b. *Side yards.* Every lot in the R-2 district shall have two side yards, neither of which shall be less than ten feet in width.
        (1) *Corner lots.* Interior side yard regulations shall be the same as for interior lots, and the remaining street side yard shall be no less than 35 feet.
    c. *Rear yard.* There shall be a rear yard of not less than 15 feet as measured from the rear lot line.
4. *Minimum floor area.* Each dwelling unit shall contain a minimum of 1,000 square feet of living area. Dwelling units of more than one story may have a minimum of 832 square feet of living area on the ground floor.
5. *Maximum lot coverage.* No lot shall be occupied by buildings or structures covering more than 25 percent of the lot.
6. *Height of buildings.* No structure shall be erected or altered to a height exceeding two stories or 30 feet, subject to supplementary height restrictions.
7. *Permitted encroachments into the rear yard.* See section 621, Supplementary Yard Regulations.

(Ord. No. 346, § 1004, 6-19-2000; Ord. No. 353, § 8, eff. 5-5-2002)

Sec. 1005. Off-street parking and loading.

See chapter 20.

(Ord. No. 346, § 1005, 6-19-2000)

Sec. 1006. Signs.

See chapter 21.

(Ord. No. 346, § 1006, 6-19-2000)

Sec. 1007. Site plan review.

See chapter 24.

(Ord. No. 346, § 1007, 6-19-2000)

CHAPTER 11. R-3 HIGH DENSITY RESIDENTIAL DISTRICT

Sec. 1101. Purpose.

It is the purpose of the R-3 district to achieve the same character, stability and soundness of residential environment as intended for achievement by the regulations in other residential districts within the village. The only essential difference between the R-2 and R-3 districts is that a higher density of population is permitted in the R-3. The district is applied to those areas within the village which are particularly suited for higher population density because of their central location, present high density development, and high degree of public services and transportation facilities available.

(Ord. No. 346, § 1101, 6-19-2000)

Sec. 1102. Uses permitted by right.

The following uses are permitted in the R-3 district subject to all specific regulations of this chapter:

1. Two-family dwellings.
2. Multifamily dwelling.
3. Adult and child residential care facilities in accordance with section 615, adult and child care facilities.
4. Home occupations.
5. Accessory uses and buildings.

(Ord. No. 346, § 1102, 6-19-2000; Ord. No. 411, § 12, 1-18-2010)

Sec. 1103. Uses permitted by special use permit.

The following uses of land and structures may be permitted in the R-3 district by application for and the issuance of a special use permit when specified procedures and requirements as outlined in chapter 23 are met:

1. Any use permitted by special use permit in the R-2 district.
2. One-family dwellings, meeting all of the site development requirements as contained in section 1004 for the R-2 district.
3. Planned unit residential development.

(Ord. No. 346, § 1103, 6-19-2000; Ord. No. 375, § 3, 5-16-2005)

Sec. 1104. Site development requirements.

1. *Minimum lot area.* No building shall be erected on a lot which has less than 9,600 square feet of lot area. In the case of two-family residential buildings, each unit shall have 7,500 square feet of lot area. For multiple family residential developments, a minimum lot area of one acre shall be required and no more than 12 units per acre shall be permitted, based on the net site area.
2. *Minimum lot width.* Eighty-eight feet along the street upon which the lot principally fronts. All corner lots created after the adoption of this ordinance shall have a minimum width of 100 feet. For corner and interior lots, the minimum lot width may be measured at the building line. For culs-de-sac lots, refer to section 637.
3. *Minimum yard dimensions.*
    a. *Front yard.* There shall be a front yard of not less than 35 feet as measured from the road right-of-way.
    b. *Side yards.* Every lot in the R-3 district shall have two side yards, neither of which shall be less than ten feet in width.
        (1) *Corner lots.* Interior side yard regulations shall be the same as for interior lots, and the remaining street side yard shall be no less than 35 feet.
        (2) For multiple-family developments a minimum spacing of 25 feet between the ends of contiguous groups of dwelling units is required.
    c. *Rear yard.* There shall be a rear yard of not less than 15 feet, as measured from the rear lot line.
4. *Minimum floor area.* The following floor area requirements shall be adhered to:

Structure	Living area per unit
Two family dwellings and attached one-family dwellings	Each dwelling unit shall have a minimum finished living area of 832 square feet per dwelling unit with a minimum of 720 square feet on the ground floor for units of more than one story
Multiple family dwellings	
Efficiency	500 sq. ft.
1 bedroom	600 sq. ft.
2 bedroom	800 sq. ft.
3 bedroom	1,000 sq. ft.
Each additional bedroom	110 sq. ft.

5. *Density per residential structure.* The maximum number of dwelling units allowed in a multiple-family structure shall be eight.
6. *Maximum building length.* No two-family or multiple-family structure or group of attached single-family units may exceed 160 feet in length.
7. *Height of building.* No building shall exceed 35 feet or two and one-half stories in height, subject to supplementary height restrictions.
8. *Maximum lot coverage.* No lot shall be occupied by buildings or structures covering more than 35 percent of the lot.
9. *Permitted encroachment into rear yard.* See section 621, Supplementary Yard Regulations.

10. *Recreation area.* Exclusive of other yard and open space requirements of this section, multiple family developments comprised of three or more acres shall provide a common recreation area equal to at least 25 square feet per dwelling unit with a minimum of 1,200 square feet. Such recreation area shall be designed and oriented to fit the needs of all tenants and may contain recreation facilities such as, but not limited to, community buildings, swimming pools, tennis courts and play courts.

(Ord. No. 346, § 1104, 6-19-2000; Ord. No. 353, § 9, eff. 5-5-2002)

Sec. 1105. Off-street parking and loading.

See chapter 20.

(Ord. No. 346, § 1105, 6-19-2000)

Sec. 1106. Signs.

See chapter 21.

(Ord. No. 346, § 1106, 6-19-2000)

Sec. 1107. Site plan review.

See chapter 24.

(Ord. No. 346, § 1107, 6-19-2000)

CHAPTER 12. R-4 MOBILE HOME PARK RESIDENTIAL DISTRICT

Sec. 1201. Purpose.

This district is established to provide for the harmonious use of mobile home dwellings in a concentrated area to meet the housing needs of the residents. The development of the mobile home park is governed by the provisions of this ordinance, and also by the requirements of Public Act No. 96 of 1987 (MCL 125.2301 et seq.), as amended, and by the mobile home commission rules promulgated pursuant to Public Act No. 96. The mobile home park also shall comply with the Michigan Department of Public Health Code for Mobile Home Parks and Seasonal Mobile Home Parks. Compliance with state or federal requirements does not waive the site plan review requirements enacted by the village which are contained in chapter 24.

(Ord. No. 346, § 1201, 6-19-2000)

Sec. 1202. Uses permitted by right.

The following uses are permitted in the R-4 district, subject to all specific regulations of this chapter:

1. State licensed manufactured home parks and subdivisions.
2. Seasonal mobile home parks.
3. Adult and child residential care facilities in accordance with section 615, adult and child care facilities.

(Ord. No. 346, § 1202, 6-19-2000; Ord. No. 411, § 13, 1-18-2010)

Sec. 1203. Permitted accessory uses.

Accessory buildings and services required for normal operation of the mobile home park. Such establishments or service facilities, including but not limited to clubhouses, laundry facilities and landlord's or manager's office, shall be designed and intended to serve the needs of persons residing within the park and may be permitted provided that such uses:

1. Shall not occupy more than ten percent of the area of the park,
2. Shall be subordinate to the residential character of the park,
3. Shall present no visible evidence of commercial character to any area outside of the park boundaries.

(Ord. No. 346, § 1203, 6-19-2000)

Sec. 1204. Uses permitted by special use permit.

The following uses of land and structures may be permitted in the R-4 district by application for and the issuance of a special use permit when specified procedures and requirements, as outlined in chapter 23, are met:

1. Public parks and recreation areas.
2. Community centers.
3. Publicly-owned buildings.
4. Commercial transmitting and receiving towers.

(Ord. No. 346, § 1204, 6-19-2000)

Sec. 1205. Site development requirements.

All permitted uses and special uses are subject to the following site development requirements:

1. General provisions outlined in chapter 6.
2. Site plan review as required in accordance with chapter 24.
3. Off-street parking as required in accordance with chapter 20.
4. Signs are permitted in accordance with the requirements of chapter 21.

(Ord. No. 346, § 1205, 6-19-2000)

Sec. 1206. General requirements.

1. All manufactured home parks shall comply with the applicable requirements of Public Act 96 of the Michigan Public Acts of 1987, as amended, provided further that said developments meet the standards and conditions and all other provisions as herein established.
2. The parking of more than one manufactured home on a single parcel of land or on two or more adjoining parcels of land under common ownership shall be illegal in the Village of Fowlerville, irrespective of the requirements of any other ordinance of the village, unless such parcel or parcels of land shall have been approved as a licensed manufactured home park under the provisions of this chapter.

3. All applications for manufactured home parks must be approved by the village council, upon the recommendation of the planning commission, in accordance with the provisions of this section.

4. The business of selling new and/or used manufactured homes as a commercial operation in connection with the operation of a manufactured home development is prohibited. New or used manufactured homes located on lots within the manufactured home park may be sold by a licensed dealer and/or broker. This section shall not prohibit the sale of a new or used manufactured home by a resident of the manufactured home development provided the development permits the sale.

(Ord. No. 346, § 106, 6-19-2000)

CHAPTER 13. O OFFICE DISTRICT

Sec. 1301. Purpose.

The office district is intended to permit those office and personal service uses which will provide modern office buildings and related services to the community. The uses established in this district are intended to be of a low intensity nature, of appropriate scale and appearance, and are to be generally compatible with most other uses, including residential uses. Among other purposes, this district may serve as a transitional area between residential and commercial or industrial districts or as a buffer between major thoroughfares and residential districts.

(Ord. No. 346, § 1301, 6-19-2000)

Sec. 1302. Uses permitted by right.

In the O district the following uses are permitted:

1. Office buildings for the use of any of the following occupations: executive; administrative; professional; accounting; writing; clerical; stenographic; drafting; and nonretail sales.
2. Medical, dental or veterinary office, including clinics and medical, laboratories, except animal hospitals, or sanitariums for the care of contagious, mental, or drug or liquor addict cases.
3. Banks, credit unions, savings and loan associations.
4. Publicly owned buildings, public utility transformer stations and substations, telephone exchanges, and public utility offices.
5. Business, private or public schools.
6. Photographic studios.
7. Accessory buildings and uses customarily incidental to any of the permitted principal uses.
8. Adult and child residential care facilities in accordance with section 615, adult and child care facilities.

(Ord. No. 346, § 1302, 6-19-2000; Ord. No. 411, § 14, 1-18-2010)

Sec. 1303. Uses permitted by special use permit.

The following uses are permitted in the O district upon the granting of a special use permit, pursuant to and upon satisfaction of the terms and provisions of chapter 23, Special Uses, hereinafter set forth.

1. Pharmacy or apothecary shops;
2. Stores selling corrective garments, medical supplies, or bandages at retail;
3. Optical services;
4. Restaurants, accessory to a permitted office use, provided it is within the building to which it is accessory and does not have a direct outside entrance for customer use.
5. Private service clubs, fraternal organizations and lodge halls.
6. Commercial transmitting and receiving towers.
7. General retail uses not exceeding 7,000 gross square feet.

(Ord. No. 346, § 1303, 6-19-2000; Ord. No. 430, § 1, 2-25-2013)

Sec. 1304. Site development requirements.

In the office district, the following requirements shall apply:

1. *Height of structures.* No structure shall be erected or altered to a height exceeding two stories or 30 feet.
2. *Minimum lot area.* 9,600 square feet.
3. *Minimum lot frontage.* 80 feet.
4. *Minimum rear yard.* There shall be a rear yard of not less than 15 feet.
5. *Minimum front yard depth.* There shall be a front yard of not less than 30 feet as measured from the road right-of-way.
6. *Minimum side yard width.* There shall be two side yards, neither of which shall be less than ten feet in width.
7. *Maximum lot coverage.* No lot shall be occupied by buildings or structures covering more than 50 percent of the lot.

(Ord. No. 346, § 1304, 6-19-2000)

Sec. 1305. Off-street parking and loading.

See chapter 20.

(Ord. No. 346, § 1305, 6-19-2000)

Sec. 1306. Signs.

See chapter 21.

(Ord. No. 346, § 1306, 6-19-2000)

Sec. 1307. Site plan review.

See chapter 24.

(Ord. No. 346, § 1307, 6-19-2000)

Sec. 1308. Landscape requirements.

See chapter 19.

(Ord. No. 346, § 1308, 6-19-2000)

Sec. 1309. Ingress/egress standards.

See section 2004.

(Ord. No. 346, § 1309, 6-19-2000)

CHAPTER 14. BC BUSINESS CENTER DISTRICT

Sec. 1401. Commercial district objectives.

Commercial zoning regulations in the BC, business center district and the GB, general business district are structured to meet the following objectives:

1. To implement the objectives of future commercial development as set forth in the Fowlerville Master Plan, including recognition of these three major types of trade:
    a. Community residents,
    b. Surrounding county residents,
    c. Through highway trade.
2. To maintain and strengthen the community's retail and wholesale economy while offering the people of Fowlerville the best developed commercial facilities possible.
3. To encourage the development of an overall commercial pattern which will allow the optimum combinations of convenience and choice for the customer, of competition and stability for the businessmen, and of service demands and tax base for the village.
4. To provide for the types and groupings of commercial establishments in a given commercial area which support and reinforce each other's customer attraction while discouraging the location there of establishments which do not do so.

(Ord. No. 346, § 1401, 6-19-2000)

Sec. 1402. Purpose of Business Center district.

The BC district is designed to provide for a variety of retail stores and related activities, and for office buildings and service establishments and governmental functions which occupy the prime retail frontage in the district, and which serve the comparison, convenience and service needs of a consumer population well beyond the corporate boundaries of the village. The district regulations are also designed to provide for a centrally located major shopping complex, serviced by conveniently located off-street parking facilities and allowing safe pedestrian movement; but to exclude nonretail uses which typically require large areas of land or generate truck traffic.

(Ord. No. 346, § 1402, 6-19-2000)

Sec. 1403. Uses permitted by right.

The following uses are permitted in the BC district subject to all applicable regulations of this ordinance, and only when all activities, including all storage, are conducted in permanent, fully enclosed buildings:

1. Generally recognized retail business or service establishments, such as the following:
    a. Convenience group.
        (1) Food stores including supermarkets and all types of specialty food stores such as bakeries, candy stores, and similar uses.
        (2) Drugstores, variety stores.
        (3) Hardware and related stores, such as paint, wallpaper, and similar uses.
    b. Comparison group.
        (1) Department stores.
        (2) Apparel shops, including specialty shops of all sorts, shoe stores, and similar uses.
        (3) Furniture and appliances, including rugs, floor coverings, drapery, sewing machine shops, used furniture, office supplies, and similar uses.
        (4) Gift shops, camera shops, record shops, and similar uses.
    c. Service facilities group.
        (1) Service shops as barber, beauty, laundry, cleaner, and similar uses.
        (2) Minor repair shops such as shoe and watch repair.
        (3) Banks, loan offices, stock exchange offices and other financial institutions.
        (4) Hotels and motels.
        (5) Travel agencies, automobile club, chamber of commerce.
        (6) Eating and drinking establishments without drive-in service.
        (7) Theaters, assembly halls or similar uses when completely enclosed in a main building.
    d. Miscellaneous group.
        (1) Professional and other offices drawing a large number of clients and/or customers such as: (1) doctors, dentists, lawyers, architects, engineers, bookkeeping; (2) insurance, realty, union offices; (3) post office, public utility office.
        (2) Newspaper offices and related printing facilities.
        (3) Continuation of present residential uses.
        (4) Single-family residential uses, but only in conjunction with and as a mixed use with other uses permitted by right under this subsection 1, being section 1403.1, and subject to the provisions of section 1404.5.
        (5) Multiple-family residential uses, but only in conjunction with and as a mixed use with other uses permitted by right under this subsection 1, being section 1403.1 and subject to the provisions of section 1404.5.
        (6) Therapeutic massage facilities which are operated by physicians, surgeons, chiropractors, osteopaths, or physical therapists who are duly licensed to practice their respective

professions in the State of Michigan, or currently certified members of the American Massage Therapy Association, International Myomassethics Federation, or any other recognized massage association with equivalent professional membership standards.

(7) Funeral homes and mortuaries.

2. Accessory uses customarily incident to the above permitted uses.

(Ord. No. 346, § 1403, 6-19-2000; Ord. No. 349, § 3, 1-15-2001)

Sec. 1404. Required conditions.

Uses permitted in the BC district shall be subject to the following conditions:

1. Except for news and other public information media, goods produced in this district shall be sold at retail within the premises where produced.
2. All business, servicing, or processing, except for off-street parking or loading, shall be conducted within completely enclosed buildings.
3. Subject to the specific provisions of section 1403, establishments of a "drive-in" type offering goods or services directly to customers waiting in parked motor vehicles are not permitted, except as an accessory to the principal use. Examples of principal uses permitted to offer drive-in facilities include banks, drug stores, and dry cleaners. This provision, however, specifically excludes drive-in restaurants under any circumstances.
4. The operation of any machinery, or the conduct of any process or activity, or the storage or display of goods, shall be such as not to be obnoxious or offensive by reason of the emission of odors, fumes, dust, smoke, noise, or vibration, or glare of lights; nor through any sort of physical obstruction of pedestrian or vehicular traffic; and provided that any use shall not cause a measurable noise emanating from the premises which is greater than that specified in the performance standard provision (section 608), as measured at the boundary property line.
5. Dwelling(s) used in conjunction with or mixed with other permitted uses shall be permitted in the BC district provided that there is a permanent wall separating the business establishment from the dwelling and a separate entrance and sanitary facilities for the business establishment. No dwelling used in conjunction with or mixed with other permitted uses shall be located in the first floor area fronting Grand River Avenue and/or Grand Avenue right-of-way.

(Ord. No. 346, § 1404, 6-19-2000; Ord. No. 349, § 4, 1-15-2001)

Sec. 1405. Uses permitted by special use permit.

The following uses are permitted in the BC district upon the granting of a special use permit, pursuant to and upon satisfaction of the terms and provisions of chapter 23, Special Uses, hereinafter set forth.

1. Automobile service stations.
2. Veterinary hospitals, clinics, and kennels.
3. Institutions.
4. Adult and child residential care facilities in accordance with section 615, adult and child care facilities.
5. Adult only places of business.

6. Single-family residential uses in existing residential dwellings and on upper floors of buildings with non-residential uses on the main level.
7. Commercial transmitting and receiving towers.
8. Outdoor merchandise display.
9. Microbrewery.

(Ord. No. 346, § 1405, 6-19-2000; Ord. No. 411, § 15, 1-18-2010; Ord. No. 447, § 1, 1-26-2015)

Sec. 1406. Site development requirements.

The following requirements shall apply in the BC districts. Development not in conformance with these provisions shall not occur.

1. *Height of buildings.* No building, structure or part thereof shall be erected or altered to a height exceeding two stories or 30 feet, except that towers, water, radio or other transmission apparatus shall not be deemed to be a building or structure for the purposes herein.
2. *Minimum lot area.* Two thousand square feet.
3. *Minimum lot frontage.* Twenty feet.
4. *Front yard.* The required front yard shall be the average front yard of existing main buildings on the same side of the street and entirely or partially within 200 feet of the side lot lines of the subject lot, provided that such averaging shall only be permitted if there are two or more lots occupied by main buildings within 200 feet of the subject lot. In all other cases, a minimum setback of 50 feet shall be required.
5. *Minimum side yard width.* None, except where the use adjoins a residential or public land district. In such case, the side yard shall be the same as required in the residential or public land district.
6. *Minimum rear yard depth.* None, except when the commercial use abuts a residential or public land district. In such case, there shall be a rear yard of not less than 15 feet as measured from the rear lot line and a fence or buffer shall be maintained.
7. *Maximum lot coverage.* No lot shall be occupied by buildings or structures covering more than 50 percent of the lot.

(Ord. No. 346, § 1406, 6-19-2000)

Sec. 1407. Off-street parking and loading in the business center district.

When a permitted use is established or changed in an existing structure on an established lot in the BC district, the property shall be deemed in compliance with off-street parking and loading requirements, if it continues to maintain the off-street parking and loading areas established on such lot by the previous use on that site. If existing structures on [an] established lot are to be removed in whole or in part, and in the case of any vacant lot, off-street parking shall be governed by chapter 20 of this ordinance. In no case shall currently available off-street parking and loading space on any lot within the BC district be reduced, unless the remaining available off-street parking and loading for such lot complies with chapter 20 of this ordinance, or the property owner obtains a variance from the zoning board of appeals and site plan approval from the planning commission.

(Ord. No. 346, § 1407, 6-19-2000)

Sec. 1408. Signs.

See chapter 21.

(Ord. No. 346, § 1408, 6-19-2000)

Sec. 1409. Site plan review.

See chapter 24.

(Ord. No. 346, § 1409, 6-19-2000)

Sec. 1410. Landscape requirements.

See chapter 19.

(Ord. No. 346, § 1410, 6-19-2000)

Sec. 1411. Ingress/egress standards.

See section 2004.

(Ord. No. 346, § 1411, 6-19-2000)

CHAPTER 15. GB GENERAL BUSINESS DISTRICT

Sec. 1501. Purpose.

The GB district is intended to accommodate those business activities that typically require large areas of land, may generate a large volume of motor vehicle traffic, may require large areas of off-street parking, or are potential obstacles to an efficient, convenient neighborhood service or central business district.

(Ord. No. 346, § 1501, 6-19-2000)

Sec. 1502. Uses permitted by right.

In the GB district the following uses are permitted:

1. All retail sales, excluding eating and drinking establishments when all storage is contained within a permanent, fully enclosed building.
2. Motels and hotels.
3. Funeral homes and mortuaries.
4. Veterinary hospitals or clinics when all activities are carried on within completely enclosed buildings.
5. Retail sales of building materials and feed stores.
6. Agricultural sales and services.

7. Railroad right-of-way, including all necessary tracks, switches, operating devices, storage, marshaling yards, freight yards or sidings.

8. Professional and other offices drawing a large number of clients and/or customers such as:

   (1) Doctors, dentists, lawyers, architects, engineers, bookkeeping;

   (2) Insurance, reality, union offices;

   (3) Post office, public utility office.

(Ord. No. 346, § 1502, 6-19-2000; Ord. No. 370, § 1, 6-14-2004)

Sec. 1503. Uses permitted by special use permit.

The following uses may be permitted in the GB district upon the granting of a special use permit, pursuant to the terms and provisions of chapter 23:

1. Motor vehicle minor repair and auto wash.
2. Drive-in or drive-through business where service may be in automobiles or outdoors, but all other activities shall be carried on within a building.
3. Open air business.
4. Outdoor display, sales or storage.
5. Restaurants and clubs (including drive-in).
6. Automobile service stations.
7. Mini-storage and/or warehouse.
8. Kennels.
9. Commercial transmitting and receiving towers.
10. Adult and child residential care facilities in accordance with section 615, adult and child care facilities.
11. Microbrewery.

(Ord. No. 346, § 1503, 6-19-2000; Ord. No. 380, § 6, 9-18-2006; Ord. No. 411, § 16, 1-18-2010; Ord. No. 447, § 2, 1-26-2015)

Sec. 1504. Site development requirements.

In the general business district, the following requirements shall apply:

1. *Height of structures.* No structures shall be erected or altered to a height exceeding two stories or 30 feet. Towers, including but not limited to water, radio or other transmission apparatus, shall not be deemed to be a building or structure.
2. *Minimum lot area.* Nine thousand six hundred square feet.
3. *Minimum lot frontage.* Eighty feet.
4. *Minimum rear yard depth.* There shall be a rear yard of not less than 15 feet as measured from the rear lot line.
5. *Minimum front yard depth.* There shall be a front yard of not less than 50 feet as measured from the road right-of-way.

6. *Minimum side yard width.* There shall be two side yards, neither of which shall be less than ten feet in width.

7. *Maximum lot coverage.* No lot shall be occupied by buildings or structures covering more than 50 percent of the lot.

(Ord. No. 346, § 1504, 6-19-2000)

Sec. 1505. Off-street parking and loading.

See chapter 20.

(Ord. No. 346, § 1505, 6-19-2000)

Sec. 1506. Signs.

See chapter 21.

(Ord. No. 346, § 1506, 6-19-2000)

Sec. 1507. Site plan review.

See chapter 24.

(Ord. No. 346, § 1507, 6-19-2000)

Sec. 1508. Landscape requirements.

See chapter 19.

(Ord. No. 346, § 1508, 6-19-2000)

Sec. 1509. Ingress/egress standards.

See section 2004.

(Ord. No. 346, § 1509, 6-19-2000)

CHAPTER 16. I INDUSTRIAL DISTRICT

Sec. 1601. Purpose.

The I district is intended to accommodate industrial uses, as well as those uses directly serving industrial uses, which generate a minimum of noise, glare, odors, dust, vibration, air pollution, fire and safety hazards and emit no potentially harmful or obnoxious matter or radiation. In order to provide a district in which the above uses may flourish without fear of intrusion of incompatible activities and to provide the proper safeguards for the highest type of industrial development consistent with the desires and needs of the Village of Fowlerville, the specific intent of this chapter is as follows:

1. To encourage the establishment in this district of all industrial activities which meet the requirements and the intent of this chapter.
2. To prohibit, for the benefit of the types of uses for which this district is designed, any and all other uses, such as residential and retail commercial, as well as industrial not compatible with all other uses in this district.
3. To encourage the discontinuance of uses presently existing in the district which are nonconforming by virtue of the type of use.
4. To encourage compliance with the requirements and the intent of this section by uses presently located in the district which are nonconforming by virtue of not complying with any of the applicable requirements or provisions specified in this chapter.

(Ord. No. 346, § 1601, 6-19-2000)

Sec. 1602. Uses permitted by right.

In the I district, no building, structure, or land shall be used and no building or structure shall hereafter be erected, structurally altered, or enlarged except for the following uses:

1. Production, processing, cleaning, testing, repair, storage, and distribution of materials, goods, foodstuffs, and products not involving a retail activity on the lot, all of which uses shall comply with the requirements specified in this ordinance.
2. Contractor offices and shops such as buildings, cement, electrical, heating, air conditioning, masonry, painting, plumbing and roofing.
3. Truck terminal.
4. Railroad right-of-way, including all necessary tracks, switches, operating devices, storage, marshaling yards, freight yards or sidings.
5. Accessory uses clearly appurtenant to the main use of the lot and customary to and commonly associated with the main use, such as:
    a. Incidental offices for management and materials control.
    b. On-premises child care facilities for employees.
    c. Restaurant or cafeteria facilities for employees.
    d. Identification signs referring to the principal activities performed on the premises or to the person or firm performing these activities.

(Ord. No. 346, § 1602, 6-19-2000)

Sec. 1603. Uses permitted by special use permit.

The following uses may be permitted subject to the granting of a special use permit, pursuant to the requirements noted in chapter 23:

1. Ministorage and/or warehouses.
2. Motor vehicle major repair station.
3. Junk/salvage yards.

4. Sewage treatment.
5. Public utility transformer stations and substations, public utility gas regulator stations, utility pumping stations, and water towers.
6. Fuel dealers, including bulk storage of flammable and combustible materials.
7. Commercial transmitting and receiving towers.

(Ord. No. 346, § 1603, 6-19-2000)

Sec. 1604. Use requirements.

Any application for a land use permit for a use in the I district shall be accompanied by all information required in this section, including a written statement, submitted and signed by the applicant, certifying that the proposed use will be operated in complete conformance with the use requirements below and the standards of section 608, whichever is more restrictive.

1. Activities in the I district shall be carried on in completely enclosed buildings. Storage may be permitted out-of-doors, but shall be effectively screened by a solid, uniformly finished wall or fence with solid entrance and exit gates, such wall or fence shall in no case be lower than the storage enclosed.
2. Noise emanating from a use in this district shall not exceed the level of ordinary conversation at the boundaries of the lot. Short intermittent noise peaks may be excepted if they do not exceed normal traffic noise peaks at any point on the lot boundaries.
3. Uses in this district shall be such that they:
    a. Emit no obnoxious, toxic, or corrosive fumes or gases except for those produced by internal combustion engines under design operating conditions.
    b. Emit no odorous gases or other odorous matter in such quantities as to be perceptible at or beyond any point on the lot boundaries, provided that any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system, so that control will be maintained if the primary safeguard system should fail.
    c. Emit no smoke greater than that emitted by properly operating domestic heating equipment.
    d. Discharge into the air no dust or other particulate matter created by any industrial operation and/or emanating from any products stored prior to subsequent to processing.
    e. Produce no heat and/or glare humanly perceptible at or beyond the lot boundaries.
    f. All lighting shall be so shaded, shielded or directed that the light intensity or brightness will not be objectionable beyond the line of the lot on which it is located.
    g. Produce no physical vibrations humanly perceptible at or beyond the lot boundaries.
    h. Produce no electromagnetic radiation or radioactive emission injurious to human beings, animals or vegetation, or of an intensity that interferes with the lawful use of any other property.
    i. Do not engage in the production or storage of any material designed for use as an explosive nor in the use of such material in production.
    j. Do not by their particular location interfere with the function of residential streets through generation of nonresidential traffic.

