

# VILLAGE OF PINCKNEY, MICHIGAN

## CODE OF ORDINANCES

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## ADOPTING ORDINANCE

### ORDINANCE NO. 84

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE VILLAGE OF PINCKNEY, MICHIGAN; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; PROVIDING FOR THE AMENDMENT OF CERTAIN SECTIONS OF THE CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE

THE VILLAGE OF PINCKNEY ORDAINS:

Section 1. The Code entitled "Village of Pinckney Code of Ordinances," published by American Legal Publishing Corporation, consisting of Chapters 1 through 153, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before May 12, 2008, and not included in the Code or recognized and continued in force by reference therein, are repealed.

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repeal provided for in Section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this Ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof, shall be punished by a fine not to exceed \$500, imprisonment for a period of not more than 90 days, or both; however, unless otherwise provided by law, a person convicted of a violation of any provision of such Code that substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days shall be punished by a fine of not more than \$500, imprisonment for a term of not more than 93 days, or both. Except as otherwise provided by law or ordinance, with respect to violations of such Code that are continuous with respect to time, each day that the violation continues is a separate offense and with respect to other violations of such Code, each violation constitutes 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 5. Additions or amendments to the Code when passed in such form as to indicate the intention of the village to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. Ordinances adopted after May 12, 2008, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 7. Savings clause. This Ordinance shall in no manner affect pending litigation, either civil or criminal, founded or growing out of any ordinance, resolution, order or parts thereof, are hereby repealed.

Section 8. Validity and severability. Should any portion of this Ordinance be found invalid for any reason, such a holding shall not be construed as affecting the validity of the remaining portions of the Ordinance.

Section 9. Effective date. This Ordinance shall become effective 15 days from its adoption by the Village of Pinckney Village Council and publication.

\_\_\_\_\_  
President Amy M. Salowitz, Village Clerk Rebecca A. Foster, Village

Village Council Member \_\_\_\_\_ offered the foregoing Ordinance, and moved its adoption. The motion was seconded by Village Council Member \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

Rebecca A. Foster, President \_\_\_\_\_

Linda E. Lavey, Trustee \_\_\_\_\_

Robert MacDonald, Trustee \_\_\_\_\_

Kurt W. Mohrmann, Trustee \_\_\_\_\_

Thomas F. Pais, Trustee \_\_\_\_\_

Bobby J. Stone, Trustee \_\_\_\_\_

Barry M. White, Trustee \_\_\_\_\_

The President thereupon declared this Ordinance approved and adopted by the Village Council of the Village of Pinckney this 26th day of January, 2009.

I hereby certify that the foregoing constitutes a true and complete copy of Ordinance No.\_\_\_\_adopted by the Village Council of the Village of Pinckney, County of Livingston, Michigan, at a regular meeting held on January 26, 2009.

\_\_\_\_\_  
Village Clerk

## **ORDINANCE NO. 106**

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE VILLAGE OF PINCKNEY, MICHIGAN; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; PROVIDING FOR THE AMENDMENT OF CERTAIN SECTIONS OF THE CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

THE VILLAGE OF PINCKNEY ORDAINS:

Section 1. The Code entitled "Village of Pinckney Code of Ordinances," published by American Legal Publishing Corporation, consisting of Chapters 1 through 153, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before April 11, 2011, and not included in the Code or recognized and continued in force by reference therein, are repealed.

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

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule, or regulation adopted or issued in pursuance thereof shall be punished by a fine not to exceed \$500.00, imprisonment for a period of not more than 90 days, or both; however, unless otherwise provided by law, a person convicted of a violation of any provision of such Code that substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days shall be punished by a fine of not more than \$500.00, imprisonment for a term of not more than 93 days, or both. Except as otherwise provided by law or ordinance, with respect to violations of such Code that are continuous with respect to time, each day that the violation continues is a separate offense and with respect to other violations of such Code, each violation constitutes 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 5. Additions or amendments to the Code when passed in such form as to indicate the intention of the Village to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. Ordinances adopted after April 11, 2011, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 7. Savings clause. This ordinance shall in no manner affect pending litigation, either civil or criminal, founded or growing out of any ordinance, resolution, order, or parts thereof, hereby repealed.

Section 8. Validity and severability. Should any portion of this ordinance be found invalid for any reason, such a holding shall not be construed as affecting the validity of the remaining portions of the ordinance.

Section 9. Effective date. This ordinance shall become effective fifteen (15) days from its adoption by the Village of Pinckney Village Council and publication.

\_\_\_\_\_  
Rebecca A. Foster, Village President

\_\_\_\_\_  
Amy M. Salowitz, Village Clerk

Village Council Member \_\_\_\_\_ offered the foregoing Ordinance, and moved its adoption. The motion was seconded by Village Council Member \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

Rebecca A. Foster, President \_\_\_\_\_

Linda E. Lavey, Trustee \_\_\_\_\_

Robert MacDonald, Trustee \_\_\_\_\_

Heather Menosky, Trustee \_\_\_\_\_

Kurt W. Mohrmann, Trustee \_\_\_\_\_

Thomas F. Pais, Trustee \_\_\_\_\_

Barry M. White, Trustee \_\_\_\_\_

The President thereupon declared this ordinance approved and adopted by the Village Council of the Village of Pinckney this 13th day of June, 2011.

I hereby certify that the foregoing constitutes a true and complete copy of Ordinance No. 106 adopted by the Village Council of the Village of Pinckney, County of Livingston, Michigan, at a regular meeting held on June 13, 2011.

\_\_\_\_\_  
Amy Salowitz, Village Clerk

## **ORDINANCE NO. 114**

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AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE VILLAGE OF PINCKNEY, MICHIGAN; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; PROVIDING FOR THE AMENDMENT OF CERTAIN SECTIONS OF THE CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

THE VILLAGE OF PINCKNEY ORDAINS:

Section 1. The Code entitled "Village of Pinckney Code of Ordinances," published by American Legal Publishing Corporation, consisting of Chapters 1 through 153, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before March 12, 2012, and not included in the Code or recognized and continued in force by reference therein, are repealed.

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

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine not to exceed \$500.00, imprisonment for a period of not more than 90 days, or both; however, unless otherwise provided by law, a person convicted of a violation of any provision of such Code that substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days shall be punished by a fine of not more than \$500.00, imprisonment for a term of not more than 93 days, or both. Except as otherwise provided by law or ordinance, with respect to violations of such Code that are continuous with respect to time, each day that the violation continues is a separate offense and with respect to other violations of such Code, each violation constitutes 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 5. Additions or amendments to the Code when passed in such form as to indicate the intention of the Village to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes

the additions and amendments.

Section 6. Ordinances adopted after March 12, 2012, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 7. Savings Clause. This ordinance shall in no manner affect pending litigation, either civil or criminal, founded or growing out of any ordinance, resolution, order or parts thereof, hereby repealed.

Section 8. Validity and Severability. Should any portion of this ordinance be found invalid for any reason, such a holding shall not be construed as affecting the validity of the remaining portions of the Ordinance.

Section 9. Effective Date. This Ordinance shall become effective fifteen (15) days from its adoption by the Village of Pinckney Village Council and publication.

\_\_\_\_\_  
Rebecca A. Foster, Village President

\_\_\_\_\_  
Amy M. Salowitz, Village Clerk

Village Council Member \_\_\_\_\_ offered the foregoing Ordinance, and moved its adoption. The motion was seconded by Village Council Member \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

Rebecca A. Foster, President	_____
Linda E. Lavey, Trustee	_____
Robert MacDonald, Trustee	_____
Heather Menosky, Trustee	_____
Kurt W. Mohrmann, Trustee	_____
Thomas F. Pais, Trustee	_____
Barry M. White, Trustee	_____

The President thereupon declared this Ordinance approved and adopted by the Village Council of the Village of Pinckney this 27th day of August, 2012.

I hereby certify that the foregoing constitutes a true and complete copy of Ordinance No. \_\_\_\_ adopted by the Village Council of the Village of Pinckney, County of Livingston, Michigan, at a regular meeting held on \_\_\_\_\_.

\_\_\_\_\_  
Amy Salowitz, Village Clerk

## **ORDINANCE NO. 122**

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE VILLAGE OF PINCKNEY, MICHIGAN; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; PROVIDING FOR THE AMENDMENT OF CERTAIN SECTIONS OF THE CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

THE VILLAGE OF PINCKNEY ORDAINS:

Section 1. The Code entitled "Village of Pinckney Code of Ordinances," published by American Legal Publishing Corporation, consisting of Chapters 1 through 153, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before June 24, 2013, and not included in the Code or recognized and continued in force by reference therein, are repealed.

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

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine not to exceed \$500.00, imprisonment for a period of not more than 90 days, or both; however, unless otherwise provided by law, a person convicted of a violation of any provision of such Code that substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days shall be punished by a fine of not more than \$500.00, imprisonment for a term of not more than 93 days, or both. Except as otherwise provided by law or ordinance, with respect to violations of such Code that are continuous with respect to time, each day that the violation continues is a separate offense and with respect to other violations of such Code, each violation constitutes 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 5. Additions or amendments to the Code when passed in such form as to indicate the intention of the Village to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. Ordinances adopted after June 24, 2013, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 7. Savings Clause. This ordinance shall in no manner affect pending litigation, either civil or criminal, founded or growing out of any ordinance, resolution, order or parts thereof, hereby repealed.

Section 8. Validity and Severability. Should any portion of this ordinance be found invalid for any reason, such a holding shall not be construed as affecting the validity of the remaining portions of the Ordinance.

Section 9. Effective Date. This Ordinance shall become effective fifteen (15) days from its adoption by the Village of Pinckney Village Council and publication.

\_\_\_\_\_  
Linda E. Lavey, Village President

\_\_\_\_\_  
Amy M. Salowitz, Village Clerk

Village Council Member \_\_\_\_\_ offered the foregoing Ordinance, and moved its adoption. The motion was seconded by Village Council Member \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

Linda E. Lavey, President	_____
Jessica Aseltine, Trustee	_____
W. Robert Burwell, Trustee	_____
Robert MacDonald, Trustee	_____
Heather Menosky, Trustee	_____
Kurt. W. Mohrmann, Trustee	_____
Thomas F. Pais, Trustee	_____

The President thereupon declared this Ordinance approved and adopted by the Village Council of the Village of Pinckney this 14th day of October, 2013.

I hereby certify that the foregoing constitutes a true and complete copy of Ordinance No. \_\_\_\_\_ adopted by the Village Council of the Village of Pinckney, County of Livingston, Michigan, at a regular meeting held on October 14, 2013  
\_\_\_\_\_.

\_\_\_\_\_  
Amy Salowitz, Village Clerk

**TITLE I: GENERAL PROVISIONS**

Chapter

**10. GENERAL PROVISIONS**

**CHAPTER 10: GENERAL PROVISIONS**

Section

- 10.01 How code designated and cited
- 10.02 Definitions
- 10.03 Section catchlines and other headings
- 10.04 Certain ordinances not affected by code
- 10.05 Continuation of ordinances

- 10.06 Prior rights, offenses and the like
- 10.07 Ordinances repealed not reenacted
- 10.08 Amendments to code
- 10.09 Supplementation of code
- 10.10 Appearance tickets
- 10.11 Separability of provisions

10.99 General penalty

## § 10.01 HOW CODE DESIGNATED AND CITED.

This code shall constitute and be designated as the “Village of Pinckney Code of Ordinances.”

## § 10.02 DEFINITIONS.

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

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

**BOARD OF TRUSTEES** or **BOARD**. The Board of Trustees of the Village of Pinckney.

**CIVIL INFRACTION**. An act or omission that is prohibited by this code or any ordinance of the village, but which is not a crime under this code or any other ordinance of the village, and for which civil sanctions, including without limitation, fines, damages, expenses and costs may be ordered, as authorized by Public Act 236, Ch. 87 of 1961, being M.C.L.A. §§ 600.8701 through 600.8735, as amended. A municipal civil infraction is not a lesser included offense of any criminal offense in this code.

**CODE**. The Village of Pinckney Code as designated in § 10.01.

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

**COUNTY**. County of Livingston, Michigan.

**JUVENILE**. Any person under 17 years of age.

**MINOR**. A person under 21 years of age.

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

**ORDINANCES**. The ordinances of the Village of Pinckney and all amendments thereto.

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

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

**VILLAGE COUNCIL**. The term **VILLAGE COUNCIL**, or **COUNCIL** as used in this code shall mean the legislative authority of the Village of Pinckney as established by Chapter V of 1985 Public Act (M.C.L.A. §§ 65.1 through 65.8), as amended, being the Village’s Charter.

## § 10.03 SECTION CATCHLINES AND OTHER HEADINGS.

(A) The catchlines of the several sections of this code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be the titles of the sections, nor as any part of the sections, nor, unless expressly so provided, shall they be so deemed when any of the sections, including the catchlines, are amended or reenacted.

(B) No provision of this code shall be held invalid by reason of deficiency in any catchline or in any heading or title to any chapter, article or division.



#### **§ 10.04 CERTAIN ORDINANCES NOT AFFECTED BY CODE.**

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

- (A) Promising or guaranteeing the payment of money for the village, or authorizing the issuance of any bonds of the village or any evidence of the village's indebtedness, or any contract or obligations assumed by the village;
- (B) Containing any administrative provisions of the Board of Trustees;
- (C) Granting any right or franchise;
- (D) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating and the like, any street or public way in the village;
- (E) Making any appropriation;
- (F) Levying or imposing taxes;
- (G) Establishing or prescribing grades in the village;
- (H) Providing for local improvements and assessing taxes therefore;
- (I) Dedicating or accepting any plat or subdivision in the village;
- (J) Extending or contracting the boundaries of the village;
- (K) Prescribing the number, classification or compensation of any village officers or employees;
- (L) Prescribing specific parking restrictions, no-parking zones, specific speed zones, parking meter zones and specific stop or yield intersections or other traffic ordinances pertaining to specific streets;
- (M) Pertaining to re-zoning; and
- (N) (1) Any other ordinance, or part thereof, which is not of a general and permanent nature; and all ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this code.  
(2) The ordinances are on file in the Village Clerk's office.

#### **§ 10.05 CONTINUATION OF ORDINANCES.**

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

#### **§ 10.06 PRIOR RIGHTS, OFFENSES AND THE LIKE.**

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

#### **§ 10.07 ORDINANCES REPEALED NOT REENACTED.**

No ordinance or part of any ordinance heretofore repealed shall be considered preordained or reenacted by virtue of this code, unless specifically reenacted. The repeal of any curative or validating ordinances shall not impair or affect any cure or validation already effected thereby.

#### **§ 10.08 AMENDMENTS TO CODE.**

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

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

#### **§ 10.09 SUPPLEMENTATION OF CODE.**

(A) By contract or by village personnel, supplements to this code shall be prepared and printed whenever authorized or directed by the Board of Trustees. A supplement to the code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the code. The pages of a supplement shall be so numbered that they will fit properly into the code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the code will be current through the date of the adoption of the latest ordinance included in the supplement.

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

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

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the code printed in the supplement and make changes in 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" and the like, as the case may be, or to "sections \_\_\_\_\_ to \_\_\_\_\_" (inserting section numbers to indicate the sections of the code which embody the substantive sections of the ordinance incorporated into the code); and
- (5) Make other non-substantive changes necessary to preserve the original meaning of ordinance sections inserted into the code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the code.

#### **§ 10.10 APPEARANCE TICKETS.**

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

- (A) Police officers;
- (B) Police Chief;
- (C) Zoning Administrator;
- (D) Code Enforcement Officer;
- (E) Village Manager; and
- (F) Village President.

#### **§ 10.11 SEPARABILITY OF PROVISIONS.**

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

#### **§ 10.99 GENERAL PENALTY.**

(A) Any person violating any provision of this code for which a penalty is not otherwise specified, either in that provision or elsewhere in the code, shall be guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction shall be subject to a fine of not more than \$500, or to imprisonment in the county jail for a period of not more than 90 days, or to both the fine and imprisonment in the discretion of the court.

(B) Provisions of this code prescribing any penalty shall not apply to the failure of any village officer or employee to perform an official duty.

(C) The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by this code or any ordinance, plus any costs, damages, expenses and other sanctions, as authorized under Public Act 736 of 1961, Ch. 87, being M.C.L.A. §§ 600.101 through 600.9911, as amended and other applicable laws.

(1) Unless otherwise specifically provided for a particular municipal civil infraction violation by this code or any ordinance, the civil fine for a violation shall be not less than \$125 nor more than \$500, plus costs and other sanctions, for each infraction. Costs shall include all expenses, direct and indirect, to which the village has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$10 nor more than \$500 be ordered.

(2) Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of this code or any ordinance. As used in this section, **REPEAT OFFENSE** means a second (or any subsequent) civil infraction violation of the same requirement or provision (i) committed by a person within any three-year period (unless some other period is specifically provided by this code or any ordinance) and (ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by this code or any ordinance for a particular 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 no less than \$200 and no more than \$500, plus costs.

(b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than \$400 and no more than \$500, plus costs.



(c) Repeat offenses are determined on the basis of the date of the commission of the offenses.

(D) A violation includes any act which is prohibited, made or declared to be unlawful or an offense by this code or any ordinance; and any omission or failure to act where the act is required by this code or any ordinance.

(E) Each act of violation and each day on which any violation of this code or any ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(F) In addition to any remedies available at law, the village may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of this code or any village ordinance. The penalty or sanction shall be in addition to the abatement of the violating condition, any injunctive relief, revocation of any permit or license, or other process.

(G) The penalties and sanctions provided by this section, unless another penalty or sanction as expressly provided, shall apply to the amendment of any section of this code and/or any addition to this code whether or not the penalty or sanction is reenacted in the amendatory ordinance.

(Ord. 115, passed 1-14-2013)

## TITLE III: ADMINISTRATION

Chapter

**30. VILLAGE OFFICIALS**

**31. VILLAGE ORGANIZATIONS**

**32. FINANCE AND TAXATION**

### CHAPTER 30: VILLAGE OFFICIALS

Section

#### *General Provisions*

30.01 Method of changing the terms of office for Village Trustees

30.02 Nonpartisan elections

30.03 Compensation of officers

#### *Village Treasurer*

30.15 Appointment

30.16 Duties

30.17 Reports

30.18 Vouchers

30.19 Handling of money

#### *Village Manager*

30.35 Establishment of Office

30.36 Appointment of Village Manager

30.37 Acting Village Manager

30.38 Compensation

30.39 Duties

30.40 Purchasing responsibilities

30.41 Dealing with employees

#### *Village Clerk*

30.55 Nomination and appointment

### GENERAL PROVISIONS

#### § 30.01 METHOD OF CHANGING THE TERMS OF OFFICE FOR VILLAGE TRUSTEES.

The terms of office of the current Village Trustees, which will all expire simultaneously on November 19, 2006, pursuant to the amended Michigan law (M.C.L.A § 168.644g), will be changed to the four-year staggered terms as required by the amendments to the statutory Village Charter (M.C.L.A. § 62.5), being the General Law Village Act, Act 3 of 1895, as amended, by adjusting the terms of office for Village Trustees as follows:

(A) The election of successors for the Village Trustees, whose terms of office expire on November 19, 2006, will be held as part of the 2006 November general election; and the three candidates for the office of Village Trustee receiving the highest number of votes shall hold office from November 20, 2006, and continuing for a period of four years, or until their successors have been elected and qualified. The candidates for the office of Village Trustee receiving the fourth, fifth and sixth highest number of votes in the 2006 November general election shall hold office from November 20, 2006, and continuing for a period of two years, or until their successors have been elected and qualified.

(B) The election of successors for the three Village Trustees whose terms of office expire on November 19, 2008, will be held as part of the 2008 November general election, with each elected successor being elected for a four-year term of office commencing November 20, 2008.

(C) After 2008, 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 M.C.L.A § 62.5, as amended).

(Ord. 65, passed 2-14-2002)

### **§ 30.02 NONPARTISAN ELECTIONS.**

(A) *Authorization.* As authorized by § 3(1) and (2), Ch. III of Public Act 3 of 1895, being M.C.L.A. §§ 61.1 through 75.12, as amended, village elections in the Village of Pinckney shall hereafter be nonpartisan.

(B) *Elimination of village primary.* From and after the effective date hereof, the village will not conduct a primary election for the election of village officers.

(C) *Election procedure.*

(1) At any election of village officers the person receiving the highest number of votes cast for that office shall be declared the elected winner for a single office.

(2) If more than one Trustee position is open, the first opening will go to the person who receives the highest number of votes, the second opening will go to the persons who receives the second highest number of votes and if there are more than two positions available, this procedure shall be followed until all positions are filled.

(Ord. 59, passed 7-23-2001; Ord. passed - -)

### **§ 30.03 COMPENSATION OF OFFICERS.**

(A) *President and Trustees.* The President and Trustees shall each receive compensation as established annually by resolution of the Council adopted simultaneously with the annual budget of the village. Such compensation may include a base salary, or a per diem rate for attending Council meetings and other meetings in fulfillment of the duties of the President and Trustees, or both. The resolution may also provide for reimbursement of any expenses incurred in the performance of their official duties pursuant to policies as may be established from time to time by resolution of the Village Council.

(B) *Other officials and employees.* All other village officers and employees shall receive such compensation as the Council may from time to time establish by resolution or contracts of employment.

(C) *Time of payment; other conditions.* The President and Trustees shall be paid monthly and shall receive no other compensation for services performed for and on behalf of the village during the term of office except compensation provided by a resolution adopted pursuant to this section.

(Ord. 109, passed 6-25-2012)

## **VILLAGE TREASURER**

### **§ 30.15 APPOINTMENT.**

The Office of Village Treasurer is hereby established by this subchapter to provide that the Treasurer shall be nominated by the President and confirmed by a two-thirds vote of the Council. The term of office shall be at the pleasure of the Council. Compensation shall be as established by the Council and benefits shall be provided in Art. IV of the *Village Personnel Policies and Procedures Manual*.

(Ord. 52, passed 11-9-1998)

### **§ 30.16 DUTIES.**

The Treasurer shall do all of the following:

(A) Have the custody of all monies, bonds other than official bonds filed with the Clerk under Ch. II of Public Act 3 of 1895, being M.C.L.A. §§ 61.1 through 75.12, as amended, mortgages, notes, leases and evidences of value belonging to the village;

- (B) Receive all money belonging to and receivable by the corporation;
- (C) Keep an account of all receipts and expenditures;
- (D) Collect and keep an account of all taxes and monies appropriated, raised or received for each fund of the village and keep a separate account for each;
- (E) Pay check disbursement authorizations out of the particular fund raised for the purpose for which the disbursement was authorized;
- (F) Perform duties prescribed by Public Act 3 of 1985, as amended, related to assessing property and levying taxes; and
- (G) Perform other duties as may be specified in the Village Charter, the Council or as otherwise specified by law or this subchapter.

(Ord. 52, passed 11-9-1998)

### **§ 30.17 REPORTS.**

The Treasurer shall report to the Clerk on the first Monday of each month, if required, a report of the amounts received and credited to each fund, on what account received, the amounts paid out from each fund during the preceding month and the amount of money remaining in each fund on the day of the Treasurer's report. The Treasurer shall also provide to the Village Council annually within 45 days after the end of the fiscal year, and as often and for the period as the Council shall require, a full and detailed account of the receipts and disbursements of the treasury since the date of the Treasurer's last annual report, classifying them by the funds to which the receipts are credited and out of which the disbursements are made and the balance remaining in each fund.

(Ord. 52, passed 11-9-1998)

### **§ 30.18 VOUCHERS.**

The Treasurer shall take vouchers for all money paid from the treasury, showing the amount and fund from which payment was made. Upon settlement with the proper officers of the village, the Treasurer shall file the vouchers with the Clerk.

(Ord. 52, passed 11-9-1998)

### **§ 30.19 HANDLING OF MONEY.**

The Treasurer shall keep all the village money in depository accounts authorized by law. The Treasurer shall not use, either directly or indirectly, the village money, warrants or evidences of debt, for the Treasurer's own use or benefit, or for the benefit of any other person. On proof of the violation, the Council shall declare the office vacant and appoint a successor.

(Ord. 52, passed 11-9-1998)

## **VILLAGE MANAGER**

### **§ 30.35 ESTABLISHMENT OF OFFICE.**

In accordance with the authority for the appointment of the village officers as the Council shall deem necessary for the execution of the powers granted to the village contained in § 2 of Ch. 11 and § 8 of Ch. V of Public Act 3 of 1895, being M.C.L.A. §§ 61.1 through 75.12, as amended, which is the Charter of the village, there is hereby established the Office of Village Manager.

(Ord. 35, passed 7-17-1989)

### **§ 30.36 APPOINTMENT OF VILLAGE MANAGER.**

(A) The President shall, with the concurrence of four or more Trustees, appoint a Village Manager for an indefinite term and the Council may, by contract, enter into other terms and conditions as the Manager and Council deem appropriate. The Manager shall serve at the pleasure of the Council and may be removed by the affirmative vote of four or more Trustees, but only after a hearing before the Council. The President may, for cause, suspend the Manager with full pay until the hearing. The action of the Council in removing the Manager shall be final.

(B) The Manager shall be selected solely on the basis of administrative and executive abilities with special reference to training and experience. The Manager need not be a resident of the village at the time of appointment but shall become a resident within 180 days from the date of the appointments with extensions permitted upon approval of the Council.

(Ord. 35, passed 7-17-1989)

### **§ 30.37 ACTING VILLAGE MANAGER.**

The President, with the concurrence of four or more Trustees, shall appoint or designate an acting Manager during a vacancy in the Office of Village Manager and shall make a permanent appointment within 180 days from the effective date of the vacancy. A Village Manager, appointed in accordance with § 30.36, shall be deemed to be the acting Manager from the date of the appointment until the appointee becomes a resident, if residency is deemed to be a qualification for the

appointment.

(Ord. 35, passed 7-17-1989)

### **§ 30.38 COMPENSATION.**

The Village Manager shall receive compensation as the Council shall determine annually by resolution or contract.

(Ord. 35, passed 7-17-1989)

### **§ 30.39 DUTIES.**

(A) 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, all departments and over all public property belonging to the village.

(B) The Manager shall have the following functions and duties:

- (1) Attend all meetings of the Village Council and committees thereof and take part therein but without a vote;
- (2) Be responsible for personnel management and shall issue, subject to Council approval, personnel rules applicable to all village employees. The Manager shall have the following responsibilities:
  - (a) To appoint, suspend or remove all appointed administrative officers and department heads, subject to Council approval. The Manager shall recommend to the Council the salary of wages to be paid each official; and
  - (b) To appoint, suspend or remove all other employees of the village. All the action shall be based on merit and taken pursuant to personnel rules approved by the Council. The Manager shall fix the salaries or wages of all employees.
- (3) Exercise administrative control over all departments including the Police Department and the Department of Public Works. The Chief of Police and the head of the Department of Public Works shall be subject to the direction of the Manager;
- (4) Exercise administrative responsibility over the accounting, budgeting, personnel, purchasing and related management functions of the Village Clerk and Village Treasurer;
- (5) Shall be required to attend all meetings of village boards and commissions, including the Village Planning Commission with the right to take part therein but without a vote;
- (6) Prepare and administer the budget as provided for in the Uniform Budgeting and Accounting Act, Public Act 2 of 1968, being M.C.L.A. §§ 141.421 through 144.440a, as amended;
- (7) Be the Purchasing Agent of the village;
- (8) Prepare and maintain an administrative code defining the duties and functions of the several officers and departments of the village, subject to approval by the Council;
- (9) Investigate all complaints concerning the administrative of the village, and shall have authority at all times to inspect the books, records and papers of any agent, employee or officer of the village;
- (10) Make recommendations to the Council for the adoption of the measures as may be deemed necessary or expedient for the improvement or betterment of the village; and
- (11) Perform other duties required from time to time by the Village Council.

(Ord. 35, passed 7-17-1989)

### **§ 30.40 PURCHASING RESPONSIBILITIES.**

(A) The Village Manager shall act as the Purchasing Agent for the village offices and departments. The Manager may delegate some or all of the duties as Purchasing Agent to other officers or employees, provided that the delegation shall not relieve the Manager of the responsibility for the proper conduct of those duties.

(B) The Village Manager shall have the authority to purchase any product or service the cost of which does not exceed \$5,000 provided that funds have been appropriated. The cost of the product or service shall not exceed the unencumbered balance of the appropriation for that account. Except as herein after provided, the Village Manager shall not purchase any product or service the cost of which exceeds the above dollar amount without prior approval of the Village Council. The Village Manager may promulgate rules governing the purchase of products or services.

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

(Ord. 35, passed 7-17-1989)

### **§ 30.41 DEALING WITH EMPLOYEES.**

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

(Ord. 35, passed 7-17-1989)

## VILLAGE CLERK

### § 30.55 NOMINATION AND APPOINTMENT.

As authorized by section 1(3), Chapter II of the 1895 PA 3, as amended, the Village Clerk shall be chosen by nomination by the Village President and appointment by a majority vote of 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 Clerk will report and be responsible to the Village President for the official function 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 law.

(Ord. 80, passed 4-14-2008)

## CHAPTER 31: VILLAGE ORGANIZATIONS

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## RESERVE POLICE FORCE

### § 31.01 ESTABLISHMENT AND PURPOSE.

In order to provide for the village's civil defense, disaster control and the safety and welfare of the citizens, there is hereby authorized the establishment of an organized police reserve force. These reserve police officers shall perform police duties

at the times as deemed necessary by the Village President or the Chief of Police, including, but not limited to times of emergency, danger, civil unrest, natural disaster, riot or special events, for the promotion of public safety and welfare and the preservation of law and order. The total strength of the organized police reserve force shall be such as, in the opinion of the Chief of Police, shall be necessary to supplement the regular police force.

(Ord. 67, passed 10-10-2005)

### **§ 31.02 ADMINISTRATION AND CONTROL.**

All reserve police officers shall be under the general supervision and control of the Chief of Police; subject to the rules, regulations and policies of the Police Department and the village; and shall at all times carry on their activities in conjunction with one or more of the village's certified police officers in the manner required by law.

(Ord. 67, passed 10-10-2005)

### **§ 31.03 APPOINTMENT OF RESERVE POLICE OFFICERS.**

(A) Reserve police officers shall be appointed by the Chief of Police who shall develop and promulgate rules, regulations and qualifications for reserve police officers, and plan and effectuate a training program as it relates to the duties and responsibilities of reserve police officers; provided, however, that all the members shall:

(1) Be of sound physical condition, and be of good moral character in accordance with State of Michigan Public Act 203 of 1965, as amended, being M.C.L.A §§ 28.601 *et seq.*;

(2) Be citizens of the United States;

(3) Be at least 21 years of age;

(4) Be free of felony convictions;

(5) Be properly licensed to operate a motor vehicle on the public highways of the state; and

(6) Possess the mental and emotional maturity, wisdom and judgment deemed necessary and appropriate for the proper performance of assigned duties as determined by the Chief of Police.

(B) Before receiving the oath of office, the reserve police officer shall be trained in traffic control, first aid, resuscitation, hazardous materials accidents, report writing and the other subjects which the Chief of Police considers appropriate.