(Ord. No. 346, § 1604, 6-19-2000)

Sec. 1605. Site development requirements.

In the I district, the following minimum requirements shall apply:

1. *Minimum lot area.* Two and one-half acres.
2. *Minimum lot width.* Two hundred fifty feet.
3. *Minimum front yard depth.* Fifty (50) feet as measured from the street right-of-way. The front yard shall not be used for loading, storage, or accessory structures.
4. *Minimum side yard width.* None, except where the use adjoins a residential use. In such case, the side yard shall be landscaped according to provisions in chapter 19. This setback shall be maintained as a natural buffer area and building of structures and parking of vehicles is prohibited.
5. *Minimum rear yard depth.* None, except when the use adjoins a residential use. In such case, the side yard shall be landscaped according to provisions in chapter 19. This setback shall be maintained as a natural buffer area and building of structures and parking of vehicles is prohibited.
6. *Height of structure.* Maximum of two stories or 40 feet is permitted.
7. *Fences and buffers.* The buffer requirements of this ordinance shall be met.
8. *Maximum lot coverage.* No lot shall be occupied by buildings or structures covering more than 50 percent of the lot.

(Ord. No. 346, § 1605, 6-19-2000; Ord. No. 373, § 1, 1-24-2005)

Sec. 1606. Off-street parking and loading.

See chapter 20.

(Ord. No. 346, § 1606, 6-19-2000)

Sec. 1607. Signs.

See chapter 21.

(Ord. No. 346, § 1607, 6-19-2000)

Sec. 1608. Site plan review.

See chapter 24.

(Ord. No. 346, § 1608, 6-19-2000)

Sec. 1609. Landscape requirements.

See chapter 19.

(Ord. No. 346, § 1609, 6-19-2000)

Sec. 1610. Ingress/egress standards.

See section 2004.

(Ord. No. 346, § 1610, 6-19-2000)

CHAPTER 17. LI/R LIMITED INDUSTRIAL/RESEARCH DISTRICT

Sec. 1701. Purpose.

The LI/R district is intended to provide for the development of a variety of industrial and ancillary uses that are characterized by low density land coverage, the absence of objectionable external impacts, by top-quality, attractive industrial architecture in a campus setting and by less intense activity than is likely to be found in more traditional industrial zones. The regulations contained in this chapter, will facilitate the continued development of new industrial facilities in a well-planned environment so as to protect the public health, safety and general welfare; promote economic stability and growth; encourage variety in the design and type of structure constructed and provide for efficient traffic movement.

(Ord. No. 346, § 1701, 6-19-2000; Ord. No. 373, § 2, 1-24-2005)

Sec. 1702. Uses permitted by right.

In the LI/R district, no building, structure, or land shall be used and no building or structure shall hereafter be erected, structurally altered, or enlarged except for the following uses:

1. Non-manufacturing research and development establishments, including accessory laboratories, offices and other related facilities.
2. Laboratories or technology centers.
3. Facilities for manufacturing, compounding, processing, packaging, fabrication, treatment or assembling from previously prepared materials, such items as:
    a. Pharmaceutical products, cosmetics and toiletries.
    b. Toys, jewelry, novelties and athletic goods.
    c. Furniture, fixtures and office equipment.
    d. Signs and displays.
    e. Engineering, optical, medical, photographic equipment and similar instruments.
    f. Electrical instruments or appliances.
    g. Paper and paperboard containers and products.
    h. Printing, publishing and allied industries.
    i. Plastic injection moldings.
    j. Textile mill products such as woven fabric, knitted goods, floor coverings, yarn and thread.
    k. Apparel and similar projects made from fabrics, leather, fur, canvas and similar materials.
    l. Glass products.

4. Public service or utility building, telephone exchange buildings and communication or relay facilities, municipal buildings.

5. Offices, provided they are incidental to an industrial use located on the same site.

(Ord. No. 346, § 1702, 6-19-2000; Ord. No. 373, § 3, 1-24-2005)

Sec. 1703. Uses permitted by special use permit.

The following uses may be permitted subject to the granting of a special use permit, pursuant to the requirements in chapter 23:

1. Indoor recreation centers and health or fitness centers, indoor tennis or swim clubs, indoor hockey or ice skating rinks and similar commercial recreational facilities within an enclosed building.

2. Executive, administrative, professional or accounting office facilities if located on a lot or parcel with abuts Grand River Avenue.

3. Industrial uses determined by the planning commission to be substantially similar to permitted uses described in section 1702 and compatible with the intent and purposes of the LI/R district.

4. Adult and child residential care facilities in accordance with section 615, adult and child care facilities.

(Ord. No. 346, § 1703, 6-19-2000; Ord. No. 373, § 4, 1-24-2005; Ord. No. 411, § 17, 1-18-2010)

Sec. 1703.1. Permitted accessory uses.

The following are permitted accessory uses in the LI/R district:

1. Any structural or mechanical use customarily incidental to the permitted principal use.

2. Clinics located on the premises of and clearly incidental to the permitted principal use.

3. Cafeteria facilities located on the premises of and for the employees of the permitted principal use.

4. Corporate office facilities incidental to the permitted principal use.

5. Retail sales incidental to the permitted principal use.

6. Off-street parking to service the permitted principal use as required by and subject to the regulations established in chapter 20.

(Ord. No. 373, § 5, 1-24-2005)

Sec. 1704. Use requirements.

Any application for a land use permit for a use in the LI/R district shall be accompanied by all information required in this section, including a written statement, submitted and signed by the applicant, certifying that the proposed use will be operated in complete conformance with the use requirements below.

1. Activities in the LI/R district shall be carried on in completely enclosed buildings unless otherwise permitted in this ordinance. Storage, when permitted out-of-doors, shall be effectively screened by a solid, uniformly finished wall or fence with solid entrance and exit gates, such wall or fence shall in no case be lower than the storage enclosed.

2. Noise emanating from a use in this district shall not exceed the level of ordinary conversation at the boundaries of the lot. Short intermittent noise peaks may be excepted if they do not exceed normal traffic noise peaks at any point on the lot boundaries.

3. Uses in this district shall be subject to the following requirements and the standards of section 608, whichever is more restrictive:

    a. Emit no obnoxious, toxic or corrosive fumes or gases except for those produced by internal combustion engines under design operating conditions.

    b. Emit no odorous gases or other odorous matter in such quantities as to be perceptible at or beyond any point on the lot boundaries, provided that any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system, so that control will be maintained if the primary safeguard system should fail.

    c. Emit no smoke greater than that emitted by properly operating domestic heating equipment.

    d. Discharge into the air no dust or other particulate matter created by any industrial operation and/or emanating from any products stored prior to subsequent to processing.

    e. Produce no heat and/or glare humanly perceptible at or beyond the lot boundaries.

    f. All lighting shall be so shaded, shielded or directed that the light intensity or brightness will not be objectionable beyond the line of the lot on which it is located.

    g. Produce no physical vibrations humanly perceptible at or beyond the lot boundaries.

    h. Produce no electromagnetic radiation or radioactive emission injurious to human beings, animals or vegetation, or of an intensity that interferes with the lawful use of any other property.

    i. Do not engage in the production or storage of any material designed for use as an explosive nor in the use of such material in production.

    j. Do not by their particular location interfere with the function of residential streets through generation of nonresidential traffic.

(Ord. No. 346, § 1704, 6-19-2000)

Sec. 1705. Site development requirements.

In the LI/R district, the following minimum requirements shall apply:

1. *Minimum lot area.* Two and one-half acres.

2. *Minimum lot width.* Two hundred fifty feet.

3. *Minimum front yard depth.* Fifty feet as measured from the street right-of-way. Except for landscape improvements and necessary drives and walks, the front yard shall remain clear and shall not be used for parking, loading, storage, or accessory structures.

4. *Minimum side yard width.* None, except where the use adjoins a residential use. In such case, the side yard shall be landscaped according to provisions in chapter 19. The setback shall be maintained as a natural buffer area and building of structures and parking of vehicles is prohibited.

5. *Minimum rear yard depth.* None, except when the use adjoins a residential use. In such case, the rear yard shall be landscaped according to provisions in chapter 19. The setback shall be maintained as a natural buffer area and building of structures and parking of vehicles is prohibited.

6. *Height of structures.* Maximum of two stories or 30 feet is permitted.

7. *Fences and buffers.* The buffer requirements of this ordinance shall be met.

8. *Maximum lot coverage.* No lot shall be occupied by buildings or structures covering more than 50 percent of the lot.

9. All operations shall be conducted with the confines of a building, however materials and equipment may be stored outdoors within the rear yard if screened from view from any public street or adjoining property by a solid, uniformly finished wall or fence with solid gates. The wall or fence shall be at least as tall as the materials or equipment being stored. Chain link fencing within interwoven slats is prohibited as a screening wall or fence.

(Ord. No. 346, § 1705, 6-19-2000; Ord. No. 373, § 6, 1-24-2005)

Sec. 1706. Off-street parking and loading.

See chapter 20.

(Ord. No. 346, § 1706, 6-19-2000)

Sec. 1707. Signs.

See chapter 21.

(Ord. No. 346, § 1707, 6-19-2000)

Sec. 1708. Site plan review.

See chapter 24.

(Ord. No. 346, § 1708, 6-19-2000)

Sec. 1709. Landscape requirements.

See chapter 19.

(Ord. No. 346, § 1709, 6-19-2000)

Sec. 1710. Ingress/egress standards.

See section 2004.

(Ord. No. 346, § 1710, 6-19-2000)

CHAPTER 18. PLANNED UNIT DEVELOPMENT (PUD) OVERLAY[78]

[78]Editor's note(s)—Ord. No. 472 , § 1, adopted Dec. 23, 2019, amended Ch. 18 in its entirety to read as herein set out. Former Ch. 18, §§ 1801—1815, pertained to Planned Unit Development (PUD), and derived from Ord. No. 346, §§ 1801—1814, adopted June 19, 2000; Ord. No. 402, §§ 1—11, adopted March 3, 2008.

Sec. 1801. Purpose.

The planned unit development (PUD) standards are a supplementary list of "overlay" zoning standards which apply to properties simultaneously with one of the other zoning districts established in this ordinance, hereinafter referred to as the "underlying" zoning district. For properties approved for PUD designation, these PUD standards replace the site development requirements listed for the underlying zoning districts in chapter 9 (Sec. 904), chapter 10 (Sec. 1004), chapter 11 (Sec. 1104), chapter 13 (Sec. 1304), chapter 14 (Sec. 1406), chapter 15 (Sec. 1504), chapter 16 (Sec. 1605), and chapter 17 (Sec. 1705).

The PUD standards are provided as a design option, intended to permit flexibility in the regulation of land development; to encourage innovation in land use, form of ownership (such as condominiums), and variety in design, layout, and type of structures constructed; to achieve economy and efficiency in the use of land; to preserve significant natural, historical, and architectural features and open space; to promote efficient provision of public services and utilities; to minimize adverse traffic impacts; to provide better housing, employment, and shopping opportunities particularly suited to residents of the village; to encourage development of convenient recreational facilities; and to encourage the use and improvement of existing sites when the uniform regulations contained in other zoning districts alone do not provide adequate protection and safeguards for the site or its surrounding areas.

The standards are intended to accommodate development on sites with significant natural, historical, and architectural features, as noted in the Village of Fowlerville Master Plan, on land which exhibits difficult development constraints, and/or to provide the opportunity to mix compatible uses or residential types, and/or to allow clustering of residential units to preserve common open space and natural features.

The PUD standards shall not be sought primarily to avoid the imposition of standards and requirements of other zoning classifications rather than to achieve the stated purposes herein set forth.

In order to encourage PUD developments on specific properties, these standards relax or waive one or more of the requirements of the underlying district. The PUD also allows the developer the opportunity to mix compatible uses or residential types on a single property, allows clustering to reduce construction costs, and may enhance marketability through the preservation of significant natural, historical, and architectural features.

(Ord. No. 472 , § 1, 12-23-2019)

Sec. 1802. Principal permitted uses.

Principal uses permitted under the PUD standards are based on the underlying zoning district, as indicated below:

a. *R-1, R-2, and R-3.* All principal uses of the underlying district shall be permitted. In addition to those uses, low density multiple-family dwellings or a mixture of single and multiple-family dwellings on a planned basis, through the use of attached dwellings, townhouses, apartment buildings, zero lot line configurations, and/or other similar building configurations; or any combination of these residential uses may be permitted within the PUD.

b. *BCD.* All business, service, professional office, and other commercial uses, or any combination of these uses, listed as principal uses permitted in the underlying zoning district shall be allowed. In addition, other business, service, and residential uses may be permitted, if determined by the planning commission to be similar to other uses in the surrounding area.

c. *GBD, OD, ID, and LI/RD.* All business, service, professional offices, light manufacturing, and other commercial uses, or any combination of these uses, listed as principal permitted uses in the underlying zoning district shall be permitted. In addition, other business, service, office, light manufacturing, and

residential uses may be permitted, if determined by the planning commission to be compatible with other proposed PUD uses and surrounding uses.

(Ord. No. 472 , § 1, 12-23-2019)

Sec. 1803. Special land uses.

All uses listed as special land uses in the underlying district are considered as special land uses within the planned unit development designation.

(Ord. No. 472 , § 1, 12-23-2019)

Sec. 1804. Qualifying conditions.

In order to qualify for PUD approval, the applicant must demonstrate in writing that each of the following criteria will be met by the proposed PUD:

a. *Demonstrated benefit.* The PUD shall provide two or more of the following benefits not possible under the requirements of another zoning district, as determined by the planning commission:

   1. Preservation of significant natural or historic features.
   2. A complementary mixture of uses or a variety of housing types.
   3. Common open space for passive or active recreational use.
   4. Mitigation to offset community impacts.
   5. Redevelopment of a nonconforming site where creative design can address unique site constraints.

b. *Availability and capacity of public services.* The proposed type and density of use shall not result in an unreasonable increase in the use of public services, public facilities, and utility capacities.

c. *Compatibility with the master plan.* The proposed PUD shall be compatible with the overall goals and recommendations as proposed in the Village of Fowlerville Master Plan.

d. *Compatibility with the PUD purpose.* The proposed PUD shall be consistent with the purpose of chapter 18 and spirit of this ordinance.

e. *Development impact.* The proposed PUD shall not impede the continued use or development of surrounding properties for uses that are permitted in this ordinance.

f. *Unified control of property.* The proposed PUD shall be under single ownership or control such that there is a single entity having responsibility for completing the project in conformity with the PUD regulations. This provision shall not prohibit a transfer of ownership or control, provided that notice of such transfer is provided to the village.

(Ord. No. 472 , § 1, 12-23-2019)

Sec. 1805. Application and review procedure for preliminary PUD site plan and final PUD site plan.

The application process for a PUD involves a three step process including review of a preliminary (conceptual) site plan by both the planning commission and village council. Upon approval of the preliminary plan, a final site plan shall be reviewed by the planning commission. The procedures are described below:

a. An optional pre-application workshop with the planning commission may be requested by the applicant to discuss the appropriateness of the PUD concept, solicit feedback, and receive requests for additional materials supporting the proposal. An applicant desiring such a workshop shall request placement on the planning commission agenda.

b. The applicant shall prepare and submit to the village manager 15 copies of a preliminary PUD site plan for a PUD, meeting the requirements of chapter 1807 preliminary PUD site plan submittal requirements, at least 30 days prior to the meeting at which the planning commission shall first review the request; 21 days for an applicant who has had a pre-application workshop on the proposal within 60 days of the preliminary PUD site plan submittal. The building official/zoning administrator shall promptly transmit this plan to the members of the planning commission.

c. The planning commission shall review the preliminary PUD site plan and shall conduct a public hearing in accordance with section 1806 public hearings. During this review, the planning commission may request additional materials supporting the PUD proposal, or recommend modifications or conditions based on the standards of section 1807 standards for approval of preliminary PUD site plan. The planning commission shall then, within 60 days of the submittal, make a recommendation on the preliminary PUD site plan to the village council. The applicant shall incorporate these modifications or conditions recommended by planning commission prior to the review by the village council.

d. Following receipt of the planning commission recommendations, the village council shall conduct a public hearing in accordance with section 1806 public hearings on the preliminary PUD site plan and petition. The village council shall take final action on said plan and petition within 90 days of the date it receives a report from the planning commission, or such reasonable extension of time as may be necessary for adequate review.

e. If any conditions are imposed upon the approval of the preliminary PUD site plan by the village council, a list of those conditions shall be made part of the approval and shall be reflected in the final PUD site plan.

f. Approval of the preliminary PUD site plan by the village council shall confer upon the owner the right to proceed through the subsequent PUD plan review phases for a period not to exceed three years from date of approval. This period may be extended by the village council for one additional three-year period.

g. The applicant shall submit 15 copies of detailed final site plans to the village manager, as described in section 1809 final PUD site plan submittal requirements, for all, or any phase of, the approved preliminary PUD site plan at least 30 days prior to the planning commission meeting at which the planning commission shall first review the request.

h. Upon submission of all required materials and fees, the planning commission shall review such and shall approve, deny, or approve with conditions, in accordance with the standards and regulations of this zoning ordinance, the final PUD site plan.

i. If the final PUD site plan was approved with conditions, the applicant shall submit a revised site plan to the building official/zoning administrator in accordance with section 2402 uses requiring site plan review and impact assessment for approval prior to the issuance of any building permits.

j. If the approved preliminary PUD site plan indicated that the proposed development was to occur in phases, final site plan approval may be granted on each phase of the development, provided that each phase contains all the necessary components to insure protection of significant natural, historical, and architectural features, and the health, safety, and welfare of the users of the PUD and the residents of the surrounding area. Subsequent phases shall also follow the process for final PUD site plan outlined in this article.

k. In the Business Center (BC) District, the village council may, upon recommendation of the planning commission, approve an overall PUD plan for multiple sites (within the BCD and adjacent sites) and then require each subsequent developer to follow the process for final PUD site plan outlined in this article. The village council shall then require each developer to enter into a separate PUD agreement for each individual site or series of projects.

(Ord. No. 472 , § 1, 12-23-2019)

Sec. 1806. Notice and public hearing.

a. *Notice given.* Upon receipt of an application for PUD approval, the zoning administrator shall cause notice to be given, in accordance with the Zoning Act. The notice shall:

1. Describe the nature of the proposed PUD.

2. Describe the property which is the subject of the PUD application, by both legal description and street address.

3. State the time, date, and place of the public hearing.

4. State when and where written comments will be received concerning the application.

b. *Hearing.* Following notice, the planning commission shall hold a public hearing on the proposed PUD, for the purpose of receiving public comment on the application.

(Ord. No. 472 , § 1, 12-23-2019)

Sec. 1807. Preliminary PUD site plan submittal requirements.

The preliminary PUD site plan shall set forth the proposed uses to be developed in the PUD. The following specific information shall be provided on a site plan:

a. *Proof of ownership.* Current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire such land, such as an option or purchase agreement.

b. *Written documentation.* Written documentation that the proposal meets the standards of section 1804 qualifying conditions.

c. *Application form and fees.* A completed application form, supplied by the building official/zoning administrator, and an application/review fee; a separate escrow deposit may be required for administrative charges to review the PUD submittal.

d. *Sheet size.* Sheet size of submitted drawings shall be at least 24 inches by 36 inches, with graphics at an engineer's scale of one inch equals 20 feet for sites of 20 acres or less; and one inch equals 100 feet or less (i.e. one inch equals 20 to 100 feet) for sites over 20 acres.

e. *Cover sheet.* Cover sheet providing:

1. Applicant's name.

2. Name of the development.
3. Preparer's name and professional seal of architect, engineer, surveyor, or landscape architect indicating license in the State of Michigan.
4. Date of preparation and any revisions.
5. North arrow.
6. Property lines and dimensions.
7. Complete and current legal description and size of property in acres.
8. Small location sketch of the subject site and area within one-half mile, and scale.
9. Zoning and current land use of applicant's property and all abutting properties and of properties across any public or private street from the PUD site.
10. Lot lines and all structures on the property and within 100 feet of the PUD property lines.
11. Location of any vehicle access points on both sides of the street within 100 feet of the PUD site along streets where vehicle access to the PUD is proposed.

f. *PUD site plan.* A site plan sheet indicating:

1. Existing locations of all natural, historical, and architectural features, existing drainage patterns, surface water bodies, floodplain areas, Department of Environment, Great Lakes and Energy (EGLE) designated or regulated wetlands with supporting documentation, nonregulated wetland areas two or more acres in size, and a tree survey indicating the location and diameter (in inches, measured four feet above grade) of "landmark" trees.
2. Existing and proposed topography at five foot contour intervals, and a general description of grades within 100 feet of the site.
3. Dimensions of existing and proposed right-of-way lines, names of abutting public streets, proposed access driveways and parking areas, and existing and proposed pedestrian and/or bicycle paths.
4. Existing buildings, utility services (with sizes), and any public or private easements, noting those which will remain, and which are to be removed.
5. Layout and typical dimensions of proposed lots, footprints, and dimensions of proposed buildings and structures; uses with the acreage allotted to each use. For developments with residential components: the number, type, and density of proposed housing units.
6. General location and type of landscaping proposed (evergreen, deciduous, berm, etc.) noting existing trees and landscaping to be retained.
7. Size, type, and location of proposed identification signs.

g. *Site analysis.* A separate plan sheet indicating locations of significant natural, historical, and architectural features, including landmark trees, that will be designated as "areas not to be disturbed" and secured through installation of a snow fence, other fencing, or police line during development of the PUD, including acreage of designated areas.

h. *PUD development agreement.* A draft written PUD development agreement specifying all the terms and understandings of the PUD development as prescribed in section 1809 final PUD site plan submittal requirements may be required when deemed necessary by the planning commission.

i. *Multi-phased PUD.* If a multi-phase PUD is proposed, identification of the areas included in each phase; for residential uses identify the number, type, and density of proposed housing units within each phase.

j. *Additional information.* Any additional graphics or written materials requested by the planning commission or village council to assist the village in determining the appropriateness of the PUD such as, but not limited to: aerial photography; market studies; impact on public primary and secondary schools and utilities; traffic impact using trip generation rates recognized by the Institute of Transportation Engineers (ITE) for an average day and peak hour of the affected roadways; impact on significant natural, historical, and architectural features and drainage; impact on the general area and adjacent property; description of how property could be developed under the regulations of the underlying district; preliminary architectural sketches; and estimated construction cost.

(Ord. No. 472 , § 1, 12-23-2019)

Sec. 1808. Standards for approval of preliminary PUD site plan.

Based upon the following standards, the planning commission may recommend denial, approval, or approval with conditions, and the village council may deny, approve, or approve with conditions the proposed PUD.

a. The uses proposed shall be consistent with the village's adopted master plan. Such uses must have a beneficial effect, in terms of public health, safety, welfare, or convenience, on present and future potential surrounding land uses. The uses proposed must not adversely affect the public utility and circulation system, surrounding properties, or the environment. The public benefit shall be one which could not be achieved under the regulations of the underlying district alone or that of any other zoning district.

b. Any amendments to the dimensional standards of this ordinance, such as lot sizes, setbacks, height limits, required facilities, buffers, open space, permitted sign area, and other similar dimensional standards shall be reviewed and approved by the planning commission.

c. Any increase in the density requirements of the underlying zoning district must be approved by the village council upon recommendation of the planning commission and be included under preliminary review of the site plan.

d. The number and dimensions of off-street parking shall be sufficient to meet the minimum required by chapter 20 general off-street parking and loading. However, where warranted by overlapping or shared parking arrangements, the planning commission or village council may reduce the required number of parking spaces in accordance with section 2005.

e. All streets and parking areas within the PUD shall meet the minimum construction and other requirements of village ordinances, unless modified by village council.

f. Safe, convenient, uncongested, and well defined vehicular and pedestrian circulation within and to the site shall be provided. Drives, streets, and other elements shall be designed to discourage through traffic, while promoting safe and efficient traffic operations within the site and at its access points.

g. Sidewalks shall be provided in accordance with village ordinances.

h. Landscaping shall be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property. Plantings and other landscape features shall exceed the standards of chapter 19 landscape and buffers.

i. Judicious effort shall be used to preserve significant natural, historical, and architectural features and the integrity of the land, including EGLE regulated and nonregulated wetlands.

j. Surface water shall be retained on the site wherever possible.

k. The site shall have adequate lateral support so as to ensure that there will be no erosion of soil or other material. The final determination as to adequacy of, or need for, lateral support shall be made by the building official/zoning administrator.

l. Public water and sewer facilities shall be available or shall be provided by the developer as part of the site development.

m. Building design shall be of a high quality, exceeding the standards of section 639 non-residential design requirements.

(Ord. No. 472 , § 1, 12-23-2019)

Sec. 1809. Final PUD site plan submittal requirements.

The final PUD site plan shall include all the following information, unless the building official/zoning administrator determines that some of the required information is not reasonably necessary for the consideration of the PUD:

a. All information required for site plan submittal in accordance with chapter 24 site plan review and impact assessment.

b. Any additional graphics or written materials requested by the planning commission to assist in determining the impacts of the proposed site plan, including, but not limited to, economic or market studies; impact on public utilities; traffic impacts; impact on significant natural, historical, and architectural features and drainage; impact on the general area and adjacent property; and estimated construction cost.

c. A proposed written development agreement specifying all the terms and understanding of the PUD development including:

    1. A survey of the acreage comprising the proposed PUD.

    2. All conditions upon which the PUD approval is based, with reference to the approved preliminary PUD plan and a description of all deviations from village regulations which have been requested and approved.

    3. The manner of ownership of the developed land.

    4. The manner of the ownership and of dedication or mechanism to protect any areas designated as common areas or open space.

    5. Provisions assuring that those open space areas shown on the plan for use by the public or residents of the development will be or have been irrevocably committed for that purpose; the village may require conveyances or other documents to be placed in escrow to accomplish this.

    6. Satisfactory provisions have been made to provide for the future financing of any improvements shown on the plan for site improvements, open space areas, and common areas which are to be included within the development and that maintenance of such improvements is assured by a means satisfactory to the village council.

    7. The cost of installing and maintaining all streets and the necessary utilities has been assured by a means satisfactory to the village council.

    8. Provisions to ensure adequate protection of natural features and assurance for replacement of any trees and woodlands.

9. Any other concerns raised by the planning commission or village council regarding the construction and maintenance of the PUD.

10. The preliminary PUD plan shall be incorporated by reference and attached as an exhibit.

d. A written draft of PUD design guidelines specific to the PUD. Such document shall include provisions for site layout, access, vehicular and pedestrian circulation, parking, screening, building design and architecture, landscaping, open space, lighting, and signage. The design guidelines shall also include any variations to the dimensional standards of this ordinance, such as density, lot sizes, setbacks, height limits, required facilities, buffers, open space, permitted sign area, and other similar dimensional standards.

(Ord. No. 472 , § 1, 12-23-2019)

Sec. 1810. Standards for approval of final site plan.

The planning commission shall use the standards for approval of section 2405, standards for site plan review, and any design requirements developed specifically for the PUD by the village council, in reviewing the final PUD site plan.

(Ord. No. 472 , § 1, 12-23-2019)

Sec. 1811. Conditions of approval.

The planning commission may attach conditions to the final PUD site plan approval to meet the intent of this article and section 2405.

Sec. 1812. Validity of approved final PUD site plan.

a. *Project commencement.* Construction on the approved final site plan, or for a phase thereof, shall be commenced and proceed in a reasonably diligent manner, within 12 months of approval. If the PUD has not commenced and proceeded beyond site grading to include, at a minimum, installation of footings or foundations and underground utilities at the end of that 12-month period, then the site plan shall be invalid and void.

b. *Project completion.* The approved site plan shall remain valid for a three year period following the date of final site plan approval, provided that the requirements of paragraph a. above are met.

c. *Extensions.* The three-year period for project completion may be extended for one year, if applied for by the petitioner and granted by the planning commission in writing following public notice and a public hearing. Failure on the part of the owner to secure the written extension shall result in a stoppage of all construction.