(C) All members of the Pinckney Reserve Police Officer System, who were members at the time of the adoption of this subchapter, shall continue in their position without the need of any further appointment.

(D) A member of the police reserve may terminate his or her appointment by submitting a written resignation to the Chief of Police, and the appointment may be suspended or terminated by the Chief of Police at any time, with or without cause and for any reason whatsoever.

(Ord. 67, passed 10-10-2005)

### **§ 31.04 OATH OF RESERVE POLICE OFFICERS.**

Before beginning duty, each reserve police officer shall take an oath administered by the Village Clerk. In that oath, the officer shall swear to perform the duties and to observe the limitations described in this subchapter and to abide by the rules and regulations adopted by the Chief of Police. A copy of the oath shall be signed and maintained in the village's records.

(Ord. 67, passed 10-10-2005)

### **§ 31.05 COMPENSATION.**

Reserve police officers shall perform their duties as a voluntary public service and without monetary compensation.

(Ord. 67, passed 10-10-2005)

### **§ 31.06 BENEFITS.**

Reserve police officers shall be entitled to the rights and benefits provided under the Worker's Compensation Act of Michigan, being Public Act 317 of 1969, being M.C.L.A. §§ 418.101 through 418.941, as amended; provided, however, that reserve police officers, in order to be entitled to the benefits of the Worker's Compensation Act of Michigan, shall have been injured or killed while on duty and acting within the scope of their appointment as reserve police officers.

(Ord. 67, passed 10-10-2005)

### **§ 31.07 UNIFORM AND INSIGNIA.**

(A) Reserve police officers shall wear badges, dress and insignia as the Chief of Police shall direct, and shall be equipped in the manner which the Chief of Police shall deem necessary for the proper discharge of their duties.

(B) The Chief of Police may require the carrying of firearms while the reserve police officers are on duty. All equipment issued by the village shall remain the property of the village.



(Ord. 67, passed 10-10-2005)

### **§ 31.08 RULES AND REGULATIONS.**

The reserve police and all members thereof shall be subject to and governed by the rules and regulations promulgated by the Chief of Police, relating to the functions, operations and procedures of the Police Department.

(Ord. 67, passed 10-10-2005)

### **§ 31.09 AUTHORITY AND DUTIES.**

(A) The organized police reserve force is not intended to replace or supplant the duly sworn members of the Village Police Department, but shall supplement their efforts in maintaining public safety and to assist in times of emergency and danger. Reserve police officers may perform the functions as may be delegated from time to time to them by the Chief of Police; provided, however, that the appointment of an individual as a reserve police officer under this subchapter is not to be construed as providing any additional power of arrest than that granted to private persons under statutory provisions of the state. Nor shall the provisions of this subchapter be construed as authority or power to carry weapons contrary to the statutory provisions of the state. It is intended that the members of the organized police reserve force shall be available for duties such as, but not limited to:

- (1) Directing traffic;
- (2) Desk assignments, including the duties as answering the telephone and writing reports;
- (3) Assisting at the scene of accidents and fires;
- (4) Assisting in crime prevention and crime analysis;
- (5) Patrolling and providing security at special events;
- (6) Assisting in maintaining law and order at events where a large number of persons have assembled;
- (7) Assisting the Fire Department by handling crowds at fires; and
- (8) Handling of service type calls and similar noncritical tasks.

(B) It shall be grounds for immediate dismissal for any member of the police reserve force to falsely represent that he or she has authority, to wear his or her uniform or insignia or to use any of the equipment furnished to him or her, except during the performance of actual authorized reserve police duty. No reserve police officer shall be deemed to be on authorized reserve police duty until the member shall have been specifically ordered to the duty by the Chief of Police, his or her authorized designee or the Village President.

(Ord. 67, passed 10-10-2005) Penalty, see §10.99

### **§ 31.10 REGULAR POLICE FORCE.**

Membership in the police reserve force shall not constitute membership in the regularly constituted Village Police Department, nor shall any member of the police reserve force be entitled to any right or privilege of members of the regularly constituted Village Police Department, nor to any other prerequisite or emolument attaching to membership in the regularly constituted Village Police Department, excepting the state worker's compensation benefits to which they may be entitled by law.

(Ord. 67, passed 10-10-2005)

## **DOWNTOWN DEVELOPMENT AUTHORITY**

### **§ 31.25 TITLE.**

This subchapter shall be known as the Downtown Development Authority of the Village of Pinckney.

(Ord. 41, passed 4-22-1991)

### **§ 31.26 DETERMINATION OF NECESSITY; PURPOSE.**

The Village Council hereby determines that it is necessary for the best interest of the public to create a public body corporate which shall operate to halt property value deterioration, eliminate the causes of that deterioration, increase property tax evaluation where possible in the business district of the village and promote economic growth, pursuant to Public Act 197 of 1975, being M.C.L.A. §§ 125.1651 through 125.1680, as amended.

(Ord. 41, passed 4-22-1991)

### **§ 31.27 DEFINITIONS.**

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

(B) The terms, used in this subchapter shall have the same meaning as given to them in Act 197 or as hereinafter in this

section provided unless the context clearly indicates to the contrary. As used in this subchapter:

**ACT 197.** Act 197 of the Public Acts of Michigan 1987, as amended.

**AUTHORITY.** The Downtown Development Authority of the Village of Pinckney created by this subchapter.

**BOARD.** The Board of Directors of the Authority. The governing body of the Authority.

**CHIEF EXECUTIVE OFFICER.** The President or the duly appointed designee of the President of the Village of Pinckney.

**COUNCIL.** The Village Council of the Village of Pinckney.

**DOWNTOWN DISTRICT.** The Downtown District designated by this subchapter, as now existing or as hereinafter amended and which the Authority shall exercise its power.

**VILLAGE.** The Village of Pinckney, Livingston County, Michigan.

(Ord. 41, passed 4-22-1991)

### **§ 31.28 CREATION OF AUTHORITY.**

There is hereby created pursuant to Act 197, a Downtown Development Authority for the village. The Authority shall be a public body corporate and shall be known and exercise its powers as Downtown Development Authority of the Village of Pinckney. The Authority may adopt a seal, may sue and be sued in any court in the state and shall possess all of the powers necessary to carry out the purpose of its incorporation as provided by this subchapter and Act 197. The enumeration of the power in this subchapter or in Act 197 shall not be construed as a limitation upon the general powers of the authority of the Authority consistent with the Statutes of the State of Michigan.

(Ord. 41, passed 4-22-1991)

### **§ 31.29 TERMINATION.**

Upon completion of its purposes, the Authority may be dissolved by the Council. The property and assets of the Authority after dissolution and satisfaction of its obligation shall revert to the village.

(Ord. 41, passed 4-22-1991)

### **§ 31.30 DESCRIPTION OF DOWNTOWN DISTRICT.**

The Downtown District shall consist of the territory of the village described in Exhibit 1, attached to Ord. 41, as if fully set forth herein. This designation shall be subject to the changes as may hereinafter be made pursuant to this subchapter and Act 197.

(Ord. 41, passed 4-22-1991)

### **§ 31.31 POWERS OF AUTHORITY.**

The Downtown Development Authority shall have all powers, except the power to levy a tax that is provided by law including Act 197 that the authorities may wield.

(Ord. 41, passed 4-22-1991)

### **§ 31.32 BOARD OF DIRECTORS.**

The Authority shall be under the supervision and control of the Board. As authorized by M.C.L.A. § 125.1654(8), the Planning Commission, as established pursuant to Village Code § 31.32, as amended, shall serve as the Downtown Development Authority Board of Directors.

(Ord. 41, passed 4-22-1991; Ord. 86, passed 2-9-2009; Ord. 129, passed 4-11-2016)

### **§ 31.33 FISCAL YEAR ADOPTION OF BUDGET.**

(A) The fiscal year of the Authority shall be set by resolution as may be adopted by Council at a later time.

(B) The Board shall prepare annually a budget and submit it to the Council for approval in the manner and at the time as the general budget for the village is presented. The Board shall not finally adopt a budget for any fiscal year until the budget has been approved by the Council. The Board may, however, temporarily adopt a budget in connection with the operation of any improvements which have been financed by revenue bonds where required to do so by the ordinance authorizing the revenue bond.

(C) The Authority shall submit financial reports to the Council on a monthly basis. The Authority shall be audited annually by the same independent auditors auditing the village records, and those independent auditors shall provide a report to the Council concerning the activities of both the village and the Authority.

(Ord. 41, passed 4-22-1991)

## MISCELLANEOUS ORGANIZATIONS

### § 31.45 CABLE TELEVISION COMMISSION.

(A) *Establishment; membership; terms.* There is hereby established a permanent Cable Television Commission in and for the village, which Commission shall be appointed by the President, subject to the advice and consent of Council and shall be comprised of a Chairperson and two members. The President shall initially appoint the Chairperson for a one-year term and one member for a two-year term and the other member for a three-year term. At the expiration of the initial terms, the President shall appoint successors for three-year terms each, so that one person on the Commission shall be reappointed or replaced on the second Monday in April of each year after the completion of the initial terms.

(B) *Purposes.* The purposes of the Cable Television Commission shall be as follows:

(1) Establish its own rules and procedures, subject to ratification by Council, and to periodically evaluate those rules and submit any necessary changes to Council for approval;

(2) Create an ordinance to be submitted to the Council which would regulate the operation of cable television throughout the village in accordance with the preemptive mandate of the Cable Communications Act of 1984, 47 U.S.C. §§ 521 *et seq.*; and regulations consistent with the provision of the Federal Communications Act of 1934, as amended, including the Cable Television Consumer Protection and Competition Act of 1992, Pub. Law No. 102-385 and the Federal Communication Commission's rules and regulations promulgated pursuant thereto;

(3) Study the technology and advise the Village Council on the current state of the art for the utilization of broadband cable systems in the best interest of the village. This may include, but is not limited to, the delivery of television programming, data collection and transmission, voice transmission, data communication, security system monitoring and other modes that may arise in the future;

(4) Regulate cable television franchisees and rates in accordance with federal, state and local authority and conduct hearings as necessary to receive evidence, suggestions and complaints from citizens regarding performance of the franchises as well as testimony regarding performance of franchisees as well as the need for services;

(5) Have the other responsibilities as the Council may from time to time direct; and

(6) When the Village Council establishes a Cable Television Commission, the Commission shall have all of the authority of the Franchising Authority and shall act as the agent of the Village Council as it relates to an ordinance for Cable Television Rate Regulation.

(Ord. 47, passed 11-8-1993)

### § 31.46 PLANNING COMMISSION.

(A) A Village Commission is hereby created pursuant to the provisions of Public Act 285 of 1931, being M.C.L.A. §§ 125.31 through 125.45, as amended. It shall be known as the Pinckney Planning Commission.

(B) (1) The Planning Commission shall consist of seven members. One member shall be a member of the Village Council who shall be selected by the Council to serve as a member *ex officio* and six 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.

(2) The appointed members of the Planning Commission shall have three-year staggered terms with new terms commencing on January 1. The initial appointments after the adoption of this section, and in 2007, may have their terms varied in length to establish three-year staggered terms thereafter. An appointed member shall hold office until his or her successor has been appointed. The term of the Council member shall be determined by the Council, but the term shall not exceed the Council member's term of office as a Village Council member.

(3) Vacancies in appointed member positions occurring for reasons other 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. Vacancies in the Council member position occurring for reasons other than through expiration of a term shall be filled for the unexpired term by the Village Council.

(4) The Village Council member shall have full voting rights on the Planning Commission.

(5) All appointed members of the Village Planning Commission, excluding the Village Council member, shall serve as such with compensation as the Village Council shall prescribe.

(C) *Removal of member.* After a public hearing, an appointed member of the Planning Commission, other than the member selected by the Council, may be removed by the President for inefficiency, neglect of duty or malfeasance in office. The Village Council may for like cause remove the member selected by the Council.

(D) *Meetings and records.* The Pinckney Planning Commission shall annually elect its Chairperson from amongst the appointed members and create and fill the other of its offices as it may determine. The Commission shall hold not less than four regular meetings each year. It shall adopt rules for 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 office of the Village Clerk.

(E) *Contracts for services.* The Pinckney Planning Commission may contract with village planners, engineers, architects and other consultants for the specialized services as it may require. In addition, the services of regular village employees may be obtained as found necessary for its work. Provided, however, the Pinckney Planning Commission shall not expand any funds or enter into any contracts or agreements for expenditures in excess amounts appropriate by the Village Council. The Village Council may appropriate the funds for village planning as it may deem advisable.

(F) *Powers and duties of Pinckney Planning Commission.* The Planning Commission shall have the powers concerning the preparation and adoption of a master plan or any part thereof, the making of surveys as a basis for the plan, the approval of public improvements, the carrying out of educational and publicity programs, zoning and the approval of plans and the other rights, powers, duties and responsibilities of Zoning and Planning Commissions as are provided in Act 33 of 2008, being M.C.L.A. §§ 125.3801 through 125.3885, as amended; and in Act 110 of 2006, being M.C.L.A. §§ 125.3101 through 125.3702, as amended; and as provided in the Village Code, as amended, including within Ch. 152: Zoning. The Planning Commission shall also serve as the Downtown Development Authority Board of Directors and shall have all rights, powers, duties and responsibilities as are provided in Act 197 of 1975, being M.C.L.A. §§ 125.1651 through 125.1681, as amended, and as provided in the Village Code §§ 31.25 through 31.33 and § 153.01, as amended.

(G) *Gifts.* The Pinckney Planning Commission may receive gifts for purposes of carrying out its objectives and may expend and funds received in the form of a gift in such a manner as it may deem proper.

(H) *Reports and recommendations.* The Pinckney Planning Commission shall make reports and recommendations to the Village Council; provided, however, that no recommendation shall be binding upon the Village Council.

(Ord. 19, passed 9-2-1971; Ord. passed 5-9-1983; Ord. 76, passed 1-1-2007; Ord. 93, passed 2-8-2010; Ord. 129, passed 4-11-2016)

## **CHAPTER 32: FINANCE AND TAXATION**

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## SPECIAL ASSESSMENTS

### § 32.01 DEFINITIONS.

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

**ASSESSOR.** The Village Assessor of the Village of Pinckney.

**CLERK.** The Village Clerk.

**COST.** When referring to any public improvement, shall include the cost of surveys, services, lands, plans, condemnation, spreading of rolls, notices, advertising, financing, construction and legal fees and all other costs incident to the making of the improvements, the special assessments therefore and the financing thereof.

**COUNCIL.** The Village Council of the Village of Pinckney.

**ENGINEER.** The Engineer of the Village of Pinckney, or any person, firm or association of registered engineers employed by the Village of Pinckney in that capacity.

**IMPROVEMENT.** Any public betterment and/or any improvement upon public property which results in special benefit to the real property in the vicinity of the improvement.

**OWNER.** The last recorded title holder(s) of any lot or parcel of land.

**RESOLUTION.** A resolution adopted by a two-thirds vote of the members elect of the Council.

**TREASURER.** The Village Treasurer of the Village of Pinckney.

**VILLAGE.** The Village of Pinckney.

(Ord. 32, passed 4-14-1986)

### § 32.02 INITIATION OF PROCEEDINGS.

Proceedings to provide for any public improvements to be financed in whole or part by a special assessment tax may be initiated by resolution of the Council or by a petition signed by the owners of more than 50% of the assessable frontage, lots or acreage, as the case may be, who may be subject to any special assessment tax or may be initiated, without the petition being first filed, upon resolution of the Council determining that an improvement shall be made and financed in whole or in part by special assessment. All improvements hereunder shall be made at the discretion of the Council solely and no petition shall be mandatory or directive in nature.

(Ord. 32, passed 4-14-1986)

### § 32.03 PETITIONS; INVESTIGATIONS BY THE VILLAGE CLERK.

All petitions for public improvements shall be investigated by the Village Clerk to determine whether a sufficient number of valid signatures have been obtained and, if the investigation discloses a deficiency, the petition shall be returned to the circulator with notice of that fact.

(Ord. 32, passed 4-14-1986)

### § 32.04 SURVEY AND REPORT.

Before the Council shall consider the making of any local public improvement, the same shall be referred to the Village Clerk or Village Engineer as may be appropriate, directing that person to cause to be prepared a report which shall include necessary plans, profiles, specifications and detailed estimates of cost, an estimate of the life of the improvements, a description of the assessment district or districts, and the other pertinent information 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 benefitted and what part, if any, should be paid by the village at-large. The Council shall not finally determine to proceed with the making of any local public improvement until the report of the Clerk or Engineer 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 the improvement.

(Ord. 32, passed 4-14-1986)

### § 32.05 DETERMINATION ON THE PROJECT; NOTICE.

(A) After the Clerk or Engineer has presented the report required in §32.04 for making any local public improvement as requested in the resolution of the Council, and the Council has reviewed the report, a resolution may be passed tentatively determining the necessity of the improvement, setting forth the nature thereof, prescribing what part or proportion of the cost of the improvement shall be paid by special assessment upon the property especially benefitted, determination of benefits received by affected properties, and what part, if any, shall be paid by the village at-large; designating the limits of the special assessment district to be affected, designating whether to be assessed according to frontage or other benefits, placing the complete information on file in the office of the Clerk, where the same may be found for examination, and directing the Clerk to give notice of public hearing on the proposed improvement, at which time and place opportunity will be



given by one publication in a newspaper published or circulated within the village and by first class mail to each owner of, or person in interest in the property to be assessed as shown by the last general tax assessment roll of the village, the publication and mailing to be made at least ten full days prior to the date of the hearing.

(B) The hearing required by this section may be held at any regular, adjourned or special meeting of the Council.

(Ord. 32, passed 4-14-1986)

#### **§ 32.06 HEARING ON NECESSITY.**

At the public hearing on the proposed improvement, all persons interested shall be given an opportunity to be heard, after which the Council may modify the scope of the local public improvement in such a manner as it shall deem to be in the best interest of the village as a whole; provided that if the amount of work is increased or additions are made to the district, then another hearing shall be held pursuant to notice prescribed in § 32.05. If the determination of the determination of the Council shall be to proceed with the improvement, a resolution shall be passed approving the necessary profiles, plans, specifications, assessment district and detailed estimates of cost and directing the Assessor to prepare a special assessment roll in accordance with the Council's determination and report the same to the Council for confirmation.

(Ord. 32, passed 4-14-1986)

#### **§ 32.07 SPECIAL ASSESSMENT ROLL.**

The Assessor shall make a special assessment roll of all lots and parcels of land within the designated district benefitted by the proposed improvement and assess to each lot or parcel of land the proportionate amount benefitted thereby.

(Ord. 32, passed 4-14-1986)

#### **§ 32.08 CLERK TO FILE ASSESSMENT ROLL.**

When the Assessor shall have completed the assessment roll, he or she shall file the same with the Clerk for presentation to the Council for review and certification by it.

(Ord. 32, passed 4-14-1986)

#### **§ 32.09 MEETINGS TO REVIEW SPECIAL ASSESSMENT ROLL; OBJECTIONS IN WRITING.**

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

(B) At the Council's discretion, the hearing on the special assessment role and the public hearing on the necessity of the special assessment may be combined where appropriate.

(Ord. 32, passed 4-14-1986)

#### **§ 32.10 CHANGES AND CORRECTIONS IN ASSESSMENT ROLL.**

(A) The Council shall meet at the time and place designated for the review of the special assessment role, at the meeting or a proper adjournment thereof, shall consider all objections thereto submitted in writing.

(B) The Council may correct the roll as to any special assessment or description of any lot, parcel of land or other errors appearing therein; or it may, by resolution, annul the assessment roll and direct that new proceedings be instituted.

(C) The same proceedings shall be followed in making a new roll as in the making of the original roll.

(D) If, after hearing all objections and making a record of the 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 the determinations, confirming the roll, placing it on file in the office of the Clerk and directing the Clerk to attach his or her warrant to a certified copy thereof within ten days, therein commanding the Assessor to spread and the Treasurer to collect the various sums and amounts appearing thereon as directed by the Council.

(E) The 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 § 32.16.

(Ord. 32, passed 4-14-1986)

#### **§ 32.11 LIEN ESTABLISHED.**



All special assessments contained in any special assessment roll, including any part thereof deferred as to payment, shall from the date of confirmation of the roll, constitute a lien upon the respective lots or parcels of land assessed until paid.

(Ord. 32, passed 4-14-1986)

#### **§ 32.12 FAILURE TO RECEIVE NOTICE.**

(A) Failure of any owner to receive any notice required to be sent under the provisions of the Village Charter and this subchapter shall not invalidate any special assessment or special assessment roll.

(B) Nor shall, to the extent permitted by law, any failure on the part of the Treasurer to give any required notice, cause any invalidation of any special assessment roll of the village assessment thereupon nor excuse the payment of interest or penalties.

(Ord. 32, passed 4-14-1986)

#### **§ 32.13 INSTALLMENTS AND DUE DATE.**

All special assessments levied hereunder shall become due upon confirmation of the special assessment roll and the annual installments shall not exceed 30 in number as the Council may determine at the time of confirmation and if in annual installments, the Council shall determine the first installment to be due upon confirmation or on the following July 1 and subsequent installments on July 1 of succeeding years.

(Ord. 32, passed 4-14-1986)

#### **§ 32.14 PUBLICATION OF NOTICE TO PAY.**

The assessment roll shall be transmitted by the Clerk to the Treasurer for collection immediately after its confirmation, and the Treasurer shall give notice by one publication in a local newspaper.

(Ord. 32, passed 4-14-1986)

#### **§ 32.15 DELINQUENT SPECIAL ASSESSMENTS.**

Any assessment, or part thereof, remaining unpaid on October 1 following the date when the same became delinquent, shall be reported as unpaid by the Treasurer to the Council. Any delinquent assessment, together with all accrued interest, shall be transferred and reassessed on the next annual village tax role in a column headed "Special Assessments" with a penalty as provided by State Statute for General Delinquent Village Taxes added thereto, and when so transferred and reassessed upon the tax roll, shall be collected in all respects as provided for the collection of village taxes.

(Ord. 32, passed 4-14-1986)

#### **§ 32.16 ADDITIONAL ASSESSMENTS; REFUNDS.**

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

(Ord. 32, passed 4-14-1986)

#### **§ 32.17 ADDITIONAL PROCEDURES.**

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

(Ord. 32, passed 4-14-1986)

#### **§ 32.18 COLLECTION OF SPECIAL ASSESSMENTS.**

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

(Ord. 32, passed 4-14-1986)

#### **§ 32.19 CONTESTED ASSESSMENTS.**

No suit or action of any kind shall be constituted or maintained for the purpose of contesting or enjoining the collection of

any special assessment:

(A) Unless within 45 days after the confirmation of the special assessment roll, written notice is given to the Council of intention to file the suit or action, stating the grounds on which it is claimed the assessment is illegal; and

(B) Unless the suit or action shall be commenced within 90 days after confirmation of the roll.

(Ord. 32, passed 4-14-1986)

### **§ 32.20 REASSESSMENT FOR BENEFITS.**

Whenever the Council shall deem any special assessment invalid or defective for any reason whatever, or if any court of competent jurisdiction shall have adjudged the 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 any part of the assessment has been collected or not. All proceedings on the reassessment and for the collection thereof shall be made in the manner as provided for the original assessment. If any portion of the original assessment shall have been collected and not refunded, it shall be applied upon the reassessment and the reassessment shall to that extent be deemed satisfied. If more than the amount reassessed shall have been collected, the balance shall be refunded to the person making the payment.

(Ord. 32, passed 4-14-1986)

### **§ 32.21 DEFERRED PAYMENTS OF SPECIAL ASSESSMENTS.**

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

(Ord. 32, passed 4-14-1986)

### **§ 32.22 ANTICIPATORY BORROWING AND BOND ISSUES; GENERAL OBLIGATION BONDS.**

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

(Ord. 32, passed 4-14-1986)

### **§ 32.23 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 the 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 President, or the President's designee, 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 10%. 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. 102, passed 4-11-2011)

## **TITLE V: PUBLIC WORKS**

Chapter

### **50. GARBAGE**

51. WATER

52. SEWERS

53. STORMWATER

## CHAPTER 50: GARBAGE

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### Section

50.01 Definitions

50.02 Accumulation; garbage, rubbish, construction waste and ashes

50.03 Dumping of garbage, rubbish, construction waste and ashes

50.04 Duty of owners, occupants or other persons in charge of any building, residence or lot

50.05 Alleys, streets and lots

50.06 Collection

50.07 Containers

50.08 Disposal of abandoned property by owners and other parties

### § 50.01 DEFINITIONS.

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

**ASHES.** The solid residue of combustion fuel used in heating and cooking operations as occurring in households, apartments, offices or other business places, but not to include residue from industrial plants or operations.

**COMMERCIAL RUBBISH.** Miscellaneous waste and materials resulting from any business and industrial operations of every kind, excludes construction and trade wastes which has been abandoned as worthless and, having no property value or which would constitute a nuisance when allowed to accumulate.

**CONSTRUCTION WASTE.** Miscellaneous waste and materials resulting from construction, alterations, repairs, demolitions, renovations and includes earth, offensive dirt and fill dirt from excavating which has been abandoned as worthless and having no property value, or which would constitute a nuisance when allowed to accumulate.

**DOMESTIC RUBBISH.** Waste material and refuse of every character from normal household or living conditions, including but not limited to, house dirt and trash, except garbage. In general, rubbish is paper, rags, bottles, tin, cans, glass, cardboard, plastic, worn-out clothing, furniture, excelsior, offensive dirt and the like, which waste material and refuse has been abandoned as worthless and having no property value or which would constitute a nuisance when allowed to accumulate.

**GARBAGE.** Every refuse or waste material accumulation of animal, fruit or vegetable matter, liquid or otherwise decayed or not that attends the preparation, use, cooking, dealing in or storing of meat, fish, fruit or vegetables including offal, tin cans and other containers in which foodstuffs are packaged, which refuse has been abandon as worthless and having no property value or which would constitute a nuisance when allowed to accumulate.

**GARDEN RUBBISH.** Garden, lawn or tree trimmings leaves and dead garden plants from the normal household. It shall not include rubbish from work of landscape gardeners or private companies such as landscaping firms and nurseries.

**PERSON.** Any individual, corporation, association, club, recognized group, business, sole proprietorship, partnership or any other legally recognized entity.

**RUBBISH.** Domestic, garden and commercial rubbish unless specifically restricted to mean a particular type of rubbish in a particular section of this chapter.

(Ord. 23, passed 11-13-1974)

### § 50.02 ACCUMULATION; GARBAGE, RUBBISH, CONSTRUCTION WASTE AND ASHES.

It shall be unlawful for any person to accumulate, permit or allow to be accumulated, to place, dump or permit to be dumped or placed, to scatter, bury or permit to be scattered or buried in or on property or premises owned by him or her or under his or her control, any garbage, domestic, commercial or garden rubbish, ashes, construction waste, manure or any other form of waste, having no property value or constituting a nuisance when so accumulated, except where the substances are placed in proper receptacles for removal.

(Ord. 23, passed 11-13-1974) Penalty, see §10.99

### § 50.03 DUMPING OF GARBAGE, RUBBISH, CONSTRUCTION WASTE AND ASHES.

It shall be unlawful for any person to dump, bury, place, scatter, deposit or cause to be deposited, any garbage, domestic, commercial or garden rubbish, ashes, manure, construction waste or other forms of waste in any public place or on private property with or without the owner's permission, except where the substances are dumped in a place or on private property, with or without the owner's permission, except where the substances are dumped in a place designated by the Village Council for the purpose, except where the purpose or except where the substance is so pursuant to a commercial arrangement for its commercial value and a permit is issued from the village upon a hearing that the disposal method will not occur if a permit is issued; when any permit is issued, a violation of the conditions attached to it will cause the permit to be terminated immediately.

(Ord. 23, passed 11-13-1974) Penalty, see §10.99

#### **§ 50.04 DUTY OF OWNERS, OCCUPANTS OR OTHER PERSONS IN CHARGE OF ANY BUILDING, RESIDENCE OR LOT.**

(A) In all business, industrial and residential districts of the village, it shall be the duty of owners, occupants or other persons in charge of any building, residence or lot to see that no rubbish, either combustible or noncombustible, is placed or permitted to remain in any street, alley or other public place or in any private place except a building or other suitable storage place which shall consist of, as a minimum, a closed container. It shall also be violation for any person to store any inflammable rubbish or other waste material where it would cause a fire hazard.

(B) 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.

(C) 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.

(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 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 10%, to be levied by them as a special assessment upon the lot, lots or premises as provided in § 32.23 of this Code for single lot assessments, or the amount thereof shall be collected by court action.

(Ord. 23, passed 11-13-1974; Am. Ord. 108, passed 3-2-2012) Penalty, see §10.99

#### **§ 50.05 ALLEYS, STREETS AND LOTS.**

In the case of any alley, street or easement where any substance has been deposited in violation of this chapter, it shall be the duty of every owner or occupant of any lot or premises to remove from one-half of the alley, street or easement adjoining the lot or premises, all the substances. It shall be the duty of every occupant of premises abutting upon an alley, street or easement to keep his or her adjoining one-half of the alley, street or easement in a clean, neat and orderly condition and to keep all weeds and grasses removed or cut to a height not to exceed nine inches at all times.

(Ord. 23, passed 11-13-1974; Ord. 143, passed 2-12-2018)

#### **§ 50.06 COLLECTION.**

(A) Garbage, rubbish, manure, ashes and other forms of waste shall be placed in proper receptacles and shall be collected by the village pursuant to an established collection schedule and at the charge, tax or assessment as may be established by the village reasonably commensurate to the cost of the collection.

(B) It shall be unlawful for any other person to collect and dispose of the substance within the village limits after the time as the village shall commence collection service, or shall contract with others pursuant to public contract for the collection.

(C) It shall be unlawful for any person to bring into and deposit, dump, bury, place and scatter the substances obtained from outside the village limits, even at a place designated by the Village Council for the purpose unless duly licenses to do so by the Village Council.

(D) Construction waste will not be collected (D) by the village. Commercial waste and refuse will not be collected by the village.

(Ord. 23, passed 11-13-1974) Penalty, see §10.99

#### **§ 50.07 CONTAINERS.**

The occupant of any premises within the village, to which any garbage or rubbish shall be accumulated which is not disposed of by an approved incinerator or approved garbage grinder, shall maintain on the premises the number of

containers sufficient to conveniently store the normal accumulation of garbage on the premises over a period of not less than seven days. Every container shall be kept tightly covered with an impervious cover. Garbage containers shall be kept in a clean and sanitary condition at all times. It is further provided that the village may approve the use of plastic or waterproof paper bags of a capacity and quality sufficient for the storage and disposal of refuse.

(Ord. 23, passed 11-13-1974)

#### **§ 50.08 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 division (B) of this section 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 subdivision (A)(8) of this section.

(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 § 50.07 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 §50.07, 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 subdivision (A)(8) of this section, 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 § 50.04 of this Code. 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 enforcement of other applicable code provisions, 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 10. 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. 108, passed 3-2-2012)

## CHAPTER 51: WATER

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### Section

#### ***Water System of Village***

- 51.01 Definitions and abbreviations
- 51.02 Findings
- 51.03 Establishment of Water Supply System
- 51.04 Operation and administration; fiscal year
- 51.05 Connection permit required; applications; deposit
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- 51.99 Penalty

### WATER SYSTEM OF VILLAGE

#### § 51.01 DEFINITIONS AND ABBREVIATIONS.

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

**AWWA.** The American Water Works Association.

**CAPITAL CONNECTION FEE.** The fee charged to premises seeking access to the Water Supply System, as described in § 51.10(C)(4).

**COMMODITY CHARGE.** The charge imposed on users of the Water Supply System calculated on the basis of metered gallons of water consumed, as described in § 51.10(C)(1).

**CONNECTION CHARGE.** The charge imposed on each user connecting or reconnecting to the Water Supply System to recover the actual costs of the material, meter, labor, equipment and supervision related to the installation of the connection and meter as determined by resolution of the Village Council.

**CORPORATION STOP.** A valve which is inserted into the water main for the connection of the water service pipe in sizes up to and including two inches in diameter.

**CROSS CONNECTION.** A connection or arrangement of piping or appurtenances through which water of questionable quality, wastes or other contaminants could possibly flow back into the Water Supply System because of a reversal of flow.

**CURB BOX.** A box or metal housing which encloses, protects and provides access to the curb stop.

**CURB STOP.** A valve which is inserted in the water service pipe at or near the property line.



**DEPARTMENT.** The Department of Public Works.

**DIRECTOR.** The Director of the Department of Public Works.

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

**PIPE SADDLE.** A device that is wrapped around a pipe where a new or a repair of a service connection is made.

**READINESS-TO-SERVE CHARGE.** The charge calculated on the basis of meter size in accordance with §51.10(C)(2).

**SPRINKLER LINE SERVICE CHARGE.** The charge calculated on the basis of fire service line size in accordance with § 51.10(C)(8).

**STATE.** The State of Michigan.

**TAP.** The drilling and threading of an opening in a water main for insertion of a corporation stop.

**USER.** The person who owns or leases any home or dwelling, retail or wholesale business, manufacturing establishment, educational, religious or social establishment, or any federal, state or local government office or service facility that is served by the Water Supply System.

**VILLAGE.** The Village of Pinckney, County of Livingston, State of Michigan.

**VILLAGE TECHNICAL STANDARDS.** The specifications for the design and construction of utilities and related improvements and components under the jurisdiction of the village, prepared by the village and on file with the Village Clerk, as the same may be in effect and amended from time to time.

**WATER CONNECTION.** Part of the Water Supply System connecting the water main to a point terminating at a meter, meter pit or vault.

**WATER MAIN.** Part of the Water Supply System located within easement lines or streets designed to supply more than one water connection.

**WATER SERVICE PIPE.** The pipe connecting the water main with the premises served, and includes the connection to the water main or the corporation cock, the shut off valve and the valve on the inlet side of the meter.

**WATER SUPPLY SYSTEM.** The complete Water Supply System of the village, including all water mains and laterals, connections, pipes, meters, hydrants, wells, well houses, pumps, water storage facilities, transmission lines and all water treatment facilities, plants, works, instrumentalities and properties used or useful in obtaining a water supply, treating and distributing the same for domestic, commercial, industrial, institutional and/or fire protection purposes, and all other appurtenances thereto, including all easements, rights and land for the easements and including all extensions and improvements thereto which may be acquired or constructed on behalf of current and future users of the Water Supply System.

(Ord. 69, passed 10-24-2005)

## **§ 51.02 FINDINGS.**

(A) *Necessity for potable water.* The Village Council has previously found and currently reaffirms that the residents, businesses, industries and governmental and charitable agencies located in the village need to have potable and otherwise usable water.

(B) *Availability of potable water.* The Village Council has previously found and currently reaffirms, that the supply of potable water available from private wells or other sources within the village is insufficient to assure that all residents, businesses, industries and governmental and charitable agencies will have sufficient potable water available for their use and other water necessary for industrial and fire prevention and control unless the village offers water to properties located within the village.

(C) *Method of measuring use of Water Supply System.* The Village Council has previously found and currently reaffirms that the most practical, cost-effective and accurate method, given available technology of measuring the use of the water supply provided by the Water Supply System by any user, is by a meter or meters controlled by the village.

(D) *Continuation of water supply service.* The Village Council has previously found and further currently reaffirms that in order to provide and continue to provide clean, potable and otherwise usable water to all users of the Water Supply System, in quantities necessary for all varieties of use, it is necessary from time to time to install improvements, enlargements, extensions and repairs to the Water Supply System.

(E) *Purpose of fees.* The fees for the use of and connection to the Water Supply System are hereby established for the purpose of recovering the cost of operation, maintenance, repair, replacement and improvement of the Water Supply System and to comply with federal and state laws and regulations, to provide for the payment of principal of and interest on any bonds authorized to be issued as and when the same become due and payable, and to provide an account for reasonable and necessary improvements to the Water Supply System. The fees shall be made against all users of the Water Supply System in a fair and equitable manner and based on the level of service provided, in accordance with the purposes herein described, as well as the following:

(1) All premises connected to the Water Supply System shall be charged and shall make payments to the village in

amounts computed on the basis of this subchapter;

(2) The rates and fees for water supply service by the Water Supply System are established herein to adequately provide for bond requirements and to ensure that the Water Supply System does not operate at a deficit. The rates and fees shall be established by resolution of the Village Council based upon advice of the village's engineers and administrative staff; and

(3) The charges, rates and fees shall be set so as to recover costs from users in reasonable proportion to the cost of serving those users.

(F) *Proportionality, fairness and benefits of rates and fees.* The Village Council has previously found and further currently reaffirms that the most fair and reasonable method of providing for the operation, maintenance, repair, replacement and improvement of the Water Supply System is to charge each user a proportionate share of the cost of:

(1) Retiring debt secured by the net revenues of the Water Supply System issued to pay for improvements and replacements to the Water Supply System;

(2) Ongoing repair, replacement and improvement and budgeted as part of the annual costs of the Water Supply System; and

(3) Operation, administration and maintenance costs of the Water Supply System.

(G) *Water service charges.* The village has investigated several methods of apportioning the costs of the water service provided by the Water Supply System. Based on its investigation and the recommendations of Ayres, Lewis, Norris & May Inc., Ann Arbor, Michigan, independent advisors to the village, the Village Council has previously found and currently reaffirms that to ensure the stability and viability of the Water Supply System for the benefit of its users, the most fair and most accurate way to apportion the costs of operation, maintenance, replacement and improvement of the Water Supply System is to charge each user:

(1) A commodity charge for water usage which is based on the user's actual metered use of water supplied by the Water Supply System;

(2) A readiness-to-serve charge for water usage based on meter size, which fee reflects each user's proportionate share of the fixed costs of operating and maintaining the Water Supply System;

(3) A capital connection fee to be paid by persons connecting to the Water Supply System or changing their user classification in order to defray certain capital costs incurred to provide sufficient capacity to all users; and

(4) The other fees and costs for services as authorized by this subchapter.

(a) The Village Council further has previously found and currently reaffirms that the charges, rates and fees set forth herein and by resolution fairly and accurately apportion the fixed and variable costs of providing water service among the users of the Water Supply System, and that the commodity charge and readiness-to-serve charges provide actual benefits to the users in the form of ready access to water that would be unavailable if the charges were not imposed.

(b) In addition to the findings set forth above, the Village Council has previously found and currently reaffirms that the capital connection fee is a fair and proportionate charge for new users of the Water Supply System, and that the opportunity to connect to the Water Supply System provides actual benefits to each new user equal to or greater than the amount of the charge.

(Ord. 69, passed 10-24-2005)

### **§ 51.03 ESTABLISHMENT OF WATER SUPPLY SYSTEM.**

Based on the above findings, for the purposes set forth above and pursuant to the authority granted to the village under Public Act 94 of 1933, being M.C.L.A. §§ 141.101 through 141.138 and § 141.121, as amended, Public Act 3 of 1895, being M.C.L.A. §§ 61.1 through 75.12, as amended and Art. 7, § 24 of the Michigan Constitution of 1963, the village has previously established and hereby reestablishes the Water Supply System as an enterprise system, consisting of the complete Water Supply System of the village, including all water mains and laterals, connections, pipes, meters, hydrants, wells, well houses, pumps, water storage facilities, transmission lines and all water treatment facilities, plants, works, instrumentalities and properties used or useful in obtaining a water supply, treating and distributing the same for domestic, commercial, industrial, institutional and/or fire protection purposes and all other appurtenances thereto, including all easements, rights and land for the easements and including all extensions and improvements thereto which may be acquired or constructed on behalf of current and future users of the Water Supply System. The Water Supply System shall be operated on a public utility rate basis.

(Ord. 69, passed 10-24-2005)

### **§ 51.04 OPERATION AND ADMINISTRATION; FISCAL YEAR.**

(A) The operation, maintenance and management of the Water Supply System shall be under the supervision and control of the Village Council or its agents. The village retains exclusive right to establish, maintain and collect rates and charges for use of the Water Supply System, and in the capacity, the Village Council may employ the person in the capacity as it deems advisable and may make the rules and regulations as it deems necessary or advisable to ensure the efficient establishment, operation and maintenance of the Water Supply System and to discharge its financial obligations.

(B) The Director is charged with the responsibility of administering the Water Supply System. The Director may recommend additional rules and regulations concerning the Water Supply System, connection to the Water Supply System, meter installation, maintenance and other matters related to the operation, maintenance and administration of the Water Supply System. The rules and regulations shall be effective upon approval by the Village Council.

(C) The fiscal year of the Water Supply System shall begin on July 1 of each year and shall end on the last day of June immediately succeeding July 1.

(Ord. 69, passed 10-24-2005)

#### **§ 51.05 CONNECTION PERMIT REQUIRED; APPLICATIONS; DEPOSIT.**

(A) *Application for permit; permit required.* No person shall make an excavation or opening in or under a street right-of-way, nor shall any person uncover, make any connection with or opening into, use, alter or disturb any part of the Water Supply System without first obtaining a written permit from the designated official of the village. The owner or his or her agent shall make application for the permit on a form furnished by the village. The permit application shall be supplemented by any plans, specifications or other information required by this subchapter or requested by the village. No permit shall be granted until the applicant posts a cash deposit or surety bond as required by the fee schedule, files evidence of a liability insurance policy as provided by the Village Technical Standards and pays all connection fees and any other fees as set forth in the fee schedule or by resolution of the Village Council at the time the connection is to be made. If a street opening is required to make the connection, an additional attachment to the permit application must be completed detailing the justification and need for the opening before a permit will be issued by the village. A permit application must be made, the applicable fees paid and approval obtained from the village at least 72 hours before commencement of work for which the permit application is made. In addition to the foregoing, the issuance of a permit as provided in this division shall be subject to the terms and conditions regarding street excavation and cuts found in § 92.31.

(B) *Other permits.* Other permits and inspections may be required by the Livingston County Building Department. The applicant is solely responsible for obtaining all other necessary permits and inspections and for paying all costs associated therewith.

(C) *Existing private wells.* Upon connection of any property to the Water Supply System, any private water well serving the property shall be disconnected from the distribution system to prevent cross-contamination and shall be abandoned in accordance with applicable law.

(Ord. 69, passed 10-24-2005; Ord. 155, passed 1-11-2021) Penalty, see §51.99

#### **§ 51.06 CONNECTIONS TO WATER SUPPLY SYSTEM.**

(A) *Water connections; general.* Water connections shall not be made unless:

- (1) The water main extends across the total frontage of the lot to be served;
- (2) The water main extends across the total frontage of the lot facing one street in the case of a corner lot; or
- (3) The water main abuts the lot to be served; or
- (4) There is capacity available in all water distribution piping, wells, and water towers. To determine capacity:

(a) A study of the system capacity shall be submitted by the applicant's engineer in accordance with the Village Technical Standards.

(b) Study of system capacity shall be reviewed and approved by Village Engineer or qualified Village Agent.

(B) *Tapping water mains; location; requisites.*

(1) All connections to the Water Supply System shall be made using the proper tools and equipment for performing connections to the Water Supply System's mains according to Village Technical Standards. All taps and connections to the water main shall be installed at the main.

(2) Before an owner, user or contractor installs a water service pipe, he or she shall obtain from the village the location for the making or connection of the water service pipe. The terminus of the water service pipe shall be located such that the water service pipe is installed to the water main in a straight line perpendicular to the water main, and there are no obstructions such as driveways, manholes, trees, fire hydrants or other obstacles.

(3) No permit holder shall turn water on or off at the corporation stop or curb stop to any water service pipe, except for testing and/or repairs upon written authorization of the village. No unauthorized person shall turn the water on or off at the corporation stop or curb stop.

(4) All service lines from the water main to the curb stop shall meet the requirements set forth in the Village Technical Standards.

(5) All holes or trenches dug in the public streets or roads shall be backfilled in accordance with the Village Technical Standards and § 92.33(A)(2).

(6) Tunneling under streets is prohibited except by special permission of the state, county or local governmental agency having jurisdiction over the street. Open cuts shall be permitted in graveled streets with prior approval of the state,

county or local governmental agency having jurisdiction over the street.

(7) Connections under hard surfaced paving, to the extent permitted by §92.31, shall be made only by jack and boring or directional drilling with the prior approval of the state, county or local governmental agency having jurisdiction over the street.

(8) When fire suppression is required, a separate line shall be encouraged. However, a single water line connection, sized for fire suppression requirements, with a "T" connection for domestic water can be permitted with approval of the Village Engineer or a qualified Village Agent.

(C) *Service control valves; curb boxes.*

(1) The user shall provide and install a shut off valve in the form of a curb stop and curb box in accordance with the Village Technical Standards on all one-inch, one and one-half-inch and two-inch water service pipes.

(2) Valves may be used for the larger size connections. The valves shall be approved by the Village Engineer or qualified Village Agent.

(3) Curb boxes shall not be installed in any driveway, sidewalk or planter box unless approved by the village. Trees, shrubs and planting areas shall be located so as not to interfere with access to the curb box. If any curb box shall fail to meet the requirements of this subchapter, the village may, at its option, either:

- (a) Correct the deficiency and recover all expenses thereof from the property owner; or
- (b) Order the property owner to correct the deficiency at his or her expense.

(D) *Water service pipe; installation requirements.* Water service pipe connections shall be installed in accordance with state and local building regulations. Water service pipe connections shall also be installed in compliance with the following specifications:

(1) The connection of the water service pipe to the corporation stop shall be made using an approved adapter fitting as specified in the Village Technical Standards;

(2) All water service pipes on either private or public property shall be installed in accordance with the Village Technical Standards;

(3) The user shall continue the water service pipe connection from the water main to the curb stop and from the curb stop to the valve inside the building entirely at the user's expense;

(4) There shall be no joints from the corporation stop to the curb box and from the curb box to the meter unless commercial lengths are not available to allow for this provision (for example, because of excessive building setbacks). Pursuant to the Village Technical Standards, only compression fittings shall be used for connections in copper pipes. All other types of fittings are strictly prohibited;

(5) Plugged tees or other accessible outlets between the meter and the water main are prohibited. No connections or outlets shall be made in this line other than for sprinkler heads or fire fittings. It shall be unlawful for the user, or any employee or agent of the user, to make any connections on or use the sprinkler system for any other purpose or purposes other than for fire protection, and any other use thereof shall be and constitute a violation of this chapter and also the general ordinances of the village; and

(6) The maintenance of any water service pipe from the water main to and including the curb stop shall be the responsibility of, and shall be made at the expense of, the village. The maintenance of any water service pipe from the curb stop to the meter shall be the responsibility of, and shall be made at the expense of, the owner whose premises are served by the water service pipe.

(E) *Completion of work; inspection required.*

(1) Upon completion of any new water service pipe installation or repairs thereto, it shall be the duty of the holder of the permit to obtain all necessary approvals by the Village Engineer or qualified Village Agent and the Livingston County Building Department before covering same.

(2) The service trench shall not be covered or backfilled until the tap has been completed and the village and Livingston County Building Department have approved their respective portions of the installation. Embedment material meeting the requirements of the Village Technical Standards shall be carefully tamped every one foot above the top of the water service pipe. This material shall be carefully backfilled and compacted with proper tools. The use of clay for the purpose is prohibited.

(3) If any building drainage, plumbing system or part thereof which is installed, altered or repaired is covered, it shall be uncovered for inspection after notice to uncover the work has been issued either by the village or the Livingston County Building Department.

(4) A separate ball valve must be placed on the water service pipe just inside the building wall and also just after the meter so that the water may be turned off and drained from the water service pipe in the event of accident or in order to make repairs. The valves must be approved by the qualified Village Agent.

(F) *Repair.*

(1) Repair of the water service pipe from the water main to and including the curb stop shall be the responsibility of the village. Repair of the water service pipe from the curb stop to the meter shall be the responsibility of the owner of the premises.

(2) Any plumber called upon by the owner to shut off water and drain pipes in any premise shall do so inside the building only.

(3) Persons taking water must keep their water service pipe and their meter protected from frost and hot water at their own expense. When the water service pipe or meter is damaged by frost or hot water, the water service pipe shall be repaired by a licensed plumber, to be employed and paid for by the owner. The water meter shall be repaired by the owner at the owner's expense.

(Ord. 69, passed 10-24-2005; Ord. 79, passed 2-25-2008; Ord. 155, passed 1-11-2021) Penalty, see §51.99

#### **§ 51.07 WATER METERS.**

##### *(A) Meters required; use; purchase from village.*

(1) With the exception of fire suppression lines, all premises served by the Water Supply System shall be metered. Connections made to the Water Supply System for fire suppression purposes are required to have a village-approved backflow prevention device per § 51.08 below.

(2) Water meters shall be purchased from the village and shall be maintained by the property owner at the owner's expense.

(3) Each water meter shall be served by its own water connection and water service pipe unless another system incorporating exterior valves to control water flow to each meter is approved by the qualified Village Agent.

##### *(B) Water meters; type; size determination.*

(1) Unless otherwise authorized by the village, all meters shall be of the disc type and shall be of the make and model in accordance with the Village Technical Standards.

(2) All meters shall be under the control of the village and shall be equipped with an instrument capable of being remotely connected and read away from the meter itself. The instrument shall be installed on the exterior of the building as directed by the qualified Village Agent.

(3) All new meters will require an outside touch pad and a unit capable of being remotely connected and read away from the meter such as a meter interface unit (MIU) or a meter transceiver unit (MXU), as approved by the qualified Village Agent.

(4) 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 qualified Village Agent.

(a) For usual domestic use and consumption of water, a three-quarter-inch meter shall be purchased from the village and installed by the user.

(b) For multiple dwellings, the size shall be one inch for two to eight dwellings and one and one-half inches for nine to 16 dwellings.

(c) Except as provided above, when application is made for a meter larger than three-quarter inch, the village shall determine whether a meter of the size is required or authorized.

(d) The use of meters larger than one and one-half inches will be permitted only upon specific written approval by the village after due consideration of pertinent factors, such as the probable effect of demand on the installed capacity of water mains, water supply and the means of sewage disposal.

##### *(C) Water meters; installation; location regulations.*

(1) Meters shall be installed in a readily accessible location according to Village Technical Standards. A meter shall never be installed in a place where it cannot be readily repaired or read by the qualified Village Agent.

(2) All meters shall be installed horizontally in a dry, clean, sanitary location and in the places that small leaks and the spilling of water will do no damage.

(3) All users shall place the meter in a suitable location to prevent the pipes and meters from freezing in cold weather.

(4) If a suitable and readily accessible location is provided in a dry basement sufficiently well heated to prevent freezing of the meter during the winter, the meter may be placed in the basement; provided, however, that the meter shall be installed no lower than 16 inches above the basement floor and no higher than 48 inches above the basement floor unless otherwise approved by the qualified Village Agent.

(5) When the premises contains no basement or cellar, the meter shall be installed in a location which shall be approved by the village or its authorized Qualified Agent. When it is necessary to install the meter in a pit inside a building, the pit shall be built as directed by the village. When a sump pump or drain is provided, meters may be installed below grade line in a brick or first floor meter pit upon approval by the village and/or the Livingston County Building Department. All meter



pits shall be of a type approved by the village and built in accordance with the Village Technical Standards, with cover openings directly over meters.

(6) Devices designed for use in lieu of wells may be used if approved by the village.

(D) *Failure to register; estimated water usage.* If any meter or metering system fails to register properly or if a meter is inaccessible for reading, the village shall estimate consumption based on former consumption. In the event, the quantity of water used shall be determined by the amount used during the corresponding period of the preceding year, or by averaging the amount for the period immediately preceding and subsequent to the period wherein the meter registered quantities of water usage.

(E) *Tests; inspections.*

(1) Any duly authorized agent or employee of the village shall have access to each user's premises at all reasonable times for the purpose of reading meters or for testing, inspecting, maintaining, repairing or replacing meters and related equipment and appurtenances.

(2) The accuracy of the meter on any premises will be tested by the village upon written request of the owner and/or user who shall pay in advance, a fee to cover the cost of the test and providing the equipment is available. If on the test, the meter shall be found to register over 3% more water than passes through it, another meter will be substituted therefore, and the fee will be refunded and the water bill will be adjusted for the preceding and current billing periods.

(3) All premises with fire suppression and backflow devices are required to submit proof of inspection of the device every two years according to the Clean Drinking Water Act.

(F) *Meter repairs; termination of service for failure to timely repair or replace.* The expense of maintaining meters will be borne by the user. The village shall have the right to terminate water service to any user which fails to repair or replace in a timely manner a meter which has failed to register properly upon giving notice of the termination in accordance with § 51.09(B).

(G) *Seals; tampering and the like prohibited.* Meters shall be sealed by the village and no person except an authorized employee of the village shall break the seals. No unauthorized person, including the user, shall change the location of, alter or interfere in any way with any meter or its components.

(Ord. 69, passed 10-24-2005; Ord. 79, passed 2-25-2008; Ord. 155, passed 1-11-2021) Penalty, see §51.99

#### **§ 51.08 CROSS-CONNECTIONS PROHIBITED.**

(A) No person shall make, permit to be made or permit to exist, any cross-connection on any lot or parcel of land owned or occupied by the person. The village adopts by reference the cross-connection rules of the Michigan Department of Environmental Quality, being M.A.C. R325.11401 through R325.11407, as the same may be amended or revised.

(B) It shall be the duty of the Department to cause inspections to be made of all properties served by the Water Supply System where cross-connection with the Water Supply System is deemed possible. The frequency of inspections and re-inspections based on potential health hazards involved shall be established by the Department and as approved by the Michigan Department of Environmental Quality.

(C) Duly authorized representatives of the village shall have the right to enter, at any reasonable time, any property serviced by a connection to the Water Supply System for the purpose of inspecting the piping system or systems thereof for cross-connections. On request of the owner, lessees or occupants of any property so served shall furnish to the Department any pertinent information regarding the piping system on the property. The refusal of the information or refusal of access, when requested, shall be deemed prima facie evidence of the presence of cross-connections.

(D) The Department is hereby authorized and directed to discontinue water service, after due notice thereof has been given at least seven days prior to the shut off date, wherein any connection in violation of this section exists and to take the other precautionary measures deemed necessary to eliminate any danger of contamination of the Water Supply System. Water service to the property shall not be restored until the cross-connection has been eliminated in accordance with the provisions of this section.

(E) The potable water supply made available on the properties served by the Water Supply System shall be protected from possible contamination as specified by this section 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 Water Supply System must be labeled in a conspicuous manner as:

Water Unsafe For Drinking

(F) This section does not supersede the State Plumbing Code, but is supplementary to it.

(G) Any person or user found guilty of a violation of any of the provisions of this section, or any written order of the Department in pursuance thereof, upon conviction thereof, shall be punished as provided by ordinance of the village for each and every day that the violation exists. Each day upon which a violation of the provisions of this section shall occur shall be deemed a separate and additional violation for purposes of this section.

(Ord. 69, passed 10-24-2005) Penalty, see §51.99



## § 51.09 RULES GOVERNING USE OF WATER SUPPLY SYSTEM.

(A) *Turning on water service.* No person, other than an authorized employee of the village, shall connect or disconnect to any water service, except that a licensed plumber may connect to a water service upon which he or she is working for the purpose of testing his or her work upon receiving a written order to operate the curb stop from the village. Upon completion of testing, the curb stop shall be immediately turned off.

(B) *Turning off water service.* The village reserves the right to terminate service to a user, after due notice thereof has been given at least seven days prior to the shut off date, where payment for service has not been timely received, and/or for violation of any of the rules and regulations of the village relating to the Water Supply System and/or the provisions of this subchapter. The village may shut off the water in any main to make repairs or extensions or for any other necessary purpose at any time without notice to users of the Water Supply System.

(C) *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.

(D) *Change of user.* When premises are to be vacated or there is a change of owner, occupant or agent, prompt written notice shall be given to the Village Clerk's office. The user may discontinue service by giving not less than 24-hours' notice to the Village Clerk's office during its regular office hours. Failure of a user to give the notice to the village shall continue the contract between the village and the user, at the option of the village, and the user may be held liable for all of the services provided or furnished the premises until the notice is properly given.

(E) *Water mains; extensions.*

(1) The water mains of the village shall be under the general control of the Department, and no person other than duly authorized agents or employees of the village shall uncover, tap, change, obstruct, interfere with or in any way disturb the system of water mains.

(2) All extensions and alterations of the system of water mains shall be constructed under the supervision of the Director or other authorized agent of the village who shall act only upon authorization by the Village Council. A petition for the extension of water mains may be addressed to the Village Council, and the Village Council shall consider the same and advise the petitioners of its decision. The cost of all improvements to and extensions of the Water Supply System shall be at the expense of the person or properties benefitted by the improvements or extension, reasonably proportioned to the benefits received, or at the expense of the Water Supply System, to the extent funds are lawfully available therefore, or at the expense of the general fund of the village. Notwithstanding the foregoing, the cost of improvements to the Water Supply System, the benefits of which cannot be attributed to particular customers or groups of customers of the Water Supply System may be allocated proportionally among all customers of the Water Supply System.

(F) *Access; inspection.*

(1) The Director and other duly authorized representatives of the village bearing proper credentials and identification shall be permitted to enter upon all properties served by the Water Supply System at reasonable times for the purpose of inspection, observation, measurement, sampling and testing to determine compliance with the provisions of this subchapter. Any person who applies for and/or receives water from the Water Supply System under this subchapter shall be deemed to have consented to inspections pursuant to this section, including entrance upon that person's property at reasonable times to make inspections.

(2) Any duly authorized agent or employee of the village shall have access to the user's premises at all reasonable hours for the purpose of reading meters, inspections, doing repairs or installing or removing any or all village owned apparatus used for providing service to the premises.

(G) *Restricting water use.* The Village Council may regulate, limit or prohibit the use of village supplied water for any purpose. The regulations may limit use of water by a user to the extent deemed necessary to assure an adequate supply of water for essential needs and fire fighting.

(H) *Limit on connections.*

(1) Unless written approval is granted by the village, separate premises shall have separate curb stops and water service pipe installations and shall be separately metered.

(2) Whenever water is to be supplied to more than one user located in a single building and supplied through one water service pipe, the property owner shall be responsible for the payment of all water bills for service of the premises.

(3) In no event shall a user extend a water service pipe or plumbing across any public way, or to an adjacent property in order to furnish service thereto, even though the adjacent property is owned by the user.

(I) *Prohibitions.* No person in the village shall:

(1) Willfully, negligently or maliciously break, damage, destroy, uncover, deface or tamper with or alter any structure, property, appurtenance, equipment or any other item which is part of the Water Supply System;

(2) Remove any water meter, water service pipe or other equipment or tools;

(3) Prevent or circumvent a water meter from measuring water supplied by the Water Supply System; and

(4) Fraudulently obtain or waste water from the Water Supply System.

(J) *Water main extension on private property.* All water mains on private property shall be installed at the property owner's expense and shall be conveyed to the village by the property owner, and the property owner, at his or her expense shall provide the village with a recorded easement sufficient to permit access by the village for inspection, operation, repair and maintenance of same.

(K) *Water supply emergencies.*

(1) *Authorization.* The Director is hereby authorized to declare a water supply emergency whenever he or she determines, on the basis of existing or anticipated drought conditions, depletion of the water supply, reduction in water pressure, failure of one or more parts of the supply system, or for other good reasons, that there is a threat of loss of water supply to the village or a portion of the village.

(2) *Method of declaration.*

(a) A water supply emergency shall exist when the Director has caused a declaration of such emergency to be made by:

1. Public posting the declaration at the Village Hall;

2. Announcement on the Village Hall telephone answering system;

3. Announcement on one or more radio or television stations with a normal operating range covering the village.

(b) When practical, and if the duration of the anticipated emergency warrants it, such declaration shall also be announced in a local newspaper.

(c) The Director shall make a record of the time and date for implementation of each method of such declaration.

(d) Irrespective of such methods of declaration, a water supply emergency shall be deemed to exist for any person, and the property under his or her direct supervision or control, as soon as such person has received a direct written notice of such declaration.

(3) *Content of declaration.* A declaration of water supply emergency shall include:

(a) The effective date and time of such emergency, which may be immediate; the period of time during which such emergency shall be in effect, which may be for as much as 24 hours per day, and until further notice is given;

(b) The types of outside water usage which are prohibited, which may include all outside uses except fire protection, and may permit certain outside uses on alternating days or during restricted hours; and

(c) The types of inside water usage which are requested to be reduced or avoided in the interest of conservation of water.

(4) *Water use restricted; violations.* No person shall use water in violation of a declaration of water supply emergency as provided herein, nor cause willful or needless waste of water by allowing constant flow of a faucet or otherwise. Whenever a water supply emergency exists, it shall be a violation of this code for any person to utilize water from the village water supply system for any type of use which is in violation of the terms of such declaration.

(5) *Discontinuance of service for violations; cost of resumption.* Any premises may be disconnected from the distribution pipes of the village water system and the supply of water withheld from such premises upon violation by the owner or occupant of the premises of any provision of this code, a declaration of water supply emergency as provided herein, or of the regulations adopted pursuant the village's water system ordinances. Whenever the water is turned off from any premises because of any such violation, it shall not be turned on again until the owner or occupant has paid the applicable water shut off and water turn on fees as set by the Village Council in the fee schedule.

(6) *Municipal civil infraction.* A person who violates any provision of this code is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in § 10.99(C). Repeat offenses under this division (K) shall be subject to increased fines.

(Ord. 69, passed 10-24-2005; Ord. 111, passed 7-23-2012; Ord. 155, passed 1-11-2021) Penalty, see §51.99

## **§ 51.10 ESTABLISHMENT OF RATES; RATES AND CHARGES.**

(A) *Establishment of cost of service.* The Village Council has determined that the purpose of water rates is to produce sufficient revenues each year to pay the costs of service. The costs of service to be paid from revenues shall include all of the following:

(1) Operation and maintenance expenses;

- (2) Debt service expenses; and
- (3) Capital expenses not funded from bonded indebtedness.