(Ord. No. 472 , § 1, 12-23-2019)

Sec. 1813. Deviations from approved final PUD site plan.

a. Deviations and amendments from the approved final PUD site plan shall be reviewed and approved in accordance with section 2407 amendments of an approved site plan.

b. Should the planning commission determine that the modifications to the final PUD site plan significantly alter the intent of the preliminary PUD site plan, a new submittal illustrating the modification shall be required and must be approved by the village council as a new preliminary PUD plan.

c. Any amendment to the PUD design guideline requirements established specifically for the PUD by the village council shall be adopted by resolution of the village council, upon recommendation of the planning commission, and will not require amendment of this article of the zoning ordinance. Amendments to this document must be reviewed and approved in accordance with paragraph a. above.

d. Any deviation from the approved PUD site plan, except as authorized in section 1813 deviations from approved final PUD site plan shall be considered a violation of this article and treated as a misdemeanor. Further, any such deviation shall invalidate the PUD designation.

(Ord. No. 472 , § 1, 12-23-2019)

Sec. 1814. Appeals and variances.

Amendments, appeals, and variances related to a PUD cannot be taken to the zoning board of appeals in a PUD. Amendments can only be granted by the planning commission when it is determined that the requested amendments are in keeping with the overall purpose of PUD, as identified in section 1801 purpose and improve the quality of the development.

(Ord. No. 472 , § 1, 12-23-2019)

Sec. 1815. PUDs approved prior to this ordinance.

All properties zoned as PUD under the zoning district classifications in place prior to the adoption of this ordinance shall be treated as follows:

a. Approved residential PUDs shall be rezoned to the appropriate residential district in conformance with their approved density. These and future such locations will be noted on the map as being approved PUD overlay zone districts. Any changes to the preliminary PUD plan and/or final site plans or revisions shall be regulated by this ordinance.

b. Approved preliminary PUD site plans for mixed use PUDs shall be considered zoned as a mixed-use PUD in the Office District (OD). The approved uses within such PUDs shall be in accordance with the approved locations of commercial, office, and residential uses as designated on the preliminary PUD site plan.

c. Any changes to the uses and/or their locations as approved on a mixed-use preliminary PUD plan shall meet section 1808 standards for approval for preliminary PUD site plan. The applicant shall present graphics to illustrate the requested change, submit written materials documenting the need for the change and the adherence with the overall approved PUD concept, and submit updated copies of any traffic, environmental, or market studies which the planning commission or village staff consider necessary to review the impacts of the proposed change.

d. All final site plans or revisions to final site plans for PUDs approved prior to the adoption of this ordinance shall be regulated and reviewed in accordance with this article.

(Ord. No. 472 , § 1, 12-23-2019)

CHAPTER 19. LANDSCAPE AND BUFFERS[79]

Sec. 1901. Purpose.

It is the intent of this section to require landscaping and screening to buffer the negative impacts between incompatible land uses; to minimize the adverse effects of certain outdoor activities upon their surroundings; and to improve the appearance of parking areas and street frontages within the community. It is further intended to preserve and enhance the aesthetic qualities, character, privacy, and land values of property within the village. For those projects requiring a special use permit and site plan approval, a landscape plan shall be prepared by a registered landscape architect.

(Ord. No. 385, § 1, 2-19-2007)

Sec. 1902. Buffer zones required.

1. A buffer zone shall be required on the subject parcel between abutting zoning districts, as indicated on the required buffers table.
2. A buffer zone shall be required on the subject parcel even if the adjacent parcel is unimproved land.
3. When any developed parcel changes to a more intense land use or a special land use approval or a site plan review is required, a buffer zone shall be provided in compliance with this chapter.
4. If existing conditions on the subject parcel are such that a parcel cannot comply with the buffer zone requirements, the planning commission shall determine the character of the buffer based on the following criteria:
    a. Traffic impacts;
    b. Building and parking lot coverage;
    c. Outdoor sales, display, or manufacturing area;
    d. Physical characteristics of the site and surrounding area such as topography, vegetation, etc.;
    e. Views and noise levels;
    f. Health, safety, and welfare of the village;
    g. Proximity or potential proximity of adjacent residential uses.
5. The planning commission may require additional screening where a buffer zone is not required by section 1903. In application of this standard the planning commission shall consider the character and type of development proposed and its compatibility with adjacent land uses and zoning.

(Ord. No. 385, § 1, 2-19-2007)

[79]Editor's note(s)—Ord. No. 385, § 1, adopted February 19, 2007, amended chapter 19 in its entirety to read as herein set out. Formerly, chapter 19 pertained to similar subject matter, and derived from Ord. No. 346, §§ 1901—1909.

Sec. 1903. Buffer zone development standards.

1. Buffer zone level A shall meet the following requirements:

    a. Fifty-foot minimum width.

    b. Equivalent of one canopy tree per 30 linear feet or fraction of buffer zone length.

    c. Six-foot high continuous sight-obscuring screen composed of evergreen plant material, berming, walls or fences, or any combination approved by the planning commission.

    d. If berming is used for any part of the buffer, all required plant material shall be placed on the top and side slope facing the exterior property line.

    e. If a wall or fence is used for any part of the buffer, a minimum of four shrubs are required per 20 linear feet of wall or fence, with at least 50 percent of all such plant material being at least 24 inches high at time of planting.

    f. All areas within the buffer zone which do not contain trees or planting beds shall be covered with grass or other living ground cover.

    g. All other applicable standards of this section shall be met.

    h. All plant material shall meet the minimum requirements of section 1909.

Districts	Required Buffers				
	O	BC	GB	LI/R	I
PL	B	B	A	A	A
R-1	B	B	A	A	A
R-2	B	B	A	A	A
R-3	C	B	B	B	A
R-4	C	B	B	B	A
O					B
BC					C
GB					C

2. Buffer zone level B shall meet the following requirements:

    a. Twenty-foot minimum width.

    b. Equivalent of one tree per 40 linear feet or fraction of buffer zone length. Two-thirds of all required trees shall be evergreen and the balance shall be deciduous.

    c. Three-foot high continuous sight-obscuring screen composed of plant material, berming, walls or fences, or any combination approved by the planning commission.

    d. If berming is used for any part of the buffer, it shall contain one shrub for each ten feet of berm length. All required plant material shall be placed on the top and side slope facing the exterior property line.

    e. If a wall or fence is used for any part of the buffer, a minimum of one shrub per ten feet of fence or wall shall be placed along the exterior side. At least 50 percent of all such plant material shall be at least 24 inches high at time of planting.

    f. All areas within the buffer zone which do not contain trees or planting beds shall be covered with grass or other living ground cover.

g. All other applicable standards of this section shall be met.

h. All plant material shall meet the minimum requirements of section 1909.

3. Buffer zone level C shall meet the following requirements:

a. Ten-foot minimum width;

b. Equivalent of one tree per 50 linear feet or fraction of buffer zone length. At least 40 percent of the total number of required trees shall be evergreen trees.

c. Three-foot high continuous sight-obscuring screen composed of plant material, berming, walls or fences, or any combination approved by the planning commission.

d. If berming is used for any part of the buffer, it shall contain one shrub for each ten feet of berm length. All required plant material shall be placed on the top and side slope facing the exterior property line.

e. If a wall or fence is used for any part of the buffer, a minimum of one shrub per ten feet of fence or wall shall be placed along the exterior side. At least 50 percent of all such plant material shall be at least 24 inches high at time of planting.

f. All areas within the buffer zone which do not contain trees or planting beds shall be covered with grass or other living ground cover.

g. All other applicable standards of this section shall be met.

h. All plant material shall meet the minimum requirements of section 1909.

(Ord. No. 385, § 1, 2-19-2007)

Sec. 1904. Screening required.

1. Screening shall be required on the subject parcel in the following situations, except as may be provided elsewhere in this section:

a. Around designated outdoor storage areas in the LIR, limited industrial research district or I, industrial district.

b. Around any loading/unloading area.

2. Screening shall be required on the subject parcel even if the surrounding area or adjacent parcels are unimproved.

3. When any developed parcel changes to a more intense land use or a special land use approval or site plan review is required, screening shall be provided in compliance with this chapter.

4. If existing conditions on the subject parcel are such that a parcel cannot comply with the screening requirements, the zoning administrator shall determine the character of the required screen based on the following criteria:

a. Traffic access and circulation;

b. Building and parking lot coverage;

c. Outdoor sales, display, or manufacturing area;

d. Physical characteristics of the site and surrounding area such as topography, vegetation, etc.;

e. Views and noise levels; and

f. Public health, safety, and welfare.

(Ord. No. 385, § 1, 2-19-2007)

Sec. 1905. Screening standards.

All required screens shall meet the following standards:

1. A solid, sight-obscuring fence or wall six feet high.
2. Enclosed on all sides and not containing any openings other than a gate for access which shall be closed at all times when not in use.
3. The fence or wall shall be constructed of masonry, treated wood, or other material approved by the planning commission, if determined to be durable, weather resistant, rust proof, and easily maintained. Chain link and barb wire fences are not permitted.
4. The required screen may be comprised of berms, plant material, walls, fences, or any combination, if approved by the planning commission upon determining that such alternate materials will provide the same degree of screening or better than required by these screening standards.
5. All other applicable standards of this section shall be met.

(Ord. No. 385, § 1, 2-19-2007)

Sec. 1906. Greenbelts required.

Greenbelts, as indicated in the following section shall be required on the subject parcel in the following situations, except as may be provided elsewhere in this section.

1. Within the front setback area for parking lots in the O, BC, GB, LRI, and I districts.
2. Around any nonresidential parking lot abutting or within 100 feet of a residential district.
3. Within any other parking lot which contains 20 or more parking spaces.
4. Around the perimeter of any detention or retention pond.

(Ord. No. 385, § 1, 2-19-2007)

Sec. 1907. Greenbelt standards.

1. Greenbelts along the perimeter of parking lots shall meet the following requirements:
   a. Minimum width shall correspond to the setback requirements for parking areas as prescribed in the schedule of regulations, but shall not be less than ten feet.
   b. Equivalent of one tree per 20 linear feet or fraction of street frontage.
   c. At least one-half of the total number of required trees shall be evergreen trees.
   d. A minimum of one shrub at least 24 inches high per each ten linear feet or fraction of street frontage.
   e. All areas within the greenbelt which do not contain trees or planting beds shall be covered with grass or other living ground cover.
   f. Clustering of trees and shrubs within the greenbelt is permitted.
   g. Detention/retention areas shall be permitted within required greenbelts provided they do not hamper the screening intent of the greenbelt or jeopardize the survival of the plant materials.

h. All other applicable standards of this section shall be met.

2. Greenbelts within parking lots shall meet the following requirements:

   a. An amount equal to 15 sq. ft. of area per parking space.

   b. The minimum size of any internal landscaped area shall be 180 sq. ft.

   c. Internal landscaped areas shall be protected by the installation of a raised curb, anchored timbers, or similar edge around the border.

   d. For each 180 sq. ft. of required greenbelt, a minimum of one deciduous tree shall be planted.

   e. A minimum of one-third of all required parking lot greenbelt trees shall be within the parking lot envelope.

3. Greenbelts around the perimeter of detention or retention ponds shall meet the following requirements:

   a. Where possible, ponds or basins shall be "free form" following the natural shape of the land to the greatest practical extent. Side slopes shall not exceed one foot vertical for every five feet horizontal.

   b. One canopy or evergreen tree and ten shrubs shall be planted for every 50 lineal feet of pond perimeter measured along the top of the bank elevation. The required trees and shrubs shall be planted in a random pattern or in groupings. The placement of required landscaping is not limited to the top of the pond bank, where the plant species is adapted to saturated soil conditions.

   c. Detention and retention ponds shall be landscaped in character with properties and shall be required to provide lawn areas, shrubs and trees to accomplish a suitable appearance with development on the property and on nearby properties. Landscaping shall be required on all areas disturbed by grading to establish detention/retention ponds.

   d. If fencing is required around a pond, it shall be decorative in nature in order to blend in with its surroundings.

(Ord. No. 385, § 1, 2-19-2007)

Sec. 1908. General development standards.

All required buffers, screens and greenbelts shall comply with the following standards:

1. *Minimum plant material standards.*

   a. All plant materials shall be hardy to Livingston County, be free of disease and insects, and conform to the American Standard for Nursery Stock of the American Association of Nurserymen. Native vegetation shall be used whenever possible.

   b. All plant materials shall be installed in such a manner so as not to alter drainage patterns on site or adjacent properties, or obstruct vision for safety of ingress or egress.

   c. All plant material shall be planted in a manner so as to not cause damage to utility lines (above and below ground) and public roadways.

   d. Minimum plant sizes and spacing at time of installation shall conform to the following requirements:

Tree Type	Minimum Size
Deciduous Canopy Tree	2½-inch caliper
Deciduous Ornamental Tree	2-inch caliper
Evergreen Tree	8 feet in height

Deciduous Shrub	2 feet in height
Upright Evergreen Shrub	2 feet in height
Spreading Evergreen Shrub	24 inches spread

e. Existing plant material which complies with the standards and intent of this appendix chapter, as determined by the planning commission, shall be credited toward meeting the landscape requirements.

f. The installed plant material shall achieve its horizontal and vertical screening effect within four years of initial installation.

g. The overall landscape plan shall not contain more than 33 percent of any one plant species.

h. The following species of landscaping* are not permitted as they split easily; their wood is brittle and breaks easily; their roots clog drains and sewers; they are unusually susceptible to disease or insect pests; or they have been deemed invasive to the natural environment of the village:

Common Name	Horticultural Name
Boxelder	Acer Negundo
Ginkgo	Ginkgo Biloba (female only)
Honey Locust	Gleditsia Triacanthos (w/thorns)
Mulberry	Morus Species
Poplars	Populus Species
Black Locust	Robinia Species
Willows	Salix Species
American Elm	Ulmus Americana
Siberian Elm	Ulmus Pumila
Slippery Elm; Red Elm	Ulmus Rubra
Chinese Elm	Ulmus Parvifola
Horse Chestnut, Tree of Heaven	Catalpa
Soft Maples (Red, Silver)	Acer Rubram, Acer Saccharinum
Amur Honey-suckle	Lonicera Maackii
Ash	Faxinus
Autumn-Olive	Elaeagnus Umbellata
Bitter Cress	Cardamine Impatiens
Black Alder	Alnus Glutinosa
Black Alder	Alnus Glutinosa
Border Privet	Ligustrum Obtusifolium
Buckthorn	Rhamnus Utilis
Bull-Thistle	Cirsium Vulgare
Canadian-Thistle	Cirsium Arvense
CommonBuckthorn	Rhamnus Cathartica
CommonBuckthorn	Rhamnus Cathartica
Common Burdock	Arctium Minus
Common Privet	Ligustrum Vulgare
Crown-Vetch	Coronilla Varia
Curly Dock	Rumex Crispus
Cut-Leaved Teasel	Dipsacus Laciniatus
Eurasian Water Milfoil	MyriophyllumSpicatum

Field Bindweed	Convolvulus Arvensis
Garlic Mustard	Alliaria Petiolata
Giant Hogweed	Heracleum Mantegaz-zianum
Giant Knotweed	Polygonum Sachalinense
Glossy Buckthorn	Rhamnus Frangula
Hybrid Cat-Tail	Typha Xglauca
Hybrid Honey-suckle	Lonicera Xbella
Japanese Barberry	Berberis Thunbergii
Japanese Honey-suckle	Lonicera Japonica
Japanese Knotweed	Polygonum Cuspidatum
Japanese Stilt Grass	MicrostegiumVimineum
Kudzu	Pueraria Lobata
Leafy Spurge	Euphorbia Esula
Lesser-Celandine	Ranunculus Ficaria
Meadow Fescue	Festuca Pratensis
Morrow Honey-suckle	Lonicera Morrowii
Multiflora Rose	Rosa Multiflora
Musk Thistle	Carduus Spp.
Narrow-Leaved Cat-Tail	Typha Angustifolia
Oriental Bitter-sweet	Celastrus Orbiculata
Perfumed Cherry	Prunus Mahaleb
Purple Loose-strife	Lythrum Salicaria
Quack Grass Agro-pyron	Repens
Reed	Phragmites Australis*
Reed Canary Grass	Phalaris Arundinacea*
Russian-Olive	Elaeagnus Angustifolia
See Agro-pyron Repens	Elytrigia Repens
See Vince-toxicum Spp.	Cynanchum Spp.
Siberian Elm	Ulmus Pumila
Silky Bush-Clover	Lespedeza Cuneata
Smooth Brome	Bromus Inermis
Smooth Tartarian Honey-suckle	Lonicera Tatarica
Spotted Knap-weed	Centaurea Maculosa
Swallow-Wort	Vincetoxicum Spp.
Sweet Cherry	Prunus Avium
Tall Fescue	Festuca Arundinacea
White Bedstraw	Galium Mullugo
White Mulberry	Morus Alba
White Sweet-Clover	Melilotus Alba
Wild Parsnip	Pastinaca Sativa
Yellow Sweet-Clover	Melilotus Officinalis

* A listing of additional invasive species that are not recommended for use is available at the village offices.

i. Plant materials shall not be placed closer than four feet to any fence or property line.

j. Where plant materials are placed in two or more rows, planting shall be staggered in rows.

2. *Minimum standards for berms.*

    a. Where possible, berms shall be constructed so as to maintain a side slope not to exceed a one-foot rise to a three-foot run ratio. When topography or other site condition prevents construction of berms at this ratio, retaining walls or terracing may be permitted. If a berm is constructed with a retaining wall or by terracing, the earthen slope shall face the exterior of the site.

    b. Berm areas not containing planting beds shall be covered with grass or other living ground cover maintained in a healthy condition.

    c. Berms shall be constructed in such a manner so as not to alter drainage patterns on site or adjacent properties, or obstruct vision for safety of ingress or egress.

3. *Minimum standards for screen walls and fences.*

    a. All walls and fences required for screening shall be constructed with new, durable, weather resistant, and easily maintainable materials. Chain link and barbed wire fences are not permitted to serve as screen fencing.

    b. Unless otherwise prohibited, the wall or fence may be constructed with openings that do not exceed 20 percent of the wall or fence surface. The fence openings shall not reduce the intended obscuring effect of the wall or fence.

    c. Screen walls or fences shall not be constructed so as to alter drainage on site or adjacent properties, or obstruct vision for safety or ingress or egress.

4. *Installation and maintenance provisions.*

    a. The planning commission or zoning administrator may require a financial guarantee, in accordance with the with the provisions of section 2411, of a sufficient amount to insure the installation of all required landscaping.

    b. All landscaping shall be maintained in a healthy, neat and orderly state free from refuse and debris. Any dead or diseased plants shall be replaced.

    c. All required landscaping shall be completed within six months from the date of occupancy of the buildings, unless a performance bond is submitted in accordance with the provisions of section 2411.

(Ord. No. 385, § 1, 2-19-2007)

Sec. 1909. Modification of landscaping and screening requirements.

1. The planning commission during site plan review may determine, upon inspection, that conditions unique to the parcel exist which would prevent compliance with the requirements of this chapter or which would make such compliance unnecessary.
2. In such cases, these requirements may be modified in whole or in part. Criteria to be used when considering a modification shall include, but not be limited to:

    a. Existence of natural vegetation or screening;

    b. Topography;

    c. Existence of areas of poor soils;

    d. Existing and proposed building placement;

e. Building height;

f. Adjacent land uses;

g. Distance between land uses;

h. Dimensional conditions unique to the parcel;

i. Traffic, sight distances and traffic operational characteristics on and off site;

j. Visual, noise and air pollution levels;

k. Public health, safety, and welfare.

(Ord. No. 385, § 1, 2-19-2007)

CHAPTER 20. GENERAL OFF-STREET PARKING AND LOADING

Sec. 2001. Purpose.

It is the purpose and intent of this chapter that off-street parking and loading areas be provided and adequately maintained in every zoning district for the purposes of promoting safe and efficient parking of motor vehicles; to avoid unnecessary congestion and interference with public use of streets; and to provide for sound and stable environmental conditions and the prevention of future blighted areas.

(Ord. No. 346, § 2001, 6-19-2000)

Sec. 2002. Off-street parking and loading.

1. In all zoning districts, off-street parking and loading requirements shall be provided in amounts not less than specified for the various districts.
2. Requirements for a use not mentioned shall be the same as for that use which is most similar to the use not listed.
3. Additional parking shall be provided and maintained in proper ratio to any increase in floor area or building use capacity.
4. For the purposes of determining off-street parking and loading requirements, the following provisions shall apply:
    a. "Usable floor area" as applied to offices, merchandising or service types of uses, shall mean the floor area used or intended to be used for services to the public as customers, patrons, clients, patients, or tenants, including areas occupied for fixtures and equipment used for display or sale of merchandise, but excluding floor areas used exclusively for storage, housing of mechanical equipment integral with the building, maintenance facilities, or those areas so restricted that customers, patients, clients, salesmen, and the general public are denied access. Measurement of usable floor area shall be the sum of the horizontal area of each story of a structure measured from the interior faces of the exterior walls.
    b. Where benches, pews, or other similar seating facilities are used as seats, each 24 inches of such seating facilities shall be counted as one seat.
5. In the case of mixed uses in the same building, the total requirements for off-street parking and loading shall be the sum of the requirements for the separate individual uses computed separately.

6. Joint or collective provisions of off-street parking for buildings or uses on two or more properties shall not be less than the sum of the requirements for the participating individual uses computed separately.

7. It shall be unlawful to use any of the off-street parking or loading areas established to meet the requirements of this ordinance for any purpose other than the parking of licensed vehicles or the loading or unloading of necessary service trucks.

8. All off-street parking areas, including parking aisles, shall be setback a minimum of five (5) feet from the rear and side lot lines and a minimum of fifteen (15) feet from the front lot line. The planning commission may permit parking areas to encroach within the fifteen (15) foot setback where substantial additional screening or landscaping acceptable to the planning commission is provided.

9. When determination of the number of off-street parking or loading space required by this ordinance results in a requirement of a fractional space, any fraction in excess of one-half shall be counted as one parking space.

10. No repairs or services to vehicles shall be carried on or permitted upon such premises.

11. No vehicular display for purpose of sale shall be carried on or permitted upon such premises, except in licensed and approved vehicle sales establishments.

12. Off-street parking in driveways or on nonpaved open space is prohibited, except on one-family lots. Two-family lots shall provide parking as required in section 2005 of this ordinance.

13. The use of an off-street parking lot in a residential district by any commercial or industrial use is prohibited.

14. Except for the BC district, off-street parking for all non-residential zoning districts and uses shall be either on the same lot or within 300 feet of the building or use it is intended to serve, measured from the nearest public entrance of the building to the nearest point of the off-street parking lot. In the BC district parking shall be provided on the same lot as the use, unless the property adjoins or has access to a community parking lot, or common parking area maintained by participating property owners.

15. The planning commission may defer construction of the required number of parking spaces if the following conditions are met:

    a. Areas proposed for deferred parking shall be shown on the site plan, and shall be sufficient for construction of the required number of parking spaces in accordance with the standards of this ordinance for parking area design and other site development requirements.

    b. Alterations to the deferred parking area may be initiated by the owner or required by the zoning administrator, and shall require the approval of an amended site plan, submitted by the applicant accompanied by evidence documenting the justification for the alteration.

    c. The applicant has demonstrated to the planning commission's satisfaction that sufficient parking is or will be available to meet the regular demands of the use.

16. Parking or storage of recreational vehicles in any residential zone district, as described in section 602 of the Zoning Ordinance of the Village of Fowlerville, shall also comply with the requirements of section 642 of this ordinance.

(Ord. No. 346, § 2002, 6-19-2000; Ord. No. 373, § 7, 1-24-2005; Ord. No. 440, § 2, 1-27-2014)

Sec. 2003. Site development and construction requirements.

1. Off-street parking, loading and access drives for all uses including new one-family dwelling units shall be paved with appropriate hard surfaced materials such as concrete and asphalt and shall be provided with adequate drainage to dispose of all surface water.

2. Adequate ingress and egress to the parking areas by means of clearly marked and limited drives shall be provided, in accordance with the provisions of section 2004 of this chapter.

3. Off-street parking on lots adjoining or within a residential district shall in addition conform with the following:

    a. Noncommercial vehicles may be parked in any part of the required side or rear yard except as otherwise provided in this ordinance.

    b. Where the required parking area is three spaces or more adjoining a residential district, said parking area shall be no closer to any side or rear property line than ten feet.

    c. Landscaping and buffers as per chapter 19 requirements.

4. Off-street parking areas shall be lighted when provided for all uses, except single-family, in accord with a plan approved by the village planning commission. Lighting used to illuminate any off-street parking area shall be so located and arranged as to direct light away from the adjoining premises and shall conform to the requirements of section 2007.

5. Where any parking area adjoins an existing or proposed sidewalk, the owner shall erect safety curbs on the private property to prevent vehicles from crossing the sidewalk, excepting in the case of a one-family lot.

6. Minimum dimensions of parking spaces and maneuvering aisles shall be in accordance with the following requirements:

Parking Pattern	Traffic Aisle Width		Parking Space	
	Two-Way Aisle	One-Way Aisle	Width	Length
Parallel	18 ft.	12 ft.	9 ft.	25 ft.
30—75 degree angle	24 ft.	12 ft.	9 ft.	21 ft.
76—90 degree angle	24 ft.	15 ft.	9 ft.	20 ft.

(Ord. No. 346, § 2003, 6-19-2000; Ord. No. 353, § 10, eff. 5-5-2002)

Sec. 2004. Ingress/egress standards.

1. It is the purpose of this section to establish standards for the location and design of driveways that can be used for new construction in undeveloped areas and for redevelopment of existing developed areas. The objectives of these requirements are to:

    a Reduce the frequency of conflicts between vehicular movements,

    b. Expand the spacing between potential conflict points,

    c. Improve traffic safety, and

    d. Provide more efficient traffic flow.

2. General provisions.

    a. Lanes per driveway: The number of driveway lanes shall be based on analysis of expected trip generation and peak turning movements. If expected left turns exiting the subject site exceeds 100 per hour, two egress lanes (left and right/thru) shall be provided.

    b. Turn prohibition: Left turns may be prohibited at the discretion of the planning commission into or out of any driveway under the following conditions:

        (1) Inadequate corner clearance,

(2) Inadequate sight distance, or

(3) Inadequate driveway spacing.

c. Relationship to opposing driveways: to the extent desirable and reasonably possible, driveways shall be aligned with driveways on the opposite side of the street.

d. Sight distance: Adequate sight distance shall be ensured for all vehicles exiting from a proposed development. If certain movements cannot be made safely, then they shall be prohibited or joint access with adjoining properties shall be encouraged.

e. Driveway permits: Prior to granting a building permit for any construction involving a new or expanded driveway opening to a public street, a permit for such driveway shall be obtained from the village, county, or state agency having jurisdiction over the public street and shall be submitted to the building inspector.

3. Non-residential ingress and egress requirements.

a. Driveway spacing: The minimum spacing allowed between a proposed driveway and all other driveways (located on the same side of the public street which the proposed driveway abuts or adjoins) or street intersections shall be in accordance with the following standards:

Posted Speed Limit on Adjacent Public Street*	Minimum Driveway Spacing (feet)**
30 mph or less	100 ft.
35	160 ft.
40	210 ft.
45 or over	300 ft.

* Traffic speeds are based on posted speeds as of the effective date of this ordinance. In the event the posted speed limit is changed, the minimum spacing requirement in effect on the adoption date of this ordinance shall remain in force, unless amended at a later date by the village council.

** Spacing requirements are based on average vehicle acceleration and deceleration rates and are considered the minimum distances necessary to maintain safe traffic operation. The required spacing shall be measured from the centerline of the proposed driveway to the centerline of the nearest existing driveway or the edge of the right-of-way or easement of the nearest intersecting street.

b. In the event that a particular parcel or parcels lack sufficient road frontage to meet the spacing requirement, the landowner(s) may:

(1) Seek a variance from the zoning board of appeals, but in no case shall the variance permit less separation than permitted in the next lowest spacing requirement, as shown in the table of spacing requirements;

(2) Obtain authorization from the adjacent property owner(s) to establish a shared driveway between the properties; or

(3) Obtain a cross-access easement to use an existing driveway on adjacent property.

c. Number of driveways per parcel:

(1) A maximum of one driveway opening shall be permitted to a parcel or lot from each abutting street.

(2) The Village Planning Commission may permit one additional driveway entrance along any street on which the parcel frontage exceeds four hundred feet.

(3) In the case of dual one-way driveways, one pair may be used per 250 feet of frontage. Only one pair of one-way drives shall be permitted per street frontage.

d. Property clearance: The minimum distance between the property line and the nearest edge of the driveway shall be twenty-five feet, except where the driveway provides access to more than one lot or parcel.

e. Corner clearance: The minimum corner clearance distance between the centerline of a proposed driveway and the edge of the right-of-way or easement of an intersecting street shall be 150 feet. Traffic movements into or out of any driveway, the centerline of which is located within 250 feet of the edge of the right-of-way or easement of a signalized street intersection, shall be limited to right-turns in and right-turns out only.