(a) The rates to be charged for water service furnished by the Water Supply System shall be made against each lot, parcel of land or premises having any connection with the Water Supply System.

(b) The village shall periodically review rates, fees, rules and regulations of the Water Supply System. The review shall be completed not less than one time per fiscal year. The review will define actual expenses associated with the operation, maintenance and administration of the Water Supply System, as well as debt service requirements, repair and replacement costs. Results of the review shall be reported to the Village Council with recommendations for any adjustments.

(B) *Allocation of cost of service; user classification.* The Village Council has determined that not all classes of users of the Water Supply System cause the same costs of service. Based on independent investigation and on the advice of the village's independent engineering consultants, the Village Council has previously found and currently reaffirms that:

(1) The commodity costs of water service for users of the Water Supply System located within the village are uniform among users in accordance with the volume of use. Accordingly, all classes of users located within the village shall pay the same rate per gallon of metered water for water supply services;

(2) Certain indirect costs of providing water service, including size of the water service pipe, materials used, location of meters, size of storage and treatment facilities, maintenance and administrative overhead, vary according to the size of meters employed;

(3) Users taking possession of previously undeveloped properties and users changing the nature and amount of use of the Water Supply System at renovated or expanded properties would not bear their proportionate share of the cost of capital improvements to the Water Supply System unless required to pay a capital connection fee; and

(4) Certain types of property use require a reservation of a greater capacity of the Water Supply System than others. The Village Council has therefore developed the following classification of users which the Village Council finds is the most fair and accurate means of apportioning the indirect costs of providing service among different classes of users for purposes of calculating the readiness-to-serve charge and determining the relative demand on capacity of the Water Supply System among different classes of users for purposes of calculating the capital connection fee. For meters of the following sizes, the following meter equivalency ratios shall be used for purposes of allocating the amount of the indirect costs of service and determining the relative demand on capacity of the Water Supply System per meter size.

<b>Meter Size (Inches)</b>	<b>AWWA</b>
<b>Meter Capacity Ratio</b>	
<b>Meter Size (Inches)</b>	<b>AWWA</b>
<b>Meter Capacity Ratio</b>	
5/8 and 3/4	1
1	2.5
1-1/2	5
2	8
3	17.5
4	30
6	62.5

(C) *Specific rates and charges.*

(1) *Commodity charge.* Every user shall pay a commodity charge for all water furnished by the Water Supply System. Except as otherwise provided in this subchapter, commodity charges for all water service shall be calculated on the basis of metered gallons of water consumed at rates determined by the Village Council and which fairly apportion the variable costs of providing water service to users of the Water Supply System.

(2) *Readiness-to-serve charge.* Every user shall pay a readiness-to-serve charge for water service on the basis of meter size in an amount and in the manner determined by the Village Council and which fairly apportions the fixed costs of providing water service for users of the Water Supply System.

(3) *Connection fee.* Each user connecting or reconnecting to the Water Supply System shall pay a connection fee equal to the actual cost of the material, labor, equipment and overhead related to the installation and inspection of the connection or re-connection as determined by resolution of the Village Council.

(4) *Capital connection fee.* The Village Council may, by resolution, establish a capital connection fee to defray or recover the cost of capital improvements which are acquired and constructed for the primary purpose of providing additional capacity determined by the village to be reasonably necessary to accommodate:

(a) New connections to the Water Supply System; or

(b) Modifications of existing connections for a use estimated to demand the reservation of greater capacity of the Water Supply System than previously required. Every person seeking to connect previously unconnected property to the Water Supply System, or to reconnect previously connected property to the Water Supply System for a use estimated to demand the reservation of greater capacity of the Water Supply System, may be required to pay a capital connection fee. A capital connection fee shall be established and managed as provided in this section.

1. *Calculation of estimated demand on capacity.* The estimated demand on capacity of a new connection to the Water Supply System (or modification of an existing connection to the Water Supply System) shall be based on the meter equivalency table set forth in division (B)(4) above.

2. *Calculation of capital cost requirements.* The capital costs to be defrayed or recovered through the imposition of the capital connection fee shall be determined annually by the village and shall be based on the estimated cost of capital improvements incurred or to be incurred for the primary purpose of providing additional capacity determined by the village to be reasonably necessary to accommodate new connections to the Water Supply System, or modifications of existing connections for a use estimated to demand the reservation of greater capacity of the Water Supply System than previously required.

3. *Credits.* If the capital connection fee relates to an increase in demand on capacity, the village shall credit against the specific amount of the capital connection fee, the amount of any capital connection fee or similar charges previously paid for connection of that property to the Water Supply System.

(5) *Turn-on/turn-off fee.* Each user desiring to:

(a) Reinstate service which has been discontinued due to violations of the provisions of this subchapter; or

(b) Voluntarily discontinue or reinstate water service shall pay a fee for reinstating or discontinuing water service, as applicable, in an amount equal to the actual costs of the labor and administrative expenses as determined by resolution of the Village Council.

(6) *Meter charge.* Each user connecting to the Water Supply System shall pay the actual cost of the required meter and components plus a 10% fee for administration and handling. The meter charge shall be in addition to the connection fee and other fees and charges prescribed by this subchapter.

(7) *Fire hydrant rental charges.* Any person desiring to utilize any fire hydrant in the village shall make application to the village for the use, which application shall specify the hydrant or hydrants to be used, the length of time the hydrant(s) will be used and the purpose for which the hydrant(s) will be used. Village Council and/or the Department of Public Works Director shall have the authority to deny any application or grant said application in whole or limit the approval up to a certain amount of gallons. If the application is granted, the applicant shall submit a non-refundable rental charge plus a cash deposit for a temporary meter in amounts established by resolution of the Village Council. The fire hydrant connection and meter installation shall be made by the village. A hydrant usage charge, calculated on the basis of metered gallons of water consumed, shall be assessed at rates determined by resolution of the Village Council. Upon expiration of the rental period, the village shall remove the connection and temporary meter. The cash deposit shall be applied by the village to the payment of the hydrant usage charge and the excess amount of the deposit, if any, shall be refunded to the applicant. The purchaser is liable for any damage to the hydrant, Village equipment, or the surrounding area.

(8) *Annual fire suppression sprinkler line service fee.* Each user connecting or reconnecting a dedicated service line for fire suppression services shall pay an annual sprinkler line service fee on the basis of fire service line size in an amount and in the manner determined by the Village Council and which fairly apportions the fixed costs of providing fire suppression services to users of the Water Supply System.

(9) *Other fees.* The Village Council may, by resolution, establish certain additional fees as may be required to carry out the purposes of this subchapter.

(D) *Publication of rates.* Following approval from time to time by the Village Council of rates and charges or revisions thereto for use of the Water Supply System in accordance with this subchapter, the rates, as approved by the Village Council, shall be published once in a newspaper of general circulation in the village within 30 days of approval thereof.

(Ord. 69, passed 10-24-2005; Ord. 79, passed 2-25-2008; Ord. 138, passed 7-10-2017)

## **§ 51.11 BILLING AND ENFORCEMENT; NO FREE SERVICE.**

(A) *Responsibility for payment.*

(1) Except as provided in division (C) of this section, the owner of the premises served by the Water Supply System shall be liable to the village for any charges and fees authorized by this subchapter.

(2) When a single water service pipe serves two or more users, the owner of the premises shall be responsible for payment of water used on the premises.

(B) *Billing, collections and user payments.*

(1) Meters shall be read at least quarterly.

(2) The Village Clerk shall render bills for water service and all other charges in connection therewith. Bills for water service shall be sent quarterly and delivered to the user or owner of the premises, as applicable, by mail. No bill for water use shall be changed, altered or amended without consent of a majority of the Village Council. Except as otherwise provided in this subchapter, all bills shall be payable by day 30 following the mailing of the bill and shall be paid at the Village Hall.

(3) The Village Treasurer or his or her designee shall collect all monies due for water service and all other charges in connection with the operation of the Water Supply System.

(4) If any billed charge for water service shall not be paid by day 30 following the mailing of the bill for which the charges were made, a delayed payment charge of 10% of the amount of the bill shall be added thereto and collected therewith.

(5) Failure of the user or owner of the premises served to receive any bill shall not relieve the person of the liability for the charges incurred, and the person shall notify the Village Clerk if a bill has not been received by day 15 of the end of a quarterly billing period.

(C) *Rates and charges to constitute lien on premises served.*

(1) *Tax lien.* Under the provisions of Public Act 178 of 1939, being M.C.L.A. §§ 123.161 through 123.167, as amended, and Act 94 of 1933, M.C.L.A. §§ 141.121, as amended, as security for the collection of water service supplied to any house or any other building or any premises, lot or lots, or parcel or parcels of land, the village shall have a lien upon the house or other buildings and upon the premises, lot or lots, or parcel or parcels of land, upon which the house or other building is situated. This lien shall become effective immediately upon the distribution of the water service to the premises or property supplied. This lien created herein shall be collected and enforced in the same manner as provided for the collection of taxes assessed upon the tax roll pursuant to Village Charter, except that the same shall not be enforceable for more than three years after it becomes effective.

(2) The village shall annually, on April 1, certify to the appropriate tax assessing officer or agency, all unpaid water service charges for the services furnished to any premises, which, on the last day of March immediately preceding April 1, have remain unpaid for a period of six months or more, whereupon the charge shall be entered upon the next tax roll as a charge against the piece of property or premises served. The charges shall be collected and the lien thereof enforced in the same manner as general village taxes.

(3) This lien remedy does not preclude any other remedy provided by law.

(4) *Lease exception.* Charges for water services furnished to any premises, as described in the preceding paragraph, shall not be a lien thereon if all of the following exist:

(a) A legally executed written lease between the owner of the premises and the tenant containing a provision that the owner of the premises shall not be liable for the paying of water services accruing subsequent to the filing of an affidavit by the owner with the Village Clerk;

(b) An affidavit filed by the owner with the Village Clerk containing statements as to the date of the execution of the lease, that the lease contains a provision holding the tenant liable for water services on the premises, the expiration date of the lease; and 20 days' written notice shall be given to the village by the lessor of any cancellation, change in, or termination of the lease; and

(c) In the case of multiple tenancies in one building, the owner shall provide, at his or her cost, a separate meter, service line and curb box to each apartment or leasehold within the building that is to be servicing the tenants responsible for charges under this section.

(D) *Deposits.*

(1) *Deposit required by tenant.* If notice of a tenant's liability has been filed with the Village Clerk, the village shall render no further service to such premises until a cash deposit in a sum sufficient to cover three times the average quarterly bill for such premises, as estimated by the Village Clerk, has been made as security for the payment of such charges.

(2) *Deposit required for non-village service.* Whenever services are applied for under this chapter for premises located outside the village, the Village Clerk shall forthwith advise Council of such application, and no such service shall be furnished without the approval of Council, nor until a cash deposit in a sum sufficient to cover three times the average quarterly bill for such premises, as estimated by the Village Clerk, has been made as security for the payment to secure all bills and charges. However, the Council may waive this requirement in the event the property being served by the village water services is covered by an agreement with Putnam Township to provide for the collection of unpaid rates, fees, and charges and payment to the village by placing such unpaid rates, fees, and charges on the township's summer tax roll.

(3) The security deposit shall be retained by the village in a separate account established for that purpose and shall be forfeited to the village if the lessee of property contemplated in division (D)(1) above, or the owner on property outside of the village contemplated in division (D)(2) above, shall be or become delinquent in the payment of water rates or charges. Upon such forfeiture of a security deposit, the Village Clerk shall transfer as much of the sum of the deposit as is required to satisfy the delinquency to the credit of the proper account, and the remainder, if there be any, shall be transferred to the contingent reserve fund of the water department, as the case may be. The property affected shall not be served again unless a new security deposit be made in the same amount as the original, and disconnection preceding under division (G) below shall be commenced.



(4) Monies deposited with the village for tenants under this division (D), which shall not have been forfeited in the above described manner, shall be returned to the depositor upon his or her application at the expiration of the lease period. Such deposits may be left undisturbed to apply on renewals or extensions of a lease for which the original deposit was made. Upon a sublease or cancellation of a lease contemplated hereunder, security deposits shall, upon request, be returned to the depositor. In the case of a sublease, no such return shall be made unless there be a similar guarantee deposit made by the holder of such sublease. Monies deposited with the village under this division (D) for non-village property service, which shall not have been forfeited in the above described manner, shall be returned to the depositor when all services provided for in this chapter have been paid for in full and further services are not required.

(E) *Appeal of charges.* Any user shall have the right to appeal any rates, charges or fees levied in accordance with this subchapter. Appeals shall be directed to the village within 30 days of the billing or invoice date along with any supporting documentation. Any additional information required to resolve the appeal shall be obtained by the user at his or her expense. Resolution of appeals shall be made within 60 days by the Village Council or its designee in accordance with the best available data and this subchapter. All bills for rates and charges outstanding during the appeal process, including all late payment fees or delinquency charges, shall continue to be due and payable.

(F) *No free service.* No free service shall be furnished to any user of the Water Supply System.

(G) *Termination of water service by village.* The village reserves the right to terminate a user's water service in each case where payment for water service has not been timely received, and/or for violation of any of the rules and regulations of the village relating to the Water System and/or the provisions of this subchapter.

(1) It is the policy of the village to discontinue water service under this code to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The village's form for application for water service and all bills shall contain, in addition to the title, address, room number, and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect:

(a) That all bills are due and payable on or before the date set forth on the bill;

(b) That if any bill is not paid by or before that date, a second bill will be mailed containing a cutoff notice that if the bill is not paid within ten days of the mailing of the second bill, service will be discontinued for nonpayment; and

(c) That any customer disputing the correctness of his or her bill shall have a right to a hearing at which time he or she may be represented in person and by counsel or any other person of his or her choosing and may present orally or in writing his or her complaint and contentions to the village official in charge of water billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.

(2) Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the hearing procedure provided herein, service will be discontinued at the time specified, but in no event until the charges have been due and unpaid for at least 30 days.

(3) When it becomes necessary for the village to discontinue water service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid, along with a turn-on charge in an amount set by Village Council.

(H) *Litigation.* In addition to discontinuing service to a delinquent user and/or placing a lien on any premises for unpaid charges, the village shall have the option of collecting all such delinquencies and penalties due by legal proceedings in a court of competent jurisdiction.

(Ord. 69, passed 10-24-2005; Ord. 94, passed 5-10-2010; Ord. 103, passed 4-11-2011) Penalty, see § 51.99

#### **§ 51.12 CONTRACT FOR SERVICE; INDEMNITY; LIABILITY OF VILLAGE FOR INTERRUPTION OF SERVICE; LIMITATION ON LIABILITY OF VILLAGE.**

(A) All provisions and sections of this subchapter and any amendments hereto shall be considered a part of the contract with every person that is supplied with water through the Water Supply System, and every person, by taking water from the Water Supply System, shall be considered to express his or her consent to be bound hereby, and whenever any provision or section of this subchapter is violated, the water may be cut off from the building or place of violation at the discretion of the village and shall not be turned on again except upon correction of the violation and payment of the expenses of same as provided in this subchapter.

(B) The user shall indemnify, save harmless and defend the village against all claims, demands, cost or expenses for loss, damage or injury to persons or property in any manner, directly or indirectly, growing out of the transmission and use of water by the user from the user's water service pipe installation.

(C) Should it become necessary to shut off the water to any user or users of the Water Supply System because of any accident or for the purpose of making repairs or extensions, the village shall endeavor to give timely notice to the users affected thereby and shall, so far as is practicable, use its best efforts to prevent inconvenience and damages arising from any such causes, but the failure to give the notice shall not render the village liable in damages for any inconvenience, injury or loss which may result therefrom.

(D) The village shall not be responsible for interruptions of service because of natural calamities, equipment failures or actions of users of the Water Supply System. It shall be the responsibility of the user that all connected equipment remains



in good working order. No claim shall be made against the village by reason of the breaking away of any water service pipe, corporation stop, curb stop or for any other interruption of the water supply.

(E) The village shall not be liable for any expense incurred by a permit holder or applicant in locating water mains, water service pipes, corporation stops, curb stops, compilation of water records or compliance with other requirements of this subchapter.

(Ord. 69, passed 10-24-2005)

#### **§ 51.99 PENALTY.**

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

(B) (1) Any person found to be violating any provision of this chapter shall be served with a written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in the notice, permanently cease all violations. Any violation of the provisions of this chapter, unless the violation constitutes a crime under the laws of the state, is a municipal civil infraction subject to a fine of not more than \$500, court costs and costs of prosecution.

(2) A violation of this chapter is also declared to be a public nuisance and the village may enforce same by injunction or other remedy, including the right to correct the violation and recover the cost of obtaining the necessary correction from the owner or person in charge of the premises therefore.

(Ord. 69, passed 10-24-2005)

## **CHAPTER 52: SEWERS**

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### Section

#### ***Sewage Disposal System; General Provisions***

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## SEWAGE DISPOSAL SYSTEM; GENERAL PROVISIONS

### § 52.01 DEFINITIONS AND ABBREVIATIONS.

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

**ACT.** The Federal Water Pollution Control Act, also known as the Clean Water Act, adopted as Pub. Law No. 92-500 in 1972, as amended by Pub. Law No. 95-217 in 1977, 33 U.S.C. §§ 1251 *et. seq.*, and any succeeding amendments and any administrative rules promulgated thereunder, as amended or revised from time to time.

**AUTHORIZED REPRESENTATIVE OF AN INDUSTRIAL USER.** A representative of an industrial user who is:

- (a) A principal executive officer of at least the level of vice president, if the industrial user is a corporation;
- (b) A general partner or proprietor if the industrial user is a partnership or proprietorship respectively; or
- (c) A duly authorized representative of the individual designated above if the representative is responsible for the overall operation of the facilities from which the discharge originates, or for environmental matters of the industrial user. Authorization for this representative must be submitted in writing to the village by the individual designated in divisions (a) or (b) above.

**BACKWASH.** The backwash or discharge water from any water conditioning device such as, but not limited to, an iron filter, water softener or related device using sodium chloride, potassium chloride or related material containing either sodium or chloride as the generate.

**BIOCHEMICAL OXYGEN DEMAND or BOD.** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days at 20°C expressed in terms of weight and concentration (milligrams per liter).

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

**BUILDING SEWER.** Extension from the building drain to the public sewer or other places of disposal, including pipe or conduit in the public street right-of-way or public easements which serves a particular user's property. **BUILDING SEWER** also includes pump stations and force mains installed to serve a property by lifting sewage to the public sewer.

**BYPASS.** Intentional diversion of waste streams from any portion of a user's treatment facility.

**CAPITAL CONNECTION FEE.** The fee charged to premises seeking access to the Sewage Disposal System, as described in § 52.29(C)(4).

**CHEMICAL OXYGEN DEMAND or COD.** A measure of the oxygen-consuming capacity of inorganic and organic matter present in water or wastewater. It is expressed as the amount of oxygen consumed from a chemical oxidant in a specified test. It does not differentiate between stable and unstable organic matter and thus does not necessarily correlate with biochemical oxygen demand. Also known as **OC** and **DOC**, **OXYGEN CONSUMED** and **DICHROMATE OXYGEN CONSUMED**, respectively.

**CHLORINE DEMAND.** The difference between the amount of chlorine added to water or wastewater and the amount of residual chlorine remaining at the end of a specified contact period. The demand for any given water varies with the amount of chlorine applied, time of contact and temperature.

**COMMODITY CHARGE.** The charge imposed on users of the Sewage Disposal System as described in §52.29(C)(1).

**COMPATIBLE POLLUTANT.** A substance amenable to treatment in the POTW such as biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus additional pollutants identified in the NPDES permit if the POTW was designated to treat the pollutants and in fact does remove the pollutant to a substantial degree. Examples of the additional pollutants may include: chemical oxygen demand, total organic carbon, phosphorus and phosphorus compounds, nitrogen compounds, fats, oils and greases of animal or vegetable origin.

**COMPOSITE SAMPLE.** A collection of individual samples which are obtained at regular intervals, collected on a time-proportional and/or flow-proportional basis, over a period of not less than 24 hours and which provides a representative sample of the average stream during the sampling period. If the composite sample is collected on a flow-proportional basis, the sampling shall be taken utilizing a flow-proportional sampling device and flow meter approved by the village.

**CONNECTION CHARGE.** The charge imposed on each user connecting or reconnecting to the Sewage Disposal System to recover the actual costs of the material, meter, labor, equipment and supervision related to the installation of the connection and meter as determined by resolution of the Village Council and set forth in the Village Fee Schedule.

**COOLING WATER.** The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

**DEPARTMENT.** The Department of Public Works.

**DEPARTMENT OF ENVIRONMENT, GREAT LAKES & ENERGY or EGLE.** The State of Michigan Department of Environment, Great Lakes & Energy, its Administrator or other duly authorized official.

**DIRECT DISCHARGE.** The discharge of treated or untreated wastewater directly to the waters of the state.

**DIRECTOR.** The Director of the Department of Public Works.

**DISCHARGE.** Any direct or indirect discharge of any waste, waste effluent, wastewater, pollutant or any combination into any of the waters of the state or upon the ground.

**DRY WELL.** An approved vessel or containment sized properly to handle backwash from any water conditioning device.

**ENVIRONMENTAL PROTECTION AGENCY or EPA.** The United States Environmental Protection Agency, its Administrator or other duly authorized official.

**GARBAGE.** Solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce. Also includes other solid waste such as wipes or diapers.

**GRAB SAMPLE.** A sample taken from a wastestream on a one-time basis without regard to the flow of the wastestream over a period of time not to exceed 15 minutes.

**HOLDING TANK WASTE.** Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

**INCOMPATIBLE POLLUTANT.** Any pollutant which is not a **COMPATIBLE POLLUTANT**.

**INDIRECT DISCHARGE.** The discharge or introduction of non-domestic pollutants into the Sewage Disposal System (including holding tank waste discharged into the Sewage Disposal System) from a non-domestic source.

**INDUSTRIAL USER.** A person who contributes, causes or permits the discharge of industrial waste into the Sewage Disposal System. Single-family and multi-family residential dwellings are specifically excluded.

**INDUSTRIAL WASTE.** The wastewater discharge from industrial, manufacturing, trade or business processes, or wastewater discharge from any structure with this characteristic, as distinct from their employees' domestic wastes or wastes from sanitary conveniences.

**INTERFERENCE.** A discharge, alone or in conjunction with a discharge or discharges from other sources, to which both of the following provisions apply:

(a) The discharge inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

(b) Pursuant to division (a) above, the discharge is a cause of a violation of any requirement of the village or the Act or the State Act, including an increase in the magnitude or duration of a violation, or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder, or more stringent state or local regulations: § 405 of the Act, the Solid Waste Disposal Act, 42 U.S.C. §§ 2601 *et seq.*, including Title II, more commonly referred to as the Resource Conservation and Recovery Act and including state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the Solid Waste Disposal Act, the Clean Air Act, 42 U.S.C. §§ 7401 *et seq.*, the Toxic Substance Control Act, 15 U.S.C. §§ 2601 *et seq.* and the Marine Protection Research and Sanctuaries Act, 33 U.S.C. §§ 1401 *et seq.*

**NATIONAL CATEGORICAL PRETREATMENT STANDARD, CATEGORICAL PRETREATMENT STANDARD or CATEGORICAL STANDARD.** Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with §§ 307(b) and (c) of the Act (22 U.S.C. § 1317) which applies to a specific category of industrial users and which appear in 40 C.F.R. Chapter I, Subchapter N.

**NATIONAL PROHIBITIVE DISCHARGE STANDARD or PROHIBITIVE DISCHARGE STANDARD.** Any regulation developed under the authority of 307(b) of the Act and 40 C.F.R. § 403.5.

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

**NEW SOURCE.**

(a) Any building, structure, facility or installation from which there is or may be a discharge of pollutants and for which construction commenced after the publication of proposed pretreatment standards under § 307(c) of the Act will be applicable to the source if the standards are thereafter promulgated in accordance with § 307(c) of the Act, and if any of the following provisions apply:

1. The building, structure, facility or installation is constructed at a site at which no other source is located;
2. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
3. The production or wastewater-generated processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. The extent to which the new facility is engaged in the same

general type of activity as the existing source and the extent of integration of the new facility with the existing facility should be considered in determining whether the process is substantially independent.

(b) Construction on a site at which an existing source is located which results in a modification that does not create a new building, structure, facility or installation meeting the criteria of divisions (a)2. or (a)3. above but otherwise alters, replaces or adds to existing process or production equipment.

(c) **CONSTRUCTION OF A NEW SOURCE**, as defined under this section, has commenced if the owner or operator has:

1. Begun, or caused to begin, as part of a continuous on-site construction program:

a. Any placement, assembly or installation of facilities or equipment; or

b. 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.

2. 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 section.

**NPDES PERMIT.** A permit issued pursuant to § 402 of the Act (33 U.S.C. § 1342).

**OBSTRUCTION.** Any object of whatever nature which substantially impedes the flow of sewage from the point of origination to the public sewer. This shall include, but not be limited to, objects, sewage, tree roots, rocks and debris of any type.

**OPERATION and MAINTENANCE.** All work, materials, equipment, utilities, administration and other effort required to operate and maintain the Sewage Disposal System consistent with insuring adequate treatment of wastewater to produce an effluent in compliance with the village's NPDES permit and other applicable state and federal regulations.

**ORDER.** An order issued by the village in accordance with §52.31.

**OWNER.** The owner or owners of record of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person in control of a building.

**PASS THROUGH.** A discharge that exits the Sewage Disposal System into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Act, the State Act or the NPDES permit, including an increase in the magnitude or duration of a violation.

**PERSON.** Any individual, firm, company, association, society, corporation, joint stock company, trust, estate, governmental or any other legal entity, or its legal representatives, agents or assigns. This definition includes all federal, state and local governmental entities.

**pH.** The logarithm (base 10) of the reciprocal concentration of hydrogen ions expressed in grams per liter of solution.

**POLLUTANT.** Any of the following:

(a) Substances regulated by a National Categorical Pretreatment Standard, substances discharged to the POTW that are required to be monitored are limited in the POTW's permit or are identified in the POTW's permit application;

(b) Substances for which control measures are necessary to avoid worker health and safety problems in the POTW; and

(c) Various chemicals, substances and refuse materials such as sewage, garbage, sewage sludge, chemical wastes, biological materials, radioactive materials, heat and industrial, municipal and agricultural wastes which impair the purity of the water and soil.

**POLLUTION.** The man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of water.

**PRETREATMENT or TREATMENT.** The reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing the pollutants into the Sewage Disposal System. The reduction or alteration can be obtained by physical, chemical or biological processes, process changes or other means, except as prohibited by 40 C.F.R. § 403.6(d), as amended.

**PRETREATMENT REQUIREMENTS.** Any substantive or procedural requirement related to pretreatment prior to introduction in the Sewage Disposal System, other than a pretreatment standard.

**PRETREATMENT STANDARD.** National prohibitive discharge standards, National Categorical Pretreatment Standards and local limits.

**PRIVATE SEWER LINES.** All service lines and equipment for the disposal of sewage installed or located on any property from the public sewer to, and including, any structure or facility which exists on the property.

**PUBLIC SEWER.** A sewer pipe, conduit, pump station or force main designed to convey sewage in which all owners of abutting properties have equal rights and is controlled by the village.

**PUBLICLY OWNED TREATMENT WORKS or POTW.** The **TREATMENT WORKS** as defined by § 212 of the Act (33 U.S.C. § 1292) which is owned and operated by the village and includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial waste of a liquid nature. The term also includes sewers that convey wastewaters to the POTW from persons outside the village who or which are, by contract or agreement with the village, users of the village's POTW.

**READINESS-TO-SERVE CHARGE.** The charge calculated on the basis of meter size in accordance with §52.29(C)(2).

**REPLACEMENT.** The replacement in whole or in part of any equipment, appurtenances and accessories in the Sewage Disposal System to ensure continuous treatment of wastewater in accordance with the village's NPDES permit and other applicable state and federal regulations.

**RESIDENTIAL USER.** A user whose premises or buildings are used primarily as a domicile for one or more persons, including dwelling units such as detached, semi-detached and row houses, mobile homes, apartments or permanent multi-family dwellings.

**SANITARY SEWER.** A pipe or conduit which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

**SEPTIC TANK.** An underground tank in which waste matter is decomposed through bacterial action.

**SEVERE PROPERTY DAMAGE.** Substantial physical damage to property, damage to a user's pretreatment facilities which causes them to be inoperable or substantial and permanent loss of natural resources, which can reasonably be expected to occur in the absence of a bypass. **SEVERE PROPERTY DAMAGE** does not mean economic loss caused by delays in production.

**SEWAGE or WASTEWATER.** A combination of the liquid and water-carried wastes from residences, businesses and buildings, institutions and industrial establishments, together with the ground waters and surface waters as may be present, whether treated or untreated, which is contributed to or permitted to enter the Sewage Disposal System.

**SEWAGE DISPOSAL SYSTEM.** The complete Sewage Disposal System and publicly owned treatment works of the village, including all pumps, pump houses, sewage treatment facilities, sewers, lift stations and all other facilities used or useful in the collection, treatment and disposal of domestic, commercial, industrial or institutional wastes, and all other appurtenances thereto, including all easements, rights and land for the easements and including all extensions and improvements thereto which may be acquired or constructed on behalf of current and future users of the Sewage Disposal System.

**SEWER or SEWER LINE.** Pipe or conduit for carrying wastewater.

**SIGNIFICANT INDUSTRIAL USER.** Any industrial user of the Sewage Disposal System who:

- (a) Is subject to National Categorical Pretreatment Standards;
- (b) Discharges an average of 25,000 gallons per day or more of wastewater to the Sewage Disposal System;
- (c) Contributes a wastewater flow which makes up 5% or more of the average dry weather hydraulic or organic capacity of the Village's Sewage Disposal System; or
- (d) Is found by the village, the Department of Environmental Quality or the EPA to have a reasonable potential for adversely affecting the Sewage Disposal System's operation or for violating any pretreatment standard or requirement.

**SIGNIFICANT NONCOMPLIANCE.** One or more of the following:

- (a) **CHRONIC VIOLATION OF WASTEWATER DISCHARGE LIMIT** defined as results of analyses in which 66% or more of all the measurements for a pollutant parameter taken during a six-month period exceed by any magnitude the corresponding daily maximum limit or the corresponding average limit;
- (b) **TECHNICAL REVIEW CRITERIA (TRC) VIOLATIONS** defined as results of analyses in which 33% or more of all of the measurements for a pollutant parameter taken during a six-month period equal or exceed the product of the corresponding daily maximum limit multiplied by the applicable TRC factor, or the product of the corresponding average limit multiplied by the applicable TRC factor. (TRC factor equals 1.4 for BOD, fats, oil and grease and 1.2 for all other pollutants except pH);
- (c) Any other violation of a daily maximum limit or an average limit that the village determines has alone or in combination with other discharges caused interference or pass through, including endangering the health of Department personnel or the general public;
- (d) Any discharge of a pollutant that has caused imminent endangerment to human health, public welfare or the environment, or has resulted in the village exercising its emergency authority under the State Act or this subchapter to halt or prevent such a discharge;
- (e) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a village-issued discharge permit or enforcement order for starting construction, completing construction or attaining final compliance;

(f) Failure to provide, within 30 days after the due date, required reports such as, but not limited to, baseline monitoring reports, 90-day compliance reports and/or reports on compliance with compliance schedules;

(g) Failure to timely or accurately report noncompliance; or

(h) Any other violation or group of violations which the village determines may adversely affect operation or implementation of the village's pretreatment program or operation of the Sewage Disposal System.