4. Residential ingress and egress requirements.

a. Residential: All residential driveway openings onto a public street shall be constructed to the adopted standards of the Village of Fowlerville.

b. Non-residential: All driveway openings for non-residential uses in the residential zoning districts shall be reviewed and approved by the planning commission as part of the site plan review procedures of this ordinance.

(Ord. No. 346, § 2004, 6-19-2000)

Sec. 2005. Off-street parking requirements.

The minimum number of off-street parking spaces, including garage parking spaces, by type of use shall be determined in accordance with the following schedule:

Use	Minimum Number of Standard Off-Street Parking Spaces Per Unit of Measure
RESIDENTIAL	
1. Residential, one-family and two-family	Two for each dwelling unit
2. Residential, multiple-family	Two for each dwelling unit
3. Mobile home parks	Two for each mobile home unit
4. Boardinghouse	Two per three sleeping rooms
5. Bed and breakfast	One per one sleeping room
INSTITUTIONAL	
1. Churches, temples or buildings of similar use with fixed seats	One for each four seats.
2. Homes for the aged and convalescent homes	One space for each two beds
3. Preschool child care (day nurseries)	One for each four persons, based on licensed capacity, plus six off-street queuing spaces
4. Elementary and junior high	One and one-half spaces per classroom, plus the requirements of the auditorium and/or similar place(s) of assembly
5. Senior high schools, vocational schools, and community colleges	One for each classroom, plus one per each eight students, based on the maximum occupancy established by local or state fire, health, or building codes, plus the requirements of the auditorium, gymnasium, and/or similar place of assembly

6. Lodge halls, meeting halls, and community centers	One for each three persons of or legal capacity as fixed buildings of similar use established by local, county, without seats or state fire, building or health codes
7. Libraries, museums and post office buildings	One for each 400 square feet of usable floor area
8. Public office building not elsewhere specified	One for each 300 square feet of usable floor area
9. Private golf clubs, swimming pool clubs, tennis clubs, or other similar uses	One for each two member families or individuals, plus amount required for accessory uses
10. Theaters and auditoriums	Two for each five seats
11. Stadium, sports arena, or similar place of assembly	One for each three seats or six feet of benches
BUSINESS & COMMERCIAL	
1. Auto wash	Five per establishment, plus adequate waiting space for autos shall be provided on the premises to accommodate 50 percent of the hourly rate of capacity
2. Beauty parlor or barbershop	Three spaces for each of the first two stylist or barber chairs, and 1½ spaces for each additional chair
3. Bowing alleys	Six for each one bowling lane plus amount required for accessory use
4. Assembly halls, without fixed seats, for commercial recreation including dancehalls, pool or billiard parlors, skating rinks, and exhibition halls or buildings for similar assembly uses	One space for each 50 square feet of usable floor area used for permitted use or one space per five persons allowed within the maximum capacity established by local or state code; whichever is greater
5. Establishments for sale and consumption on the premises of beverages, food or refreshments	One for each 60 square feet of usable floor area, except as otherwise specified herein
6. Drive-in restaurants or similar drive-in uses for the sale of beverages, food or refreshments	One for each 75 square feet of gross floor area
7. Furniture and appliance stores; household equipment repair shops; showroom of a plumber, decorator, electrician or similar trade; shoe repair and other similar uses	One for each 800 square feet of gross floor area.
8. Automobile service stations	Two for each lubrication stall, rack, or pit, and one for each gasoline pump, plus amount required for accessory uses
9. Laundromats and coin-operated dry cleaners	One for each two washing machines
10. Miniature or "par-3" golf courses	Three for each one hole
11. Mortuary establishments	One for each 50 square feet of usable floor space
12. Motel, hotel, or other commercial lodging establishments	One for each one occupancy unit, plus one for each one employee, plus extra spaces for dining rooms or meeting rooms as required by subsections 4 and 5 above where the capacity of such areas exceeds the number of beds in the building
13. Motor vehicle sales and service establishments	One for each 200 square feet of usable floor space of sales room and one for each one auto service stall in the service room
14. Retail stores except as otherwise specified herein	One for each 200 square feet of gross floor space
15. Microbrewery	One for each 60 square feet of usable floor area, except as otherwise specified herein
OFFICES	

1. Banks	One for each 150 square feet of usable floor space
2. Business offices or professional offices except as indicated in the following item (3)	One for each 300 square feet of gross floor space
3. Professional offices of doctors, dentists, or similar professions	Three spaces for each examining room, dental chair, or similar use area
INDUSTRIAL	
1. Industrial or research establishments	One space for each 1,000 sq. ft. of gross floor area, plus amount required for offices or other accessory uses, with a minimum of five spaces provided
2. Wholesale establishments	One space for each 2,000 sq. ft. of gross floor area, plus amount required for offices or other accessory uses, with a minimum of four spaces provided

(Ord. No. 346, § 2005, 6-19-2000; Ord. No. 447, § 3, 1-26-2015)

Sec. 2006. Off-street loading/unloading area requirements.

1. On and after the effective date of this ordinance there shall be provided, on the same lot with all new or substantially altered uses or structures in BC, GB, LI/R or I districts, off-street loading and unloading facilities as required herein.
2. Number of spaces. Usable floor area: 5,000 square feet to 20,000 square feet requires one space; each additional 20,000 square feet or fraction thereof requires one space.
3. Design standards of loading/unloading spaces.
    a. Each off-street loading and unloading space shall not be less than ten feet in width and 40 feet in length.
    b. Each required off-street loading/unloading dock shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement. All open off-street loading and/or unloading spaces shall be paved.
    c. No signs shall be displayed in any loading area except such signs as may be necessary for the orderly use of the area.
    d. Off-street loading/unloading space as required shall be provided as area additional to off-street parking space as required and shall not be considered as supplying off-street parking space.

(Ord. No. 346, § 2006, 6-19-2000)

Sec. 2007. Lighting.

Parking area and other exterior on-site lighting fixtures shall be in accordance with the standards of section 640.

(Ord. No. 346, § 2007, 6-19-2000; Ord. No. 380, § 7, 9-18-2006)

CHAPTER 21. SIGNS[80]

Sec. 2101. Purpose.

The sign regulations of this chapter are intended to protect and further the health, safety, and welfare of the residents of the village; to maintain and improve the appearance of the village; to conserve community character; to prevent traffic hazards; to provide safer conditions for pedestrians; and to promote economic development by regulating the construction, alteration, repair, maintenance, size, location, and number of signs. It is further determined that to allow signs of excessive number and size in the village would unduly distract pedestrians and motorists, create a traffic hazard, and reduce the effectiveness of signs needed to direct the public. The regulations of this chapter are intended to provide reasonable identification for businesses and other uses within the community.

(Ord. No. 436, § 2, 12-16-2013)

Sec. 2102. General requirements applicable to all signs.

1. *Sign setbacks and locations.*

   a. All signs, unless otherwise provided for, shall be set back a minimum of ten feet from any public or private street right-of-way line or access drive in all districts. This distance shall be measured from the nearest edge of the sign, measured at a vertical line perpendicular to the ground to the right-of-way.

   b. No sign shall be placed in, upon or over any public right-of-way, alley, or other public place, except for permitted highway and government signs and those signs permitted in the BC district which may project from a building wall over a public way, or other signs for community events as approved by the village council.

   c. No light pole, utility pole, or other supporting member shall be used for the placement of any sign unless specifically designed and approved for such use.

   d. No sign shall be erected in any place where it may, by reason of its position, shape, color, or other characteristic, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or constitute a nuisance per se.

   e. No commercial vehicle, which in the opinion of the zoning administrator has the intended function of acting as a sign, shall be parked in any area abutting the street, unless no other parking area is available.

   f. All ground, freestanding, and wall signs may contain reader boards and changeable message signs, as permitted in section 2104.3, requirements for permanent signs.

[80]Editor's note(s)—Ord. No. 436, § 2, adopted Dec. 16, 2013, amended Chapter 21 in its entirety to read as herein set out. Former Ch. 21, §§ 2101—2111, pertained to outdoor sign regulations, and derived from Ord. No. 346, §§ 2101—2111, adopted June 19, 2000; Ord. No. 355, §§ 2—8, effective May 5, 2002; Ord. No. 375, § 4, adopted May 16, 2005; Ord. No. 400, §§ 3, 4, adopted Feb. 4, 2008; Ord. No. 422, §§ 2—6, adopted July 18, 2011; Ord. No. 425, §§ 1—3, adopted Oct. 24, 2011.

g. No wall sign shall extend beyond the edge of the wall to which it is affixed; nor extend above the roof line of a building; nor project more than 12 inches from the surface of the wall.

h. All signs shall pertain only to the business or activity conducted on the premises, with the exception of political signs, special event signs, business center signs that are located on property containing one of the businesses that are advertised on the sign, and billboards.

2. *Measurement.*

a. The area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo, or any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.

(1) The area of wall signs that are located at least ten feet apart (measured at the closest point between them) may be measured separately. In no case may the sum of all wall signs per building wall exceed that which is permitted in this Chapter.

(2) The area of a freestanding, ground, or projecting sign shall be considered the area of the largest sign face. Back-to-back signs are permitted (each allowed the maximum area as noted in Table 2104, Requirements for Permanent Signs. Where sign faces are of unequal size, the larger of the two sign faces shall be counted as the one face.

b. The height of a sign shall be measured as the vertical distance from the highest point of the sign to the finished grade of the ground immediately beneath the sign, excluding any artificially constructed earthen berms.

c. Wall signs for buildings with multiple tenants shall be distributed amongst the tenants and located so each tenant sign corresponds with their entrance or general location within the building.

3. *Illumination.*

a. Permanent signs may be illuminated, but only by steady, stationary, shielded light sources directed solely at the sign or internal to it.

b. Use of glaring undiffused lights, bare bulbs, or flames is prohibited.

c. Lighting shall be shielded and/or pointed downward so as not to project onto adjoining properties or thoroughfares.

d. Underground wiring shall be required for all illuminated signs not attached to a building.

4. *Maintenance.*

a. Signs shall be maintained free of peeling paint or paper, fading, staining, rust, or other condition which impairs legibility or intelligibility.

b. Sign supports, braces, guys and anchors shall be maintained in such a manner as not to cause a hazard.

(Ord. No. 436, § 2, 12-16-2013)

Sec. 2103. Sign permits, exempt and prohibited signs.

1. *Permit required.* Any person wishing to erect, place, replace, or permit another to place a sign on their property must first obtain a sign permit, unless such sign is specifically exempted as provided in this chapter.
2. *Signs not requiring a permit.* The following signs shall not require a sign permit, but shall be subject to all other applicable general requirements of this chapter:
    a. Government signs.
    b. Placards.
    c. Temporary sale signs of four square feet in size or less.
    d. Window signs, provided the total area of all signs within one foot of the window shall not obscure more than 50 percent of the window area.
    e. Political signs.
    f. Historical markers.
    g. Memorial signs or tablets.
    h. Murals.
    i. Signs not visible from any street.
    j. Signs for essential services.
    k. Signs with address, owner, or occupant name, of up to one square foot in area attached to a mailbox, light fixture or exterior wall.
    l. Flags or insignia of any nation, state, local government, community organization, or educational institution.
3. *Prohibited signs.* All signs not specifically allowed under this chapter (unless exempted from regulation herein) are prohibited in the village. Further, the following types of signs are expressly prohibited.

(Ord. No. 436, § 2, 12-16-2013)

Sec. 2104. Requirements for permanent signs.

Permanent signs are permitted in combination (unless otherwise noted) in each district according to Table 2104, and are subject to the requirements described in this chapter.

TABLE 2104. REQUIREMENTS FOR PERMANENT SIGNS
(See also Subsections 3 and 4 below)

Type of Use	District	Wall Sign (See Subsection 5 below)	One Type Allowed		Freestanding Sign—One Type Allowed						
			Projecting Sign (See Subsection 1 below)	Awning or Marquee Sign (See Subsection 1 below)	#	Single Tenant Ground Sign		Multi-Tenant Ground Sign (See Subsection 2 below)		Shared Business Center Sign (See Subsection 2 below)	
						Size	Height	Size	Height	Size	Height
Any	GB, O, I, LIR	10% of wall area or 100 s.f. per wall	—	—	1 per frontage	60 s.f.	30 ft.	80 s.f.	20 ft.	60% of gross ground sign area, or 200 s.f.	20 ft.
Any	BC	40 s.f. for the first 20 linear feet of building frontage, then 15 s.f. for every 10 additional linear feet of building frontage	10 s.f. per frontage	30 s.f. per frontage	1 per frontage	48 s.f.	6 ft.	64 s.f.	14 ft.	60% of gross ground sign area, or 150 s.f.	14 ft.
Commercial and Home Occupation	R-1, R-2, R-3, R-4	4 s.f. per frontage	—	—	—	—	—	—	—	—	—
	PL, CR	4 s.f. per frontage	—	—	—	—	—	—	—	—	—
Institutional	R-1, R-2, R-3, R-4	50 s.f. per frontage	—	—	1 per parcel	32 s.f.	6 ft.	—	—	—	—
Residential	R-1, R-2, R-3, R-4	See Sec. 2103 for address, etc.	—	—	1 per subdivision entrance	16 s.f.	4 ft.	—	—	—	—

1. *Projecting, awnings and marquee signs.*

    a. Signs may not project more than four feet from the building wall.

    b. Signs projecting over the public sidewalk or right-of-way shall maintain an overhead clearance area of at least eight feet in height.

2. *Multi-tenant and shared business center signs.*

    a. Gross ground sign area equals the cumulative size of the ground or freestanding signs that the subject properties would otherwise be allowed, based on one ground or freestanding sign per property (e.g. three businesses that would each be allowed a 60 square foot ground sign - totaling 180 square feet of Gross Ground Sign Area - may choose to forego individual signs and erect one Business Center Sign not to exceed 108 square feet).

    b. No ground or freestanding signs shall be permitted for individual businesses that are advertised on a Shared Business Center Sign.

    c. No more than 60 percent of the total sign area shall be occupied by one business.

    d. For purpose of enforcement, maintenance of the sign shall be considered the responsibility of the property owner, or in case of a condominium, that business that occupies the largest building area.

    e. Applications must be accompanied by a recordable agreement, in a form acceptable to the village attorney. The agreement must include acknowledgment by all businesses advertised on the sign that no additional ground or freestanding signs will be approved for any business that is advertised on the shared sign, regardless of any change of ownership.

3. *Changeable message signs.*

    a. One changeable message sign shall be permitted per premise as part of a monument or wall sign in the I, Industrial; LI/R, Limited Research/Industrial; BC, Business Center; GB, General Business; and O, Office Districts.

    b. The area of a changeable message sign shall not exceed 40 percent of the total area of the sign.

    c. Electronic messages or gasoline prices shall be displayed for at least 15 seconds, and changes shall take less than one second to change. Electronic messages or gasoline prices shall not flash, fade in or out, or scroll.

    d. Electronic changeable message signs shall use only one color of lighting or bulbs to prevent nuisances and distractions upon adjoining properties and thoroughfares.

4. *Permanent directional signs.*

    a. The village may, upon recommendation by the village planner, approve additional signage needed to facilitate safe movement within the site, upon determination that the following is met:

        (1) Freestanding directional signs may not exceed six square feet in size, nor four square feet in height.

        (2) Directional wall signs needed to identify accessory activities (such as service bays or drive-through lanes) may be approved provided they do not contain business advertising and are not visible from the public street in such a way that they may cause distraction or confusion to motorists.

5. *Sub-tenant wall signs.*

    a. Where buildings contain more than one business, one additional wall sign may be installed for each sub-tenant in the building, up to a maximum of four additional signs. The signs shall be used to

advertise the name of businesses within the building, not to provide additional advertisement for the primary business.

b. The planning commission may allow additional sub-tenant signs in consideration of the following:

(1) The number of sub-tenants in the building.

(2) Area of lease space occupied by the sub-tenant within the building.

(3) Size of the building façade(s).

(4) Visibility of the building.

c. Such wall signs shall not exceed 20 square feet each.

(Ord. No. 436, § 2, 12-16-2013; Ord. No. 449, § 1(Att.), 5-18-2015)

Sec. 2105. Requirements for temporary signs.

Temporary signs are permitted as shown in Table 2105, and are subject to the requirements described in this chapter:

TABLE 2105. REQUIREMENTS FOR TEMPORARY SIGNS

District	Construction Ground Sign (See Subsections 1 through 3 below)				Real Estate For Sale and Special Events Signs (See Subsections 1 through 5 below)			Sidewalk Signs—One Type Allowed (See Subsection 1 below)				
								Required For All			Blade/Bow Flags	
	Size	Height	#	Removal	Size	Height	Removal	#	Removal	Location	Size	S
GB, O, I, LIR	32 s.f.	15 ft.	1 per development frontage	14 calendar days after certificate of occupancy	24 s.f.	6 ft.	5 business days after sale	—	—	—	—	-
BC	32 s.f.	15 ft.			24 s.f.	6 ft.		1 per business	during non-business hours	5 ft. from doors and building corners; and 2 ft. from back of curb	Max. size = 24 s.f. Max. height = 12 ft. Max. width = 2 ft.	M = M h 4
R-1, R-2, R-3, R-4, PL, CR	24 s.f.	10 ft.	1 per development or subdivision entrance	14 calendar days after all lots sold	12 s.f.	6 ft.		—	—	—	—	-

Notes to Table 2105:

1. Signs with a "removal" requirement may be erected up to five business days before the event and removed in the timeframe specified.
2. Except for blade/bow flags signs or those allowed by village council, temporary signs shall be setback a minimum ten feet from all property lines.
3. Signs placed in front windows may not obscure more than 50 percent of the window area.
4. Pennants and banners may be used as a temporary sign, provided they are not displayed on any one lot or parcel for more than 30 consecutive days for any one permit period and no more than three additional permits shall be issued for any one lot or parcel during any 12-month period.
5. Special event signs. The village council may allow additional temporary signs for recurring special events that either benefit the community, or are proposed by a public or non-profit agency. Such signs may be allowed according to the following:

a. Temporary signs that will exceed the duration restrictions noted in the table above may be allowed by village council upon annual review and approval. The council may allow signs for a single event, or for a series of events which may be planned for the calendar year.

b. Applications shall include the following information:

i. Details regarding the location, number, size and design of any temporary signs.

ii. The dates of proposed events, and the proposed schedule for erection and removal of signs.

iii. The name and contact information of those responsible for the signs.

c. Signs may be approved by the council if it is determined the following conditions are met:

i. The proposed sign(s) are consistent with the purpose of this sign ordinance, as stated in section 2101, purpose.

ii. The proposed sign(s) are in the benefit of the community in general. The sign must relate to a community event or promote a public purpose rather than a private interest.

iii. The nature of the request is not to circumvent other provisions of this ordinance.

iv. Approval of the sign(s) will not extend rights to one business or entity that is not extended to other similar businesses or entities.

d. The village council shall review recurring temporary sign applications on an annual basis. Where a series of events is proposed, the village may grant approval for all or a portion of the year, if needed to monitor compliance with this chapter.

(Ord. No. 436, § 2, 12-16-2013)

Sec. 2106. Nonconforming signs.

1. Every permanent sign which was erected legally and which lawfully exists at the time of the enactment of this chapter, but which does not conform to the height, size, area, or location requirements of this chapter as of the date of the adoption of these regulations, is hereby deemed to be nonconforming. This status shall not be granted to any temporary sign, banner, placard, or other non-permanent sign.
2. Nonconforming signs may not be altered, expanded, enlarged, or extended, except as allowed in this ordinance; however, nonconforming signs may be maintained and repaired so as to continue the useful life of the sign.
3. For the purposes of this chapter, a nonconforming sign may be diminished in size or dimension without jeopardizing the privilege of nonconforming use. The copy of the sign may not be amended or changed, except as provided in subsection 2110.4, unless specifically designed to be changed periodically as in reader board, without bringing such sign into compliance with the requirements of this chapter.
4. Any business, whose sign is a legal, nonconforming sign, may change the face of a legal, nonconforming sign on the premises after the sale or change in tenant of the property provided that the use of the property at the time of sale or change in tenant is continued under the new ownership. Any change in the use of the property shall require conformance to the sign ordinance in its entirety.
5. Any nonconforming sign destroyed by fire or other casualty loss shall not be restored or rebuilt if reconstruction will constitute more than 50 percent of the value of the sign on the date of loss.
6. Any sign which for a period of one year or more no longer advertises a bona fide business conducted or product sold shall be removed by the owner of the building, structure, or property upon which such sign is located, within 30 days of receipt of written notice by the zoning administrator.

7. A sign accessory to a nonconforming use may be erected in the village in accordance with the sign regulations for the district in which the property is located.

(Ord. No. 436, § 2, 12-16-2013)

CHAPTER 22. NONCONFORMING USES AND STRUCTURES

Sec. 2201. Purpose.

This ordinance establishes separate districts, each of which is an appropriate area for the location of specified types of buildings, structures, and uses. It is necessary and consistent with the establishment of these districts that all lawfully nonconforming buildings, structures, and uses be permitted to continue only under specific controls. It is, further, necessary and consistent with the establishment of these districts that certain nonconforming uses be eliminated in accordance with applicable statutes. It is hereby declared that the existence of nonconforming uses is contrary to the best interests of the village and further, it is hereby declared to be the policy of the village council as expressed in this ordinance to discontinue nonconforming uses in the course of time as circumstances permit, having full regard for the rights of all parties concerned. Therefore, it is the purpose of the following sections to provide for the regulation of nonconforming buildings, structures, uses and signs.

(Ord. No. 346, § 2201, 6-19-2000)

Sec. 2202. Nonconforming use of land, buildings, or structures.

Any lawful nonconforming use of land, building or structures, may be continued, subject to the following provisions.

1. *Expansion.* A nonconforming use shall not be in any way increased in intensity, expanded or extended either on the same or adjoining property, or into any other portion of a building.
2. *Discontinuance.* If a nonconforming use is discontinued, it shall not thereafter be reestablished, and any subsequent use of the land, building, or structure shall conform to the regulations of the district in which the land is located. A nonconforming use shall be considered discontinued if customary operations of that use are not pursued for a period of six consecutive months or more. Thereafter, such use shall not be re-established, and any future use shall be in conformity with the provisions of the district within which it is located.
3. *Criteria for discontinuance.* A nonconforming use shall be determined to be discontinued if one or more of the following conditions exists, and which shall be deemed to constitute the intent on the part of the property owner to discontinue the nonconforming use:
    a. Utilities, such as water, gas and electricity to the property, have been disconnected;
    b. The property, buildings, and grounds have fallen into disrepair;
    c. Signs or other indications of the existence of the nonconforming use have been removed;
    d. Equipment or fixtures necessary for the operation of the nonconforming use have been removed; or
    e. Other actions which, in the opinion of the zoning administrator, constitute an intention on the part of the property owner or lessee to abandon the nonconforming use.
4. *Change of use.* The nonconforming use of land shall not be changed to any other use except to a use permitted in the district in which the land is located. If a nonconforming use is changed to a use

permitted in the district in which it is located, it shall not revert or be changed back to a nonconforming use.

(Ord. No. 346, § 2202, 6-19-2000)

Sec. 2203. Nonconforming buildings.

Any existing building which does not conform to the regulations of the district in which it is located may be continued subject to the provisions of this ordinance.

1. *Repair of nonconforming buildings.* Nothing in this ordinance shall prohibit the repair, improvement, or modernizing of a lawful nonconforming building to correct deterioration, obsolescence, depreciation, and wear.
2. *Structural changes.* In a district where residences are not permitted, an existing single-family or two-family use building may have permitted additions and structural alterations providing:
    a. That such structural changes are made only if in conformity with all the regulations of height, area, yard, useable open space, and off-street parking, as required in the district.
    b. That no additional family units may be provided, and that there is no intensification of occupancy as would constitute a rooming or boarding house.
    c. That floor area added shall not exceed 50 percent of the total floor area in the existing dwelling.
    d. That such addition may not be made if a portion of the existing dwelling has been converted to commercial or industrial use subsequent to the prospective zoning.
3. *Restoration of damaged structures.* A nonconforming building which is partially destroyed, in any manner or from any cause whatsoever, may be restored provided the cost of such restoration does not exceed its true cash value as determined by the most recent village tax roll. No repairs or restoration shall be permitted, however, unless started within one year from the date of the partial destruction and is diligently carried on to completion. If the cost of restoration exceeds the true cash value of the original structure, as determined by the most recent village tax roll, such structure when restored shall comply with all provisions of the district in which it is located, except that, if it is located on a lot with a smaller lot area or a lesser width of lot than is prescribed for the district in which it is located, it need not comply with the provisions of that district for minimum lot area or minimum width of lot but shall maintain as a minimum the lot area and lot width existing previous to the damage to the building or structure.

(Ord. No. 346, § 2203, 6-19-2000)

Sec. 2204. Prior construction approval.

Nothing in this chapter shall prohibit the completion of construction and use of a nonconforming building for which a building permit was issued prior to the effective date of this ordinance provided that construction is commenced within 90 days after the date of issuance of the permit; the construction is carried on diligently and without interruption for a continuous period in excess of 30 days; and that the entire building shall have been completed according to the plans filed with the permit application within two years after the issuance of the building permit.

(Ord. No. 346, § 2204, 6-19-2000)

Sec. 2205. Nonconforming lots of record.

The purpose of this section is to permit the utilization of recorded lots, which lack required lot size and open space as long as reasonable standards can be provided.

1. In any zone or district in which single-family, two-family, or multiple-family dwellings are permitted, such dwellings, and customary accessory buildings, as permitted in the zone(s), may be erected or enlarged on any single lot that was a lot at the date of this ordinance.
2. This provision shall apply even though the lot of record fails to meet the requirements for minimum frontage or minimum area, or both, that are generally applicable in the zone or district. Notwithstanding the above provisions, the zoning administrator may issue a land use permit in those instances where a nonconforming lot or combination of lots of record meets 80 percent of the minimum frontage, setback, or area requirements of this ordinance upon a determination that said 80 percent is in conformance with the general standard of the neighborhood.
3. The lot must also meet all public health and sanitary requirements for the proper installation of sanitary facilities, such as but not limited to a septic system, for the proper disposal of human and household waste prior to permitting construction on the lot of record.
4. If two or more lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this ordinance, or an amendment thereto, with continuous frontage and under single ownership do not meet the requirements established for lot width or lot area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portions of such parcel shall be used or divided in a manner which diminishes compliance with lot width and area requirements established by this ordinance. If such lot is used, it shall lose its nonconforming status.

(Ord. No. 346, § 2205, 6-19-2000)

Sec. 2206. Nonconforming signs.

Nonconforming signs shall be regulated in accordance with the provisions of section 2111 of this ordinance.

(Ord. No. 346, § 2206, 6-19-2000)

Sec. 2207. Elimination of nonconforming uses and buildings.

In accordance with applicable state and local permissive legislation, the legislative body, through its agents may acquire properties on which nonconforming buildings or uses are located by condemnation or other means, and may remove such uses or structures. The resultant property may be leased or sold for a conforming use or may be used by the village for a public use. The net cost of such acquisition may be assessed against a benefit district, or may be paid from other sources of revenue.

(Ord. No. 346, § 2207, 6-19-2000)

Sec. 2208. Changes in nonconforming uses.

Upon a written petition of the owners of a parcel of property, the zoning board of appeals may authorize a change from one nonconforming use to another nonconforming use provided the proposed use would be more suitable to the zoning district in which it is located than the nonconforming use which is being replaced. The zoning board of appeals may place such limitations on such approval as it deems appropriate and as authorized in section 508 of this ordinance.

(Ord. No. 346, § 2208, 6-19-2000)

Sec. 2209. Expansion or alteration of non-conforming structures.

Where a lawful structure exists at the effective date of adoption of this ordinance that could not be built under the terms of this ordinance by reason of restriction on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, it may be continued so long as it remains otherwise lawful, subject to the following provisions.

1. No non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be enlarged or altered if the alteration conforms to the requirements of the zoning district or if the alteration will decrease its non-conformity.
2. Should a non-conforming structure be moved for any reason whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
3. In approving the expansion or enlargement of a non-conforming structure, the Zoning Administrator may place reasonable conditions (such as landscaping, fencing, etc.) to help mitigate the possible impacts of the area(s) of nonconformity from the adjacent property.

(Ord. No. 353, § 11, eff. 5-5-2002)

CHAPTER 23. SPECIAL USE PERMIT REQUIREMENTS

Sec. 2301. Purpose.