**SPLIT SAMPLE.** An equal division of a representative sample between two parties for the purpose of separate and independent laboratory analysis by the two parties.

**SLUG.** Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards described in § 52.25.

**STATE.** The State of Michigan.

**STATE ACT.** Michigan Public Act 451 of 1994, being M.C.L.A. §§ 324.11501 *et seq.* the National Resources and Environmental Protection Act as amended, and any administrative rules promulgated thereunder, as amended or revised from time to time.

**STORM SEWER.** A sewer that carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.

**STORMWATER.** Any flow occurring during or following any form of natural precipitation and resulting therefrom.

**SURCHARGE.** An extra charge that any user discharging wastewater having strength in excess of limits set forth by the village shall be required to pay as an additional charge to cover the actual cost of treating, sampling and testing the extra strength sewage.

**SUSPENDED SOLIDS.** The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

**TOXIC POLLUTANT.** Any pollutant or combination of pollutants, which is or can potentially be harmful to the public health or the environment including those listed as toxic in regulations promulgated by the Administrator of the EPA under the provisions of § 307(a) of the Act or other acts.

**UPSET.** An exceptional incident in which there is unintentional and temporary noncompliance with National 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.

**USER.** Any person who contributes, causes or permits the contribution of wastewater into the Sewage Disposal System.

**VILLAGE.** The Village of Pinckney, County of Livingston, State of Michigan.

**VILLAGE TECHNICAL STANDARDS.** The specifications for the design and construction of utilities and related improvements and components under the jurisdiction of the village, prepared by the village and on file with the Village Clerk, as the same may be in effect and amended from time to time.

**WASTEWATER.** The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with any groundwater, surface water and stormwater that may be present, whether treated or untreated, which is contributed into or permitted to enter the Sewage Disposal System.

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

**WATERS OF THE STATE.** All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

(B) *Abbreviations.* In addition to the foregoing terms, the following abbreviations, when used in this subchapter, shall have the meanings set forth below, except where the context clearly indicates a different meaning:

- (1) *BOD.* Biochemical oxygen demand;
- (2) *C.F.R.* Code of Federal Regulations;
- (3) *COD.* Chemical oxygen demand;
- (4) *DEQ.* Department of Environmental Quality (State of Michigan);
- (5) *EPA.* Environmental Protection Agency;
- (6) *IBC.* International Building Code, Michigan Edition;
- (7) *l.* Liter;
- (8) *mg.* Milligrams;
- (9) *mg/l.* Milligrams per liter;



- (10) *NPDES*. National Pollutant Discharge Elimination System;
- (11) *P*. Phosphorous;
- (12) *POTW*. Publicly Owned Treatment Works;
- (13) *SS*. Suspended solids; and
- (14) *U.S.C.* United States Code.

(Ord. 68, passed 10-24-2005; Ord. 155, passed 1-11-2021)

#### **§ 52.02 OBJECTIVES OF SUBCHAPTER.**

The objectives of this subchapter are:

(A) Prevent the introduction of pollutants into the Sewage Disposal System which will interfere with the normal operation of the Sewage Disposal System or contaminate the resulting municipal sludge;

(B) Prevent the introduction of pollutants into the Sewage Disposal System which do not receive adequate treatment in the POTW and which will pass through the Sewage Disposal System into receiving waters or the atmosphere, or will otherwise be incompatible with the Sewage Disposal System;

(C) Improve the opportunity to recycle and reclaim wastewater and sludge from the Sewage Disposal System;

(D) Provide for equitable distribution of the cost of the Sewage Disposal System;

(E) Protect both the general public and Sewage Disposal System personnel who may be affected by wastewater and sludge in the course of their employment; and

(F) Enable the village to comply with its NPDES permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the Sewage Disposal System is subject.

(Ord. 68, passed 10-24-2005)

#### **§ 52.03 FINDINGS.**

(A) *Necessity for sewer service*. The Village Council has previously found and currently reaffirms that the use of septic tanks, privies, privy vaults, cesspools or similar private sewage disposal facilities is deleterious to the health, safety and welfare of the residents, businesses, industries and governmental and charitable agencies of the village and that the health, safety and welfare of the residents, businesses, industries and governmental and charitable agencies is enhanced by the creation of a public Sewage Disposal System, with regulation by the village of pollutants and other harmful materials, according to state and federal standards.

(B) *Method of measuring use of Sewage Disposal System*. The Village Council finds that the most practical, cost-effective and accurate method, given available technology, of measuring the use of the Sewage Disposal System by all nonresidential users and by all residential users that receive water service from the Village's Water Supply System is by a meter or meters installed to measure water usage by the user. The Village Council further finds that, with respect to residential users not served by the village's Water Supply System, it would be impractical and cost-prohibitive to require the users to install a meter to measure water use from a well or other private water source. Therefore, in the case of residential users that do not receive water service from the Village's Water Supply System, the Village Council determines that use of the Sewage Disposal System shall be estimated based on the number of bedrooms in the dwelling or residence, which the Village Council finds to be a fair and reasonable estimate of the variable costs of the sewer and wastewater treatment services provided by the Sewage Disposal System to the users.

(C) *Continuation of Sewage Disposal Service*. The Village Council has previously found and further currently reaffirms that in order to provide and continue to provide for the safe and uninterrupted removal and treatment of sewage, pollutants and other harmful materials, it is necessary from time to time to install improvements, enlargements, extensions and repairs to the Sewage Disposal System.

(D) *Purpose of fees*. The fees for the use of and connection to the Sewage Disposal Supply System are hereby established for the purpose of recovering the cost of operation, maintenance, repair, replacement and improvement of the Sewage Disposal System and to comply with federal and state laws and regulations, to provide for the payment of principal of and interest on any bonds authorized to be issued as and when the same become due and payable and to provide an account for reasonable and necessary improvements to the Sewage Disposal System. The fees shall be made against all users of the Sewage Disposal System in a fair and equitable manner and based on the level of service provided, in accordance with the purposes herein described, as well as the following:

(1) All premises connected to the Sewage Disposal System shall be charged and shall make payments to the village in amounts computed on the basis of this subchapter;

(2) The rates and fees for sewage disposal service provided by the Sewage Disposal System are established herein to adequately provide for bond requirements and to ensure that the Sewage Disposal System does not operate at a deficit. The rates and fees shall be established by resolution of the Village Council based upon advice of the village's engineers and administrative staff; and

(3) The charges, rates and fees shall be set so as to recover costs from users in reasonable proportion to the cost of serving those users.

(E) *Proportionality, fairness and benefits of rates and fees.* The Village Council has previously found and further currently reaffirms, that the most fair and reasonable method of providing for the operation, maintenance, repair, replacement and improvement of the Sewage Disposal System is to charge each user a proportionate share of the cost of:

(1) Retiring debt secured by the net revenues of the Sewage Disposal System issued to pay for improvements and replacements to the Sewage Disposal System;

(2) Ongoing repair, replacement and improvement and budgeted as part of the annual costs of the Sewage Disposal System; and

(3) Operation, administration and maintenance costs of the Sewage Disposal System.

(F) *Sewer service charges.* The village has investigated several methods of apportioning the costs of the sewer service provided by the Sewage Disposal System. Based on its investigation and the recommendations of Ayres, Lewis, Norris & May, Inc., Ann Arbor, Michigan, independent advisors to the village, the Village Council has previously found and currently reaffirms that to ensure the stability and viability of the Sewage Disposal System for the benefit of its users, the most fair and accurate way to apportion the costs of operation, maintenance, replacement and improvement of the Sewage Disposal System is to charge each user:

(1) A commodity charge for sewer usage which is based on the user's actual metered use of water supplied by the Village's Water Supply System (or, in the case of residential users, not served by the Village's Water Supply System based on actual metered water use from a private water supply or the number of bedrooms in the premises served);

(2) A readiness-to-serve charge for sewer usage based on meter size, which fee reflects each user's proportionate share of the fixed costs of operating and maintaining the Sewage Disposal System;

(3) A capital connection fee to be paid by persons connecting to the Sewage Disposal System or changing their user classification in order to defray certain capital costs incurred to provide sufficient capacity to all users; and

(4) The other fees and costs for services as authorized by this subchapter.

(G) *Benefits of charges.* The Village Council further has previously found and currently reaffirms that the charges, rates and fees set forth herein and by resolution fairly and accurately apportion the fixed and variable costs of providing sewer service among the users of the Sewage Disposal System and that the commodity charge and readiness-to-serve charges provide actual benefits to the users in the form of ready access to sewer service that would be unavailable if the charges were not imposed.

(H) *Fair charges.* In addition to the findings set forth above, the Village Council has previously found and currently reaffirms that the capital connection fee is a fair and proportionate charge for new users of the Sewage Disposal System and that the opportunity to connect to the Sewage Disposal System provides actual benefits to each new user equal to or greater than the amount of the charge.

(Ord. 68, passed 10-24-2005)

## **SEWAGE DISPOSAL SYSTEM; RULES AND REGULATIONS**

### **§ 52.20 ESTABLISHMENT OF SEWAGE DISPOSAL SYSTEM.**

Based on the above findings and for the purposes set forth above, and pursuant to the authority granted to the village under Public Act 94 of 1933, being M.C.L.A. §§ 141.101 through 141.138 and § 141.121, as amended, Public Act 3 of 1895, being M.C.L.A. §§ 61.1 through 75.12, as amended, and Art. 7, § 24 of the Michigan Constitution of 1963, the village has previously established and hereby reestablishes the Sewage Disposal System, as an enterprise system, consisting of the complete Sewage Disposal System and publicly owned treatment works of the village, including all pumps, pump houses, sewage treatment facilities, sewers, lift stations and all other facilities used or useful in the collection, treatment and disposal of domestic, commercial, industrial or institutional wastes, and all other appurtenances thereto, including all easements, rights and land for the easements, and including all extensions and improvements thereto which may be acquired or constructed on behalf of current and future users of the Sewage Disposal System. The Sewage Disposal System shall be operated on a public utility rate basis.

(Ord. 68, passed 10-24-2005)

### **§ 52.21 UNLAWFUL WASTE DISPOSAL; DISCHARGE TO NATURAL OUTLETS PROHIBITED.**

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

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

(C) The Village Council has previously found and currently reaffirms that the use of septic tanks, privies, privy vaults,

cesspools or similar private sewage disposal facilities, is deleterious to the health, safety and welfare of the residents, businesses, industries and governmental and charitable agencies of the village. It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage, unless specifically permitted by the Livingston County Health Department or as hereinafter provided.

(D) The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the village and abutting on any street, alley or right-of-way in which there is now located or may in the future be located, a public sanitary sewer of the village within 200 feet at the nearest point from the structure in which sewage originates, is hereby required at the owner's expense to install suitable sewage facilities therein, and to connect the facilities directly with the proper public sewer in accordance with the provisions of this subchapter within 180 days after date of official notice to do so.

(E) No user shall discharge, cause or allow to be discharged any stormwater, surface water, groundwater, water from footing drains, roof water or backwash water to any sanitary sewer or sewer connection. Any premise connected to a storm sewer shall comply with all county, state and federal requirements as well as those of the village. Downspouts, roof leaders and backwash lines shall be disconnected from the sanitary sewers within six months of the effective date of this subchapter. Failure to disconnect shall give the village the right to make the disconnection and the property owner shall be responsible for paying the village for the costs incurred by the village in making the disconnection.

(Ord. 68, passed 10-24-2005) Penalty, see §52.99

## **§ 52.22 INDUSTRIAL USERS; INFORMATION REQUIRED PRIOR TO CONNECTION TO SEWAGE DISPOSAL SYSTEM; CONDITIONS; REPORTING AND PRETREATMENT REQUIREMENTS.**

(A) *Industrial users.* Each industrial user and at the request of the Director, any other person who applies for or receives sewer service from the Sewage Disposal System, shall file the information listed below with the Director. Any industry which does not normally discharge to the Sewage Disposal System, but has the potential to do so from accidental spills or similar circumstances, shall also file a Baseline Monitoring Report including, but not limited to the information below.

- (1) Name, address and location of the user;
- (2) Whether the user is a corporation, partnership, proprietorship or some other entity (if so, what type of entity) and the name of the person(s) responsible for discharges by the user;
- (3) Standard Industrial Classification number according to the *Standard Industrial Classification Manual*, United States Office of Management and Budget, as supplemented and amended from time to time;
- (4) Discharge constituents and characteristics including, but not limited to, toxic pollutants as determined by appropriate chemical and biological analyses. Sampling and analyses shall be performed in accordance with procedures established by the EPA and contained in 40 C.F.R. Part 136, as amended;
- (5) Time and duration of discharges;
- (6) Average daily and instantaneous peak discharge flow rates in gallons per day, including daily, monthly and seasonal variations, if any. All flows shall be measured unless other verifiable techniques are approved by the Director;
- (7) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, inspection manholes, sampling chambers and other relevant equipment by size, location and elevation;
- (8) Description of activities, facilities and plant processes on the premises including all materials which are or may be discharged to the Sewage Disposal System intentionally or by accident;
- (9) Nature and concentration of any pollutants in the discharge limited by this subchapter, together with a statement regarding whether or not compliance is being achieved with this subchapter on a consistent basis and, if not, whether additional operation and maintenance activities and/or additional pretreatment is required for the user to comply with this subchapter;
- (10) Each product produced by type, amount, process or processes and rate of production;
- (11) Type and amount of raw materials used (average and maximum per day or other relevant time period), including copies of material safety data sheets;
- (12) A list and copy of all environmental permits held by the user applicable to the site to which the use permit applies; and
- (13) Any other information as may be deemed necessary by the Director to evaluate the permit application.

(B) *Discharge modifications.* Within three months after the effective date of the promulgation or revision of a National Categorical Pretreatment Standard, all affected industrial users must submit to the village the information required by division (A) above.

(C) *Discharge conditions.* Wastewater discharges shall be subject to all provisions of this subchapter and all other applicable regulations, user charges and fees established by the village. The village may:

- (1) Set unit charges or a schedule of charges and fees for the wastewater to be discharged to the POTW;

- (2) Limit the average and maximum wastewater constituents and characteristics;
- (3) Limit the average and maximum rate and time of discharge or make requirements for flow regulations and equalization;
- (4) Require the installation and maintenance of inspection and sampling facilities;
- (5) Establish specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
- (6) Establish compliance schedules;
- (7) Require submission of technical reports or discharge reports;
- (8) Require the maintaining, retaining and furnishing of plant records relating to wastewater discharge as specified by the village and affording village access thereto and copying thereof;
- (9) Require prompt notification of the village in advance of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
- (10) Require immediate notification of all discharges that could cause problems to the POTW, including slug discharges;
- (11) Require other conditions as deemed appropriate by the village to ensure compliance with this subchapter;
- (12) Require waste treatment facilities, process facilities, waste streams or other potential waste problems to be placed under the specific supervision and control of persons who have been certified by an appropriate state agency as properly qualified to supervise the facilities;
- (13) Require records and file reports to be maintained on the final disposal of specific liquids, solids, sludges, oils, radioactive materials, solvents or other wastes;
- (14) Convert concentration-based National Categorical Pretreatment Standards to equivalent mass-based or production-based Pretreatment Requirements; and
- (15) Control through permit, order or similar means, the contribution to the POTW by each user to ensure compliance with applicable National Categorical Pretreatment Standards or Pretreatment Requirements. The control mechanism may limit duration to a maximum of five years, require non-transferability without appropriate prior notification, set effluent limits, establish monitoring and reporting requirements and contain a statement of applicable penalties for violations.

(D) *Monitoring facilities.* The village may require to be provided and operated at the user's own expense, monitoring facilities to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the village may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near the sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with plans and specifications submitted to and approved by the village and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the village. If monitoring Facilities are required, the user will enter into an operation and maintenance agreement with the village in accordance with the Village Technical Standards.

(E) *Pretreatment requirements.*

(1) Industrial users shall provide necessary wastewater treatment as required to comply with this subchapter and shall achieve compliance with all National Categorical Pretreatment Standards within the time limitations as specified by Federal Pretreatment Standards and as required by the village. Any facilities required to pre-treat wastewater to a level acceptable to the village shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the village for review and shall be approved by the village before construction of the facility. The review of the plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the village under the provisions of this subchapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the village prior to the user's initiation of the changes.

(2) The village will annually publish in a major local newspaper a list of the users which were in significant noncompliance with any pretreatment requirements or pretreatment standards at least once during the 12 previous months. The notification will identify the nature of the violation and summarize any enforcement actions taken against the user(s) during the same 12 months.

(3) All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or Michigan Department of Environmental Quality upon request.

(F) *Additional reporting requirements.*

(1) *Baseline reports.*

(a) Within 180 days after promulgation or revision of a National Categorical Pretreatment Standard, all existing affected industrial users must submit to the village the information specified by 40 C.F.R. § 403.12(b), paragraphs (1) through (7);

(b) At least 90 days prior to commencement of discharge, new sources and sources that become affected industrial users subsequent to the promulgation of an applicable National Categorical Pretreatment Standard, shall submit to the village the information specified by 40 C.F.R. § 403.12(b), paragraphs (1) through (5). New sources shall also include in this report information on the method of pretreatment they intend to use to meet the applicable pretreatment standard and shall give estimates of the required information regarding flow and pollutant discharge.

(2) *Compliance date report.* Within 90 days following the commencement of the introduction of wastewater into the POTW by a New Source, any user subject to pretreatment standards or Pretreatment Requirements shall submit to the Director a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards or Pretreatment Requirements and the average and maximum daily flow for these process units in the user facility which are limited by the pretreatment standards or pretreatment requirements. For users subject to equivalent mass or concentration limits, this report shall contain a reasonable measure of the long-term production rate. For all other users subject to National Categorical Pretreatment Standards expressed per unit of production, the report shall include the actual production during the sampling period. The report shall state whether the applicable pretreatment standards or pretreatment requirements are being met on a consistent basis and, if not, what additional pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or pretreatment requirements. This statement must be signed by an authorized representative of the industrial user as required in division (I) below.

(3) *Periodic compliance reports.*

(a) All significant industrial users discharging into the POTW or the Sewage Disposal System shall submit to the Director during the months of June and December, unless required more frequently by applicable pretreatment standards or by the Director, a report indicating the nature and concentration of pollutants in the effluent which are limited by the pretreatment standards or this subchapter;

(b) In addition, this report shall include a record of maximum daily flows during the reporting period;

(c) All periodic compliance reports must be signed and certified in accordance with division (I) below;

(d) 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 his or her monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge;

(e) If a user is subject to reporting requirements required to demonstrate continued compliance and monitors any pollutant more frequently than required by the village, using standard laboratory procedures, the results of this additional monitoring shall also be included in the periodic compliance report described in division (F)(3) above; and

(f) If sampling performed by a user indicates a violation, the user shall notify the village within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and submit the results of re-analysis to the village within 30 days after becoming aware of the violation, except when the village will be performing scheduled surveillance sampling and/or analysis within this 30-day period.

(4) *Notification of hazardous waste discharges.* All users shall notify the POTW, the EPA Regional Waste Management Division Director and the State Hazardous Waste Authority in writing of any discharge into the POTW of a substance which would be a hazardous waste under 40 C.F.R. § 261 if disposed via other means. Notification details, as well as allowable exemptions, shall be in accordance with 40 C.F.R. § 403.12(p). In the case of any new regulations under § 3001 of the Resource Recovery and Conservation Act (42 U.S.C. §§ 6901 *et seq.*) identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must provide notification of the discharge of the substance within 90 days of the effective date of the regulations. In the case of any notification of hazardous waste discharges, the user shall further certify that he or she has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(G) *Inspection and sampling.*

(1) The village shall inspect the facilities of any user to ascertain whether the purpose of this subchapter is being met, and the user is complying with all requirements. Persons or occupants of premises where wastewater is created or discharged shall allow the village or its representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination, records copying or in the performance of any of his or her duties.

(2) The village, Department of Environmental Quality and EPA shall have the right to set up on the user's property the devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into his or her premises, the user shall make necessary arrangements with his or her security guards so that upon presentation of suitable identification, personnel from the village, Department of Environmental Quality and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.



(H) *Confidential information.*

(1) Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate, to the satisfaction of the village, that the release of the information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

(2) When requested by the person furnishing a report, the portion 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 upon written request to governmental agencies for uses related to this subchapter, the NPDES permit or the pretreatment standards; provided, however, that the portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

(3) Information accepted by the village as confidential shall not be transmitted to any governmental agency or to the general public by the village until and unless a ten-day notification is given to the user.

(I) *Signatory requirements.*

(1) All reports required by this section shall be signed by the authorized representative of an industrial user and include 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."

(2) If the authorized representative of an industrial user changes because a different individual has responsibility for the overall operation of the facility or for environmental matters of the user, a new authorization satisfying the definition of an authorized representative of an industrial user as set forth in division (A) above, must be submitted to the village prior to, or together, with any reports to be signed by that representative.

(Ord. 68, passed 10-24-2005; Ord. 155, passed 1-11-2021)

**§ 52.23 PRIVATE SEWAGE DISPOSAL SYSTEMS.**

(A) When a public sewer is not available under the provisions of §52.21(D), the building sewer shall be connected to an approved private Sewage Disposal System.

(B) Before commencement of construction of a private Sewage Disposal System, the owner shall first apply to the Livingston County Health Department for a soil evaluation test. The fee for this application shall be determined by the Livingston County Health Department and shall be paid to the Livingston County Health Department. At completion of the above soil evaluation test showing the site is suitable for the construction of a private Sewage Disposal System, the property owner shall apply for a permit for installation for the proposed private Sewage Disposal System. The application shall include plans, specifications and other information as deemed necessary by the Livingston County Health Department. At the time the application is filed, the fee determined by the Livingston County Health Department for the permit and inspection shall be paid by the owner.

(C) A permit for a private Sewage Disposal System shall not become effective until the installation is completed to the satisfaction of the Livingston County Health Department. The Livingston County Health Department shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Livingston County Health Department when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within seven days of the receipt of notice by the Livingston County Health Department. All persons receiving a permit for a private Sewage Disposal System shall provide the village with copies of all final approved inspection reports issued by the Livingston County Health Department.

(D) The type, capacities, location and layout of a private Sewage Disposal System shall comply with all recommendations of the Livingston County Health Department. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.

(E) At the time as a public sewer becomes available to a property served by a private Sewage Disposal System, as provided in § 52.21(D), a direct connection shall be made to the public sewer in compliance with this subchapter, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled in accordance with the Livingston County Health Department standards and regulations.

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

(G) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by any other agency having legal jurisdiction.

(Ord. 68, passed 10-24-2005)



## § 52.24 BUILDING SEWER AND CONNECTIONS.

(A) No person shall make an excavation or opening in or under a street right-of-way, nor shall any person uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof, without first obtaining a written permit from the designated official of the village. The owner or his or her agent shall make application for the permit on a form furnished by the village. The permit application shall be supplemented by any plans, specifications or other information required by this subchapter or considered pertinent in the judgment of the village. No permit shall be granted until the applicant posts a cash deposit or surety bond as provided in the fee schedule, files evidence of a liability insurance policy as provided by the village fee schedule and pays the connection fee and all other fees required by the fee schedule or by resolution of the Village Council at the time the connection is to be made. A sewer tap permit issued by the Livingston County Health Department shall also be required to be obtained by the applicant prior to commencing any work under the permit. If a street opening is required to make the lead connection, an additional attachment to the permit application must be completed detailing the justification and need for the opening before a permit will be issued by the village. A permit application must be made, the applicable fees paid and approval obtained from the village at least 72 hours before commencement of work for which the permit application is made. In addition to the foregoing, the issuance of a permit as provided in this division shall be subject to the following terms and conditions regarding street excavation and cuts found in § 92.31.

(B) Sewer tap permits will expire within six months of purchase and fees will be returned with no interest if construction has not begun on the exact parcel for which the tap permit was purchased. A new application will be required for each property or for a replacement tap permit should a property owner allow a permit to expire.

(C) The applicant for a building sewer permit shall notify the Director when the building sewer is ready for inspection and connection to the public sewer. Twenty-four hour minimum notice is required. No building sewer shall be covered until after it has been inspected and approved by the Village Engineer or qualified Village Agent and the Livingston County Health Department.

(D) All cost and expense incident to the installation, maintenance and connection of the building sewer to the public sewer shall be borne by the owner. It shall be the duty of each property owner to maintain, clean and repair the building sewers servicing the owner's property and any private sewer lines to the public sewer at the owner's expense as necessary to keep the lines free and clear of obstructions and in good working order.

(E) All liabilities incident to the installation and connection of the building sewer shall be borne by the property owner. The property owner shall indemnify and save harmless the village from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(F) A separate and independent dry well or similar device that shall adequately handle backwash shall be provided for every water conditioning device and the water conditioning device shall be connected to the dry well or similar device in such a manner as to prevent the discharge of backwash into the Sewage Disposal System. All new residential, commercial or industrial buildings shall also be required to install a separate and independent dry well or similar device that shall be designed and constructed to adequately handle backwash to prevent the discharge of backwash into the Sewage Disposal System even if a water conditioning device is not initially installed. This shall also apply to all residential, commercial or industrial properties that have been destroyed or demolished and subsequently are being, or have been, rebuilt, remodeled or otherwise restored. All dry well or similar devices will be installed in accordance with Village Technical Standards. A physical inspection and approval of the dry well or similar device and its related plumbing shall be made by the Village Engineer or qualified Village Agent, for all newly constructed, remodeled, rebuilt or otherwise restored buildings, before water and sewer service is provided by the village. It shall be the duty of each property owner who owns a building covered by this division to install, maintain, replace or clean the dry well or similar device at his or her own expense.

(G) It shall be the duty of the village to maintain, clean and repair as necessary and at its expense the public sewer. The village shall not be responsible for cleaning or maintenance of building sewers or private sewer lines.

(H) Any property owner who shall violate the provisions of this subchapter shall be liable to the village for civil damage incurred in correcting the defect. In addition, any violation of the provisions of this subchapter, unless the violation constitutes a crime under the laws of the state, is a municipal civil infraction subject to a fine of not more than \$500 plus court costs and costs of prosecution. If any property owner fails to maintain a private sewer line as required by this subchapter, in addition to the other penalties prescribed, the sewer may be declared a public nuisance by the village and the defect may be corrected by the village. Any costs so incurred shall be assessed against the property and become a lien on the property if not timely paid.

(I) A separate and independent building sewer shall be provided for every building; provided, however, that when one building stands at the rear of another or an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, yard or driveway, the building sewer from the front building may be extended to the rear building in accordance with Village Technical Standards. In the event that this lot is split, the owner of the lot containing the building without a sewer must construct a building sewer in accordance with this section and the Village Technical Standards. Alternatively, the owner may install a separate tap and water meter and present a copy of a recorded easement for the continued use of the building sewer for the front building to the Village Engineer or qualified Village Agent.

(J) Old building sewers may be used in connection with new buildings only when they are inspected by video equipment at the expense of the owner and found on examination and test by the qualified Village Agent, to meet all requirements of this subchapter.

(K) The building sewer shall be constructed of materials meeting the requirements of the Village Technical Standards. The village reserves the right to specify and require the encasement of any sewer pipe with concrete, or the installation of the sewer pipe in concrete cradle if foundation and construction are such as to warrant the protection in the opinion of the Director.

(L) The size and slope of the building sewer shall be in accordance with the Village Technical Standards.

(M) Whenever possible, the building sewer shall be brought to the building in accordance with the Village Technical Standards.

(N) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by the drain shall be lifted in accordance with the Village Technical Standards and discharged to the building sewer.

(O) All joints and connections shall be made gastight and watertight in accordance with the Village Technical Standards. All joints shall be approved by the Village Engineer or qualified Village Agent.

(P) No sewer connection will be permitted unless there is capacity available in all downstream sewers, lift stations, force mains and the POTW, including capacity for treatment of BOD and suspended solids. The study of the downstream capacity shall be performed by the applicant's engineer in accordance with the Village Technical Standards. Study of downstream capacity shall be reviewed and approved by the Village Engineer or qualified Village Agent.

(Q) All newly constructed building sewers shall have a properly sized clean-out in accordance with the Village Technical Standards.

(R) All sewers shall be constructed in accordance with the Village Technical Standards and the IBC. Any deviation from the prescribed procedures and materials must be approved by the Village Engineer or qualified Village Agent before installation.

(S) Other permits and inspections may be required by other governmental authorities or agencies. The applicant is solely responsible for obtaining all other necessary permits and inspections and for paying all costs associated therewith.

(T) All excavations for building sewer installations shall be done in accordance with the Village Technical Standards. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in accordance with the Village Technical Standards and approved by the Village Engineer or qualified Village Agent.

(U) All holes or trenches dug in the public streets or roads shall be backfilled in accordance with the Village Technical Standards and § 92.33(A)(2).

(Ord. 68, passed 10-24-2005; Ord. 155, passed 1-11-2021)Penalty, see §52.99

## **§ 52.25 USE OF PUBLIC SEWERS.**

### *(A) General discharge prohibitions.*

(1) No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will pass through or interfere with the operation or performance of the POTW. These general prohibitions apply to all the users of the POTW whether or not the user is subject to the National Categorical Pretreatment Standards or any other national, state or local pretreatment standards or requirements. The village may refuse to accept any wastes which will cause the POTW to violate its NPDES permit discharge limits. A user may not contribute the following substances to any POTW:

(a) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed cup flash point of less than 140°F (60°C), using the test methods specified in 40 C.F.R. § 261.21;.

(b) Wastewater having a pH less than six or greater than nine or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the POTW;

(c) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the POTW such as, but not limited to: grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes;

(d) Any pollutants, including oxygen demanding pollutants (BOD and the like) 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;

(e) Any wastewater having a temperature which will inhibit biological activity in the POTW resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40°C (104°F);

(f) Petroleum oil, non-biodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through;

(g) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW or exceed the limitation set forth in a National Categorical Pretreatment Standard. This

prohibition of toxic pollutants will conform to § 307(a) of the Act;

(h) Any noxious or malodorous liquids, gases or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair, including 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;

(i) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions;

(j) Any wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;

(k) Any unpolluted water including, but not limited to stormwater, groundwater, surface water, roof water, artesian well water, subsurface drainage, swimming pool drainage, condensate, deionized water or non-contact cooling water, unless specifically authorized by the Director;

(l) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process;

(m) Any substance which will cause the POTW to violate its NPDES permit or the receiving water quality standards;

(n) Any waters or wastes containing suspended solids or any constituent of the character and quantity that unusual attention or expense is required to handle the materials at the POTW;

(o) Any waste from individual Sewage Disposal Systems; provided, however, that waste from individual Sewage Disposal Systems may be accepted at the POTW treatment plant as provided in § 52.26 or may be disposed of directly into a sanitary sewer upon entering into an agreement with the village, which agreement shall specify the site of disposal, sewage disposal charge and the other conditions as may be required to satisfy the sanitation and health requirements of the village. For the purpose of this section, **INDIVIDUAL SEWAGE DISPOSAL SYSTEM** is defined to include every means of disposing of industrial, commercial, household, domestic or other water-carried sanitary waste or sewage other than a public sanitary sewer;

(p) Any sludge, precipitate or congealed substances resulting from an industrial or commercial process, or resulting from the pretreatment of wastewater or air pollutants; and

(q) Any backwash water, water or wastewater containing chloride levels greater than 230 mg/l or sodium levels greater than 120 mg/l or which may cause the POTW to violate its NPDES permit discharge limits.

(2) No wastes or wastewater shall be discharged by any user or person into the POTW from a vehicle which transported the waste or wastewater to the point of discharge, unless the discharge is approved in writing prior to the discharge by the Director. No wastes or wastewater shall be discharged by any user if the waste or wastewater was at any time transported by a vehicle (such as a tank truck) from its point of generation prior to discharge to the POTW, unless the discharge is approved in writing prior to the discharge by the Director. The Director shall specify which location must be used and any other terms and conditions for the discharges, including a requirement for a use permit.

(B) *National Categorical Pretreatment Standards.* All users shall comply with the applicable National Categorical Pretreatment Standards and requirements promulgated pursuant to the Act as set forth in 40 C.F.R. Subchapter N, Effluent Guidelines and Standards, which are hereby incorporated by reference and with all other applicable standards and requirements; provided, however, that where a more stringent standard or requirement is applicable pursuant to state law or regulation or this subchapter, then the more stringent standard or requirement shall be controlling.

(C) *Specific pollutant limitations.*

(1) *Conventional pollutants.* Except as authorized by the village, no person shall discharge wastewater containing in excess:

(a) Of 410 mg/l BOD;

(b) Of 430 mg/l total suspended solids;

(c) Of 50 mg/l total Kjeldahl nitrogen;

(d) Of 8.5 mg/l total phosphorus;

(e) Of 100 mg/l by weight of fat, oil or grease;

(f) Of 230 mg/l chloride; and

(g) Of 120 mg/l sodium.

(2) *Concentrations.* Should the above concentrations, either individually or in combination with one another, interfere with the sewage treatment process or cause difficulties or damage to the receiving waters, the maximum concentrations of these substances will be reduced by order of the Director. Should any other substances, either individually or in combination with other substances, interfere with the sewage treatment process or cause damage to the receiving waters or affect the POTW, the allowable concentration of these substances will be reduced by order of the Director.

(3) *Discharged waste waters.* If any waters are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated above, and which in the judgment of the Director may have a deleterious effect upon the sewage works, processes, equipment or receiving waters or which otherwise create a hazard to life or constitute a public nuisance, the village may:

- (a) Reject the wastes;
- (b) Require pretreatment to reduce the pollutant levels or deleterious characteristics to levels below the specific pollutant limitations set forth in this subchapter;
- (c) Require control over the quantities and rates of discharge;
- (d) Require payment to cover the added cost of handling and treating the wastes not covered using taxes or user charges;
- (e) Require new industrial users or industries with significant changes in strength or flow to submit prior information to the village concerning the proposed flows; and
- (f) If the village permits the pretreatment or equalization of waste flows, the design and installation of the plant and equipment shall be subject to the review and approval of the village and shall be subject to the requirements of all applicable codes, ordinances, Village Technical Standards and laws.

(D) *Village's right of revision.* The village reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in § 52.02.

(E) *Grease and oil interceptors, grit separators and other interceptor/separator devices*

(1) Grease and oil interceptors, grit separators and other interceptor/separator devices shall be provided when required by Michigan Plumbing Code or if determined by Village Engineer or qualified Village Agent as being necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand and other harmful ingredients; except that the interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be located as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious material 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 in place shall be gastight and watertight.

(2) Where installed, all interceptors and separators shall be maintained by the owner, at the owner's expense, in continuously efficient operation at all times. The user will enter into an operation and maintenance agreement with the village for the monitoring facility in accordance with the Village Technical Standards.

(F) *Surcharge for discharges of unusual strength.*

(1) Where the strength of sewage from any user exceeds the limits set forth in division (C)(1) above for conventional pollutants, and where the wastes are permitted to be discharged to the POTW by the Director, an added charge as determined by resolution of the Village Council, will be made against the establishment according to the strength of the wastes, or the Director shall require that the sewage shall be denied, if necessary, to protect the POTW or any part thereof.

(2) The strength of the wastes shall be determined by composite samples taken over a sufficient period of time to ensure a representative sample. If sampling is conducted on a flow-proportional basis, the sampling shall be taken utilizing a flow-proportional sampling device and flow meter approved by the village. The village or its authorized designee or independent contractor shall have access to the premises of any user at all reasonable times for purposes of sampling and testing the strength of sewage of any user in accordance with this division.

(3) If the village determines that it is necessary to conduct sampling and testing of the sewage of any user in order to determine the applicability of any surcharge which may be imposed in accordance with this subchapter, the village or its authorized agent shall be responsible for taking the initial sample in accordance with the requirements of this subchapter. Testing of the initial sample shall be made by an independent laboratory or by the village. The cost of the initial sampling and testing shall be borne by the village. The user may request that the village provide the user with a split sample for testing at the user's own laboratory or an independent laboratory selected by the user; provided, however, that the cost of testing the split sample shall be borne by the user.

(4) If the initial testing described in division (F)(3) above reveals the presence of conventional pollutants in excess of the limits set forth in division (C)(1) above, the costs of all subsequent sampling and testing, including the testing of any split samples as described in this division, shall be borne by the user. The subsequent sampling and testing may be conducted by the user or, at the option of the user, by the village or its authorized agent.

(a) If testing and sampling is conducted by the user, the user shall provide the village with a split sample. The split sample received by the village may, at the option of the village, be tested by the village or by an independent laboratory. In either case, the user shall reimburse the village for all costs incurred in connection with the testing.

(b) If testing and sampling is conducted by the village, the user may request that the village provide the user with a split sample for testing at the user's own laboratory or an independent laboratory selected by the user. The cost of testing the split sample shall be borne by the user.

(G) *Special agreements authorized.* With respect to conventional pollutants as set forth in division (C)(1) above, only no

statement contained in this subchapter shall be construed as preventing any special agreement or arrangement between the village and any person, firm or corporation whereby waste of unusual strength or character may be accepted by the village, subject to payment therefore by the person, firm or corporation, provided the agreement will not violate EPA guidelines or NPDES permit requirements and provided the waste will not damage the Sewage Disposal System or the receiving waters.

(H) *Wastewater sampling and analyses.*

(1) The prohibitions and restrictions in divisions (A),(B) and (C) above, or as set forth in a special agreement (which may be a use permit), shall apply at the point where wastewater and pollutants are discharged or caused to be discharged into the POTW and required pretreatment shall be effected before that point is reached.

(2) All measurements, tests and analyses of the characteristics of water to which reference is made in this section shall be determined in accordance with the latest edition at the time of *Standard Methods for Examination of Water and Sewage*, published by the American Public Health Association, most current American Society for Testing Material (ASTM) and EPA approved procedures contained in 40 C.F.R. Part 136, or any validated methods from recognized authority in cases where the above referenced procedures are not available or do not apply to the characteristic involved or another method accepted by the village.

(3) Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. The particular analyses involved will determine whether a composite sample of all outfalls of a premise is appropriate or whether grab samples should be taken. If composite sampling is conducted on a flow- proportional basis, the sampling shall be taken utilizing a flow-proportional sampling device and flow meter approved by the village.

(I) *Powers and authority of inspectors.* Authorized agents of the village, Livingston County Health Department, DEQ or the EPA shall have the right to enter all properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this subchapter, the Act and State Act.

(J) *Excessive discharges and/or dilution of discharge.* Except where expressly authorized to do so by an applicable National Categorical Pretreatment Standard, no user shall ever increase the use of process water or, in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National Categorical Pretreatment Standards, alternative discharge limits or in any other pollutant-specific limitation developed by the village or state.

(K) *Accidental discharges.*

(1) Where required by the Director, qualified Village Agent or other governmental agency, a user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this subchapter, the Act or the state. The village will evaluate, at least once every two years, whether a user without the protection will be subjected to these requirements. Facilities to prevent accidental discharge or prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the village for review and shall be approved by the village before construction of the facility. All required users shall complete such a plan within 180 days after the adoption of this subchapter. If required by the village, a user who commences contribution to the POTW after the effective date of this subchapter shall not be permitted to introduce pollutants into the POTW until accidental discharge procedures have been approved by the village. Review and approval of the plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirements of this subchapter.

(2) In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the village of the incident. The notification shall include location of discharge, type of waste, concentration and volume and corrective actions.

(3) Within five days following an accidental discharge, the user shall submit to the Director a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. The 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, fish kills or any other damage to person or property; nor shall the notification relieve the user of any fines, civil penalties or other liability which may be imposed by this subchapter or other applicable law.

(L) *Violations.* It shall be a violation of this subchapter for any industrial user to:

(1) Fail to completely and/or accurately report the wastewater constituents and/or characteristics of the industrial user's discharge;

(2) Fail to report significant changes in the industrial user's operations or wastewater constituents and/or characteristics within the time frames provided in this subchapter;

(3) Refuse reasonable access to the industrial user's premises or waste discharge for the purpose of inspection or monitoring;

(4) Restrict, lockout or prevent, directly or indirectly, access to any monitoring facilities constructed on public or private property. The locking or securing of the monitoring facility shall not constitute a violation pursuant to this subsection, provided that, upon request, reasonable access to the facility is promptly provided;

(5) Restrict, interfere, tamper with or render inaccurate any monitoring devices including, but not limited to, samplers;

- (6) Fail to comply with any condition or requirement of the industrial user's wastewater discharge permit, if any; and
- (7) Fail to comply with any limitation, prohibition or requirement of this subchapter including any rule, regulation or order issued hereunder.

(M) *Upsets.*

(1) An upset shall constitute an affirmative defense to an action brought for noncompliance with applicable National Categorical Pretreatment Standards or pretreatment standards, provided the following requirements are met:

- (a) An upset occurred and the industrial user can identify the cause(s) of the upset;
- (b) The facility was at the time being operated in a prudent and worker-like manner and in compliance with applicable operation and maintenance procedures; and
- (c) The user submitted the following information to the village within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):
  1. A description of the discharge and cause of noncompliance;
  2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
  3. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

(2) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(N) *Bypass.*

(1) Bypasses are prohibited unless the bypass does not cause a violation of pretreatment standards or pretreatment requirements, but only if it is for essential maintenance to ensure efficient operation of the POTW. These bypasses are not subject to the provisions of divisions (N)(2) and (3) below.

(2) Industrial users anticipating a bypass shall submit notice to the village at least ten days in advance.

(3) An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the village within 24 hours from the time the user becomes or should have become aware of the bypass. A written submission shall be provided within five days of the time the industrial user becomes or should have become aware of the bypass. The written submission shall contain a description 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.

(4) Bypass is prohibited and the village may take enforcement action against a user for the bypass, unless:

- (a) The bypass was unavoidable to prevent loss of life, personal injury or severe property damage;
- (b) There were no feasible alternatives to the bypass such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
- (c) The industrial user submitted required notices.

(5) Where it meets all conditions in division (D) above, the village may approve an anticipated bypass.

(Ord. 68, passed 10-24-2005; Ord. 155, passed 1-11-2021) Penalty, see §52.99

## **§ 52.26 DISPOSAL AT WASTE WATER TREATMENT PLANT.**

Waste from individual Sewage Disposal Systems (as defined in §52.25(A)(1)(p)) may be disposed of at the POTW treatment plant with permission of the Director. Rates for the disposal shall be established by resolution of the Village Council. No other waters or wastes described in § 52.25(A) shall be disposed of through the POTW.

(Ord. 68, passed 10-24-2005)

## **§ 52.27 INDUSTRIAL PRETREATMENT FEES AND SURCHARGES.**

(A) It is the purpose of this section to provide for the recovery from industrial users of the Sewage Disposal System of the actual costs of implementing the pretreatment program established herein. The applicable charges or fees shall be established by resolution of the Village Council. The fees may be implemented to recover the actual cost of:

- (1) Setting up and operating the pretreatment program;
- (2) Monitoring, inspection and surveillance procedures;
- (3) Reviewing accidental discharge procedures and construction;



- (4) Processing permit applications or transfers and reviewing and processing appeals;
- (5) Removal by the village of pollutants otherwise subject to federal pretreatment standards;
- (6) Treatment of pollutant loadings not normally treated at or in excess of those treated by the POTW; and
- (7) Charges for laboratory testing of wastewater. The laboratory charge shall be for the cost labor, equipment and the actual cost of laboratory testing and will be determined for and paid by each industrial user.

(B) The foregoing charges and fees for the services described above may be established by the Village Council and levied upon any industrial user which may have any sewer connection with the Sewage Disposal System and which discharges industrial waste to the Sewage Disposal System.

(Ord. 68, passed 10-24-2005)

#### **§ 52.28 MEASURING SEWER USAGE; WATER METERS REQUIRED FOR ALL NONRESIDENTIAL USERS.**

(A) As described in § 52.03(B), the Village Council finds that the most practical, cost-effective and accurate method, given available technology, of measuring the use of the Sewage Disposal System by all nonresidential users and all residential users that receive water service from the Village's Water Supply System is by a meter or meters installed to measure water usage by the user.

(B) Commencing on day 90 following the effective date of this subchapter, all new and existing users of the Sewage Disposal System other than residential users, who or which are not served by the Village Water Supply System, shall be required to purchase and install a water meter or meters for the purpose of measuring the amount of water supplied to the premises by river water or from private wells or other private sources. The meter or meters shall be purchased by the owner of the property served by the Sewage Disposal System and shall be maintained at the expense of the owner. The purchase and installation of a water meter as described in this section shall be required as a condition to the connection to and use of the Sewage Disposal System.

(C) A residential user not served by the Village's Water Supply System may, but shall not be required to purchase and install a water meter for the purpose of measuring the amount of water supplied to the premises by private well or other private source. A meter described in this section shall be purchased by the residential user from the village and shall be maintained at the expense of the user. A residential user electing to purchase and install a water meter as described in this section shall be assessed a commodity charge on the basis of metered water consumption as described in § 52.29(C)(4)(a)1. in lieu of the commodity charge calculated in accordance with § 52.29(C)(4)(a)2.

(D) Any user may, but shall not be required to install a secondary water meter for outdoor irrigation systems. Any outdoor hose spigots may be part of the independent water system metered by the secondary irrigation system meter. The secondary irrigation meter shall be installed in such a manner that the water usage registered through the secondary irrigation meter is entirely separate from the water usage metered through the primary water meter or meters. A meter described in this section shall be purchased by the owner of the property served by the Sewage Disposal System and shall be maintained at the expense of the owner. Water consumed for irrigation purposes, as measured by a secondary irrigation meter installed in accordance with this section, shall be excluded from the calculation of, and shall not be subject to, the commodity charge described in § 52.29(C)(1)(a). Any meter installed pursuant to this section shall comply with the Village Technical Standards.

(Ord. 68, passed 10-24-2005)

#### **§ 52.29 ESTABLISHMENT OF RATES; RATES AND CHARGES.**

(A) *Establishment of cost of service.* The Village Council has determined that the purpose of sewer rates is to produce sufficient revenues each year to pay the costs of service. The costs of service to be paid from revenues shall include all of the following:

- (1) Operation and maintenance expenses;
- (2) Debt service expenses; and
- (3) Capital expenses not funded from bonded indebtedness.

(a) The rates to be charged for sewer service furnished by the Sewage Disposal System shall be made against each lot, parcel of land or premises having any connection with the Sewage Disposal System.

(b) The village shall periodically review rates, fees, rules and regulations of the Sewage Disposal System. The review shall be completed not less than one time per fiscal year. The review will define actual expenses associated with the operation, maintenance and administration of the Sewage Disposal System, as well as debt service requirements and repair and replacement costs. Results of the review shall be reported to the Village Council with recommendations for any adjustments.

(B) *Allocation of cost of service; user classification.* The Village Council has determined that not all classes of users of the Sewage Disposal System cause the same costs of service. Based on independent investigation and on the advice of the village's independent engineering consultants, the Village Council has previously found and currently reaffirms that:

- (1) The commodity costs of sewer service for users of the Sewage Disposal System located within the village are

uniform among users in accordance with the volume of use; provided, however, that in certain cases where the character of the sewage from a particular source is such that unreasonable additional burden is placed on the Sewage Disposal Systems, the additional cost of treatment created thereby requires an additional surcharge above the rates normally charged for the service;

(2) Certain indirect costs of providing sewer service vary according to the size of meters employed;

(3) Users taking possession of previously undeveloped properties, and users changing the nature and amount of use of the Sewage Disposal System at renovated or expanded properties would not bear their proportionate share of the cost of capital improvements to the Sewage Disposal System unless required to pay a capital connection fee.;

(4) Certain types of property use require a reservation of a greater capacity of the Sewage Disposal System than others. The Village Council has therefore developed the following classification of users, which the Village Council finds is the most fair and accurate means of apportioning the indirect costs of providing service among different classes of users for purposes of calculating the readiness-to-serve charge and determining the relative demand on capacity of the Sewage Disposal System among different classes of users for purposes of calculating the capital connection fee;

(5) For meters of the following sizes, the following meter equivalency ratios shall be used for purposes of allocating the amount of the indirect costs of service and determining the relative demand on capacity of the Sewage Disposal System per meter size:

<b>Meter Size (Inches)</b>	<b>AWWA</b>
<b>Meter Capacity Ratio</b>	
<b>Meter Size (Inches)</b>	<b>AWWA</b>
<b>Meter Capacity Ratio</b>	
5/8 and 3/4	1
1	2.5
1-1/2	5
2	8
3	17.5
4	30
6	62.5
8	90

(6) Un-metered residential properties shall be assigned a meter capacity ratio of one for purposes of calculating the rates and charges prescribed by this subchapter.

(C) *Specific rates and charges.*

(1) *Commodity charge.* Every user of the Sewage Disposal System shall pay a commodity charge for all sewer and wastewater treatment services furnished by the Sewage Disposal System:

(a) Except as otherwise provided in this subchapter, commodity charges for all sewer and wastewater treatment services shall be calculated on the basis of metered gallons of water consumed (excluding water consumed for irrigation purposes as measured by a secondary irrigation meter installed in accordance with § 52.28(D)) at rates determined by resolution of the Village Council and which fairly apportion the variable costs of providing sewer and wastewater treatment services to users of the Sewage Disposal System.

(b) Residential users not served by the village's Water Supply System and which have not elected to install a water meter in accordance with § 52.28(C) shall be assessed a commodity charge calculated on the basis of the number of bedrooms in the dwelling or residence at rates determined by resolution of the Village Council and which fairly apportion the variable costs of providing sewer and wastewater treatment services to the users of the Sewage Disposal System.

(2) *Readiness-to-serve charge.* Every user shall pay a readiness-to-serve charge for sewer service on the basis of meter size in an amount and in the manner determined by resolution of the Village Council and which fairly apportions the fixed costs of providing sewer service for users of the Sewage Disposal System.

(3) *Connection fee.* Each user connecting or reconnecting to the Sewage Disposal System shall pay a connection fee equal to the actual cost of the material, labor, equipment and overhead related to the installation and inspection of the connection or re-connection, as determined by resolution of the Village Council.

(4) *Capital connection fee.* The Village Council may, by resolution, establish a capital connection fee to defray or recover the cost of capital improvements which are acquired and constructed for the primary purpose of providing additional capacity determined by the village to be reasonably necessary to accommodate:

(a) New connections to the Sewage Disposal System; or

(b) Modifications of existing connections for a use estimated to demand the reservation of greater capacity of the Sewage Disposal System than previously required. Every person seeking to connect previously unconnected property to the Sewage Disposal System, or to reconnect previously connected property to the Sewage Disposal System for a use estimated to demand the reservation of greater capacity of the Sewage Disposal System, may be required to pay a capital connection fee. A capital connection fee shall be established and managed as provided in this section.

1. *Calculation of estimated demand on capacity.* The estimated demand on capacity of a new connection to the Sewage Disposal System (or modification of an existing connection to the Sewage Disposal System) shall be based on the meter equivalency table set forth in division (B)(5) above.

2. *Calculation of capital cost requirements.* The capital costs to be defrayed or recovered through the imposition of the capital connection fee shall be determined annually by the village and shall be based on the estimated cost of capital improvements incurred or to be incurred for the primary purpose of providing additional capacity determined by the village to be reasonably necessary to accommodate new connections to the Sewage Disposal System or modifications of existing connections for a use estimated to demand the reservation of greater capacity of the Sewage Disposal System than previously required.

3. *Credits.* If the capital connection fee relates to an increase in demand on capacity, the village shall credit against the specific amount of the capital connection fee, the amount of any capital connection fee or similar charges previously paid for connection of that property to the Water Supply System.

(5) *Sewer surcharges.* The Village Council may, by resolution, establish surcharges for the actual cost of treatment of pollutant loadings not normally treated or in excess of those normally treated by the POTW, as described in § 52.25(F).

(6) *Meter charge.* Each user installing a water meter in accordance with §52.28(B) and (C) or a secondary irrigation meter in accordance with § 52.28(D) shall pay the actual cost of the meter and components plus a 10% fee for administration and handling. The meter charge shall be in addition to the connection fee and other fees and charges prescribed by this subchapter.

(7) *Other fees.* The Village Council may, by resolution, establish certain additional fees as may be required to carry out the purposes of this subchapter.

(D) *Publication of rates.* Following approval from time to time by the Village Council of rates and charges or revisions thereto for use of the Sewage Disposal System in accordance with this subchapter, the rates as approved by the Village Council shall be published once in a newspaper of general circulation in the village within 30 days of approval thereof.

(Ord. 68, passed 10-24-2005)

### **§ 52.30 PROTECTION FROM DAMAGE.**

No unauthorized person shall enter or maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the Sewage Disposal System.

(Ord. 68, passed 10-24-2005) Penalty, see §52.99

### **§ 52.31 ENFORCEMENT.**

(A) *Notice of violation.* The village may issue a notice of violation with or without an order against any user believed to be in violation of this subchapter and determine the civil administrative penalty, if any, to be imposed. The notice of violation shall be served upon the user either by personal delivery or by first class mail addressed to the user at his or her billing address, except that an immediate cease and desist order may be written or oral, and may also be served by telephone. The notice of violation shall specify the:

- (1) Date and time of issuance;
- (2) Date(s), time(s) and place(s) of violation;
- (3) Nature of the violation;
- (4) Possible penalties under the ordinance; and

(5) The right of the alleged violator to present to the village written explanations, information or other materials in answer to the notice, including any defenses.

(B) *Emergency suspensions and orders.*

(1) *Issuance of order.* If the village determines that a user has violated any provisions of this subchapter or other applicable laws or regulations which the village is authorized to enforce, the village may issue an order, with or without notice of violation and whether or not a notice of violation was previously issued, to take action deemed appropriate under the circumstances.

(2) *Immediate cease and desist order.* The village may issue an order to cease and desist from discharging any wastewater, incompatible pollutant or illegal discharge. The order shall have immediate effect when the actual or threatened discharge of pollutants to the Sewage Disposal System presents, or may present, imminent or substantial endangerment to the health or welfare of persons, to the environment, or cause interference with the operation of the Sewage Disposal

System. If action is not taken immediately to correct illegal discharge, the village will implement whatever action is necessary to halt the discharge, including appropriate legal and/or equitable relief, in the appropriate legal forum.

(3) *Order to show cause.* In cases other than those described in division (B)(2) above, the village may issue an order to show cause why an order to cease and desist by a certain time and date should not be issued. The proposed time for remedial action shall be specified in the order to show cause. The order may also contain the conditions deemed appropriate by the village, including, but not limited to, a requirement to:

- (a) Submit samples;
- (b) Install sampling or monitoring equipment;
- (c) Submit reports;
- (d) Permit access for inspection, sampling, tests, monitoring and investigations;
- (e) Install and operate pre-treatment equipment;
- (f) Reduce or eliminate a discharge or pollutants in a discharge; and
- (g) Payment of use permit fees.

(4) *Disconnection orders.* The Director may disconnect a user from the Sewage Disposal System if the user violates any provision of a final order issued pursuant to this section or an immediate cease and desist order issued pursuant to division (B)(2) above (whether final or not).

(5) *Content of orders.* Any order issued by the village shall contain the facts and grounds for its issuance and the remedial action ordered, together with the time within the action shall be taken. No such order shall be deemed insufficient, however, for inconsequential errors and omissions in the facts and grounds for the order. If any user deems the content of the order to contain insufficient information, it may request additional information from the village; however, no request shall extend any time limit or defer any payment, except as hereinafter set forth.

(Ord. 68, passed 10-24-2005)

#### **§ 52.32 APPEALS.**

(A) Any user shall have the right to appeal any order, enforcement decision or other action taken by the village pursuant to this subchapter to the Village Council, unless the order, enforcement decision or other action has previously been approved or authorized by Village Council. The appeal shall be directed to the village within 30 days of the issuance of the order or the effective date of any enforcement decision or other action taken by the village. The Village Council shall consider the appeal and determine, in each particular case, whether any deviation from strict enforcement of the order or other enforcement decision or action will violate the intent of this subchapter or jeopardize the public health or safety. Resolution of appeals shall be made by the Village Council within 30 days of filing by a user of the appeal and any supporting documentation, in accordance with the best available data and this subchapter.

(B) Any user shall have the right to appeal any rates, charges or fees levied in accordance with this subchapter. Appeals shall be directed to the village within 45 days of the billing or invoice date, along with any supporting documentation. Any additional information required to resolve the appeal shall be obtained by the user at his or her expense. Resolution of appeals shall be made by the Village Council within 60 days of filing by a user of the appeal and any supporting documentation, in accordance with the best available data and this subchapter. All bills for rates and charges outstanding during the appeal process, including all late payment fees or delinquency charges, shall continue to be due and payable.

(Ord. 68, passed 10-24-2005)

#### **§ 52.33 OPERATION AND ADMINISTRATION; FISCAL YEAR.**

(A) The operation, maintenance and management of the Sewage Disposal System shall be under the supervision and control of the Village Council or its agents. The village retains exclusive right to establish, maintain and collect rates and charges for use of the Sewage Disposal System, and in the capacity, the Village Council may employ the person in the capacity as it deems advisable, and may make the rules and regulations as it deems necessary or advisable to ensure the efficient establishment, operation and maintenance of the Sewage Disposal System and to discharge its financial obligations.

(B) The fiscal year of the Sewage Disposal System shall begin on July 1 of each year and shall end on the last day of June immediately succeeding July 1.

(Ord. 68, passed 10-24-2005)

#### **§ 52.34 RECORDS OF ANNUAL AUDIT; NO FREE SERVICE.**

(A) The village will maintain and keep proper books of records and accounts, separate from all other records and accounts, in which shall be made full and correct entries of all transactions relating to the Sewage Disposal System. The village will cause an annual audit of the books of record and account for the preceding operating year to be made by a recognized independent certified public accountant and will supply the audit report to authorized public officials on request.

(B) Classification of old and new industrial users shall also be reviewed annually.

(C) The village will maintain and carry insurance on all physical properties of the Sewage Disposal System of the kinds and in the amounts normally carried by public utility companies and municipalities engaged in the operation of Sewage Disposal Systems. All monies received for losses under any insurance policies shall be applied solely to the replacement and restoration of the property damaged or destroyed.

(D) No free service shall be furnished to any user of the Sewage Disposal System.

(Ord. 68, passed 10-24-2005)

### **§ 52.35 BILLING AND COLLECTIONS; TERMINATION OF WATER AND SEWER SERVICE BY VILLAGE.**

(A) *Billing.*

(1) Meters shall be read at least quarterly.

(2) The Village Clerk shall render bills for sewer service provided by the Sewage Disposal System and all other charges in connection therewith. Bills for sewer service shall be sent quarterly and delivered to the user or owner of the premises, as applicable, by mail. No bill for sewer service shall be changed, altered or amended, nor shall the basis upon which it was computed be changed or altered, without consent of a majority of the Village Council. Except as otherwise provided in this subchapter, all bills shall be payable by day 30 following the mailing of the bill and shall be paid at the Village Hall.

(3) The Village Treasurer or an authorized agent of the village shall collect all monies due for sewer service and all other charges in connection with the operation of the Sewage Disposal System.

(4) If any billed charge for sewer service shall not be paid by day 30 following the mailing of the bill for which the charges were made, a delayed payment charge of 10% of the amount of the bill shall be added thereto and collected therewith.

(5) Failure of the user or owner of the premises served to receive any bill shall not relieve the person of the liability for the charges incurred, and the person shall notify the Village Clerk if a bill has not been received by day 15 of the end of a quarterly billing period.

(B) *Rates and charges to constitute lien on premises served.*

(1) *Tax lien.* Under the provisions of Public Act 178 of 1939, being M.C.L.A. §§ 123.161 through 123.167, as amended, and Act 94 of 1933, M.C.L.A. § 141.121, as amended, as security for the collection of sewer service supplied to any house or any other building or any premises, lot or lots, or parcel or parcels of land, the village shall have a lien upon the house or other buildings and upon the premises, lot or lots, or parcel or parcels of land, upon which the house or other building is situated. This lien shall become effective immediately upon the distribution of the sewer service to the premises or property supplied. This lien created herein shall be collected and enforced in the same manner as provided for the collection of taxes assessed upon the tax roll pursuant to Village Charter, except that the same shall not be enforceable for more than three years after it becomes effective.

(2) The village shall annually, on April 1, certify to the appropriate tax assessing officer or agency, all unpaid sewer service charges for the services furnished to any premises, which, on the last day of March immediately preceding April 1, have remain unpaid for a period of six months or more, whereupon the charge shall be entered upon the next tax roll as a charge against the piece of property or premises served. The charges shall be collected and the lien thereof enforced in the same manner as general village taxes.

(3) This lien remedy does not preclude any other remedy provided by law.

(4) *Lease exception.* Charges for sewer services furnished to any premises as described in the preceding paragraph, shall not be a lien thereon if all of the following exist:

(a) A legally executed written lease between the owner of the premises and the tenant containing a provision that the owner of the premises shall not be liable for the paying of sewer services accruing subsequent to the filing of an affidavit by the owner with the Village Clerk;

(b) An affidavit filed by the owner with the Village Clerk containing statements as to the date of the execution of the lease, that the lease contains a provision holding the tenant liable for sewer services on the premises, the expiration date of the lease; and 20 days' written notice shall be given to the village by the lessor of any cancellation, change in, or termination of the lease; and

(C) *Deposits.*

(1) *Deposit required by tenant.* If notice of a tenant's liability has been filed with the Village Clerk, the village shall render no further service to such premises until a cash deposit in a sum sufficient to cover three times the average quarterly bill for such premises, as estimated by the Village Clerk, has been made as security for the payment of such charges.