This chapter provides a set of procedures and standards for special uses of land or structures which, because of their unique characteristics, require special consideration in relation to the welfare of adjacent properties and the community as a whole. The regulations and standards, herein, are designed to allow, on one hand, practical latitude for the investor or developer, but at the same time maintain adequate provision for the protection of the health, safety, convenience, and general welfare of the community. For purposes of this ordinance, all Special Land Uses within the various districts are subject to the conditions and standards of this chapter.

(Ord. No. 346, § 2301, 6-19-2000)

Sec. 2302. Permit procedures.

The application for a special use permit shall be submitted and processed under the following procedures:

1. Submission of application. An application shall be submitted through the zoning administrator on a special form for that purpose. Each application shall be accompanied by the payment of a fee as established by the village council.
2. In the event the allowance of a desired use requires both a rezoning and special use permit, the rezoning shall be considered separately and acted upon by the village council prior to consideration of the special use request.
3. Data required.
    a. The special form completed in full by the applicant including a statement by the applicant that section 2304 permit standards can be fulfilled.

b. A site plan showing the location, area and dimensions of all existing and proposed structures as specified in chapter 24, site plan review.

4. Planning commission review and hearing.

a. Notice. Upon the planning commission's receipt of an application from the village clerk, the village clerk shall publish one notice of a public hearing in a newspaper of general circulation in the Village of Fowlerville, that a request for a special land use approval has been received. The zoning administrator shall also assure notice of the meeting to consider the request is sent by first class mail or personal delivery to 1) the owners of property for which approval is being considered; 2) all persons to whom real property is assessed on the village's last assessment roll within 300 feet of the boundary of the property in question; and 3) the occupants of all structures within 300 feet of the boundary of the property in question. 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 be given not less than five days and not more than 15 days before the public hearing.

b. Notice requirements. The notice shall state all of the following:

(1) Describe the nature of the special land use request;

(2) Indicate the lot which is the subject of the special land use request;

(3) State when and where the special land use request will be considered;

(4) Indicate when and where written comments concerning the request will be received;

(5) Indicate that a public hearing will be held by the planning commission on the special land use request and give the date, time and location of the public hearing.

c. Public hearing for special land use. The planning commission shall hold a public hearing for the purpose of considering the special land use request.

d. Upon the conclusion of such hearing, the planning commission shall approve, approve with conditions, or deny the special land use. In making its decision, the planning commission will consider each of the general permit standards established in this chapter, as well as the specific standards for the special use requested.

5. Permit expiration. A special use permit issued pursuant to this chapter shall be valid for one year from the date of issuance. If construction has not commenced and proceeded meaningfully toward completion by the end of this one-year period, or if a certificate of occupancy is not issued for the proposed use within 18 months after the date of issuance of the permit by the zoning administrator, the special use permit shall become null and void. The zoning administrator may issue an extension of up to 90 calendar days as to the time limits provided in this subsection when the zoning administrator feels the extension is warranted and the work on the proposed use is proceeding meaningfully toward completion, as determined by the zoning administrator. Further extensions may be granted when deemed appropriate by the Fowlerville Planning Commission. The zoning administrator shall notify the applicant in writing of the expiration of said permit.

a. The planning commission may grant up to one additional one year extension, if requested by the property owner, in writing, prior to the expiration of the original one year period, upon showing

that the development has encountered unforseen difficulties beyond the control of the applicant, and the project will proceed within the extension period.

b. If the above provisions are not fulfilled or the extension has expired prior to construction, the special use approval shall become null and void.

6. Revocation. The planning commission shall have the authority to revoke any special use permit after it has been proved that the holder of the permit has failed to comply with any of the applicable requirements in chapter 23, or other applicable sections. Written notice of violation shall be given by the zoning administrator to the holder of the permit and correction must be made within 30 days. After a 30-day period an additional notice shall given by the zoning administrator, and the use for which the permit was granted must cease within 60 days from date of second notice.

7. Reapplication. No application for a special use permit which has been denied wholly or in part by the planning commission shall be resubmitted until the expiration of one year or more from the date of denial, except on the grounds of newly discovered evidence or proof of change of conditions.

(Ord. No. 346, § 2302, 6-19-2000)

Sec. 2303. Conditions and safeguards.

1. The planning commission may impose reasonable conditions in conjunction with its approval of a special use permit, which are deemed necessary to ensure compliance with the general standards of section 2304 and the specific design standards of this chapter for individual uses. The conditions, if any, shall be recorded in the written decision of the planning commission.

2. Any condition imposed under this section shall do all of the following:

   a. Be designed to protect natural resources, the health, safety and welfare, as well as the social and economic well-being of those who will use the special land use and the community as a whole;

   b. Be related to the valid exercise of the police power and purposes which are affected by the special land use;

   c. Be necessary to meet the intent and purpose of the zoning regulations; and be related to the general and specific conditions enunciated in this ordinance for approval of special land use requests.

   3. In order to ensure conformance with the special use approval and all conditions attached thereto, the planning commission may require a financial guarantee in a form as prescribed by section 419 of this ordinance.

(Ord. No. 346, § 2303, 6-19-2000)

Sec. 2304. Permit standards.

Before approving or denying a special use permit application, the planning commission shall establish that the following general standards, as well as specific standards, shall be satisfied.

1. *General standards.* The planning commission shall review each application for the purpose of determining that the proposed use on the subject site will:

   a. Be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.

b. Not be hazardous or disturbing to existing or intended uses in the same general area and will be an improvement to property in the immediate vicinity and to the community as a whole.

c. Be served adequately by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, or schools.

d. Not create excessive additional requirements at public cost for public facilities and services.

e. Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors.

f. Be consistent with the intent and purpose of the zoning district in which it is proposed to locate such use.

2. *Specific requirements.* The general standards and requirements of this section are basic to all uses authorized by special use permits. The specific and detailed requirements set forth in the following sections relate to particular uses and are requirements which must be met by those uses in addition to these general standards and requirements, where applicable.

(Ord. No. 346, § 2304, 6-19-2000)

Sec. 2305. Reserved.

Editor's note(s)—Ord. No. 411, § 18, adopted January 18, 2010, repealed the former section 2305 in its entirety, which pertained to adult day care facilities, and derived from Ord. No. 346, § 2305, adopted June 19, 2000.

Sec. 2306. Adult only places of business.

1. No adult only place of business shall be located within 425 feet, measured from property line to property line, of a church, school, public park or playground, noncommercial public assembly facility, public office building, library, child care facility, any other adult only place of business, or any area where large numbers of minors regularly congregate.
2. The site shall not be within 425 feet, measured from property line to property line, of any R-1, R-2, R-3 or R-4 zoning district.
3. Window displays, signs, and decorative or structural elements of buildings shall not include or convey examples of sexual nature, and are limited to one sign. All such displays and signs shall be in conformance with chapter 21 and approved by the village planning commission prior to their use. Any alterations in the above media shall and must be reviewed and approved by the village planning commission.
4. All building entries, windows, and other such openings shall be located, covered, or screened in such a manner as to prevent a view into the interior from any public or semipublic area; and wherever else it is requested by the village planning commission.
5. No loudspeakers or sound equipment shall be used by any adult only place of business that projects sound outside of the adult only place of business so that the sound can be discerned by the public from public or semipublic areas.
6. The adult only place of business shall clearly post at the entrance to the business, or that portion of the business utilized for adult only purposes, that minors are excluded.
7. No person shall reside in or permit a person to reside in the premises of an adult only place of business.

8. No person shall operate an adult only place of business unless there is conspicuously posted, in a room where such business is carried on, a notice indicating the prices for all services performed therein.
9. The owners, operators or persons in charge of an adult only place of business shall not allow entrance into such building or any portion of a building used for such use, to any minors, as defined in Public Act No. 79 of 1971 (MCL 722.51 et seq.), as amended.
10. No adult only place of business shall possess or disseminate or permit persons therein to possess or disseminate on premises any obscene materials as defined in Public Act No. 343 of 1984 (MCL 752.361 et seq.), as amended.
11. Parking spaces shall be provided at the ratio of one space per each person allowed under the maximum occupancy load established by local, county, state, fire, health, or building codes.
12. No adult use shall remain open at any time between the hours of 11:00 p.m. and 10:00 a.m., and no such use shall open on Sundays.
13. No alcohol shall be served at any adult only place of business.
14. All parking areas and the building shall be well lighted to ensure the safety and security of patrons. These areas shall remain lighted for one hour after closing each night.

(Ord. No. 346, § 2306, 6-19-2000)

Sec. 2307. Automobile service stations.

1. The site shall abut and have direct access to a major or minor thoroughfare.
2. The minimum lot size shall be eighteen thousand square feet with a minimum width of 160 feet.
3. The proposed site shall have at least one property line on a major or minor thoroughfare.
4. The service station or permitted buildings shall be set back 50 feet from all street right-of-way lines and shall not be located closer than 50 feet to any property line in a residential district unless separated therefrom by a street or alley.
    a. No installations, except walls or fencing and permitted signs, lighting, and essential services, may be constructed closer than 15 feet to the line of any street right-of-way.
    b. Hydraulic hoists, pits, and all lubrication, greasing, automobile washing, and repair equipment shall be entirely enclosed within a building.
5. Driveway design and location shall conform to the ingress/egress standards of section 2004.
6. A raised curb at least six inches in height shall be erected along all of the street property lines, except at driveway approaches. The entire service area shall be paved with a permanent surface of concrete or asphalt, except as to such landscaping as is expressly approved by the planning commission.
7. All gasoline pumps shall be located not less than 50 feet from any lot line and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or overhanging any public sidewalk, street, or right-of-way.
8. No part of any parcel of land used for automobile service station purposes shall be utilized for the outdoor storage, placement or display of merchandise; provided, however, that the foregoing prohibition shall not apply to the display, on a pump island only, of oil or oil-based products, including by way of example, but not limitation, motor oil, transmission oil, oil and gasoline additives, windshield solvent and windshield wipers.
9. A solid fence or wall six feet in height shall be erected and maintained along all property lines abutting any lot within a residential district.

10. Any abutting residential use shall be screened and buffered in conformance with the requirements of chapter 19, landscape and buffers.

11. Outside parking or storage of recreational equipment, or commercial vehicles or automobiles which are not used in the operation of the business is prohibited; provided, however, that such provision shall not apply to any equipment or vehicle which is temporarily on the premises for repair or service and which is stored or parked in a designated parking place. No more than one tow truck may be parked in the front or side yards or in the street at an automobile service station location. Outdoor storage of disabled, abandoned, junk, wrecked and/or unlicensed vehicles is prohibited. Outdoor storage of rubbish and junked equipment or parts is prohibited unless such rubbish, junked equipment or parts are stored adjacent and to the rear of the principal building and are in a fully screened area approved by the planning commission, and provided, further, that such rubbish and junked equipment or parts shall be removed from the property at least once every week.

12. Exterior lighting shall be arranged so that it is deflected away from adjacent properties and streets. No light fixture shall protrude below the canopy or eaves or create any glare.

(Ord. No. 346, § 2307, 6-19-2000)

Sec. 2308. Bed and breakfast operations.

1. The conduct of all aspects of activities related to such use shall take place within the principal building and not in an accessory building.

2. The rooms utilized shall be a part of the primary residential use and not specifically constructed for rental purposes.

3. The residence shall be owner occupied at all times.

4. Lavatories and bathing facilities shall be available to all persons using any bed and breakfast operation.

5. No residential structure shall be removed in order to allow for a bed and breakfast related use nor shall such a structure be removed in order to provide parking for such use.

6. No premises shall be utilized for a bed and breakfast operation unless there are at least two exits to the outdoors from such premises. Rooms utilized for sleeping shall have a minimum size of 100 square feet for one or two occupants with an additional 30 square feet for each additional occupant to a maximum of four occupants per room. Each sleeping room used for the bed and breakfast operation shall have a separate smoke detector alarm, as required by the Livingston County Building Department pursuant to Public Act No. 230 of 1972 (MCL 125.1501 et seq.), as amended.

7. The structure shall remain a residential structure and the kitchen shall not be remodeled into a commercial kitchen.

8. Meals shall be served only to residents and overnight guests.

9. Each operator shall keep a list of the names of all persons staying at the bed and breakfast operation. Such list shall be available for inspection by village officials at any time.

10. The maximum stay for any occupant of bed and breakfast operations shall be 14 consecutive days.

11. The bed and breakfast room(s) shall occupy no more than a total of 25 percent of the dwelling unit.

(Ord. No. 346, § 2308, 6-19-2000)

Sec. 2309. Outdoor merchandise display.

1. Only merchandise sold on the premises may be displayed.
2. No fixtures or merchandise shall be located so as to obstruct the movement of pedestrians along the sidewalk or obstruct the visibility of vehicles on the street.
3. All merchandise, displays, and fixtures shall be removed and stored indoors during nonbusiness hours.
4. No lighting, motors, or electrical apparatus shall be employed in any outdoor display.
5. The area devoted to such outdoor display shall be maintained in a safe, clean, attractive, and sanitary manner.

(Ord. No. 346, § 2309, 6-19-2000)

Sec. 2310. Bulk storage of flammable and combustible materials.

1. The use shall have direct access to a hard-surfaced roadway.
2. Sites of ecological significance shall be avoided.
3. Tanks or other containers installed below the ground level shall have leak detection and groundwater monitoring systems.
4. Aboveground tanks exceeding 1,000 gallons capacity shall be positioned so that a tank is completely surrounded by a concrete and curbed spill containment area. The design capacity of the spill containment area shall be 1½ times the volume of the tank.
5. The proprietor or landowner shall file with the village clerk copies of all licenses issued to the proprietor or landowner by the State of Michigan and copies of any bonds required by the State of Michigan.
6. Security fencing shall be erected to a height of not less than six feet to enclose the storage area. Such fencing shall be solid or other aesthetically pleasing material to blend in with the adjoining areas.
7. The side and rear yard setbacks shall be 50 feet as measured from the lot lines.

(Ord. No. 346, § 2310, 6-19-2000)

Sec. 2311. Reserved.

Editor's note(s)—Ord. No. 411, § 19, adopted January 18, 2010, repealed the former section 2311 in its entirety, which pertained to child day care facilities, and derived from Ord. No. 346, § 2311, adopted June 19, 2000.

Sec. 2312. Commercial transmitting and receiving towers.

1. The lot size shall be a minimum of twenty thousand (20,000) square feet.
2. The tower shall be of a monopole design.
3. The tower shall be set back from all lot lines a minimum distance equal to one-half the height of the tower. All other buildings, structures, and guy wires shall meet the minimum setback requirements of the zoning district.
4. A security fence at least six feet in height shall be constructed around the tower and supports.

5. Where possible, joint use of tower facilities, including village elevated storage tanks, shall be required in order to minimize the number of separate towers and individual locations throughout the village. As a condition of approval, the applicant shall agree to permit future users to share the tower facility and shall demonstrate that it is not feasible to locate the proposed tower on public lands or co-locate on an existing tower.
6. Unless located on the same site or tower with another user, no new tower shall be erected within a one-half mile radius of an existing radio, television, cellular, or wireless communications tower.
7. No signs, except warning or other cautionary signs, shall be permitted on the site.

(Ord. No. 346, § 2312, 6-19-2000)

Sec. 2313. Conversion of a one-family to two-family dwelling.

1. Any conversion of single-family dwellings to two-family structures should not have a detrimental effect on adjacent single-family homes.
2. Sites should have direct access to hard-surfaced roadways.
3. Conversions of single-family dwellings shall be developed where provisions of public services will not create an unreasonable burden upon the Village of Fowlerville.
4. The livable floor area of the dwelling shall not be increased as a result of the conversion.
5. Off-street parking facilities shall be provided, as required, for each unit.
6. Two wholly separated dwelling units are to be created, with individual separate entrances into each dwelling unit.
7. All applicable permits and building code provisions are to be complied with.
8. All two-family dwelling units shall be served by public sanitary sewer.
9. Conversions are allowed only upon lots and structures in conformance with the area, height and bulk requirements of this ordinance.
10. Accessory structures shall not be converted to living space.

(Ord. No. 346, § 2313, 6-19-2000)

Sec. 2314. Dwelling units on the upper floors of buildings with non-residential uses on the main floor.

1. No commercial uses, including storage, shall be located on the same floor of the building as the dwelling unit.
2. Two on-site parking spaces shall be required for each dwelling unit.
3. Access to dwelling units shall be from outside of the building.
4. No dwelling unit shall be located on the ground floor of the building.

(Ord. No. 346, § 2314, 6-19-2000)

Sec. 2315. Reserved.

Editor's note(s)—Ord. No. 411, § 20, adopted January 18, 2010, repealed the former section 2315 in its entirety, which pertained to foster care facilities, and derived from Ord. No. 346, § 2315, adopted June 19, 2000.

Sec. 2316. Funeral homes and mortuaries.

1. All aspects of activities related to such uses shall take place within the principal building and not in an accessory building. A caretaker's residence may be provided within the principal building.
2. The minimum site size shall be one acre with a minimum width of 150 feet.
3. The proposed site shall front upon a major or minor thoroughfare. All ingress and egress to the site shall be directly from said thoroughfare.
4. Front, side, and rear yards shall be at least 40 feet, except on those sides adjacent to nonresidential districts wherein it may be 20 feet. All yards shall be appropriately landscaped in trees, shrub, and grass in accordance with the requirements of section 19. No structures or parking areas shall be permitted in said yards, except that rear yards may be used for parking purposes under the requirements specified, and except for required entrance drives and those walls and/or fences used to obscure the use from abutting residential districts.
5. Driveway design and location shall conform to the ingress/egress standards of section 2004.
6. No waiting lines of vehicles shall extend off-site or onto any public street.

(Ord. No. 346, § 2316, 6-19-2000)

Sec. 2317. Institutional uses.

1. Uses. The following uses may be authorized in the noted districts provided the applicable conditions are complied with:
    a. *Human care institutions.* Sanitariums, nursing or convalescent facilities, facilities for the aged, and philanthropic and charitable institutions.
    b. *Religious institutions.* Churches or similar places of worship, convents, parsonages and parish houses, and other housing for clergy.
    c. *Educational and social institutions.* Public and private elementary and secondary schools and institutions for higher education, provided that none are operated for profit; also auditoriums and other places of assembly, and centers for social activities, including charitable and philanthropic activities, other than activities conducted as a gainful business or of a commercial nature.
    d. *Public buildings and public service installations.* Publicly owned and operated buildings, public utility buildings and structures, public utility transformer stations and substations, public utility gas regulator stations, utility pumping stations, and water towers.
    e. *Institutions for the mentally impaired and physically handicapped.* Institutions for the mentally impaired and physically handicapped.
2. Institutions specifically prohibited. Prison camps or correctional institutions shall not be permitted in any residential district.

3. Any institutional structure or use should be located within a PL district. If proposed for a residential district the structure or use should preferably be located at the edge of a residential district, abutting either a business or industrial district, or adjacent public land district.

4. Motor vehicle entrance should be made on a major thoroughfare or immediately accessible from a major thoroughfare so as to avoid the impact of traffic generated by the institutional use upon a residential area.

5. Site locations should offer natural or manmade barriers that would lessen the impact of the institutional intrusion upon a residential area.

6. Development requirements. A special use permit shall not be issued for the occupancy of a structure or parcel of land or for the erection, reconstruction, or alteration of a structure unless complying with the following site development requirements:

    a. Churches.

        (1) The proposed site shall be at least one-half acre per 100 seats in the main auditorium.

        (2) The proposed site shall be so located as to have at least one property line on a major or minor thoroughfare or collector street. All ingress and egress to the site shall be directly onto said thoroughfares or access service drive thereof.

        (3) No more than 25 percent of the gross site area shall be covered by buildings or structures.

    b. Public utility transformer stations and substations, public utility gas regulator stations, utility pumping stations, and housing for religious personnel related to a church or school function.

        (1) No more than 25 percent of the gross site area shall be covered by buildings.

        (2) All buildings shall be harmonious in appearance with the surrounding residential area and shall be similar in design and appearance to any other buildings on the same site development.

        (3) Where mechanical equipment is located in the open air, it shall be screened from the surrounding residential areas by suitable plant material and it shall be landscaped and maintained to harmonize with the surrounding area.

    c. Institutions for the mentally impaired and physically handicapped.

        (1) The proposed site shall be at least five acres in area.

        (2) The proposed site shall have at least one property line abutting a major or minor thoroughfare or collector. All ingress and egress to the off-street parking area shall be directly from the major or minor thoroughfare, or collector and shall be in accordance with the ingress/egress standards of section 2004.

        (3) All two-story structures shall be at least 100 feet from all property or street lines. Buildings less than two stories shall be no closer than 50 feet to any property or street line.

        (4) No more than 25 percent of the gross site shall be covered by buildings.

        (5) Ambulance and delivery areas shall be obscured from all residential view by a solid masonry wall of not less than six feet in height. Access to and from the delivery and ambulance area shall be directly from a major thoroughfare.

    d. All other institutional uses not specified in subsections a., b. or c. above:

        (1) The proposed site shall be at least two acres in area.

        (2) No building shall be closer than 40 feet to any property or street line. No building shall be erected to a height greater than that permitted in the district in which it is located, except as may be provided under height exceptions for the district in question.

(3) Not more than 25 percent of the gross site area may be covered by buildings.

(4) All buildings shall be of an appearance that shall be harmonious and unified as a group of buildings and shall blend appropriately with the surrounding area.

(5) Where mechanical equipment is located in the open air, it shall be screened from the surrounding residential area by suitable plant material and it shall be fenced for safety. All buildings housing mechanical equipment shall be landscaped and maintained to harmonize with the surrounding area.

(6) No parking space shall be provided in the front yard and the parking area shall be screened from surrounding residential areas by a wall or fence, in combination with suitable plant materials, not less than six feet in height.

(Ord. No. 346, § 2317, 6-19-2000)

Sec. 2318. Junk/salvage yards.

1. All uses shall be established and maintained in accordance with all applicable state and local statutes, regulations and ordinances. If any of the requirements of this subsection are less than those in applicable state statutes, the state requirements shall prevail.
2. The use shall have direct access to a major or minor thoroughfare or have access by construction of less than one-half mile of new hard-surfaced road.
3. Sites of ecological significance shall be avoided.
4. The site shall be a minimum of five acres in size.
5. A solid fence or wall at least eight feet in height shall be provided and maintained around the entire periphery of the site to screen said site from surrounding property. Such fence or wall shall be of sound construction, painted, or otherwise finished neatly and inconspicuously.
6. All activities shall be confined within the fenced-in area. There shall be no stocking of material above the height of the fence or wall, except that moveable equipment used on the site may exceed the wall or fence height. No equipment, material, signs, or lighting shall be used or stored outside the fenced-in area.
7. All fenced-in areas shall be set back at least 100 feet from any front street or property line. Such front yard setback shall be planted with trees, grass, and shrubs to minimize the appearance of the installation.
8. No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing, or packaging shall be conducted within a completely enclosed building.
9. Whenever the installation abuts upon property within a residential or commercial district, a transition strip at least 200 feet in width shall be provided between the fenced-in area and the property within a residential or commercial district. Such strip shall contain plant materials, grass, and structural screens of a type approved by the planning commission to effectively minimize the appearance of the installation and to help confine odors therein.

(Ord. No. 346, § 2318, 6-19-2000)

Sec. 2319. Major and minor water bodies.

1. Artificial water bodies created by embankments or dams across streams or watercourses are not permitted in the Village of Fowlerville.

2. Side slopes of excavated water bodies shall not be steeper than one vertical to three horizontal unit of distance. All excavated bodies shall have an escape ramp which extends to the anticipated low water elevation at a slope no steeper than six horizontal to one vertical unit of distance. This escape ramp shall be no less than ten feet wide.
3. Wherever surface water enters or exits the water body via a natural or excavated channel, the side slope of the water body shall be protected against erosion and sedimentation by a method approved by the zoning administrator and the office of the Livingston County Drain Commission.
4. No cut or excavation shall be made closer than 60 feet to any street right-of-way line or property line in order to insure [ensure] sublateral support to surrounding property.
5. Excavated material shall be placed around the water body or disposed of in any of the following ways:
    a. Removed from the site.
    b. Uniformly spread to a height not exceeding three feet above the original surface with the top graded to a continuous slope away from the pond. The slope shall not exceed four to one.
    c. Shaped in forms which assume a natural angle of repose for the material and which blend visually with the landscape. No less than 12 feet shall exist between the edge of the water body and the toe of the fill.
6. Erosion control shall be provided for filled or disturbed surface areas as well as for the margins of the water body.
7. Major water bodies, as defined in chapter 3, are allowed only on singular parcels which exceed four acres. Minor water bodies are allowed only on singular parcels which exceed two acres in size.
8. The average depth of the excavated area for major water bodies must 14 feet.
9. Eighty percent of the surface area of the water body must be excavated.
10. Major water bodies shall be enclosed by a fence of six feet or more in height for the entire periphery of the property or portion thereof. Fences shall be locked to prevent trespass, and shall be placed no closer than 50 feet at the top or bottom of any slope. Minor water bodies shall be completely enclosed by a fence, which can be locked, no less than four feet and no more than six feet in height.
11. No building shall be erected on the premises except as may be permitted in the zoning district.
12. Minor water bodies shall cover less than 25 percent of the parcel's surface area, and shall also have a water surface area less than one acre.
13. All yard and setback requirements for the zoning district shall be met.

(Ord. No. 346, § 2319, 6-19-2000)

Sec. 2320. Ministorage and warehouses.

1. All traffic access shall be to and from a hard-surfaced roadway. Ingress and egress shall conform to the standards of section 2004.
2. Ministorage and warehouses shall be developed on lots no less than two nor more than five acres in size. No more than 60 percent of the lot may be used for buildings, parking lots and access.
3. The perimeter of the project will be fenced to a height of six feet with a material acceptable to the planning commission. The fence shall be set back at least 30 feet from the roadway frontage. A landscaped yard of 30 feet in width shall be provided along all roadway frontages. Required landscape buffers shall be provided in

accordance with section 1904. Minimum side and rear yards as specified for the permitted uses within the district shall be maintained.

4. There shall be a minimum of 35 feet between storage facilities for driveway, parking, and fire lane purposes. Where no parking is provided within the building separation areas, said building separation need only be 25 feet. Traffic direction and parking shall be designated by signing or painting. The lot area used for parking and access shall be provided with a paved surface and shall be drained so as to dispose of all surface water.
5. If a freestanding project office is provided for management of the ministorage or warehouse business, development shall take place within the fenced project area subject to the general development provisions for the permitted district. Such project office shall be calculated as part of the 60-percent lot coverage permitted for ministorage and warehouse uses. Parking for the project office shall be not less than one space per 25 storage cubicles and for the storage buildings shall meet the schedule of parking areas specified in chapter 16 for industrial and warehouse uses.

(Ord. No. 346, § 2320, 6-19-2000)

Sec. 2321. Open air business.

1. The use shall have direct access to a major or minor thoroughfare or have access by construction of less than one-half mile of new hard-surfaced road.
2. The display area shall be provided with a permanent, durable, and dustless surface, and shall be graded and drained so as to dispose of all surface water.
3. Ingress and egress shall conform to the standards of section 2004.
4. No major repair or refinishing shall be done on the lot.
5. The lot must be associated with a permitted use in the district.
6. Outdoor storage of disabled, damaged or inoperable vehicles is prohibited.

(Ord. No. 346, § 2321, 6-19-2000)

Sec. 2322. Private service clubs, fraternal organizations and lodge halls.

1. The minimum lot area shall be one acre.
2. The site shall have at least one property line abutting a major thoroughfare.
3. All vehicular ingress and egress to the site shall be directly from a major thoroughfare.

(Ord. No. 346, § 2322, 6-19-2000)

Sec. 2323. Restaurants, drive-in.

1. The minimum site size shall be 18,000 square feet with a minimum width of 160 feet.
2. The proposed site shall have at least one property line on a major or minor thoroughfare.
3. The permitted buildings shall be set back 50 feet from all street right-of-way lines and shall not be located closer than 50 feet to any property line in a residential district unless separated therefrom by a street or alley.

4. No installations, except walls or fencing and permitted signs, lighting, and essential services, may be constructed closer than 15 feet to the line of any street right-of-way.
5. Driveway design and location shall conform to the ingress/egress standards of section 2004.
6. A raised curb at least six inches in height shall be erected along all of the street property lines, except at driveway approaches. The entire service area shall be paved with a permanent surface of concrete or asphalt, except as to such landscaping as is expressly approved by the planning commission.
7. A solid fence or wall four feet in height shall be erected and maintained along all property lines abutting any lot within a residential district.
8. Any abutting residential use and outdoor trash receptacle shall be screened and buffered in conformance with the requirements of chapter 19, landscape and buffers.
9. The site shall be so designed as to provide adequate stacking space for drive-through customers without obstructing access to off-street parking spaces, interfering with traffic circulation through the site, or causing vehicles to queue off the site.
10. Outdoor speakers for the drive-through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.