(2) *Deposit required for non-village service.* Whenever services are applied for under this chapter for premises located outside the village, the Village Clerk shall forthwith advise Council of such application, and no such service shall be furnished without the approval of Council, nor until a cash deposit in a sum sufficient to cover three times the average quarterly bill for such premises, as estimated by the Village Clerk, has been made as security for the payment to secure all bills and charges. However, the Council may waive this requirement in the event the property being served by the village sewer services is covered by an agreement with Putnam Township to provide for the collection of unpaid rates, fees, and

charges and payment to the village by placing such unpaid rates, fees, and charges on the township's summer tax roll.

(3) The security deposit shall be retained by the village in a separate account established for that purpose and shall be forfeited to the village if the lessee of property contemplated in division (C)(1) above, or the owner on property outside of the village contemplated in division (C)(2) above, shall be or become delinquent in the payment of sewer rates or charges. Upon such forfeiture of a security deposit, the Village Clerk shall transfer as much of the sum of the deposit as is required to satisfy the delinquency to the credit of the proper account, and the remainder, if there be any, shall be transferred to the contingent reserve fund of the sewer department, as the case may be. The property affected shall not be served again unless a new security deposit be made in the same amount as the original, and disconnection preceding under division (F) of this section shall be commenced.

(4) Monies deposited with the village for tenants under this division (C), which shall not have been forfeited in the above described manner, shall be returned to the depositor upon his or her application at the expiration of the lease period. Such deposits may be left undisturbed to apply on renewals or extensions of a lease for which the original deposit was made. Upon a sublease or cancellation of a lease contemplated hereunder, security deposits shall, upon request, be returned to the depositor. In the case of a sublease, no such return shall be made unless there be a similar guarantee deposit made by the holder of such sublease. Monies deposited with the village under this division (C) for non-village property service, which shall not have been forfeited in the above described manner, shall be returned to the depositor when all services provided for in this chapter have been paid for in full and further services are not required.

(D) *Appeal of charges.* Any user shall have the right to appeal any rates, charges or fees levied in accordance with this subchapter. Appeals shall be directed to the village within 30 days of the billing or invoice date along with any supporting documentation. Any additional information required to resolve the appeal shall be obtained by the user at his or her expense. Resolution of appeals shall be made within 60 days by the Village Council or its designee in accordance with the best available data and this subchapter. All bills for rates and charges outstanding during the appeal process, including all late payment fees or delinquency charges, shall continue to be due and payable.

(E) *No free service.* No free service shall be furnished to any user of the Sewage Disposal System.

(F) *Termination of water and sewer service by village.* The village reserves the right to terminate a user's sewer service and water service (if the user is a customer of the village's Water Supply System), in each case where payment for sewer service has not been timely received, and/or for violation of any of the rules and regulations of the village relating to the Sewage Disposal System and/or the provisions of this subchapter.

(1) It is the policy of the village to discontinue sewer service under this code to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The village's form for application for sewer service and all bills shall contain, in addition to the title, address, room number, and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect:

(a) That all bills are due and payable on or before the date set forth on the bill;

(b) That if any bill is not paid by or before that date, a second bill will be mailed containing a cutoff notice that if the bill is not paid within ten days of the mailing of the second bill, service will be discontinued for nonpayment; and

(c) That any customer disputing the correctness of his or her bill shall have a right to a hearing at which time he or she may be represented in person and by counsel or any other person of his or her choosing and may present orally or in writing his or her complaint and contentions to the village official in charge of water billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.

(2) Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the hearing procedure provided herein, service will be discontinued at the time specified, but in no event until the charges have been due and unpaid for at least 30 days.

(3) When it becomes necessary for the village to discontinue sewer service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid, along with a turn-on charge in an amount set by Village Council.

(G) *Litigation.* In addition to discontinuing service to a delinquent user and/or placing a lien on any premises for unpaid charges, the village shall have the option of collecting all such delinquencies and penalties due by legal proceedings in a court of competent jurisdiction.

(H) *Poverty exemption.* This division (H) is known and cited as the Village of Pinckney Utilities Poverty Exemption. In certain rare cases the village reserves the right to grant forgiveness of a portion of utility billing, provided that:

(1) The resident requesting hardship forgiveness of utility billing meets all of these requirements:

(a) Is the head of the family or primary individual of a household;

(b) Has filed and been approved for a principle residence exemption of property taxes through Putnam Township;

(c) The current total income from all sources for all persons living in the same household does not exceed the published federal poverty level; and

(d) Is willing to provide adequate financial information for village staff to determine a legitimate hardship status;



(2) The term of any exemption is for one year only and must be renewed annually;

(3) A preliminary review board consisting of the Village Clerk, the Village Treasurer, the Village Council President, and the DPW director reviews application materials and recommends granting an exemption;

(4) Village Council then accepts that recommendation and approves the exemption;

(5) The resident requesting hardship exemption identifies an achievable payment amount, in consultation with the Village Clerk, and

(6) The resident requesting hardship exemption makes regular, on-time payments of the exemption rate at intervals established in consultation with the Village Clerk (i.e., the resident may ask to pay monthly instead of quarterly).

(Ord. 68, passed 10-24-2005; Ord. 94, passed 5-10-2010; Ord. 103, passed 4-11-2011; Ord. 137, passed 5-22-2017)

#### **§ 52.36 DISCONNECTION FOR LATE PAYMENT.**

(A) It is the policy of the village to discontinue utility service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The village's form for application for utility service and all bills shall contain, in addition to the title, address, room number, and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect:

(1) That all bills are due and payable on or before the date set forth on the bill; and

(2) That if any bill is not paid by or before that date, a second bill will be mailed containing a cutoff notice that if the bill is not paid within ten days of the mailing of the second bill, service will be discontinued for nonpayment; and

(3) That any customer disputing the correctness of his or her bill shall have a right to a hearing at which time he or she may be represented in person and by counsel or any other person of his or her choosing and may present orally or in writing his or her complaint and contentions to the village official in charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.

(B) Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the hearing procedure provided herein, service will be discontinued at the time specified, but in no event until the charges have been due and unpaid for at least 30 days.

(C) When it becomes necessary for the village to discontinue utility service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid, along with a turn-on charge in an amount set by Village Council.

#### **§ 52.37 CONTRACT FOR SERVICE; INDEMNITY; LIABILITY OF VILLAGE FOR INTERRUPTION OF SERVICE; LIMITATION ON LIABILITY OF VILLAGE.**

(A) All provisions and sections of this subchapter and any amendments hereto shall be considered a part of the contract with every person that is supplied with sewer service through the Sewage Disposal System, and every person by accepting the service shall be considered to express his or her consent to be bound hereby, and whenever any provision or section of this subchapter is violated, the sewer service may be cut off from the building or place of violation at the discretion of the village and shall not be turned on again except upon correction of the violation and payment of the expenses of same as provided in this subchapter.

(B) The user shall indemnify, save harmless and defend the village against all claims, demands, cost or expenses for loss, damage or injury to persons or property in any manner, directly or indirectly, growing out of the installation or use by the user of any building sewer or private sewer lines.

(C) The village shall not be responsible for interruptions of service because of natural calamities, equipment failures or actions of users of the Sewage Disposal System. It shall be the responsibility of the user that all connected equipment remains in good working order so as not to cause disruption of service.

(D) Should it become necessary to shut off service to any user or users of the Sewage Disposal System because of any accident or for the purpose of making repairs or extensions, the village shall endeavor to give timely notice to the users affected thereby and shall, so far as is practicable, use its best efforts to prevent inconvenience and damages arising from any causes, but the failure to give the notice shall not render the village liable in damages for any inconvenience, injury or loss which may result therefrom.

(E) The village shall not be liable for any expense incurred by a permit holder or applicant in locating sewer lines, force mains, pump stations, compilation of sewer records or compliance with other requirements of this subchapter.

(Ord. 68, passed 10-24-2005)

#### **§ 52.99 PENALTY.**

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

(B) (1) Any person found to be violating any provision of §§51.01 *et seq.*, §§ 52.01*et seq.* and §§ 52.20*et seq.* shall be

served with written notice in accordance with § 52.31(A).

(2) Any person who is found to be in significant noncompliance with the requirements of §§ 52.01 *et seq.* and §§ 52.20 *et seq.* shall, unless the significant noncompliance constitutes a crime under the laws of the state, be guilty of a municipal civil infraction and shall be subject to a fine of not more than \$500 plus court costs and costs of prosecution upon conviction thereof. Each day in which any violation shall continue, shall be deemed a separate offense.

(3) A violation of §§ 52.01 *et seq.* and §§ 52.20 *et seq.* is also declared to be a public nuisance and the village may enforce by injunction or other remedy, including the right to correct the violation and bill the owner or person in charge of the premises therefore and if not collected, the bill will become a lien upon the property.

(4) Any business, industry or individual violating any of the provisions of §§ 52.01 *et seq.* and §§ 52.20 *et seq.*, which results in fines or penalties being levied against the village, shall become liable for the fine or penalty, plus any expenses, loss or damage occasioned by the violation.

(5) Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to §§ 52.01 *et seq.* and §§ 52.20 *et seq.*, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under §§ 52.01 *et seq.* and §§ 52.20 *et seq.*, shall, unless the action constitutes a crime under the laws of the state, upon conviction, be guilty of a municipal civil infraction and shall be subject to a fine of not more than \$500 plus court costs and costs of prosecution upon conviction thereof.

(Ord. 68, passed 10-24-2005; Ord. 94, passed 5-10-2010)

## CHAPTER 53: STORMWATER

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### Section

- 53.01 Findings
- 53.02 Purpose and intent
- 53.03 Compatibility with other regulations
- 53.04 Responsibility for administration
- 53.05 Definitions
- 53.06 Prohibitions
- 53.07 Watercourse protection
- 53.08 Industrial or construction activity discharges
- 53.09 Access and inspection of properties and facilities
- 53.10 Notice of non-stormwater releases
- 53.11 Enforcement
- 53.12 Appeals
- 53.13 Stormwater design and construction
  
- 53.99 Penalty

### § 53.01 FINDINGS.

The village finds:

(A) Discharges to the municipal separate storm sewer system that are not composed entirely of stormwater runoff contribute to increased non-point source pollution and degradation of receiving waters;

(B) These non-stormwater discharges occur due to spills, dumping and improper connections to the municipal separate storm sewer system from residential, industrial, commercial or institutional establishments;

(C) These non-stormwater discharges not only impact waterways individually but, geographically dispersed, small volume non-stormwater discharges can have cumulative impacts on receiving waters;

(D) The impacts of these discharges adversely affect public health and safety, drinking water supplies, recreation, fish and other aquatic life, property values and other uses of lands and waters;

(E) These impacts can be minimized through the regulation of spills, dumping and discharges into the municipal separate storm sewer system;

(F) The village is required to comply with a number of county, state and federal laws, regulations and permits which require a locality to address the impacts of stormwater runoff quality and non-point source pollution due to improper non-stormwater discharges to the municipal separate storm sewer system;

(G) Therefore, the Council adopts the ordinance from which the provisions of this chapter derive to prohibit such non-stormwater discharges to the municipal separate storm sewer system. It is determined that the regulation of spills, improper pumping and discharges to the municipal separate storm sewer system is in the public interest and will prevent threats to public health and safety and the environment.

(Ord. 121, passed 8-26-2013)

### **§ 53.02 PURPOSE AND INTENT.**

(A) The purpose of this chapter is to protect the public health, safety, environment and general welfare through the regulation of non-stormwater discharges to the municipal separate storm sewer system to the maximum extent practicable as required by federal law. This chapter establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

(B) The objectives of this chapter are to:

- (1) Regulate the contribution of pollutants to the municipal separate storm sewer system by any person;
- (2) Prohibit illicit discharges and illegal connections to the municipal separate storm sewer system;
- (3) Prevent non-stormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to the municipal separate storm sewer system; and
- (4) Establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this chapter.

(Ord. 121, passed 8-26-2013)

### **§ 53.03 COMPATIBILITY WITH OTHER REGULATIONS.**

This chapter is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this chapter are in addition to the requirements of any other ordinance, rule, regulation or other provision of law and where any provision of this chapter imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

(Ord. 121, passed 8-26-2013)

### **§ 53.04 RESPONSIBILITY FOR ADMINISTRATION.**

The Council designates the Director of the Village Department of Public Works, or his or her designee, as its authorized enforcement agency to administer, implement and enforce the provisions of this chapter, together with such other persons as may be designated by resolution of the Council.

(Ord. 121, passed 8-26-2013)

### **§ 53.05 DEFINITIONS.**

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

**ACCIDENTAL DISCHARGE.** A discharge prohibited by this chapter which occurs by chance and without planning or thought prior to occurrence.

**AUTHORIZED ENFORCEMENT AGENCY.** Persons designated by the Council to enforce this chapter.

**BEST MANAGEMENT PRACTICES (BMPS).** Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters or stormwater conveyance systems. **BMPS** also include treatment practices, operating procedures and practices to control site runoff, spillage or leaks, sludge or water disposal or drainage from raw materials storage.

**CLEAN WATER ACT.** The Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.) and any subsequent amendments thereto.

**COAL TAR AND OTHER HIGH PAH CONTENT SEALANT PRODUCT.** Coal tar and other high PAH sealant product are prohibited pursuant to § 132.197 and constitute hazardous materials as defined and regulated in this section.

**CONSTRUCTION ACTIVITY.** Activities subject to the NPDES general construction permits. These include construction projects resulting in land disturbance. Such activities include, but are not limited to, clearing and grubbing, grading, excavating and demolition.

**HAZARDOUS MATERIALS.** Any material, including any substance, waste or combination thereof, which, because of its quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

**ILLEGAL CONNECTION.** An illegal connection is either of the following:

(1) Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including, but not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater and wash water to enter the storm drain system, regardless of whether such pipe, open channel, drain or conveyance has been previously allowed, permitted or approved by an authorized enforcement agency; or

(2) Any pipe, open channel, drain or conveyance connected to the municipal separate storm sewer system which has not been documented in plans, maps or equivalent records and approved by an authorized enforcement agency.

**ILLICIT DISCHARGE.** Any direct or indirect non-stormwater discharge to the municipal separate storm sewer system, except as exempted in § 53.06.

**INDUSTRIAL ACTIVITY.** Activities subject to NPDES industrial permits as defined in 40 C.F.R. § 122.26(b)(14).

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4).** Any facility designed or used for collecting and/or conveying stormwater including, but not limited to, any roads with drainage systems, highways, municipal streets, curbs, gutters, inlets, catch basins, piped storm drains, pumping facilities, structural stormwater controls, ditches, swales, natural and human-made or altered drainage channels, reservoirs and other drainage structures and which is:

- (1) Owned or maintained by the village;
- (2) Not a combined sewer; and
- (3) Not part of a publicly-owned treatment works.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT.A** permit issued by the State Department of Environment, Great Lakes & Energy under authority delegated pursuant to 33 U.S.C. § 1342(b) which authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group or general area-wide basis.

**NON-STORMWATER DISCHARGE.** Any discharge to the storm drain system that is not composed entirely of stormwater.

**PERSON.** Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the state, any interstate body or any other legal entity.

**POLLUTANT.** Anything which causes or contributes to pollution. **POLLUTANTS** may include, but are not limited to: paints, varnishes and solvents; petroleum hydrocarbons; automotive fluids; cooking grease; detergents (biodegradable or otherwise); degreasers; cleaning chemicals; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides and fertilizers; liquid and solid wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; concrete and cement; and noxious or offensive matter of any kind.

**POLLUTION.** The contamination or other alteration of any water's physical, chemical or biological properties by the addition of any constituent and includes, but is not limited to, a change in temperature, taste, color, turbidity or odor of such waters or the discharge of any liquid, gaseous, solid, radioactive or other substance into any such waters as will, or is likely to, create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety, welfare or environment or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wild animals, birds, fish or other aquatic life.

**PREMISES.** Any building, lot, parcel of land or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

**STATE WATERS.** Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State of Michigan which are not entirely confined and retained completely upon the property of a single person.

**STORMWATER RUNOFF OR STORMWATER.** Any surface flow, runoff and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

**STRUCTURAL STORMWATER CONTROL.** A structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

**VILLAGE.** The Village of Pinckney, Michigan and/or its authorized representative.

(Ord. 121, passed 8-26-2013; Ord. 155, passed 1-11-2021)

## **§ 53.06 PROHIBITIONS.**

### *(A) Prohibition of illicit discharges.*

(1) No person shall throw, drain or otherwise discharge, cause, or allow others under its control to throw, drain or otherwise discharge, into the municipal separate storm sewer system any pollutants or waters containing any pollutants, other than stormwater.

(2) The following discharges are exempt from the prohibition provision above:

(a) Water line flushing performed by a government agency, other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, uncontaminated ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, residential car washing, dechlorinated swimming pool water from family residences, springs, natural riparian habitat or wetland flows, and any other water source not containing pollutants;

(b) Discharges or flows from firefighting and other discharges specified in writing by the Council or its authorized representative as being necessary to protect public health and safety; and

(c) The prohibition provision above shall not apply to any non-stormwater discharge permitted under an NPDES permit or order issued to the discharger and administered under the authority of the state and the U.S. Environmental Protection Agency (EPA), provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations and provided that written approval has been granted for any discharge to the municipal separate storm sewer system.

*(B) Prohibition of illegal connections.* The construction, connection, use, maintenance or continued existence of any illegal connection to the municipal separate storm sewer system is prohibited.

(1) This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(2) A person violates this chapter if the person connects a line conveying non-stormwater sewage to the municipal separate storm sewer system or allows such a connection to continue.

(3) Improper connections in violation of this chapter must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the Council.

(4) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the village requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be completed, that the drain or conveyance be identified as storm sewer, sanitary sewer or other and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the village.

(Ord. 121, passed 8-26-2013; Ord. 147, passed 8-26-2019; Ord. 155, passed 1-11-2021) Penalty, see § 53.99

## **§ 53.07 WATERCOURSE PROTECTION.**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function or physical integrity of the watercourse.

(Ord. 121, passed 8-26-2013)

## **§ 53.08 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.**

(A) Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Council or its authorized representative prior to allowing discharges to the municipal separate storm sewer system.

(B) The operator of a facility, including construction sites, required to have an NPDES permit to discharge stormwater associated with industrial activity shall submit a copy of the notice of intent (NOI) to the Council at the same time the operator submits the original notice of intent to the EPA, as applicable.

(C) The copy of the notice of intent may be delivered to the Council either in person or by mailing it to:

Notice of Intent to Discharge Stormwater

Pinckney Village Council

220 S. Howell Street

Pinckney, MI 48169

(D) A person violates this chapter if the person operates a facility that is discharging stormwater associated with industrial activity without having submitted a copy of the notice of intent to do so to the Council.

(Ord. 121, passed 8-26-2013) Penalty, see §53.99

#### **§ 53.09 ACCESS AND INSPECTION OF PROPERTIES AND FACILITIES.**

(A) The village shall be permitted to enter and inspect properties and facilities at reasonable times as often as may be necessary to determine compliance with this chapter.

(B) If a property or facility has security measures in force which require proper identification and clearance before entry into its premises, the owner or operator shall make the necessary arrangements to allow access to representatives of the village.

(C) The owner or operator shall allow the village ready access to all parts of the premises for the purposes of inspection, sampling, photography, videotaping, examination and copying of any records that are required under the conditions of an NPDES permit to discharge stormwater.

(D) The village shall have the right to set up on any property or facility such devices as are necessary in the opinion of the village, to conduct monitoring and/or sampling of flow discharges.

(E) The village may require the owner or operator to install monitoring equipment and perform monitoring as necessary and make the monitoring data available to the Council. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator at his or her own expense. All devices used to measure flow and quality shall be calibrated to ensure their accuracy.

(F) Any temporary or permanent obstruction to safe and easy access to the property or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the village and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.

(G) Unreasonable delays in allowing the village access to a facility is a violation of this chapter.

(H) If the village has been refused access to any part of the premises from which stormwater is discharged and the village is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then the village may seek issuance of a search warrant from any court of competent jurisdiction.

(I) The Livingston County Drain Commissioner has adopted requirements identifying best management practices (BMPs) for any activity, operation or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system or waters of the United States. The owner or operator of such activity, operation or facility shall provide, at his or her own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise that is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater management plan (SWMP) as necessary for compliance with requirements of the NPDES permit.

(Ord. 121, passed 8-26-2013) Penalty, see §53.99

#### **§ 53.10 NOTICE OF NON-STORMWATER RELEASES.**

(A) Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity or operation, has information of any known or suspected release of pollutants or non-stormwater discharges from that facility or operation which are resulting, or may result in, illicit discharges or pollutants discharging into stormwater, the municipal separate storm sewer system, state waters or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment and cleanup of such release so as to minimize the effects of the discharge.

(B) In the event of such a release of hazardous materials, emergency response agencies, including the Putnam Township Fire Department and/or other appropriate agencies, shall be immediately notified.

(C) Said person shall notify the village's authorized enforcement agency by phone, facsimile or in person no later than 24 hours of the nature, quantity and time of occurrence of the discharge. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the village within three business days of the phone or in person notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill.

(D) Failure to provide notification of a release as provided above is a violation of this chapter.



(Ord. 121, passed 8-26-2013) Penalty, see §53.99

### **§ 53.11 ENFORCEMENT.**

#### *(A) Notice of violation.*

(1) The village may issue a notice of violation with or without an order against any user believed to be in violation of this chapter and determine the civil administrative penalty, if any, to be imposed. The notice of violation shall be served upon the user either by personal delivery or by first class mail addressed to the user at his or her billing address, except that an immediate cease and desist order may be written or oral and may also be served by telephone.

(2) The notice of violation shall specify the:

- (a) Date and time of issuance;
- (b) Date(s), time(s) and place(s) of violation;
- (c) Nature of the violation;
- (d) Possible penalties under the chapter; and

(e) The right of the alleged violator to present to the village written explanations, information or other materials in answer to the notice, including any defenses.

#### *(B) Emergency suspensions and orders.*

(1) *Issuance of order.* If the village determines that a user has violated any provisions of this chapter or other applicable laws or regulations which the village is authorized to enforce, the village may issue an order, with or without notice of violation and whether or not a notice of violation was previously issued, to take action deemed appropriate under the circumstances.

(2) *Immediate cease and desist order.* The village may issue an order to cease and desist from discharging any wastewater, incompatible pollutant, illegal discharge or illegal connection. The order shall have immediate effect when the actual or threatened discharge of pollutants to the MS4 presents, or may present, imminent or substantial endangerment to the health or welfare of persons, to the environment or cause interference with the operation of the MS4. If action is not taken immediately to correct illegal discharge, the village will implement whatever action is necessary to halt the discharge, including appropriate legal and/or equitable relief, in the appropriate legal forum.

(3) *Order to show cause.* In cases other than those described in division (B)(2) above, the village may issue an order to show cause why an order to cease and desist by a certain time and date should not be issued. The proposed time for remedial action shall be specified in the order to show cause. The order may also contain the conditions deemed appropriate by the village, including, but not limited to, a requirement to:

- (a) Submit samples;
- (b) Install sampling or monitoring equipment;
- (c) Submit reports;
- (d) Permit access for inspection, sampling, tests, monitoring and investigations;
- (e) Install and operate pre-treatment equipment;
- (f) Reduce or eliminate a discharge or pollutants in a discharge; and
- (g) Payment of use permit fees.

(4) *Disconnection orders.* The Director may disconnect a user from the MS4 if the user violates any provision of a final order issued pursuant to this section or an immediate cease and desist order issued pursuant to division (B)(2) above (whether final or not).

(5) *Content of orders.* Any order issued by the village shall contain the facts and grounds for its issuance and the remedial action ordered, together with the time within the action shall be taken. No such order shall be deemed insufficient, however, for inconsequential errors and omissions in the facts and grounds for the order. If any user deems the content of the order to contain insufficient information, it may request additional information from the village; however, no request shall extend any time limit or defer any payment, except as hereinafter set forth.

(Ord. 121, passed 8-26-2013)

### **§ 53.12 APPEALS.**

Any user shall have the right to appeal any order, enforcement decision or other action taken by the village pursuant to this chapter to the Council unless the order, enforcement decision or other action has previously been approved or authorized by Council. The appeal shall be directed to the village within 30 days of the issuance of the order or the effective date of any enforcement decision or other action taken by the village. The Council shall consider the appeal and determine, in each particular case, whether any deviation from strict enforcement of the order or other enforcement decision or action will violate the intent of this subchapter or jeopardize the public health or safety. Resolution of appeals shall be made by the

Council within 30 days of filing by a user of the appeal and any supporting documentation, in accordance with the best available data and this chapter.

(Ord. 121, passed 8-26-2013)

### **§ 53.13 STORMWATER DESIGN AND CONSTRUCTION.**

For Stormwater Design and Construction, refer to the Village Technical Standards.

(Ord. 155, passed 1-11-2021)

### **§ 53.99 PENALTY.**

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

(B) (1) Any person found to be violating any provision of §§53.01*et seq.*, shall be served with written notice in accordance with § 53.11(A).

(2) Any person who is found to be in noncompliance with the requirements of §§53.01*et seq.*, shall, unless the noncompliance constitutes a crime under the laws of the state, be guilty of a municipal civil infraction and shall be subject to a fine of not more than \$500 plus court costs and costs of prosecution upon conviction thereof. Each day in which any violation shall continue, shall be deemed a separate offense.

(3) A violation of §§ 53.01*et seq.*, is also declared to be a public nuisance and the village may enforce by injunction or other remedy, including the right to correct the violation and bill the owner or person in charge of the premises therefore and, if not collected, the bill will become a lien upon the property.

(4) Any business, industry or individual violating any of the provisions of §§53.01*et seq.*, which results in fines or penalties being levied against the village, shall become liable for the fine or penalty, plus any expenses, loss or damage occasioned by the violation.

(5) Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to §§ 53.01*et seq.*, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under §§ 53.01*et seq.*, shall, unless the action constitutes a crime under the laws of the state, upon conviction, be guilty of a municipal civil infraction and shall be subject to a fine of not more than \$500 plus court costs and costs of prosecution upon conviction thereof.

(Ord. 121, passed 8-26-2013)

## **TITLE VII: TRAFFIC CODE**

Chapter

**70. MOTOR VEHICLE AND UNIFORM TRAFFIC CODES**

**71. ADDITIONAL TRAFFIC REGULATIONS**

**72. BICYCLES AND OTHER RECREATIONAL VEHICLES**

### **CHAPTER 70: MOTOR VEHICLE AND UNIFORM TRAFFIC CODES**

Section

#### ***Michigan Vehicle Code***

70.01 Michigan Vehicle Code; adopted by reference

70.02 References in the Vehicle Code

70.03 [Reserved]

70.04 Citations

70.05 Copies

70.06 Limitations

70.07 Penalties

#### ***Uniform Traffic Code***

70.15 Uniform Traffic Code; adopted by reference

70.16 References in the Uniform Traffic Code

70.17 Copies

70.18 Penalties

### **General Provisions**

70.25 Notice to be published

## **MICHIGAN VEHICLE CODE**

### **§ 70.01 MICHIGAN VEHICLE CODE; ADOPTED BY REFERENCE.**

The Michigan Vehicle Code, being Public Act 300 of 1949 (M.C.L.A. §§ 257.1*et seq.*), as amended now and in the future is hereby adopted and incorporated by reference as an ordinance of the Village of Pinckney.

(Ord. 116, passed 3-11-2013)

### **§ 70.02 REFERENCES IN THE VEHICLE CODE.**

Where necessary to the enforcement of the Michigan Vehicle Code or the collection of fines, costs and penalties for violations as a village ordinance, references in the Michigan Vehicle Code to **LOCAL AUTHORITIES**, **LOCAL AUTHORITY** or **AUTHORITY HAVING JURISDICTION** shall mean the Village Council of the Village of Pinckney; references to **MUNICIPALITY** shall mean the Village of Pinckney; references to **MUNICIPAL CHARTER** shall mean the Charter of the Village of Pinckney; references to **LOCAL ORDINANCES** shall mean the Code of Ordinances of the Village of Pinckney; and references to the **VILLAGE** shall mean the Village of Pinckney.

(Ord. 116, passed 3-11-2013)

### **§ 70.03 [RESERVED].**

### **§ 70.04 CITATIONS.**

A person violating the provisions of this chapter, or the Michigan Vehicle Code adopted by reference in this subchapter, may be issued a citation by a police officer in the form and through the procedure specified within the Michigan Vehicle Code. The citations shall be in the name of the "People of the Village" and references to Michigan Vehicle Code sections adopted by reference under this subchapter shall be cited by stating the letter "P" followed by the applicable Michigan Vehicle Code section (e.g., "P-257.XXX").

(Ord. 116, passed 3-11-2013)

### **§ 70.05 COPIES.**

Printed copies of the Michigan Vehicle Code, as amended from time to time, 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. 116, passed 3-11-2013)

### **§ 70.06 LIMITATIONS.**

Violations of the Michigan 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.

(Ord. 116, passed 3-11-2013)

### **§ 70.07 PENALTIES.**

(A) The penalties provided in the Michigan Vehicle Code are adopted by reference subject to the limitations stated in § 70.06.

(B) A person who violates any provision of the Michigan Vehicle Code concerning the parking of vehicles that is designated as a municipal civil infraction, shall subject to payment of a civil fine of \$25 for each infraction, except a person who violates any provision of the Michigan Vehicle Code concerning spaces reserved for use by disabled persons shall subject to payment of a civil fine of \$100 for each infraction.

(C) A person who violates any other provision of the Michigan Vehicle Code that is designated as a municipal civil infraction, shall subject to payment of a civil fine as specified in § 131.57, plus costs and other sanctions, for each infraction. Repeat offenses shall be subject to increased fines as provided by Ch. 131 of the Village Code.

(Ord. 116, passed 3-11-2013; Ord. 131, passed 8-8-2016)

## **UNIFORM TRAFFIC CODE**

### **§ 70.15 UNIFORM TRAFFIC CODE; ADOPTED BY REFERENCE.**

The village hereby adopts and incorporates by reference as an ordinance of the village the Uniform Traffic Code for Cities,

Townships, and Villages as promulgated by the Director of the Michigan Department of State Police pursuant to the Administrative Procedures Act of 1969, Public Act 306 of 1969 (M.C.L.A. §§ 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.

(Ord. 116, passed 3-11-2013)

#### **§ 70.16 REFERENCES IN THE UNIFORM TRAFFIC CODE.**

References to **GOVERNMENTAL UNIT** and **MUNICIPALITY** in the Uniform Traffic Code for Cities, Townships, and Villages shall mean the Village of Pinckney.

(Ord. 116, passed 3-11-2013)

#### **§ 70.17 COPIES.**

Printed complete copies of the Uniform Traffic Code for Cities, Townships, and Villages, and all future amendments and revisions thereto, 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. 116, passed 3-11-2013)

#### **§ 70.18 PENALTIES.**

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

(B) A person who violates any provision of the Michigan Uniform Traffic Code for Cities, Townships, and Villages concerning the parking of vehicles that is designated as a municipal civil infraction, shall subject to payment of a civil fine of \$25 for each infraction, except a person who violates any provision of the concerning spaces reserved for use by disabled persons shall subject to payment of a civil fine of \$100 for each infraction.