(Ord. No. 346, § 2323, 6-19-2000)

Sec. 2324. Single-family residential uses in BC districts.

1. Single-family residential uses shall be permitted only in structures built prior to the adoption of this ordinance, which were designed and originally erected as single-family residential dwellings.
2. The single-family residential dwellings shall comply with the requirements in section 610 of this ordinance.
3. In the event a single-family residential structure erected prior to adoption of this ordinance located within the BC district has been substantially modified to permit commercial uses, further residential use of the structure as a single-family dwelling shall only be permitted if the residential design and appearance of the structure is restored.
4. Any single-family residential dwelling used solely for that purpose within the BC district shall comply with the site development requirements, applicable to the R-2 village core residential district, as set forth in section 1004 of this ordinance.
5. All applicable permits and building code provisions are to be complied with.

(Ord. No. 346, § 2324, 6-19-2000)

Sec. 2325. Veterinary hospitals, clinics, and kennels.

1. The proposed site shall be at least two acres in area.
2. The proposed site shall have at least one property line abutting a major or minor thoroughfare. All ingress and egress to the site shall be directly from said thoroughfare and comply with the ingress/egress standards of section 2004.
3. All buildings and structures shall be set back at least 100 feet from any property or street line. Whenever the installation abuts upon property within a residential district, this 100-foot setback shall be landscaped with trees, grass, and structural screens of a type approved by the planning commission to effectively screen the installation from surrounding residential properties.

4. No more than 25 percent of the gross site shall be covered by buildings.

(Ord. No. 346, § 2325, 6-19-2000)

Sec. 2326. Planned unit residential development.

The purpose of this section is to establish planned unit residential development (PURD) requirements to permit flexibility in the regulation of land development; encourage innovation in land use and variety of design, layout and type of structures constructed; achieve economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities; encourage useful open space and infill development.

1. The following regulations shall apply to all planned unit residential developments (PURDs):
    a. PURDs must contain no less than two acres in lot area.
    b. PURDs may be located only in zoning districts that list planned unit residential developments as a special use.
    c. The uses permitted in a PURD shall be those uses permitted in the district in which the PURD is located and any additional uses which are shown to be compatible with the general objectives of the zoning ordinance, as well as being an integral part of the PURD in which they are contained. For purposes of this section, an integral use is one that has a specific functional relationship with other uses in the development. For example, a day care center which primarily serves the needs of the residents in the development.
2. The requirements and standards upon which the application will be judged are as follows:
    a. Yard, setback, lot size, type of dwelling unit, height and frontage requirements may be waived for a PURD, provided that the spirit and intent of this section are part of the total development plan. The village may determine that certain setbacks may be established within all or a portion of the perimeter of the development and shall determine the suitability of the entire development plan in accordance with the purpose and intent of this section.
    b. Every structure or dwelling unit shall have access to a public street, walkway, or other area dedicated to common use.
    c. The approximate location of structures shown on the conceptual development plan shall be arranged so they are not detrimental to existing or proposed structures within the development or the surrounding neighborhood.
    d. Each development shall provide reasonable visual and acoustical privacy for dwelling units. Fences, walks, barriers and landscaping shall be used as appropriate for the protection and aesthetic enhancement of property and the privacy of its occupants by screening objectionable views or uses and reduction of noise.
    e. Parking convenient to all dwelling units and other uses shall be provided pursuant to the minimum requirements of this ordinance. Common driveways, parking areas, walks and steps may be required together with appropriate lighting in order to insure the safety of the occupants and the general public. Screening of parking and service areas may be required through the use of trees, shrubs, hedges, or screening walls.
    f. All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of plot, the character of adjoining property and the type and size of buildings. The arrangement of buildings shall be done in such a way as to utilize natural topography, existing vegetation and views within and beyond the site.

g. The development shall preserve and enhance the character of the site by retaining and protecting the existing trees and other site features; additional new landscaping shall be provided for privacy, shade, beauty of buildings and grounds and to screen objectionable features.

3. The following additional procedural requirements for PURDs are in addition to those required for other special land uses:

a. Prior to submitting an application for a PURD, the applicant shall attend a pre-application conference with the planning commission for the purpose of discussing the proposed development and obtaining information about the village procedures for processing PURD applications. This conference shall be informal and neither party needs to make any commitments.

b. In additional to the general requirements for special use permits, PURD applicants shall submit the following for preliminary review by the planning commission:

(1) A development plan, drawn to a readable scale, of the entire development, showing its location within the village and its relationship to adjacent property.

(2) A site plan showing the proposed types and location of all proposed structures and the anticipated population density for each type of structure and for the entire project. It shall indicate the purpose for each structure, traffic circulation, parking layout and pedestrian pathways. It shall also show total acreage, the nature and location of all common open space and the proposed method of maintaining open space as a permanent feature.

(Ord. No. 375, § 5, 5-16-2005)

Sec. 2327. Outdoor display, sales or storage.

1. A special land use approval may be granted for outdoor display, sales, or storage on the same property as an approved principal use deemed compatible by the planning commission.
2. Stored vehicles or goods on a site without a building, shall meet the setback requirements of the zoning district. If a building is located on the site, no outdoor storage shall be permitted in any required yard of buildings for the district in which the commercial outdoor storage use is located.
3. If retail activity is associated with the use, an enclosed building of at least 500 square feet of gross floor area for office and sales use is required.
4. The storage of soil, sand, mulch, and similar loosely packaged materials shall be contained and covered to prevent it from blowing into adjacent properties. The outdoor storage of fertilizers, pesticides, and other hazardous materials is prohibited.
5. All stored materials including loosely packaged materials shall not be piled or stacked higher than the height of the obscuring screen. Vehicles, implements, and recreational vehicles may exceed the height of the screen provided that they are set back from the screen a distance equal to their height.
6. All outdoor storage areas shall be paved with a permanent, durable, and dustless surface and shall be graded and drained to dispose of all surface water.
7. All loading and truck maneuvering shall be accommodated on-site or on a dedicated easement.
8. Fencing and lighting for security purposes may be required as determined by the planning commission.

(Ord. No. 380, § 8, 9-18-2006)

Editor's note(s)—Ord. No. 380, § 8, adopted September 18, 2006, enacted provisions intended for use as § 2326. Inasmuch as there are already provisions so designated, and at the discretion of the editor, said provisions have been redesignated as § 2327.

Sec. 2328. Microbrewery.

1. A Michigan "Micro Brewer" License, as defined by MCL 436.1109(3), shall be required.
2. A "Brewer" License, as defined by MCL 436.1105(11), operated establishment is not permitted in the BC District.
3. No more than 75 percent of the total gross floor space of the establishment shall be used for the brewery function including, but not limited to, the brewhouse, boiling and water treatment areas, bottling and kegging lines, malt milling and storage, fermentation tanks, conditioning tanks and serving tanks.
4. All mechanical equipment visible from the street (excluding alleys), an adjacent residential use or residential zoning district shall be screened using architectural features consistent with the principal structure.
5. Outdoor storage shall not be allowed. This prohibition includes the use of portable storage units, cargo containers and tractor trailers.
6. Commercial sales, if permitted by license, may be permitted on site.

(Ord. No. 447, § 4, 1-26-2015)

CHAPTER 24. SITE PLAN REVIEW AND IMPACT ASSESSMENT

Sec. 2401. Purpose.

1. It is the purpose of this chapter to require a site plan review and impact assessment approval for certain buildings, structures and uses which are expected to impact the public health, welfare and safety in relationship to natural resources, stormwater runoff, utilities, landscaping, traffic patterns, adjacent parcels, signs and the character of future development. It is the purpose of the impact assessment report to accompany a site plan and specifically address the anticipated impact of a proposed use on the natural features, economic climate, social environment, public infrastructure and public services in the Village of Fowlerville.
2. The standards of this ordinance apply to both new and existing development including grading, parking, storage, lighting, fencing, signage, building construction and demolition.
3. No permit shall be issued for any type of construction, renovation, erection, expansion and/or change in use or occupancy requiring site plan or plat approval except in accordance with the standards of this chapter.
4. The regulations contained in this ordinance are intended to allow reasonable use of property while assuring longterm community benefits such as:
    a. Promotion of safe and convenient traffic movement, both within a site and in relation to access streets;
    b. Promotion of harmonious relationships of buildings, structures, and uses, both within a site and with adjacent sites;
    c. Conservation and protection of natural amenities and resources, both above and below ground;
    d. Preservation of the integrity of the utility system in the Village of Fowlerville; and
    e. Preservation of wetlands, woodlands and wildlife areas.

(Ord. No. 346, § 2401, 6-19-2000)

Sec. 2402. Uses requiring site plan review and impact assessment.

1. A detached single-family or two-family dwelling permitted by right on a lot or parcel not having any other dwelling existing or to be located thereon does not require site plan review or impact assessment.
2. All other land uses, including condominium projects (see section 617), shall be subject to site plan approval if any one or more of the following minimum standards are met:
    a. The use requires three or more parking spaces.
    b. The land under development is two acres or more.
    c. The building under construction consists of 2,000 square feet or larger.
    d. The proposed structure, use or land to be developed will abut an existing residential district or lot.
    e. The proposed use requires a special land use permit.
3. Developments requiring an impact assessment shall be subject to requirements delineated in section 2404.
4. Developments on lands containing the following features or conditions require an impact assessment:
    a. Archaeological finds.
    b. Endangered species habitat.
    c. Floodplain, 100-year. An area which has a one percent change of flood occurrence in any given year.
    d. Hedgerow. A row of eight or more trees having a four-inch or more diameter at four feet above grade. (The dripline of the trees defines the land area of a hedgerow.)
    e. Ponds and lakes. A natural or artificial impoundment that retains water year round.
    f. Steep slopes. Slopes equal to or exceeding a grade of 33 percent or a 3:1 ratio of run over rise, with a change of elevation of three feet or more.
    g. Wetlands. Land area of one acre or more where standing water is retained for a portion of the year and does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh.
    h. Woodlot. An area of one-fourth acre or more containing eight or more trees per one-fourth acre having a four-inch or more diameter at a four-foot height.
    i. Traffic. A proposed use or combination of uses which would be reasonably expected to generate over 50 directional trips during the peak hour of the traffic generator or the peak hour on the abutting streets; or over 750 trips in an average day; provided, if no other environmental conditions (as listed in section 2402.4 a—h) exist on the site, only a traffic impact analysis shall be required.

(Ord. No. 346, § 2402, 6-19-2000)

Sec. 2403. Application: site plan review.

1. Applicant: The owner, or the owner's designated agent, of the subject property shall file a request with the planning commission for site plan approval.
2. Application: Twelve copies of a site plan and associated documents including an application shall be submitted to the village manager for processing. Each application shall be accompanied by the payment of a

fee established by the village council to cover costs of processing. The village manager or the manager's designee shall forward the copies of the site plan and associated materials to the zoning administrator within two business days after receipt. The zoning administrator shall determine the completeness of the application and shall forward the application to the planning commission when the required information is provided. The planning commission shall not review incomplete site plan applications. The date of filing of a site plan is established as the date the planning commission is scheduled to review the application. The zoning administrator shall place the site plan on the agenda of the next scheduled planning commission meeting if the site plan documents are determined to be complete.

3. Data required in application: Every application for site plan review shall be accompanied by the following information and data:

   a. A special form supplied by the zoning administrator filled out in full by the applicant. This form shall include the following information:

      (1) The applicant's name and address.

      (2) The applicant's phone number.

      (3) A statement that the applicant is the owner of property or acting on the owner's behalf.

      (4) The name and address of the owner of record if the applicant is not the owner of record.

      (5) The address, legal description and parcel number of the property.

   b. The site plan shall contain the following information:

      (1) Date, north arrow and scale. The scale shall be not less than one inch equals 20 feet for property under three acres, and at least one inch equals 100 feet for sites three acres or more.

      (2) Statistical data. The statistical data shall include the type of development, the number of structures, the number of subunits per structure, the size of each unit, the total area involved, the percent of area being developed, the percent of area used for structures and the percent left undeveloped.

      (3) Location and height of existing and proposed structures. The location and height of all existing and proposed structures on and within 100 feet of the property boundary lines of the property being developed shall be shown.

      (4) Property lines. All lot and/or property lines are to be shown and dimensioned, including building setback lines.

      (5) Location and dimensions; existing and proposed drives, sidewalks, etc. The location and dimensions of all existing and proposed drives, sidewalks, curb openings, signs, exterior lighting, curbing, parking areas, parking spaces, unloading areas and open space recreation areas shall be shown.

      (6) Vehicular traffic and pedestrian circulation. The vehicular and pedestrian circulation features within and adjacent to the development site shall be shown.

      (7) Location of proposed landscaping. The location of all proposed landscaping, greenbelts, separation berms, fences and walls shall be shown. Any topographical alterations or changes in natural terrain, including drainage patterns, shall also be shown (see subparagraph (11)).

      (8) Size and location of existing proposed utilities. The size and location of existing and proposed utilities, including proposed connections to public sewer or water supply system shall be shown.

(9) Location map. The location map shall indicate the relationship of the site to the surrounding land uses including the respective zoning of the abutting properties whether separated by roadways or not.

(10) Data on abutting roads, alleys, etc. The location and pavement width and right-of-way width of all abutting roads, streets, alleys or easements shall be shown.

(11) Drainage facilities. The location and size of all existing and proposed surface water drainage features and changes that might affect the drains shall be shown. The data shall include the percent coverage of impervious surfaces and the means to control stormwater flow.

(12) Contour intervals. The topographic contours shall be shown at two-foot intervals.

(13) Undisturbed areas. The areas to be left undisturbed during construction shall be so indicated on the site plan and shall be so identified on the ground so as to be obvious to construction personnel.

(14) Project detail and specific use. The detail of the specific uses of the project under consideration for a special use permit must be included and may become part of the permit. Alterations of the plans and concepts made after approval by the planning commission shall constitute it change in the project and may require a complete renewal of the site plan process (See section 2407).

(15) Signs. Information shall be included on the type, location, height, size and number of signs proposed.

(16) Drawings. Elevation drawings indicating texture materials to be used.

(Ord. No. 346, § 2403, 6-19-2000)

Sec. 2404. Impact assessment report requirements.

A written impact assessment report shall accompany the site plan submittal for developments of land set forth in section 2402.4 and shall include at a minimum the following information:

1. The party responsible for preparation of the impact assessment report and a brief statement of their, qualifications.
2. Maps and written description of the project site including all existing structures, manmade facilities and natural features. The analysis shall also include information for areas within 100 feet of the property. An aerial photograph or drawing may be used.
3. Impact on natural features: a written description of the environmental characteristics of the site prior to development and following development. This shall include topography, soils, wildlife, woodlands, wetlands, drainage, lakes, streams, creeks, or ponds. Documentation by a qualified wetland specialist shall be required whenever the village determines that there is a potential regulated wetland.
4. Impact on stormwater management: a description of measures to control soil erosion and sedimentation during grading and construction operations and until permanent ground cover is established. Recommendations for such measures may be obtained from the county soil conservation service.
5. Impact on surrounding land uses: a description shall be provided of any increases in light, noise, or air pollution which would negatively impact adjacent properties.
6. Impact on public facilities and services: a description of the number of expected residents, employees, visitors or patrons, and the anticipated impact on public schools, police protection and fire protection. Letters from the appropriate agencies may be provided.

7. Impact on public utilities: a description of the method to be used to serve the development with water and sewer service; the method used to control drainage on the site and from the site. A description of the location of floor drains and where they will discharge. For sites served with sanitary sewer, calculations for predevelopment and post-development flows shall be provided in comparison with sewer line capacity and also be consistent with the village sewer allocation as may be amended from time to time. Expected sewer rates shall be provided in equivalents to a single-family home.

8. Storage and handling of any hazardous materials: a description of any hazardous substances expected to be used, stored or disposed of on the site. The information shall describe the type of materials, location within the site, and method of containment, both above and below ground. Documentation of compliance with federal and state requirements and a pollution incident prevention plan (P.I.P.P.) shall also be required.

9. Impact on traffic and pedestrians: a description of the traffic volumes to be generated based on national reference documents, such as the most recent volume of the Institute of Transportation Engineers Trip Generation Manual, other published studies or actual counts of similar uses in Michigan. A detailed traffic impact study shall be submitted for any site over ten acres in size or for a project expected to generate 100 directional vehicles trips during the peak hour of traffic of the generator or on the adjacent streets. The contents of the detailed study shall include:

    a. Description of existing daily and peak hour traffic on the adjacent streets and a description of any sight distance limitations along the sites right-of-way frontage.

    b. Forecasted trip generation of the proposed use for the a.m. and p.m. peak hour and average daily traffic generated.

    c. For any project with a completion date beyond one year at the time of site plan approval, the analysis shall also include a scenario analyzing forecasted traffic at date of completion along the adjacent street network using a forecast based either on historic annual percentage increase and/or on expected development in the area.

    d. Protectional traffic generated shall be distributed (inbound v. outbound, left turn v. right turn) onto the existing street network to project turning movements at site driveways and nearby intersections. Rationale for the distribution shall be provided.

    e. Capacity analysis at the proposed driveway(s) using the procedures outlined in the most recent edition of the Highway Capacity Manual published by the Transportation Research Board. Capacity analysis shall be provided for all street intersections where the expected traffic will comprise at least five percent of the existing intersection capacity and/or for roadway sections and intersections experiencing congestion of a relatively high accident rate as determined by the Village or the Livingston County Road Commission or the Michigan Department Of Transportation.

    f. Analysis of any mitigation measures warranted by the anticipated traffic impacts. Where appropriate, documentation shall be provided for the appropriate road agency regarding the time schedule for improvements and method of funding.

    g. A map illustrating the location and design of proposed access, including any sight distance limitations, dimensions for adjacent driveways and intersections within 250 feet, and other data to demonstrate that the driveway(s) will provide safe and efficient traffic operation and be consistent with the standards established in Village of Fowlerville Ordinance Number 287, the Village of Fowlerville Ordinance Number 288 and the Village of Fowlerville street regulations and any amendments to such ordinance or regulations.

10. Special provisions: general description of any deed restriction, protective covenants, master deed or association bylaws, with copies of same attached thereto.

11. A list of all sources shall be provided.

12. Any impact assessment report previously submitted relative to the site and proposed development which fulfills the above requirements and contains accurate information on the site may be submitted as the required impact assessment.

13. The planning commission may waive particular impact assessment submittal item(s) upon a determination that the item(s) is not required for review of the project.

(Ord. No. 346, § 2404, 6-19-2000)

Sec. 2405. Standards for site plan review.

In reviewing the site plan and impact assessment, the planning commission shall determine that the following standards are observed:

1. *Complete application.* All required information is provided.

2. *Zoning.* The proposed development conforms to all regulations of the zoning district in which it is located.

3. *Spirit of ordinance.* The proposed site plan is in accord with the spirit and purpose of this ordinance and is not contrary to or inconsistent with the objectives sought to be accomplished by this ordinance and principles of sound planning.

4. *Legal applicant.* The applicant has provided evidence that he/she is the owner, or owner's designated agent, and may legally apply for site plan review.

5. *Public services.* The plan meets Village of Fowlerville specifications for fire and police protection, water supply, sewage disposal or treatment, storm drainage, and other public facilities and services, and has been approved by the Village of Fowlerville.

6. *Soils.*

    a. Soils not suitable to development will be protected or altered in an acceptable manner.

    b. The proposed development will not cause soil erosion or sedimentation problems.

    c. The soil and subsoil conditions are suitable for excavation, and site preparation and the drainage is designed to prevent erosion and environmentally deleterious surface runoff.

7. *Drainage and watercourses.*

    a. The proposed development properly respects floodways and/or floodplains on or in the vicinity of the subject property.

    b. The drainage plan for the proposed development is adequate to handle anticipated stormwater runoff and will not cause an increase in volume or intensity of normal runoff or surface water onto adjacent property or overloading of watercourses in the area.

    c. 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.

    d. The development will not substantially reduce the natural retention storage capacity of any watercourse, thereby increasing the magnitude and volume of flood at other locations.

8. *Coordinated development.* The proposed development is coordinated with improvements serving the subject property and with the other development in the general vicinity.

9. *Site exterior lighting.* All site exterior lighting shall comply with the standards of section 640.

10. *Refuse and storage.* Outdoor storage of garbage and refuse is contained, screened from view, and located so it is not a nuisance to the subject property or to neighboring properties. Dumpsters and waste receptacles shall comply with the standards of section 638.

11. *Traffic and parking.*

    a. Vehicular and pedestrian traffic within the site as well as to and from the site is both convenient and safe.

    b. Parking layout will not adversely affect the flow of traffic within the site or to and from the adjacent streets and adjacent properties.

    c. The plan provides for the proper expansion of existing public streets serving the site or to and from the adjacent streets and adjacent properties.

    d. The ingress/egress standards of section 2004 are met, as applicable.

12. *Interagency coordination.* The plan meets the standards of other government agencies, where applicable, and the approval of these agencies has been obtained or is assured. Such approval or assurance is to be in writing from the respective agency.

13. *Phased development.* All phased developments are ordered in a logical sequence so that any individual phase will not depend in any way upon a subsequent phase for adequate access, public utility service, drainage or erosion control.

14. *Fencing and buffers.*

    a. Landscaping, fencing and walls are provided and maintained in accordance with the objectives of this ordinance.

    b. The planning commission shall have some latitude in specifying the walls, fences, greenbelts as they apply to a phased development if the particular phase of development and construction work is far enough removed from adjacent properties to afford the screening, etc., as otherwise required.

15. *Natural features.*

    a. Adequate assurances are received that clearing the site of topsoil, trees, and other natural features before the commencement of building operations will occur only in those areas approved for the placement of physical improvements.

    b. The development will not detrimentally affect or destroy natural features such as ponds, streams, wetlands, hillsides or wooded areas, but will preserve and incorporate such features into the development's site design.

16. *Relationship of proposed buildings to environment.* Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity that have a visual relationship to the proposed buildings. The achievement of such relationship may include the enclosure of space in conjunction with other existing buildings or other proposed buildings and their creation of focal points with respect to avenues of approach, terrain features or other buildings. Non-residential building shall comply with the standards of section 639.

17. *Utility service.* Electric, telephone, and cable television distribution lines shall be underground unless otherwise authorized by the planning commission. Any utility installations remaining aboveground shall be located so as to have a harmonious relation to neighboring properties and the site. In any case, all utility installations shall be carried out in accordance with the standard rules and regulations of current adoption of the Michigan Public Service Commission.

18. *Advertising features.* The size, location and lighting of all permanent features shall be consistent with the requirements of chapter 21 of this ordinance.

19. *Special features.* Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings, and structures, and similar accessory areas and structures shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.

(Ord. No. 346, § 2405, 6-19-2000; Ord. No. 380, § 9, 9-18-2006)

Sec. 2406. Review by planning commission.

1. *Preliminary review of plans.*

    a. Distribution of plans. Upon submission of all required application materials and fees, the site plan proposal and impact assessment report will be placed on the planning commission agenda for preliminary review. The site plans and application will be distributed to appropriate village officials, staff, and consultants, as appropriate, including the village planner, engineer, attorney, fire chief, police chief, and others for review.

    b. Report from village planner. The village planner shall review the plans to determine compliance with the zoning ordinance and submit a written report addressing major issues which must be resolved with input from the planning commission.

2. *Planning commission consideration.* At the first regular meeting at which a site plan proposal is considered, the planning commission will review the major issues identified in the planner's report, as well as other issues relevant to the site plan.

3. *Public hearing.* Site plans involving uses that are subject to special use approval require a public hearing. After payment of appropriate fees, the zoning administrator will set the date of the public hearing at the first regular meeting at which the site plan proposal is considered. Notification of the public hearing will be published in the newspaper and mailed to all property owners within 300 feet of the subject site. The notice will be given not less than five nor more than 15 days before the public hearing.

4. *Request for revisions.* Upon preliminary review of the site plan proposal, the planning commission shall require the applicant to complete any revisions and resubmit the plans and any additional fees for review in accordance with section 2403. It is recommended that the applicant consult the Village planner and engineer during this revision process. All required revisions must be completed or the site plan will not be put on the planning commission agenda for final review.

5. *Submission of plans for final review.* Twelve individually folded copies of the revised plan shall be submitted for final review at least ten working days prior to the planning commission meeting at which review is requested. The revised plan will be distributed to village officials including the planner and engineer for review. Note: The applicant may submit the final plans simultaneously to village officials, the planner and engineer in order to expedite the review process.

6. *Final action.* The planning commission shall take the following final action on a plan, subject to the zoning ordinance: approval, approval with conditions, or denial. If a plan is approved subject to conditions, the applicant shall submit a revised plan with a revision date, indicating compliance with the conditions.

    a. If final site plan approval is denied by the planning commission, notice thereof, together with the reason shall be sent to the applicant.

b. If approved, a certificate of final site plan approval shall be issued to the applicant by the zoning administrator.

7. *Distribution of final plan.* After the planning commission has taken final action on a site plan and all steps have been completed, the village manager will mark three copies of the application and plans "approved" or "denied," as appropriate, with the date that action was taken. One marked copy will be returned to the applicant and the other two copies will be kept on file in the village office.

8. *Modifications or amendments.* Any modifications or amendments to an approved site plan must be approved by the planning commission.

9. *Reapplication.* No application for a site plan review which has been denied wholly or in part by the planning commission shall be resubmitted until the expiration of one year or more from the date of denial, except on the grounds of newly discovered evidence or proof of change of conditions.

(Ord. No. 346, § 2406, 6-19-2000)

Sec. 2407. Amendment of an approved site plan.

1. *Request.* An owner or the owner's designated agent may request a change in an approved site plan. A change in an approved site plan which results in a major change, as defined in this section, shall require a plan amendment. Amendments shall follow the procedures and conditions required for original plan submittal and review. A change that results in a minor change, as defined in this section, shall not require a revision to the plan.

2. *Content of request.* A request to change an approved site plan shall be made in writing to the zoning administrator. The request shall state clearly the reasons for the change. The reasons may be based upon considerations such as changing social or economic conditions, potential improvements in layout or design features, unforeseen difficulties, or advantages mutually affecting the interests of the village and the applicant or developer, such as technical causes, site conditions, state or federal projects and installations, and statutory revisions.

3. *Finding.* The zoning administrator, upon finding such reasons and request reasonable and valid, shall notify the applicant in writing whether the change proposed is major or minor. If the change is deemed major, the applicant shall pay an appropriate fee and the plan amendment process shall be in accordance with the procedures and conditions required for original site plan submittal review.

4. *Major changes.* Changes considered major (i.e., those for which an amendment is required) include one or more of the following:

   a. A change in the original concept of the developer.

   b. A change in the original use or character of the development.

   c. A change in the type of dwelling unit as identified on the approved site plan.

   d. An increase of two or more dwelling units.

   e. An increase in nonresidential floor area of over five percent.

   f. An increase of five or more off-street parking or loading spaces.

   g. Rearrangement of lots, blocks, and building tracts.

   h. A change in the character or function of any street.

   i. A reduction in the amount of land area set aside for common open space or the relocation of such area(s).

j. An increase in building height.

5. *Minor changes.* If the zoning administrator rules that a proposed change to a site plan is a minor change as defined by this section, the change request shall be reviewed and processed by the zoning administrator. If the revised site plan drawings are approved, each shall be signed and dated by the applicant or developer and the owner(s) of said property in question prior to the changes being effective. Minor changes shall include the following:

   a A change in residential floor area.

   b. An increase of one dwelling unit.

   c. An increase in a nonresidential floor area of five percent or less.

   d. Minor design variations in site layout which do not constitute major changes.

6. *Zoning.* Amended site plans shall conform to all regulations of the zoning district in which the project is proposed.

(Ord. No. 346, § 2407, 6-19-2000)

Sec. 2408. Modification of plan during construction.

All site improvements shall conform to the approved site plan including engineering drawings approved by the appropriate official. If the applicant makes any changes during construction in the development in relation to the approved site plan, the applicant must cease and desist. It shall be the responsibility of the applicant to notify the planning commission, through the zoning administrator, of the changes. Upon investigation, the applicant shall be required to correct the changes so as to conform to the approved site plan.

(Ord. No. 346, § 2408, 6-19-2000)

Sec. 2409. Inspection.

The zoning administrator or village engineer or building code official shall be responsible for inspecting all improvements for conformance with the approved site plan. All building construction, site and subgrade improvements such as utilities, subbase installations for drives and parking lots, and similar improvements shall be inspected and approved by the county's building department, environmental health department, in coordination with the zoning administrator, who shall obtain inspection assistance from the village fire chief and/or professional consultants where appropriate.

(Ord. No. 346, § 2409, 6-19-2000)

Sec. 2410. Expiration of site plan approval.

1. The approval of a site plan shall expire one calendar year from the date of such approval unless construction has begun in accordance with the plan and other village technical standards and specifications which may apply, or if a certificate of occupancy is not issued for the proposed site for within 18 months after the date of approval of the site plan by the planning commission. The zoning administrator may issue an extension of up to 90 calendar days as to the time limits provided in this section when the zoning administrator feels the extension is warranted and the work on the proposed use is proceeding meaningfully toward completion, as determined by the zoning administrator. Further extensions may be granted when deemed appropriate by the Fowlerville Planning Commission. The zoning administrator shall notify the applicant in writing of the expiration of said permit.

2. Any site plan approved shall be revoked when the construction of said development is not in conformance with the approved plans, in which case the zoning administrator shall give the applicant a notice of intention to revoke the land use proposed at least ten days prior to review of the proposed revocation by the planning commission.

3. After conclusion of such review, the planning commission may revoke its approval of the development if the planning commission determines that a violation in fact exists and has not been remedied prior to such hearing.

(Ord. No. 346, § 2410, 6-19-2000)

Sec. 2411. Performance bond.

A performance bond may be required by the village to insure (ensure) the complete construction of structures and development of the land area as proposed and approved. Such bond may be up to an amount equal to 1.25 of the estimated cost of the site improvement, and may be reduced in proportion to the amount of work accomplished or the amount of land left undisturbed. A performance bond shall be returnable in full upon issuance of a certificate of occupancy and/or compliance.

(Ord. No. 346, § 2411, 6-19-2000)

Sec. 2412. Appeals.

The decision of the planning commission with regard to the site plan is appealable to the village council upon written request by the property owner or petitioner for a hearing before said council. In the absence of such request being filed within ten days after the decision is rendered by the planning commission, such decision becomes final.

(Ord. No. 346, § 2412, 6-19-2000)

APPENDIX A. VILLAGE OF FOWLERVILLE SCHEDULE OF REGULATIONS LIMITING HEIGHT, BULK, DENSITY AND AREA BY ZONING DISTRICT

Districts	Minimum Lot Size		Maximum Height		Minimum Yard Setbacks			Lot Coverage (%)	Residential Floor Area	
	Area	Width	Stories	Feet	Front	Side	Rear		1 story	2 story
PL Public Lands	——	——		30	35	10	15	25	——	——
CR Conservation/Recreation	——	——	——	30	35	10	15	10	——	——
R-1 Low Density Residential	11,616	88	2	30	35	10	15	35	1050	950
R-2 Village Core Residential	8712	66	2	30	35(a)	10	15	25	1000	832
R-3 High Density Residential	9600(b)	88	2½	35	35	10(c)	15	35	(d)	(d)
R-4 Manufactured Housing	See Chapter 12									
PO Professional Office	9600	80	2	30	30	10(e)	15(e)	50	——	——
BC Business Center	2000	20	2	30	50(a)	—(e)	—(e)	50	(d)	(d)
GB General Business	9600	80	2	30	50	10(e)	15(e)	50	——	——
I Industrial	2½ ac.	250	2	40	50(f)	—(e)	—(e)	50	——	——
LR/I	2½ ac.	250	2	30	50(f)	—(e)	—(e)	50	——	——
PUD Plnd. Unit Dev.	See Chapter 18									

Footnotes:

(a) For established neighborhoods where 50 percent or more of the lot frontage in a block is occupied by existing buildings, in the R-1 and R-2 districts, the average of the existing front yard setbacks of the principal buildings within 300 feet of either side of the lot in question shall establish the minimum front yard setback. However, in no case shall a front yard setback required under this subsection be less than 20 feet nor more than 50 feet.

(b) Two family dwellings shall have a minimum lot area of 7,500 sq. ft. per dwelling unit and multiple family dwellings shall have a minimum lot area of one acre and a maximum of twelve units per new acre.

(c) There shall be a minimum of 25 feet between ends of contiguous multiple family buildings; no such building shall contain more than 8 units; no multiple family building shall exceed a length of 160 ft.; and multiple family developments on three or more acres of land shall contain a common recreation area equal to at least 25 sq. ft. per dwelling unit, with a minimum area of 1,200 sq. ft., exclusive of required yards and open space buffers.

(d) Minimum floor area. The following floor area requirements shall be adhered to:

Structure	Living Area Per Unit
Two family dwellings and attached one-family dwellings	Each dwelling unit shall have a minimum finished living area of 832 square feet per dwelling unit with a

	minimum of 720 square feet on the ground floor for units of more than one story.
Multiple family dwellings	
Efficiency	500 square feet
1 Bedroom	600 square feet
2 Bedroom	800 square feet
3 Bedroom	1,000 square feet
Each additional bedroom	110 square feet

(e) Where a side or rear yard abuts land in any Residential or Public Lands district, the minimum yard requirement to meet the buffer requirements of Section 1504 shall apply.

(f) Except for landscape improvements and necessary drives and walks, the required front yard shall remain clear and not be used for parking, loading, storage, or accessory structures.

(Ord. No. 346, App. A, 6-19-2000)

APPENDIX B FRANCHISES[81]

FRANCHISES

Following is a listing of the franchises the village has granted:

Ord. No.	Effective Date	Term	Franchise
251	12- 8-1987	30 years	Consumers Power Company
253	8-29-1988	30 years	Detroit Edison Company
462	8-22-2017	30 years	Consumers Energy Company

CODE COMPARATIVE TABLE
ORDINANCES

This is a numerical 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.

Ordinance Number	Date	Section	Section this Code
111	3- 7-1927	1—4	74-51—74-54
112	3- 7-1927	1, 2	74-81, 74-82

[81]Cross reference(s)—Any ordinance relating to franchises saved from repeal, § 1-6(9); businesses, ch. 18; cable communications, ch. 22; cable communications franchise, § 22-56 et seq.; streets, sidewalks and certain other public places, ch. 74; utilities, ch. 82.

114	5-16-1927	1	2-791
		2	82-792
		3	2-794
		9—11	2-795—2-797
		12	2-794
		13	2-798
121	8-22-1941	1(A), (B)	18-131
		1(C)	18-132
		2, 3	18-161, 18-162
		4	18-164
		5	18-163
		6	18-133
		7	18-135
		8, 9	18-165, 18-166
		10	18-133
138	4-26-1959	1	10-26, 10-56
		2	10-57
		3	10-59
		4	10-58
		5	10-27
		7	10-28
139	4-26-1959	7	10-28
141	12-15-1959	1—4	62-26—62-29
		5	62-31
		6	62-30
		7, 8	62-32, 62-33
160	4-29-1968	1(A), (B)	66-26
		1(C)	14-1
		1(D)	66-26
		1(E), (F)(1), (2)	42-26
		2	66-63
		2(C)	66-64
		2(D)	66-96
		3(A), (B)	66-62
		3(C), 3(D)	66-65, 66-66
		4	14-1
		5	66-28
		6(A)	66-31
		6(B)	66-61
		6(C)	66-97
		7	66-30
		8	66-32
		9(A), (B)	42-29
		9(C)(1)—(5)	42-30
		9(D)	42-28

		11	42-27
			66-29
163	3- 7-1969	1, 2	26-26, 26-27
		3	26-64
		7	26-65
		8	26-32
			26-63
		9	26-123
		10	26-121
		11	26-156
		12	26-162
		13	26-260
		14	26-33
		15, 16	26-61, 26-62
		17	26-124
		17(E)	26-31
		18	26-30
		19	26-29
		20(AA)	26-191
		20(B)	26-159, 26-160
		20(C), (D)	26-157
		20(E)	26-192
		20(F)	26-261
		20(G)	26-122
		20(H)	26-161
		20(I)	26-225
		20(J)	26-223
		20(K)—(N)	26-224
		20(O)	26-225
		20(Q)—(V)	26-226
		20(W)	26-193
		20(X)	26-262
		20(Y), 20(Z)	26-194, 26-195
		21	26-125
		22	26-157
		23(A)	26-222
		23(B)	26-221
		24(A)—24(C)	26-256—26-258
		24(D)	26-35
		24(E)	26-259
		24(F)	26-34
		24(G)	26-28
		25	26-163
170	4-16-1969		26-28
			26-34, 26-35

			26-121, 26-122
			26-125
			26-157
			26-159—26-161
			26-191—26-195
			26-221—26-226
			26-256—26-259
			26-261, 26-262
179	11- 3-1971	1, 2	58-27, 58-28
		3—6	58-30—58-33
		7	58-29
		8	58-26
180	6-21-1972	1—3	74-112—74-114
		4	74-111
181	5-25-1973	14	66-27
			66-33
182	12- 5-1973	2	90-56
		4, 5	90-57, 90-58
		6	90-58
			90-60
		7	90-59
		8, 9	90-28, 90-29
		10	90-26
		11—13	90-91—90-93
		14	90-61
		15	90-27
191	2-23-1975	1—12	70-26—70-37
		13	70-38—70-41
		14—20	70-41—70-47
		22, 23	70-49, 70-50
		28	70-51
192	10-13-1975	I, II	2-86, 2-87
		III	2-89
		IV	2-88
		V, VI	2-90, 2-91
193	10-13-1975		2-89
197	11- 9-1976		26-163
200	5- 4-1977		62-27
202	12- 9-1977	1, 2	2-26, 2-27
		3	2-29
		4	2-28
		5	2-30
		7	2-31
204	3-27-1978		62-96
		1	62-98, 62-99

		2	62-100, 62-101
		3	62-97
			62-103
		4	62-102
209	3-19-1980	1	86-56
		2, 3	86-86, 86-87
		4—6	86-116—86-118
		7	86-88
		8	86-57
210	5- 9-1980	2.01	14-152
		3.01	14-151
		4.01, 4.02	14-191, 14-192
		5.02—5.09	14-193—14-200
		5.10	14-231
		5.11(A)	14-201
		5.11(B), (C)	14-155
		5.12	14-202
		6.01	14-232
		7.01, 7.02	14-161
		7.03, 7.04	14-162, 14-163
		8.01	14-154
		8.02	14-153
		8.03, 8.04	14-156, 14-157
		9.01—9.03	14-158—14-160
211	12-12-1980	100, 101	22-57, 22-58
		105	22-63
		106	22-62
		110	22-56
		115—117	22-91—22-93
		120—147	22-121—22-148
		160—165	22-176—22-181
		170—172	22-59—22-61
		180—183	22-26—22-29
212	7-22-1981		22-121
			22-123
			22-176
214	10-22-1982	2	82-216
		3	82-218
		4(A)—(C)	82-286
		5(1), 5(2)	82-222, 82-223
		5(3)—5(7)	82-256—82-260
		6(A)(1)	82-316
		6(A)(3)—(9)	82-319
		6(A)(10), 6(A)(11)	82-320, 82-321
		6(B)(1)—(4)	82-317

		6(B)(5), (6)	82-318
		6(B)(7)—6(B)(9)	82-322—82-324
		7(A)—7(D)	82-351—82-354
		7(E)	82-225
		8(A)	82-721
		8(B), (C)	82-287
		8(D)—8(G)	82-722—82-725
		8(H), 8(I)	82-756, 82-757
		9	82-726
		11(A)	82-224
		11(B)	82-288
		11(C)	82-220
		11(D)	82-217
		11(E)	82-221
		12	82-219
218	4-27-1983	1—6	78-101—78-106
219	11- 9-1983		2-87
			2-90
			14-155, 14-156
			14-160—14-163
			14-191, 14-192
			14-201
			18-162
			58-29
			74-52
			82-217
			82-220, 82-221
			82-224
			82-288
			90-59
221	1- 2-1984	art. I, § 1	38-32
		art. I, § 2	38-26, 38-27
		art. I, § 3—	38-33—38-35
		art. I, § 5	
		art. I, § 8(a)—	38-62—38-64
		art. I, § 8(c)	
		art. II, § 1	14-32
		art. II, § 2	14-31
		art. II, § 3—	14-33—14-35
		art. II, § 5	
		art. III, § 1	86-26
		art. III, § 2	86-27, 86-29
		art. III, § 3, art. III, § 4	86-30, 86-31
		art. IV, § 1	38-28

		art. IV, § 2	38-61
		art. IV, § 3	38-29
		art. IV, § 4	38-30
		art. IV, § 4	86-28
		art. IV, § 5	38-31
		art. IV, § 6	54-132
		art. IV, § 7	14-2
222	4-24-1984	1, 2	78-26, 78-27
		4	78-28(8.25)
223	4-24-1984		78-102—78-106
225	7- 2-1984	1	10-86
		2(A)—(C)	10-116
		2(D)	10-151
		3(A)	10-117
		3(B)—3(E)	10-119—10-122
		4	10-123
		4(B), (C)	10-156
		5(A), 5(B)	10-151, 10-152
		5(C), 5(D)	10-154, 10-155
		6	10-118
			10-153
		7(A)	10-88
		7(B)—7(D)	10-187—10-189
		8	10-186
		9	10-87
227	10-16-1984		26-122
			26-157
			26-159—26-161
			26-191—26-195
			26-223—26-226
			26-261, 26-262
229	2-14-1985		2-89, 2-90
230	3-12-1985		66-30, 66-31
			66-61
			66-63, 66-64
			66-96, 66-97
232	11- 7-1985		10-88
			10-117
			10-119—10-122
			10-187—10-189
233	2- 1-1986	2, 3	82-26, 82-27
		4(A)(1)—4(A)(9)	82-121—82-129
		4(B)—4(D)	82-156—82-158
		4(E)	82-186
		4(F)	82-29

			82-187
		4(G)	82-35
		5(A)(1)—5(A)(4)	82-61—82-64
		5(B), 5(C)	82-65, 82-66
		6(A)—6(E)	82-91—82-95
		7(A)—7(F)	82-686—82-691
		7(G), 7(H)	82-756, 82-757
		9(A)	82-30
		9(B)	82-188
		9(C)	82-28
		9(D)—9(F)	82-31—82-33
		10(A)	82-34
234	2- 1-1986		14-155
			14-201
236	4-27-1986		2-89, 2-90
237	7-29-1986		82-688
238	8-19-1986		82-287
			82-721—82-725
		8(H), 8(I)	82-756, 82-757
240	10-28-1986		78-28(8.25)
		2	78-27
241	10-28-1986	1—7	78-71—78-77
244	3-17-1987		2-90
248	10-20-1987	1	18-56
		2	18-26
		3(A)—3(C)	18-58—18-60
		4	18-64
		5	18-61
		6(A)	18-63
		6(B)—(E)	18-98
		7	18-65
		8, 9	18-100, 18-101
		10, 11	18-96, 18-97
		12, 13	18-27, 18-28
		14	18-99
		15, 16	18-67, 18-68
		17	18-62
		18	18-66
		19	18-57
		20	18-29
252	3- 7-1988		2-26, 2-27
			2-31
255	1- 1-1989		82-688, 82-689
256	1- 1-1989		82-287
			82-721—82-725

		8(H), 8(I)	82-756, 82-757
257	2-12-1989	7(G), 7(H)	82-756, 82-757
258	2-12-1989		82-287
			82-721—82-725
		8(H), 8(I)	82-756, 82-757
259	4- 9-1989		66-62—66-66
			66-96
261	11- 6-1989	8, 9	30-33, 30-34
264	6-21-1990	chs. 1—20	App. A
265	7- 2-1990		66-63, 66-64
			66-96
266	7-16-1990	2	78-162
		3	78-161
		4—6	78-181—78-183
		7—10	78-201—78-204
		11(A)	78-163
		11(B), (C)	78-205
		12, 13	78-164, 78-165
267	8-26-1990		78-161
268	11- 4-1990	1	App. A, § 703
		2	App. A, § 1207
		3	App. A, § 1907
		4	App. A, § 2007
270	11-18-1990		82-225
			82-351—82-354
271	12- 2-1990	1, 2	30-27, 30-28
		3	30-26
		4—7	30-29—30-32
		10	30-35
272	12- 2-1990		42-26
			42-28—42-30
			66-26
274	6-17-1991	1	App. A, § 702
		2, 3	App. A, § 803, App. A, § 804
		4, 5	App. A, § 902, App. A, § 903
		6, 7	App. A, § 1002, App. A, § 1003
		8	App. A, § 1403
		9, 10	App. A, § 1905
275	7- 1-1991		42-26
			42-28—42-30
			66-26
276	12-23-1991		30-35
277	1- 6-1992	2(1), (2)	38-156
		2(3)	38-91
		2(4)	38-156

		2(5)	38-91
		2(6)	38-156
		2(7)	38-91
		2(8)—(10)	38-156
		2(12)—(14)	38-156
		2(17), (18)	38-91
		3—18	38-162—38-177
		20—22	38-97—38-99
		23	38-96
			38-161
		24	38-92
			38-157
		25(a)	38-127
			38-207
		25(b)	38-128
			38-208
		25(c)	38-129
			38-209
		26	38-126
			38-206
		27	38-93
			38-158
		28	38-94
			38-159
		29	38-95
			38-160
		216	38-156
278	2- 9-1992		38-62—38-64
			86-30
279	10- 1-1992	2	78-241
		3—8	78-244—78-249
		9	78-243
		10	78-242
281	11-15-1992	1	14-61
		2	14-91
		2(A)—2(D)	14-92—14-95
		3	14-122
		5	14-123
		6	14-121
		8	14-62
282	11-14-1992		78-28(8.25)
283	12-26-1992	1, 2	30-61, 30-62
286	5-30-1993		14-155
			14-201
			82-91

			82-94
			82-121—82-129
			82-287
			82-687, 82-688
			82-721—82-725
		7(B)	82-756
		8(H), 8(I)	82-756, 82-757
287	8- 8-1993	1	62-63
		2	62-66
		3, 4	62-61, 62-62
		5—7	62-67—62-69
		8, 9	62-64, 62-65
288	8-16-1993	1.2, 1.3	46-62, 46-63
		1.4	46-311
		1.4.1—1.4.5	46-312—46-316
		2.1, 2.2	46-61
		3.1	46-151
		3.1.1—3.1.3	46-152—46-154
		3.2	46-181
		3.2.1—3.2.5	46-182—46-186
		3.3	46-187
		3.3.1, 3.3.2	46-188, 46-189
		3.4	46-216
		3.4.1—3.4.3	46-217—46-219
		4.1—4.5	46-246—46-250
		4.5.9—4.5.11	46-67—46-69
		4.6—4.9	46-251—46-254
		5.1—5.5	46-281—46-285
		6.1—6.4	46-96—46-99
		7.1, 7.2	46-65, 46-66
		8.1	46-64
289	12-12-1993		82-287
			82-721—82-725
		7(G)	82-756
		8(H), 8(I)	82-756, 82-757
291	1-23-1994	1(1)—1(18)	22-211—22-228
292	6-13-1994	2	78-27
			78-164
		7	90-59
		8	10-123
		9—11	78-102—78-104
		12	78-106
		14	18-64
		15	18-27
		16	78-243

		17	38-92
			38-157
		18	38-127
			38-129
			38-207
			38-209
		19	38-28
293	7-21-1994	1	70-28
		2	70-30
		3	70-38—70-41
		5	2-88
		6	2-90
		7	62-29
		8	78-28(8.25)
		9	78-76
		12, 13	18-162, 18-163
		15	10-57
		16—18	90-91—90-93
		19	90-61
		20	10-117
		21	10-122
		22	10-123, 10-156
		23	10-151, 10-152
			10-154, 10-155
		24	18-58
		25	18-60
		26, 27	18-64, 18-65
		28	18-28
		29	18-68
		30	14-155
		31	82-124
		32	82-63
		33	82-95
		34	74-52
		35, 36	58-28, 58-29
		37	66-64
		38	66-30
		39	38-33
		40	38-35
		41	38-64
		42	86-30, 86-31
294	7-10-1994	1	62-27
295	2- 6-1995	1	App. A, § 407
		2	App. A, § 416
		3	App. A, § 1702

		4	App. A, § 1706
296	2- 5-1994	1(7(G))	82-226
297	5-16-1995	1	App. A, § 1806
298	10- 2-1995	1	App. A, § 804
		2	App. A, § 904
299	11- 6-1995	1(2001)—1(2012)	App. A, § 2001—App. A, § 2012
300	12-31-1995	1, 2	30-61, 30-62
301	12-31-1995	2	50-1, 50-2
		3—5	50-3—50-5
		6(a)—6(g)	50-31—50-37
		7(a)	50-38
		7(a)(1), (2)	1-13
		7(b)	50-38
302	12-31-1995		50-38
		1	14-62
		2	78-165
		5	18-133
		8	10-27
		10	90-27
		11	10-87
		13	18-29
		14	78-242
		15	14-158
		16	82-34
		17	82-286
		18	82-219
		19	74-111
		20	86-57
		24	58-26
		28	42-27
			66-29
		29	38-94
			38-159
		30	38-30
			86-28
304	12-25-1995	1(1301A)—1(1304A)	App. A, § 1301A—App. A, § 1304A
		2(1401A)—2(1408A)	App. A, § 1401A—App. A, § 1408A
305	3-11-1996	1—3	78-131—78-133
		4	50-38, 70-134
		5	78-135
306	3-11-1996	1—5	34-111—34-115
		6, 7	34-26, 34-27
		8	34-29

		9	34-28
		11—18	34-141—34-148
307	3-11-1996	1—3	54-1—54-3
		5	54-4
		7—9	54-61—54-63
		10	54-63
		11—21	54-91—54-101
		22	54-131
		23—25	54-161—54-163
		26—30	54-163—54-167
		31	54-196
		33	54-198
		34	54-226
		35	54-232
		36—39	54-227—54-230
		40	54-231, 54-232
		41—43	54-231—54-233
		44—51	54-261—54-268
		52—56	54-321—54-325
		57—60	54-351—54-354
		61	50-38
308	5-12-1996	1	2-90
309	5-26-1996	1	78-28(8.25)
310	6-30-1996	1	86-26, 86-27
			86-29
311	7- 7-1996	1	26-26
		2	26-64
		5	26-63
		5(8(2)(B), (C))	26-32
		6	26-123
		7	26-121
		8	26-162
		9	26-260
		11, 12	26-61, 26-62
		13(17(A)—(D))	26-124
		13(17(E))	26-31
		13(17(F))	26-158
		13(17(G))	26-126
		14	26-30
		15	26-122
			26-159
			26-191
			26-223, 26-224
			26-226
		15(20(B), (BB))	26-160

		16	26-125
		17	26-221, 26-222
		18	26-28
			26-34
315	8-25-1996	1, 2	2-26, 2-27
316	10-27-1996	1.1, 1.2	82-383, 82-384
		1.3	82-382
		1.4	82-381
		2.1—2.4	82-586—82-589
		3.1—3.4	82-590—82-593
		4.1—4.7	82-546—82-552
		5.1—5.7	82-553—82-559
		6.1—6.13	82-621—82-633
		7.1, 7.2	82-416, 82-417
		8	82-385
		9	82-418
		10.1—10.8	82-481—82-488
		11.1, 11.2	82-389, 82-390
		11.2(c)	50-38
		11.3, 11.4	82-391, 82-392
		12.1—12.3	82-419—82-421
		12.4	82-388
		13.1—13.3	82-451—82-453
		14	82-387
		15.1	82-386
317	10-27-1996	1	82-221
			82-226
			82-726
319	10-27-1996	1	App. A, § 1403A
320	10-27-1996	1	6-31
		2(A), (B)	6-33
		2(C)	6-36
		3, 4	6-37, 6-38
		5	6-35
		6	6-68
		7	6-32
		8	6-1
		9	6-67
		10	6-69
		11	6-34
		12	6-70
		13	6-66
		14	6-39
		15, 16	6-2, 6-3
323	12-29-1996	1	42-26

324	2- 9-1997	1(19)—1(23)	34-56—34-60
325	3- 2-1997	1	2-161
327	12- 8-1997	1	78-28(8.25)
329	5-24-1998	2	46-27
		3	46-26
		4—10	46-28—46-34
330	5-24-1998	1	46-61
		3	46-61
		4	46-69
331	8- 2-1998	1	42-26
		2(A), (B)	42-29
		2(C)(1)—(6)	42-30
		2(D), 2(E)	42-31, 42-32
332	9-14-1998	1	54-197
		2	54-5
333	11- 9-1998	1, 2	26-64, 26-65
		3	26-32
		4	26-121
		5	26-156
		6	26-162
		7	26-62
		8	26-124
		9	26-30
		10	26-29
		11	26-191
			26-224, 26-225
335	1-18-1999	1	App. A, § 403
337	2-15-1999	1—8 Added	Adopt. Ord.
338	3- 1-1999	1 Added	2-61
339	3-15-1999	1	App. A, § 603
340	3-15-1999	1	App. A, § 603
341	6- 7-1999	1 Added	2-1
342	8- 2-1999	1 Added	2-62
343	11-22-1999	1	App. A, § 603
344	4-10-2000	1	App. A, § 603
345	5-22-2000	1 Rpld	74-81, 74-82
		Added	74-81—74-85
346	6-19-2000	101—103 Added	App. A, §§ 101—103
		201—205 Added	App. A, §§ 201—205
		301—310 Added	App. A, §§ 301—310
		401—419 Added	App. A, §§ 401—419

		501—508 Added	App. A, §§ 501—508
		601—636 Added	App. A, §§ 601—636
		701—707 Added	App. A, §§ 701—707
		801—807 Added	App. A, §§ 801—807
		901—907 Added	App. A, §§ 901—907
		1001—1007 Added	App. A, §§ 1001—1007
		1101—1107 Added	App. A, §§ 1101—1107
		1201—1206 Added	App. A, §§ 1201—1206
		1301—1309 Added	App. A, §§ 1301—1309
		1401—1411 Added	App. A, §§ 1401—1411
		1501—1509 Added	App. A, §§ 1501—1509
		1601—1610 Added	App. A, §§ 1601—1610
		1701—1710 Added	App. A, §§ 1701—1710
		1801—1814 Added	App. A, §§ 1801—1814
		1901—1909 Added	App. A, §§ 1901—1909
		2001—2007 Added	App. A, §§ 2001—2007
		2101—2111 Added	App. A, §§ 2101—2111
		2201—2208 Added	App. A, §§ 2201—2208
		2301—2325 Added	App. A, §§ 2301—2325
		2401—2412 Added	App. A, §§ 2401—2412
347	7- 5-2000	1	30-30
353	4- 8-2002	1	App. A, § 302 20.
		2 Added	App. A, § 309 12A.
		3	App. A, § 621 4.
		4	App. A, § 623 1.
		5 Added	App. A, § 623 4.

		6 Added	App. A, § 637
		7	App. A, § 904 2.
		8	App. A, § 1004 2.
		9	App. A, § 1104 2.
		10	App. A, § 2003 1.
		11 Added	App. A, § 2209
354	4- 8-2002	1	26-124
		2 Rpld	26-31,
			26-63
355	4- 8-2002	1	App. A, § 309 13.j.
		Added	App. A, § 309 13.ee.
		2	App. A, § 2102
		3	App. A, § 2103
		4	App. A, § 2104
		5	App. A, § 2105
		6	App. A, § 2109
		7	App. A, § 2110
		8	App. A, § 2111
357	10- 7-2002	1	58-29—58-33
		Added	58-34—58-41
360	4-13-2003	1—21 Added	Ch. 76, §§ 76-1—76-21
361	5- 5-2003	1	82-756(c)
		2	82-757(1)
363	7-28-2003	1 Added	App. A, § 702 4.
364	11-17-2003	1	App. A, § 102
365	11-17-2003	1	App. A, § 603
366	1-26-2004	1	30-61
		2	30-62
367	3-22-2004	1	82-721(1)
368	5-17-2004	1—11 Added	Ch. 62, Art. VI, §§ 62-151—62-161
369	6-14-2004	1 Added	58-42
370	6-14-2004	1 Added	App. A, § 1502 8.
371	10- 4-2004	1 Added	2-32
372	11-15-2004	1	46-29(9)
		2	46-312
373	1-24-2005	1	App. A, § 1605 3.
		2	App. A, § 1701
		3	App. A, § 1702
		4	App. A, § 1703
		5 Added	App. A, § 1703 1.
		6 Added	App. A, § 1703.1
		7	App. A, § 2002 8.
374	4-18-2005	1	2-61
		2	2-62
375	5-16-2005	1 Added	App. A, § 903 9.

		2 Added	App. A, § 1003 5.
		3 Added	App. A, § 1103 2., 3.
		4 Added	App. A, § 2103 7.
		5 Added	App. A, § 2326
377	6-12-2006	1	30-61
		2	30-62
379	7-24-2006	1 Added	2-180
		2 Added	2-185
380	9-18-2006	1	App. A, § 413 (title)
		2 Added	App. A, § 413 3.
		3 Added	App. A, § 638
		4 Added	App. A, § 639
		5 Added	App. A, § 640
		6 Added	App. A, § 1503 4.
		Rnbd	App. A, § 1503 4.—8.
		as	App. A, § 1503 5.—9.
		7	App. A, § 2007
		8 Added	App. A, § 2327
		9	App. A, § 2405 9., 10., 16.
382	9-18-2006	1 Added	14-96
383	3-19-2007	1	86-30
		2	86-31
384	3-19-2007	1	App. A, § 613 8.
385	2-19-2007	1	App. A, §§ 1901—1909
386	5-14-2007	1	App. A, § 613 8.
388	5-29-2007	1	62-27
389	7- 9-2007	4 Added	14-3
390	7- 9-2007	1	82-721(13)
391	7- 9-2007	1	82-689
392	7-23-2007	1 Added	Ch. 78, Art. I, §§ 78-1—78-5
		2	78-26—78-28
		3	78-72
		4	78-75
393	8- 6-2007	1	2-90(5)
394	10-15-2007	1 Added	Div. 3, 30-90
395	12-10-2007	1	30-61
		2	30-62
396	12-10-2007	1	58-28
398	12-21-2007	1	30-61
		2	30-62
399	2- 4-2008	1	30-61
		2	30-62
400	2- 4-2008	1	App. A, § 302 23.
		2 Added	App. A, § 307 12A.
		3	App. A, § 2102 8.

		4	App. A, § 2109
401	2- 4-2008	1 Added	14-36
		2	14-157
		3	38-62
		4	38-129
		5	38-209
		6	66-30
		7 Added	70-52
		8	74-54
		9	74-83
		10	86.30
		11	86-118
402	3- 3-2008	1	App. A, Ch. 18(tit.)
		2—4	App. A, §§ 1801—1803
		5	App. A, § 1805
		6, 7	App. A, §§ 1810, 1811
		8 Added	App. A, § 1812
		9 Rnbd	App. A, § 1812
		as	App. A, § 1813
		10 Rnbd	App. A, § 1813
		as	App. A, § 1814
		11 Rnbd	App. A, § 1814
		as	App. A, § 1815
			App. A, § 1815
403	9-15-2008	1 Added	Ch. 62, Art. V, §§ 62-125—62-127
404	11-24-2008	1	30-61
		2	30-62
406	2- 2-2009	1 Added	App. A, § 641
407	8-31-2009	1 Added	66-34
409	11-23-2009	1 Added	Ch. 42, Art. III, §§ 42-51—42-54
411	1-18-2010	1	App. A, § 302 3.
		2 Added	App. A, § 302 4.
		3 Rnbd	App. A, § 302 4.—24.
		as	App. A, § 302 5.—25.
		4	App. A, § 303 2.
		5 Rpld	App. A, § 304 10.
		Rnbd	App. A, § 304 11.—15.
		as	App. A, § 304 10.—14.
		6 Rpld	App. A, § 309 19.
		Rnbd	App. A, § 309 20.—25.
		as	App. A, § 309 19.—24.
		7	App. A, § 615
		8 Added	App. A, § 702 5.
		9	App. A, § 703 5.
		10	App. A, § 902 2.

		11	App. A, § 903
		12	App. A, § 1102 3.
		13	App. A, § 1202 3.
		14 Added	App. A, § 1302 8.
		15	App. A, § 1405 4.
		16 Added	App. A, § 1503 10.
		17 Added	App. A, § 1703 4.
		18 Rpld	App. A, § 2305
		19 Rpld	App. A, § 2311
		20 Rpld	App. A, § 2315
413	4-26-2010	1	App. A, § 607
414	5-24-2010	1	30-61
		2	30-62
415	9-13-2010	1 Added	30-100,
			30-110—30-115
416	1-31-2011	1	62-26
		2	62-29
		3	62-30
417	2-14-2011	1	54-161—54-167
418	3-14-2011	1	30-61
		2	30-62
419	3-28-2011	1	66-61
		2	66-63
		3	66-64
		4	66-96
		5	66-97
421	7- 5-2011	1	86-30(a)
422	7-18-2011	1	App. A, § 303
		2	App. A, § 2102 6.
		3 Added	App. A, § 2103 8.
		4	App. A, § 2105
		5	App. A, § 2107
		6	App. A, § 2109
423	7-18-2011	1	App. A, § 623
424	9-12-2011	1	82-186—82-193
425	10-24-2011	1	App. A, § 2103 8.
		2	App. A, § 2105
		3	App. A, § 2107
426	4- 9-2012	1	14-3
427	5-21-2012	1	App. A, § 613 8.
428	7-30-2012	1	54-131
429	1-28-2013	1	2-26
		2	2-87
		3	2-88
430	2-25-2013	1	App. A, § 1303

431	4-22-2013	1	30-61
		2	30-62
432	6- 3-2013	1	86-29
433	7- 1-2013	1	54-131(b)
434	7-15-2013	1	38-91
		2	38-96
		3	38-97
		4	38-99
		5	38-127
		6	38-128
		7	38-129
435	11- 4-2013	1 Rpld	54-2
436	12-16-2013	1 Added	App. A, § 309 13.f.
		Rnbd	App. A, § 309 13.f.—ee.
		as	App. A, § 309 13.g.—ff.
			App. A, §§ 2101—2106
437	1-27-2014	1	66-63
438	1-27-2014	1	74-81
439	1-27-2014	1	App. A, § 623
440	1-27-2014	1 Added	App. A, § 642
		2 Added	App. A, § 2002 16.
441	2-10-2014	1	2-32
442	2-24-2014	1, 2	78-28
443	2-24-2014	1	2-26
444	6-16-2014	1	2-87
		2	2-88
446	9-22-2014	1	30-61
		2	30-62
447	1-26-2015	1 Added	App. A, § 1405 9.
		2 Added	App. A, § 1503 11.
		3	App. A, § 2005
		4 Added	App. A, § 2328
449	5-18-2015	1(Att.)	App. A, § 2104
451	10-19-2015	1 Rpld	14-61, 14-62
		Rpld	14-91—14-96
		Rpld	14-121
		2	14-123
452	10-19-2015	1 Rpld	82-125
453	5-16-2016	1	30-61
		2	30-62
454	4- 3-2017	1	26-32(a)
		2	26-61
		3	26-121
		4	26-123
		5	26-124

		6	26-125
		7	26-221—26-226
		8	26-256
455	5-30-2017	1	2-26
		2	2-27
456	5-30-2017	1	54-3
		2	54-63
		3 Added	54-133
457	7-10-2017	1 Added	74-120—74-124
458	7-24-2017	1	58-29
459	7-24-2017	1	82-35(e)
		2 Added	82-159
		3 Added	82-160
460	7-24-2017	1	14-157
461	8- 7-2017	1	34-26
		2	34-27
462	8-21-2017		App. B
463	11-13-2017	1	26-121
		2	26-125
		3	26-126
		4	26-156
		5	26-157
		6	26-158
		7	26-159
		8	26-160
		9	26-163
		10	26-192
		11	26-222
464	1- 8-2018	1 Rpld	10-26—10-28,
			10-56—10-59,
			10-86—10-88,
			10-116—10-123,
			10-151—10-156,
			10-186—10-189
465	6-11-2018	1	82-26
		2 Added	82-35(g), (h)
466	11-12-2018	1	54-351—54-357
469	11-12-2018	1	62-27(a)
470	11-12-2018	1 Added	18-170
471	11-26-2018	1	30-61
		2	30-62
472	12-23-2019	1	App. A, §§ 1801—1815
473	12-23-2019	1	App. A, § 617
476	6-22-2020	1	30-61
		2	30-62

477	6-22-2020	1	82-757(3)
477	1-18-2021	1	82-121—82-129
478	2- 1-2021	1	74-81
479	2- 1-2021	1	18-163
		2	46-68(a)
		3	46-312
		4	46-314
		5 Rpld	78-101—78-106
		6	78-164
480	2-15-2021	1	2-90
481	4-12-2021	1	30-61
		2	30-62

STATE LAW REFERENCE TABLE
MICHIGAN COMPILED LAWS

This table shows the location within this Code, either in the text or notes following the text, of references to the Michigan Compiled Laws.

MCL	Section this Code
14.301 et seq.	Ch. 18, Art. II
15.231 et seq.	Ch. 2
15.231—15.246	76-4
	76-17
15.261 et seq.	Ch. 2
15.341 et seq.	Ch. 2
24.201 et seq.	78-28(5.15a)
	78-28(5.82)
24.286 et seq.	78-28(5.15f)
28.421 et seq.	Ch. 54, Art. IV, Div. 2
28.451 et seq.	54-131
29.1 et seq.	Ch. 42
	App. A, § 1916
35.441 et seq.	Ch. 18, Art. II
	18-61
41.411 et seq.	Ch. 70
41.801 et seq.	Ch. 42
	Ch. 70
41.806a	34-56, 34-57
54.211 et seq.	46-29
61.1 et seq.	70-43
62.1 et seq.	Ch. 2, Art. III

62.2	2-86
62.4	2-32
62.5	2-32
62.6	2-62
64.1 et seq.	Ch. 2, Art. III
65.1 et seq.	Ch. 2, Art. II
65.8	Ch. 2, Art. III, Div. 2
	2-90
66.2	1-12
	Ch. 50
66.3a	1-1
67.1 et seq.	Ch. 2, Art. II
67.1(h)	Ch. 18, Art. II
67.2	Ch. 18, Art. II, Div. 2
67.6	Ch. 58
67.7 et seq.	Ch. 74
67.10	74-54
	74-82
67.17 et seq.	Ch. 74
67.20 et seq.	Ch. 74
67.21	86-86, 86-87
	86-116
67.24—67.26	82-791—82-793
67.55 et seq.	Ch. 26
67.57	26-64
67.59	26-121
68.31 et seq.	Ch. 70
68.33	70-44
68.34	70-48
69.1 et seq.	Ch. 2, Art. V
70.1 et seq.	Ch. 42
117.5(i)	Ch. 22, Art. III
123.51 et seq.	Ch. 58
123.361 et seq.	Ch. 66
123.1101 et seq.	Ch. 54, Art. IV, Div. 2
125.31 et seq.	46-61
	Ch. 62, Art. II
	62-26
125.33(3)	62-27, 62-28
125.34	62-29
125.35	62-31
125.36 et seq.	62-30
125.41	62-32
125.539 et seq.	Ch. 14, Art. II
125.581 et seq.	App. A

	App. A, § 201
	App. A, § 501
125.1501 et seq.	Ch. 14
	App. A, § 1918
125.1651 et seq.	Ch. 30, Art. II
	30-26
125.1654, 125.1655	30-30, 30-31
125.1657	30-32
125.1659	30-33
125.1667 et seq.	Ch. 30, Art. II, Div. 2
125.1667(a)	30-90
125.1668	30-90
125.2301 et seq.	App. A, § 1101
125.4201 et seq.	30-61
	30-62
125.4214	30-61
125.4217	30-61
125.4217(2)	30-61
125.4218	30-61
128.1	Ch. 26
128.31 et seq.	Ch. 26
141.439(2)	2-90
168.744	54-100
168.931 et seq.	54-100
205.422	54-351
205.701—205.779	70-48
211.1 et seq.	70-43
211.53	70-44
211.741	70-30
	70-40
211.741 et seq.	Ch. 70
211.741(3), (4)	70-41
211.746	70-30
	70-40
211.761 et seq.	Ch. 70
213.321 et seq.	30-33
247.61 et seq.	Ch. 86, Art. II
247.62	86-26
257.1 et seq.	54-131
	54-133
	Ch. 78
257.1—257.923	78-1
257.18(2), 257.18(3)	78-28
257.31	78-161
257.204a	78-28(5.15b)

257.252a	78-28(2.5a)
257.252b	78-28(2.5b)
257.252c	78-28(2.5c)
257.252d	78-28(2.5d)
257.252e	78-28(2.5e)
257.252f	78-28(2.5f)
257.252g	78-28(2.5g)
257.319b(1)(c)	78-28(5.15b)
	78-28(5.15m)
257.319b(1)(d)	78-28(5.15b)
	78-28(5.15m)
257.319b(1)(e)	78-28(5.15b)
	78-28(5.15m)
257.319d	78-28(5.15a)
257.320a	78-28(5.82)
	78-28(5.83)
257.322, 257.323	78-28(5.15f)
257.605, 257.606	Ch. 78
257.606(1)(a)	Ch. 78, Art. III
257.610	Ch. 78
257.624a	54-233
257.624b	54-231, 54-232
257.625	78-28(5.15)
257.625(1)	78-28(5.15b)
257.625(1), (3)	78-28(5.15)
	78-28(5.15b)
	78-28(5.15m)
257.625(1), (3), (4), (5)	78-28(5.15)
	78-28(5.15b)
	78-28(5.15m)
257.625(1), (3), (4), (5), (6)	78-28(5.15)
	78-28(5.15b)
257.625(1), (3), (6)	78-28(5.15)
	78-28(5.15b)
257.625(1), (4), (5)	78-28(5.15)
	78-28(5.15b)
257.625(3)	78-28(5.15b)
257.625a	78-28(5.15a)
257.625b	78-28(5.15b)
257.625c	78-28(5.15c)
257.625d	78-28(5.15d)
257.625e	78-28(5.15e)
257.625f	78-28(5.15f)
257.625g	78-28(5.15g)
257.625m	78-28(5.15b)

	78-28(5.15m)
257.625n	78-28(5.15n)
257.656 et seq.	Ch. 78, Art. VI
	78-203
257.658	78-201
257.658a	78-201
257.661a	78-201
257.672—257.675d.	78-72
257.674(1)(s)	78-75
257.682	78-28(5.97)
257.710d	78-28(5.82)
257.710e	78-28(5.83)
257.732	78-28(5.82)
257.742	78-28(2.17b)
257.907	78-28(8.25)
	78-75
257.951	78-26
257.951 et seq.	78-26
257.961	78-28(2.59)
259.1 et seq.	78-161
259.185(2)	54-133
324.101 et seq.	Ch. 38
324.4301 et seq.	Ch. 66
324.8901 et seq.	Ch. 38, Art. IV
324.11101 et seq.	Ch. 66
324.11103	66-66
324.11501 et seq.	Ch. 66
324.11522	Ch. 42, Art. II
324.11701 et seq.	82-260
324.11901 et seq.	Ch. 66
324.30301	46-61
324.30301 et seq.	46-188
324.81101	78-161
324.81101 et seq.	Ch. 78, Art. VI
324.81129	78-204
324.81133	78-201
324.81133 et seq.	78-204
324.82101	78-161
324.82101 et seq.	Ch. 78, Art. VI
324.82119, 324.82120	78-204
324.82122, 324.82123	78-201
324.82126	78-201
324.82126 et seq.	78-204
324.82131	78-201
333.2850	26-156

333.6103	54-352
333.6107	54-232
333.7451 et seq.	Ch. 54, Art. VI, Div. 2
333.7453	54-264
333.12751	82-216
333.12753, 333.12754	82-286
333.12758	82-287
333.16215	78-28(5.15a)
333.20948	34-57
333.27205(1)	18-170
338.901 et seq.	82-28
380.1 et seq.	54-351
400.271 et seq.	Ch. 18, Art. II
436.1 et seq.	Ch. 6
	6-31
	6-35
	6-39
	6-69
	54-231
436.2	54-226
436.17 et seq.	Ch. 6, Art. II
436.20	6-31
436.33	6-70
436.33b	54-226
	54-232
436.33b(1)	54-231
436.33b(3)	54-230
436.34	54-228
436.1105(11)	App. A, § 2328
436.1109(3)	App. A, § 2328
445.111 et seq.	Ch. 18, Art. II
445.371 et seq.	Ch. 18, Art. II
445.372	18-60
460.701 et seq.	82-91
462.391(1)—462.391(5)	78-131—78-135
484.2102	76-3
484.2251	76-4
559.101 et seq.	App. A, § 303
	App. A, § 609
559.166, 559.167	App. A, § 609
559.171	App. A, § 609
560.101 et seq.	Ch. 46
	46-26, 46-27
	46-61
	62-156

	App. A, § 609
	App. A, § 621
560.102	46-61
560.108 et seq.	46-26
560.111 et seq.	Ch. 46, Art. III, Div. 3, Subdiv. III
560.112	46-181
	46-186
560.112 et seq.	46-188
560.120	46-187
	46-189
560.131 et seq.	Ch. 46, Art. III, Div. 3, Subdiv. IV
560.188	46-219
560.241	Ch. 46, Art. III, Div. 6
560.241a	Ch. 46, Art. III, Div. 6
560.263	46-68
600.101 et seq.	46-34
	50-1
600.113(1)(c)	50-1
600.8312	78-28(2.5e)
600.8395	Ch. 78, Art. III, Div. 2
	78-71
600.8396	Ch. 50, Art. II
	50-1
	50-31
600.8701 et seq.	Ch. 50
	50-1
600.8705	50-4
	50-37
600.8707	50-1
	50-4
600.8707(6)	50-35
	50-37
600.8709	50-5
	50-37
722.1 et seq.	54-232
722.51 et seq.	App. A, § 1914
722.641 et seq.	Ch. 54, Art. VII, Div. 3
722.671 et seq.	App. A, § 309
722.673	54-197
722.751 et seq.	Ch. 54, Art. VII, Div. 2
750.49 et seq.	54-166
750.167	54-97
750.167(1)(b)	54-198
750.167(1)(c)	54-3
750.167(1)(e)	54-91

750.167(1)(f)	54-196
750.167(1)(l)	54-92
750.170	54-96
750.200 et seq.	Ch. 54, Art. IV, Div. 2
750.222 et seq.	Ch. 54, Art. IV, Div. 2
750.223(2)	54-165
750.227	54-167
750.240 et seq.	Ch. 42
750.243a et seq.	54-131
750.377 et seq.	54-61
750.448 et seq.	54-198
750.463 et seq.	Ch. 10
750.493d	54-132
750.552	54-63
752.361 et seq.	App. A, § 1914
752.362	54-197
752.862	54-164
752.891 et seq.	54-161
752.a863	54-163
760.1 et seq.	78-28(5.15)
780.751 et seq.	78-28(5.15n)

STATE LAW REFERENCE TABLE
MICHIGAN STATUTES ANNOTATED

This table shows the location within this Code, either in the text or notes following the text, of references to the Michigan Statutes Annotated.

MSA	Section this Code
3.240(1) et seq.	Ch. 18, Art. II
3.240(31) et seq.	Ch. 18, Art. II
3.560(101) et seq.	78-28(5.15a)
	78-28(5.82)
3.560(186) et seq.	78-28(5.15f)
4.559 et seq.	Ch. 42
4.559(1) et seq.	App. A, § 1916
4.1241 et seq.	Ch. 18, Art. II
	18-61
4.1700(71) et seq.	Ch. 2
4.1800(11) et seq.	Ch. 2
4.1801(1) et seq.	Ch. 2
5.1201 et seq.	70-43

5.1215 et seq.	Ch. 2, Art. III
5.1216	2-86
5.1243 et seq.	Ch. 2, Art. III
5.1264 et seq.	Ch. 2, Art. II
5.1270(11)	Ch. 2, Art. III, Div. 2
	2-90
5.1272	1-12
	Ch. 50
5.1273(1)	1-1
5.1285 et seq.	Ch. 2, Art. II
5.1285, (h)	Ch. 18, Art. II
5.1286	Ch. 18, Art. II, Div. 2
5.1290	Ch. 58
5.1291 et seq.	Ch. 74
5.1294	74-54
	74-82
5.1301 et seq.	Ch. 74
5.1304 et seq.	Ch. 74
5.1305	86-86, 86-87
	86-116
5.1308—5.1310	82-791—82-793
5.1339 et seq.	Ch. 26
5.1341	26-64
5.1343	26-121
5.1370(1) et seq.	Ch. 70
5.1370(3)	70-44
5.1370(4)	70-48
5.1371 et seq.	Ch. 2, Art. V
5.1397 et seq.	Ch. 42
5.2084, (i)	Ch. 22, Art. III
5.2411 et seq.	Ch. 70
5.2421 et seq.	Ch. 58
5.2640(1) et seq.	Ch. 42
	Ch. 70
5.2640(6a)	34-56, 34-57
5.2726(1) et seq.	Ch. 66
5.2891(19) et seq.	Ch. 14, Art. II
5.2931 et seq.	App. A
	App. A, § 201
	App. A, § 501
5.2949(1) et seq.	Ch. 14
	App. A, § 1918
5.2991 et seq.	46-61
	Ch. 62, Art. II
	62-26

5.2993, (3)	62-27, 62-28
5.2994	62-29
5.2995	62-31
5.2996 et seq.	62-30
5.3001	62-32
5.3010(1)	30-26
5.3010(1) et seq.	Ch. 30, Art. II
	30-26
5.3010(4), 5.3010(5)	30-30, 30-31
5.3010(7)	30-32
5.3010(9)	30-33
5.3010(14), (15)	30-61
5.3010(17) et seq.	Ch. 30, Art. II, Div. 2
5.3010(17), (2)	30-61
5.3010(18)	30-61
5.3071 et seq.	Ch. 26
5.3165	Ch. 26
5.3415(1) et seq.	Ch. 54, Art. IV, Div. 2
5.3534(1)	70-30
	70-40
5.3534(1) et seq.	Ch. 70
5.3534(1), (3), (4)	70-41
5.3534(6)	70-30
	70-40
5.3536(1) et seq.	Ch. 70
6.1744	54-100
6.1931 et seq.	54-100
7.1 et seq.	70-43
7.97	70-44
7.650(1)—7.650(79)	70-48
8.215(61) et seq.	30-33
9.631(1) et seq.	Ch. 86, Art. II
9.631(2)	86-26
9.1801 et seq.	Ch. 78
	78-161
9.1818, (2), 9.1818, (3)	78-28
9.1831	78-161
9.1904(1)	78-28(5.15b)
9.1952(1)	78-28(2.5a)
9.1952(2)	78-28(2.5b)
9.1952(3)	78-28(2.5c)
9.1952(4)	78-28(2.5d)
9.1952(5)	78-28(2.5e)
9.1952(6)	78-28(2.5f)
9.1952(7)	78-28(2.5g)

9.2019(2), (1)(c)	78-28(5.15b)
	78-28(5.15m)
9.2019(2), (1)(d)	78-28(5.15b)
	78-28(5.15m)
9.2019(2), (1)(e)	78-28(5.15b)
	78-28(5.15m)
9.2019(4)	78-28(5.15a)
9.2020(1)	78-28(5.82), 78-28(5.83)
9.2022, 9.2023	78-28(5.15f)
9.2305, 9.2306	Ch. 78
9.2306, (1)(a)	Ch. 78, Art. III
9.2306, (1)(i)	Ch. 78, Art. IV
9.2310	Ch. 78
9.2324(1)	54-233
9.2324(2)	54-231, 54-232
9.2325	78-28(5.15)
9.2325(1)	78-28(5.15a)
9.2325(2)	78-28(5.15b)
9.2325(3)	78-28(5.15c)
9.2325(4)	78-28(5.15d)
9.2325(5)	78-28(5.15e)
9.2325(6)	78-28(5.15f)
9.2325(7)	78-28(5.15g)
9.2325(13)	78-28(5.15b)
	78-28(5.15m)
9.2325(14)	78-28(5.15n)
9.2325, (1)	78-28(5.15b)
9.2325, (1), (3)	78-28(5.15)
	78-28(5.15b)
	78-28(5.15m)
9.2325, (1), (3), (4), (5)	78-28(5.15)
	78-28(5.15b)
	78-28(5.15m)
9.2325, (1), (3), (4), (5), (6)	78-28(5.15)
	78-28(5.15b)
9.2325, (1), (3), (6)	78-28(5.15)
	78-28(5.15b)
9.2325, (1), (4), (5)	78-28(5.15)
	78-28(5.15b)
9.2325, (3)	78-28(5.15b)
9.2356 et seq.	Ch. 78, Art. VI
	78-203
9.2358	78-201
9.2358a	78-201

9.2361(1)	78-201
9.2382	78-28(5.97)
9.2410(4), 9.2410(5)	78-28(5.82), 78-28(5.83)
9.2432	78-28(5.82)
9.2442	78-28(2.17b)
9.2607	78-28(8.25)
9.2651	78-26
9.2651 et seq.	78-26
9.2660	78-28(2.59)
13.115(61) et seq.	46-29
13A.101 et seq.	Ch. 38
13A.4301 et seq.	Ch. 66
13A.8901 et seq.	Ch. 38, Art. IV
13A.11101 et seq.	Ch. 66
13A.11103	66-66
13A.11501 et seq.	Ch. 66
13A.11522	Ch. 42, Art. II
13A.11701 et seq.	82-260
13A.11901 et seq.	Ch. 66
13A.30301	46-61
13A.30301 et seq.	46-188
13A.81101	78-161
13A.81101 et seq.	Ch. 78, Art. VI
13A.81129	78-204
13A.81133	78-201
13A.81133 et seq.	78-204
13A.82101	78-161
13A.82101 et seq.	Ch. 78, Art. VI
13A.82119, 13A.82120	78-204
13A.82122, 13A.82123	78-201
13A.82126	78-201
13A.82126 et seq.	78-204
13A.82131	78-201
14.15(2850)	26-156
14.15(6107)	54-232
14.15(7451) et seq.	Ch. 54, Art. VI, Div. 2
14.15(7453)	54-264
14.15(12751)	82-216
14.15(12753), 14.15(12754)	82-286
14.15(12758)	82-287
14.15(16215)	78-28(5.15a)
14.15(20948)	34-57
14.451 et seq.	82-28
15.4001 et seq.	54-351

16.610(51) et seq.	App. A, § 304
18.971 et seq.	Ch. 6
	6-31
	6-35
	6-39
	6-69
	54-231
18.972	54-226
18.972(15)	6-31
18.988 et seq.	Ch. 6, Art. II
18.1004	6-70
18.1004(2)	54-226 54-232
18.1004(2), (1)	54-231
18.1004(2), (3)	54-230
18.1005	54-228
	58-31
19.416(201) et seq.	Ch. 18, Art. II
19.691 et seq.	Ch. 18, Art. II
19.692	18-60
19.855(101) et seq.	App. A, § 1101
22.190(1) et seq.	82-91
22.1263(391), (1)—(5)	78-131—78-135
25.244(1) et seq.	54-232
25.244(51) et seq.	App. A, § 1914
25.254(1) et seq.	App. A, § 309
25.254(3)	54-197
25.281 et seq.	Ch. 54, Art. VII, Div. 3
25.358(11) et seq.	App. A, § 303, App. A, § 304
26.50(101) et seq.	App. A, § 303
	App. A, § 609
26.50(166), 26.50(167)	App. A, § 609
26.50(171)	App. A, § 609
26.430(101) et seq.	Ch. 46
	46-26, 46-27
	46-61
	App. A, § 609
	App. A, § 621
26.430(102)	46-61
26.430(108) et seq.	46-26
26.430(111) et seq.	Ch. 46, Art. III, Div. 3, Subdiv. III
26.430(112)	46-181
	46-186
26.430(112) et seq.	46-188

26.430(120)	46-187
	46-189
26.430(131) et seq.	Ch. 46, Art. III, Div. 3, Subdiv. IV
26.430(188)	46-219
26.430(241)	Ch. 46, Art. III, Div. 6
26.430(241a)	Ch. 46, Art. III, Div. 6
26.430(263)	46-68
27A.101 et seq.	46-34
	50-1
27A.113, (1)(c)	50-1
27A.8312	78-28(2.5e)
27A.8395	Ch. 78, Art. III, Div. 2
	78-71
27A.8396	Ch. 50, Art. II
	50-1
	50-31
27A.8701 et seq.	Ch. 50
	50-1
27A.8705	50-4
	50-37
27A.8707	50-1
	50-4
27A.8707, (6)	50-35
	50-37
27A.8709	50-5 50-37
tit. 28	Ch. 54
28.91 et seq.	Ch. 54, Art. IV, Div. 2
28.244 et seq.	54-166
28.342(1) et seq.	Ch. 54, Art. VII, Div. 2
28.364	54-97
28.364, (1)(b)	54-198
28.364, (1)(c)	54-3
28.364, (1)(e)	54-91
28.364, (1)(f)	54-196
28.364, (1)(h)	54-2
28.364, (1)(l)	54-92
28.367	54-96
28.397 et seq.	Ch. 54, Art. IV, Div. 2
28.419 et seq.	Ch. 54, Art. IV, Div. 2
28.420, (2)	54-165
28.424	54-167
28.436(22)	54-164
28.436(24)	54-163
28.436(41) et seq.	54-161

28.437 et seq.	Ch. 42
28.440(1) et seq.	54-131
28.533 et seq.	10-154
28.579(361) et seq.	App. A, § 1914
28.579(362)	54-197
28.609 et seq.	54-61
28.703 et seq.	54-198
28.718 et seq.	Ch. 10
28.761(4)	54-132
28.820(1)	54-63
28.841 et seq.	78-28(5.15)
28.1287(751) et seq.	78-28(5.15n)