(C) A person who violates any other provision of the Michigan Uniform Traffic Code for Cities, Townships, and Villages that is designated as a municipal civil infraction, shall subject to payment of a civil fine as specified in § 131.57, plus costs and other sanctions, for each infraction. Repeat offenses shall be subject to increased fines as provided by Ch. 131 of the Village Code.

(Ord. 116, passed 3-11-2013; Ord. 131, passed 8-8-2016)

### **GENERAL PROVISIONS**

#### **§ 70.25 NOTICE TO BE PUBLISHED.**

The Village Clerk shall publish the ordinance from which this chapter derives in the manner required by law and shall publish, at the same time, a notice stating the purpose of the Uniform Traffic Code for Cities, Townships, and Villages and the Motor Vehicle Code, and the fact that a complete copy of the codes are available to the public at the office of the Clerk for inspection.

(Ord. 116, passed 3-11-2013)

## **CHAPTER 71: ADDITIONAL TRAFFIC REGULATIONS**

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### Section

- 71.01 Prohibited parking
- 71.02 Parking vehicles for sale; violation as municipal civil infraction
- 71.03 Parking signs required; exception
- 71.04 Parking on private property; violation as civil infraction
- 71.05 No parking during certain hours on certain streets
- 71.06 Operating, stopping, standing, or parking truck or commercial vehicle with gross weight of more than signed limits prohibited
- 71.07 Temporary impoundment of bicycles of minors violating code
  
- 71.99 Penalties

#### **§ 71.01 PROHIBITED PARKING.**

(A) No person shall park a vehicle in any of the following places:

- (1) On a sidewalk;
  - (2) In front of any driveway;
  - (3) Within an intersection;
  - (4) Within 15 feet of a fire hydrant or instructional building;
  - (5) On a designated crosswalk;
  - (6) At any place where official signs prohibit parking;
  - (7) At any place where parking is permitted for specific purposes unless the occupants of the vehicle are complying with the requirements of permitted uses;
  - (8) On more than one designated parking space;
  - (9) On any grass or otherwise landscaped area;
  - (10) On a playground or playing field.
- (B) A person who violates this section shall be responsible for a municipal civil infraction.

(Ord. 116, passed 3-11-2013)

#### **§ 71.02 PARKING VEHICLES FOR SALE; VIOLATION AS MUNICIPAL CIVIL INFRACTION.**

No person shall park any vehicle, motorcycle, trailer or recreational vehicle for the principal purpose of offering same "for sale" in any public or privately owned parking lots. This would include but would not be limited to automobile service stations and commercial parking lots, or any area normally open to the public but not licensed as an automobile sales area. In any prosecution or proceedings under this section, the registration plate displayed on a motor vehicle shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person responsible for parking such vehicle at the place where such violation occurred.

(Ord. 116, passed 3-11-2013)

#### **§ 71.03 PARKING SIGNS REQUIRED; EXCEPTION.**

If by this chapter any parking time limit is imposed or parking is prohibited on designated streets, such regulations shall not be effective unless appropriate signs giving notice of the time limit or prohibited parking are erected and in place at the time of any alleged offense, except that such signs need not be erected to make ordinances regulating the stopping, standing or parking of vehicles effective when these ordinances do not differ from the provisions of the Act.

(Ord. 116, passed 3-11-2013)

#### **§ 71.04 PARKING ON PRIVATE PROPERTY; VIOLATION AS CIVIL INFRACTION.**

(A) No person shall park any motor vehicle on any private property in the village without the expressed or implied consent, authorization or ratification of the owner, holder, occupant, lessee, agent or trustee of such property.

(B) A person who violates this section shall be responsible for a municipal civil infraction.

(Ord. 116, passed 3-11-2013)

#### **§ 71.05 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.

(Ord. 116, passed 3-11-2013)

#### **§ 71.06 OPERATING, STOPPING, STANDING, OR PARKING TRUCK OR COMMERCIAL VEHICLE WITH GROSS WEIGHT OF MORE THAN SIGNED LIMITS PROHIBITED.**

When signs are erected that give notice of weight limits, a person shall not operate, stop, stand or park any truck or commercial vehicle with a gross weight of more than the amounts specified on the signs at any time on any of the streets or parts of streets on which such signs have been posted.

(Ord. 116, passed 3-11-2013)

#### **§ 71.07 TEMPORARY IMPOUNDMENT OF BICYCLES OF MINORS VIOLATING CODE.**

In lieu of instituting a civil infraction proceeding against a minor violating any section of Part 6 of the Uniform Traffic Code for Cities, Townships, and Villages, as adopted under § 70.15 of this code, involving operation of a bicycle, any law enforcement agency may temporarily impound the minor's bicycle as provided in § 72.95 of this code of ordinances.

(Ord. 116, passed 3-11-2013)

## § 71.99 PENALTIES.

Any person who violates any provision of this chapter is responsible for a municipal civil infraction, and shall subject to payment of a civil fine of \$25 for each infraction, except a person who violates any provision concerning spaces reserved for use by disabled persons shall subject to payment of a civil fine of \$100 for each infraction.

(Ord. 131, passed 8-8-2016)

## CHAPTER 72: BICYCLES AND OTHER RECREATIONAL VEHICLES

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### Section

72.01 Regulate the use of skateboards and other toy vehicles

72.02 Regulate the operation and use of bicycles, motorcycles, skateboards and other wheeled conveyances

72.03 Regulate the use of snowmobiles

72.95 Impoundment authorized

72.96 Notice of impoundment

72.97 Impoundment fee

72.98 Sale after impoundment

72.99 Penalty

### § 72.01 REGULATE THE USE OF SKATEBOARDS AND OTHER TOY VEHICLES.

(A) *Riding on sidewalks; right-of-way; alternate penalty.*

(1) A person shall not operate a toy vehicle on the sidewalk anywhere in the central business district of the village.

(2) A person shall not operate a toy vehicle on any public street, public parking lot, public sidewalk, commercial establishment or public place in an unsafe or hazardous manner likely to cause harm to himself or herself or bystanders, or damage to the real or personal property of another or if on private property without the permission of the owners of the property upon which the activity is occurring.

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

**CENTRAL BUSINESS DISTRICT.** Both sides of Main Street between Marion and Webster Streets, and both sides of Howell Street, between Putnam and Livingston Streets.

**TOY VEHICLES.** Scooters, tri-cycles, big wheels, roller skates, skateboards and any other non-motorized form of transportation which is propelled by human power, but not including wheelchairs or other conveyances used for improving the mobility of handicapped persons.

(Ord. 4.1, passed 8-13-1990) Penalty, see §72.99

### § 72.02 REGULATE THE OPERATION AND USE OF BICYCLES, MOTORCYCLES, SKATEBOARDS AND OTHER WHEELED CONVEYANCES.

(A) It shall be unlawful for any person to whom a motorcycle or motor driven cycle is rented, leased or furnished, owned or otherwise authorized the use of the motorcycle or motor driven cycle on the public streets or highways who, at the time of the use is not licensed to operate a vehicle in this state.

(B) (1) A person propelling a bicycle or operating a motorcycle or motor driven cycle shall not ride other than upon or astride a permanent and regular seat attached thereto.

(2) No bicycle or motorcycle shall be used to carry more persons at one time than the number for which it was designed and equipped.

(3) No motor driven cycle shall be used to carry more than one person at any one time.

(4) A person operating or riding on a motorcycle or motor driven cycle shall wear a crash helmet approved by the Department of the State Police. The Department shall promulgate rules for the implementation of this section in accordance with the provisions of Public Act 88 of 1943, being M.C.L.A. Chapter 24.

(C) (1) Every person operating a bicycle, a motor driven cycle, motorcycle or any other wheeled non-motorized vehicle or conveyance upon a roadway, shall ride as near to the right side of the roadway as practicable, exercising due care when



passing a standing vehicle or one proceeding in the same direction.

(2) Persons riding bicycles, motor driven cycles or motorcycles upon a roadway shall not ride more than 2 abreast except on paths or parts of roadways set aside for the exclusive use of the vehicles.

(3) Whenever usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use a path and shall not use the roadway.

(4) No person operating a motor driven cycle, a motorcycle or a bicycle shall pass between lines of traffic, but may pass on the left of traffic moving in his or her direction in the case of a two-way street or on the left or right of traffic in the case of a one-way street, in an unoccupied lane.

(D) No person operating a bicycle, motorcycle or motor driven cycle shall carry any package, bundle or article which prevents the driver from keeping both hands upon the handle bars of the vehicle.

(E) No person shall operate a motorcycle or motor driven cycle in such a manner as to create excessive noise disturbing the peace and quiet of the village.

(F) No person shall operate a motorcycle or motor driven cycle within the Village of Pinckney unless the motorcycle or motor driven cycle shall have adequate exhaust muffling systems to insure minimum noise while operating the motorcycle or motor driven cycle.

(G) No person shall operate any wheeled, non-motorized vehicle or conveyance in or about any public street, public parking lot, public sidewalk, commercial establishment or public place so as to cause a hazard to bystanders, or in such a fashion as to cause damage to the property of others or, if on private property, without the permission of the owners of the property upon which the activity is occurring.

(Ord. 9, passed 6-15-1967; Ord. passed 2-13-1989) Penalty, see §72.99

### **§ 72.03 REGULATE THE USE OF SNOWMOBILES.**

(A) This section is adopted pursuant to authority granted in § 14 of Public Act 74 of 1968, being M.C.L.A. §§ 324.82101 through 324.82160.

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

**HIGHWAY** or **STREET**. The entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel and shall include among other portions thereof, the sidewalk and the area between the sidewalk and the curb.

**OPERATE**. To ride in or on and to control the operation of a snowmobile.

**OPERATOR**. Any person who operates or is in actual physical control of a snowmobile.

**OWNER**. Any person, other than a lien holder, having the property in or title to a snowmobile entitled to the use or possession thereof.

**PERSON**. An individual, partnership, corporation, the state and any of its agencies or subdivisions and any body of persons whether incorporated or not.

**ROADWAY**. That portion of a highway improved, designated or ordinarily used for vehicular travel. If a highway includes two or more separate roadways, the term **ROADWAY** refers to any such roadway separately, but not to all the roadways collectively.

**SNOWMOBILE**. Any motorized vehicle designed for travel primarily on snow or ice steered by wheels, skis or runners.

(C) Except as otherwise provided, no snowmobile which is required to be registered under the provisions of this section shall be operated within the Village of Pinckney by a person or an authorized agent of that person, unless and until he or she has attained the age or 16 years.

(D) Except as otherwise provided, no snowmobile shall be operated within the Village of Pinckney unless registered by the owner with the State of Michigan as required by the Public Acts of 1968. No registration is required for a snowmobile operated exclusively on lands owned or under the control of the snowmobile owner.

(E) The owner of any snowmobile having been issued a certificate of registrant for the snowmobile by the State of Michigan shall paint on or attach in a permanent manner to each side of the forward half of the snowmobile, the identification number issued by the State of Michigan in block characters of good proportion, not less than three inches in height, reading from left to right. The numbers shall contrast, so as to be distinctly visible and legible. No number other than the number awarded to a snowmobile by the State of Michigan, or granted reciprocity under Public Act 74 of 1968, being M.C.L.A. §§ 324.82101 through 324.82160, shall be painted, attached or otherwise displayed on either side of the forward half of the snowmobile.

(F) No person shall operate a snowmobile upon the main traveled portion the roadway or on a highway or street within ten feet of the roadway within the Village of Pinckney, with the following exceptions:

(1) Properly registered snowmobiles may cross streets and highways, except access highways and freeways as

defined in Public Act 300 of 1949, being M.C.L.A. §§ 257.1 through 257.923, if the crossing can be made in safety and it does not interfere with the free movement of vehicular traffic approaching from any direction on the highway. The snowmobile operator shall yield the right-of-way to all vehicular traffic upon any street or highway.

(2) Snowmobiles may be operated on a street and highway during a period of emergency, when so declared by the Chief of Police, when travel by conventional automobile equipment is not possible.

(3) Snowmobiles may be operated on the highways within the restrictions herein set forth for the purposes of crossing bridges and culverts.

(4) Snowmobiles may be operated on a street or highway for a special snowmobile event of limited duration which is conducted according to a prearranged schedule under permit from the governmental unit having jurisdiction.

(5) Whenever it is impractical to gain immediate access to an area adjacent a public highway where a snowmobile is to be operated, the vehicle may be operated adjacent and parallel to the highway for the purpose of gaining access to the area of operation. This section shall apply to the operation of a snowmobile from the point where the vehicle is unloaded from a motorized conveyance to and from the area where the snowmobile is to be operated when loading and unloading cannot be effected in the immediate vicinity of the area of operation without causing a hazard to vehicular traffic approaching from either direction on the highway. Loading and unloading must be accomplished with due regard to safety at the nearest possible point to the area of operation.

(G) No snowmobile shall be operated in the Village of Pinckney unless it has at least one headlight, one taillight and adequate brakes capable of producing deceleration at 14 feet a second on level ground at a speed of 20 mph.

(H) No person shall operate a snowmobile:

(1) At a rate of speed greater than is reasonable and proper, having due regard for conditions then existing and in no case at a speed greater than 15 mph;

(2) When under the influence of intoxicating liquor or narcotic drugs, barbitol or any derivative of barbitol;

(3) During the hours from one-half hour after sunset to one-half hour before sunrise, when permitted by this section, without displaying a lighted headlight and a lighted taillight;

(4) Between the hours of 10:00 p.m. and 8:00 a.m.;

(5) In any nursery, planting area or natural area of forest reproduction and when growing stock may be damaged;

(6) Unless it is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke;

(7) While transporting thereon a bow or firearm, unless the same be securely encased;

(8) In any cemetery in the Village of Pinckney;

(9) In any public park; and

(10) Within 300 feet of any building in the Village of Pinckney without the permission of the owner thereof.

(I) The operator of a snowmobile involved in an accident resulting in injuries to or death of any person or property damage in an estimated amount of \$100 or more, or some person acting for him or her, or the owner of the snowmobile having knowledge of the accident shall immediately, by the quickest means of communication, notify the Police Department of the Village of Pinckney.

(J) No person shall authorize or knowingly permit a snowmobile owned by him or her or under his or her control to be operated in violation of this section.

(Ord. 16, passed 2-4-1971) Penalty, see §72.99

#### **§ 72.95 IMPOUNDMENT AUTHORIZED.**

(A) The Village Police Department is authorized to remove bicycles from public places to a place of safety, when:

(1) Any bicycle is reasonably believed to be stolen.

(2) Any bicycle has been left unattended upon any public street, alley, or sidewalk continuously for a period of 48 hours.

(3) Any bicycle is left in such a manner as to obstruct unreasonably the flow of vehicular or pedestrian traffic on any public street, alley, or sidewalk.

(4) The operator of a bicycle is detained because of a traffic violation and refuses to give his or her name and address.

(B) When the operator of a bicycle who is a minor commits a traffic violation contrary to Part 6 of the Uniform Traffic Code, as adopted by the village, officers from the Police Department may temporarily impound the minor's bicycle in lieu of instituting a civil infraction action against such minor.

(C) If an individual violates divisions (A)(1) or (2) of §72.01, the Police Department may impound the toy vehicle for not more than 30 days in lieu of instituting a municipal civil infraction process. In the case of a temporary impounding of a toy

vehicle of a minor pursuant to this section, written notice shall be given to the minor's parent or legal guardian by mailing the notice by first class mail within five days of the impoundment.

(Ord. 116, passed 3-11-2013)

#### **§ 72.96 NOTICE OF IMPOUNDMENT.**

When a bicycle is impounded under this chapter and the Village Police Department knows or is able to ascertain the owner thereof, officers from the Police Department shall, within a reasonable period of time, give and cause to be given a notice in writing to such owner of the fact of impoundment and reasons therefor. For a temporary impoundment of the bicycle or toy vehicle of a minor pursuant to § 72.95, such notice shall be given to the minor's parent or legal guardian.

(Ord. 116, passed 3-11-2013)

#### **§ 72.97 IMPOUNDMENT FEE.**

(A) No impounded bicycle shall be discharged or removed from the place of impounded storage except by the owner or his or her authorized representative and only upon the payment of an impoundment fee of \$15. However, no such fee shall be required for a stolen bicycle if it is reclaimed by the owner after being notified of the impoundment and if the owner signs an affidavit that the bicycle was stolen. The fee shall be paid at the Village Clerk's office.

(B) For a bicycle or toy vehicle of a minor temporarily impounded pursuant to §72.95, the bicycle or toy vehicle shall be returned to the minor's parent or legal guardian without the imposition of the impoundment fee of \$15. Upon returning such bicycle or toy vehicle to the parent or legal guardian, the impounding officer shall inform the parent or guardian of the nature of the violation for which the bicycle or toy vehicle was impounded and of the fact that further violations by the minor will result in institution of civil infraction proceedings pursuant to the village traffic code.

(Ord. 116, passed 3-11-2013)

#### **§ 72.98 SALE AFTER IMPOUNDMENT.**

Any bicycle impounded under this chapter may, after one month from the date of impoundment, be sold by the village at public sale. Notification of the sale shall be published and/or posted at least five days prior to the sale.

(Ord. 116, passed 3-11-2013)

#### **§ 72.99 PENALTY.**

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

(B) A person who violates any provision of §72.01 is responsible for a municipal civil infraction, subject to payment of a civil fine as specified in § 131.57 plus costs and other sanctions, for each infraction. Repeat offenses shall be subject to increased fines as provided by Chapter 131 herein.

(C) Any person violating any of the provisions of §72.02 shall, upon conviction thereof, be guilty of a misdemeanor and shall be liable to a fine of not more than \$100, imprisonment for 90 days or both in the discretion of the court.

(D) Any person or persons violating any of the provisions of §72.03 shall, upon conviction thereof, be sentenced to pay a fine not exceeding \$500 or by imprisonment for not more than 90 days in the county jail, or by both the fine and imprisonment in the discretion of the court.

(Ord. 9, passed 6-15-1967; Ord. 16, passed 2-4-1971; Ord. 4.1, passed 8-13-1990; Ord. passed 5-22-2000; Ord. 116, passed 3-11-2013)

## **TITLE IX: GENERAL REGULATIONS**

Chapter

**90. ANIMALS**

**91. FIRE PREVENTION; FIREWORKS**

**92. STREETS AND SIDEWALKS**

**93. CEMETERIES**

**94. WEEDS**

**95. SPECIAL EVENTS**

**96. NOISE**

### **CHAPTER 90: ANIMALS**

Section

90.01 Regulate the keeping of animals other than dogs and cats

90.99 Penalty

**§ 90.01 REGULATE THE KEEPING OF ANIMALS OTHER THAN DOGS AND CATS.**

(A) Hereafter it shall be unlawful for any person, firm or corporation to keep or confine any horse, cattle, swine, sheep, pony, goat, rabbit, poultry or any other animals and fowl within the limits of the Village of Pinckney.

(B) Any person, firm or corporation desiring to keep horses, cattle, swine, sheep, ponies, goats, rabbits, poultry or other animals or fowl within the limits of the Village of Pinckney shall make applications in writing to the Pinckney Village Council to so do, describing particularly the place where the applicant proposes to keep the horses, cattle, swine, sheep, ponies, goats, rabbits, poultry or other animals and fowl, the number thereof, the distance from the place to the public streets on each side and the distance from the place to the dwelling houses upon the lands adjoining the proposed place.

(C) If it shall appear to the Village Council that the granting of permission will not be detrimental to the health, safety and welfare of any of the inhabitants of the village, the Council shall grant a permit to the person applying therefore. The permit shall specify the place where the horses, cattle, swine, sheep, ponies, goats, rabbits, poultry or other animals and fowl may be kept, and the number thereof shall be reasonable as determined by the Council. No person, firms or corporation shall keep any horse, cattle, swine, sheep, ponies, goats, rabbits, poultry or any other animals or fowl in the village contrary to the terms and conditions of the permit. The Village Council may revoke the permit whenever it may deem it proper to do so.

(D) Hereafter it shall be unlawful for any person, firm or corporation keeping or confining any horse, cattle, swine, sheep, pony, goat, rabbit, poultry or any other animals or fowl within the limits of the Village or Pinckney to do so in a manner that creates unwholesome, offensive and noxious smells or odors or in any unsanitary condition.

(E) No horses, cattle, swine, sheep, pony, goat, rabbits, poultry or any other animal or fowl may run at-large or trespass on public or private property or park in the village.

(F) Regulations concerning the keeping of dogs or cats are not included in this section.

(Ord. 13, passed 5-1-1969) Penalty, see §90.99

**§ 90.99 PENALTY.**

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

(B) Any person, firm or corporation who violates any provision of §90.01 is responsible for a municipal civil infraction set forth in Chapter 131 of this code, subject to payment of a civil fine as specified in §131.57 plus costs and other sanctions, for each infraction. Repeat offenses shall be subject to increased fines as provided by Chapter 131 herein.

(Ord. 13, passed 5-1-1969)

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**CHAPTER 91: FIRE PREVENTION; FIREWORKS**

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Section

91.01 Control of opening burning

91.02 Outdoor free-standing furnaces

91.03 Fireworks

91.99 Penalty

**§ 91.01 CONTROL OF OPENING BURNING.**

(A) *Title.* This section shall be referred to as the Opening Burning Ordinance and shall apply to all property within the Village of Pinckney.

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

**OPENING BURNING.** 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, yard waste (including leaves, brush, tree

trimmings and grass) 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.** The burning of materials other than rubbish, garbage, waste paper, leaves, brush, grass 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.

(C) *Prohibited burning.*

(1) It shall be a violation of this section 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 divisions (D) and (E) below.

(2) No person shall conduct a salvage operation by open burning.

(D) *Permit.* Open burning may be done under permits as follows:

(1) Open burning may be conducted upon obtaining a written permit from the Police Chief or his or her designee for occasional special events, such as high school rallies, block parties, yule logs and religious gatherings and for the burning of yard waste when burned at a location and under the conditions authorized under this section.

(2) A request is made to the Police Chief or his or 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 the 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 yard waste, such as leaves, brush, tree trimmings and grass, within 300 feet of a residential dwelling; and
- (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 Police Chief or his or her designee.

(E) *Exceptions to section.* Provided there is compliance with the provisions of the Uniform Fire Code, as duly adopted by the county, this section 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, tanners, 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;
- (4) Fires set for Fire Department training purposes or similar Fire Department activities; and
- (5) **RECREATIONAL FIRES**, as defined in division (B) above.

(F) *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. 70, passed 1-23-2006) Penalty, see §91.99

## § 91.02 OUTDOOR FREE-STANDING FURNACES.

(A) *Purpose.* The purpose of this section 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 citizen's 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.

(B) *Definitions.* **FREE-STANDING FUEL-BURNING 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;
- (3) Is not located within a residential or other structure for which it provides heat, unless the structure is designed solely to house the furnace; and
- (4) Excluded from the definition of a **FREE-STANDING FUEL-BURNING FURNACE** is any device which is not designed or used to heat a structure other than the structure in which it is located.

(C) *Regulations.* It shall be unlawful to install or operate a free-standing fuel-burning furnace, within the village.

(D) *Existing free-standing fuel-burning furnace.* This section shall not apply to any freestanding fuel-burning furnace that was installed, connected and operating as of the effective date of this section. However, this section shall not be deemed as specific authorization for the use of any pre-existing free-standing fuel-burning furnace and shall not be deemed to bar, limit or otherwise affect the rights of any person to take private legal action regarding damage to a nuisance caused by the use of a free-standing fuel-burning furnace. If a pre-existing free-standing fuel-burning furnace is converted, moved to a new location within the same property or is adapted to service additional structures, it will be construed to be a newly installed furnace and this section shall apply in its entirety. Any free-standing fuel-burning furnace installed or operated in violation of this section is hereby declared to be a nuisance per se.

(Ord. 89, passed 7-27-2009) Penalty, see §91.99

### § 91.03 FIREWORKS.

(A) *Preamble.* The Michigan Fireworks Safety Act, Act No. 256 of the Public Acts of Michigan of 2011, effective January 1, 2012, legalized the sale of consumer fireworks in Michigan, and delegated to local communities limited control over the use and discharge of the fireworks. The village recognizes that fireworks endanger property, can cause physical injury, and disrupt the peace and quality of neighborhoods and commercial districts. The village endeavors to reconcile the rights that this Act confers upon sellers and consumers, with the rights of the citizens, and families to reside in a safe, harmonious community. The following divisions are adopted to repeal existing fireworks ordinances that conflicted with the Act, and to impose conditions on the time, place and manner of use, discharge and ignition of fireworks deemed to be within the purview of local regulation, and within the interest of the public, health, safety and welfare.

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

**CONSUMER FIREWORKS.** That term as defined in Michigan Fireworks Safety Act.

**DISPLAY FIREWORKS.** That term as defined in Michigan Fireworks Safety Act.

**FIREWORK** or **FIREWORKS.** That term as defined in Michigan Fireworks Safety Act.

**LOW IMPACT FIREWORKS.** That term as defined in Michigan Fireworks Safety Act.

**MICHIGAN FIREWORKS SAFETY ACT** or the **ACT.** Public Act 256 of 2012, being M.C.L.A. §§ 28.451 *et seq.*, as it may be amended from time to time.

**RETAILER.** That term as defined in Michigan Fireworks Safety Act.

**WHOLESALE.** That term as defined in Michigan Fireworks Safety Act.

(C) *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 the 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 U.S.C. § 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) No individual shall use, ignite, or discharge consumer fireworks or low-impact fireworks while under the influence of alcohol, a controlled substance and/or a synthetic marijuana or other illegal substance. **ALCOHOLIC LIQUOR** means that term as defined in Section 1d of the Michigan Vehicle Code, Act No. 300 of the Public Acts of Michigan of 1949, M.C.L.A. § 257.1d, or any subsequent provision amending or replacing that provision. **CONTROLLED SUBSTANCE** means that term as defined in Section 8b of the Michigan Vehicle Code, Act No. 300 of the Public Acts of Michigan of 1949, M.C.L.A. § 257.1d, or any subsequent provision amending or replacing that definition. **SYNTHETIC MARIJUANA OR OTHER ILLEGAL SUBSTANCES** are as determined under the Public Act 180-183 of 2012, and the Public Health Code, Act No. 368 of the



Public Acts of Michigan of 1978, M.C.L.A. § 333.2451. A violation of this provision shall be a misdemeanor and shall result in the seizure, removal and storage of the fireworks, at the expense of the responsible person.

(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.

(e) Fireworks, including consumer fireworks, shall not be ignited within 20 feet of an open flame, a burner, gasoline, ignited gas or electric grill, or any combustible or flammable item or compound, or in any enclosed structure, garage, tent, or shed, or under any canopy or overhanging cover of any nature.

(f) Any use of fireworks that disrupts the peace of the public, which may include deposits of litter or debris caused by fireworks is prohibited, notwithstanding anything to the contrary in the Michigan Fireworks Safety Act.

(g) No person shall, either individually or in concert with another person, cause damage to any private or public property by the use, discharge or ignition of any fireworks. Any violation of this provision is subject to any penalty imposed under the Michigan Fireworks Safety Act, except that damage to public property under control of the village or damage to any private property not protected in the Michigan Fireworks Safety Act is a misdemeanor, if a higher offense is not available under state law.

(h) No consumer fireworks may be ignited, launched, or discharged within 30 feet of any house, structure, building, vehicle, or landscaping. Landscaping may include, without limitation, any tree, bush, flowers, vegetable garden, or gazebo.

(i) No person shall at any time discharge or ignite any low impact fireworks within 15 feet of another person's property, without the owner's permission. Any violation is a municipal civil infraction.

(D) *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 the Michigan Fireworks Safety Act, and any applicable federal laws and regulations.

(E) *Display fireworks permits.* Upon application in writing to the village by any individual, 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 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. The application form for permits under this section shall be provided the State of Michigan, and applicants shall pay the application fee to the village in an amount determined by Council resolution.

(F) *Seizure and removal of fireworks.* Any fireworks that are possessed, sold, distributed or displayed in violation of the Michigan Fireworks Safety Act or the code of zoning ordinances of the village are subject to seizure and removal by the police department or fire department, at the expense of the responsible person, in addition to other penalties as provided in this section or by other ordinance.

(G) *Imminent danger or threat.* Notwithstanding the Act, any use, discharge or ignition of fireworks that is presenting an imminent danger or threat to the public health, safety or welfare, as deemed by a police officer or the fire marshal, or his or her designee, shall be prohibited, and the fireworks may be immediately seized.

(H) *Seizure and cost recovery.*

(1) All fireworks used, discharged and ignited and possessed in violation of the Act and this section are subject to seizure. Any costs incurred by the village to seize and store the fireworks shall be paid by the responsible person.

(2) Any costs the village incurs to respond and remediate any damage to private or public property or injury to another person shall be paid by any person responsible for the damage or injury. The village may pursue any legal remedies to collect such costs.

(I) *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 § 10.99(C), 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. 112, passed 7-23-2012; Ord. 119, passed 6-24-2013; Ord. 126, passed 9-14-2015)

**§ 91.99 PENALTY.**

A person who violates any provision of this chapter is responsible for a municipal civil infraction set forth in Chapter 131 of this code, subject to payment of a civil fine as specified in Village's Municipal Civil Infraction Ordinance, plus costs and other sanctions for each infraction. Repeat offenses shall be subject to increased fines.

(Ord. 70, passed 1-23-2006)

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## **CHAPTER 92: STREETS AND SIDEWALKS**

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## **STREET AND STREET RIGHT-OF-WAY PROTECTION**

### **§ 92.01 NAME.**

This subchapter shall hereafter be known as the Village of Pinckney Street and Street Right-of-Way Protection Ordinance. (Ord. 57, passed 9-9-2002)

### **§ 92.02 PURPOSE.**

The Village of Pinckney needs to be able to monitor work in or upon the village streets and street right-of-ways through the permitting process in order to maintain and protect the condition of the streets and street right-of-ways within the jurisdiction and control of the village. This enables the village to coordinate activities between the village and other entities, maintain a record of work within village streets, establish specific village requirements to help protect village streets and street right-of-ways and to supervise activities on village streets or within street right-of-ways that could damage those streets or street right-of-ways.

(Ord. 57, passed 9-9-2002)

### **§ 92.03 PERMITS REQUIRED.**

Any work within or upon any village street or street right-of-way that will include, but not be limited to, disturbing the pavement, curb and/or gutter, driveway entrance or sidewalk, requires a permit for that purpose. A Utility company, property owner, or his/her authorized agent, shall complete an "application for authorization to construct utilities, excavate, or perform work in village streets or right-of-way" to apply for a street right-of-way permit at the village. The work would also include the movement of any trucks, truck tractors or other heavy equipment upon village streets outside established truck routes as established pursuant to § 71.06 and in accordance with the Motor Vehicle Code adopted by the village by reference in § 70.01. The terms **TRUCK** and/or **TRUCK TRACTOR** as used herein, shall have the meaning as set forth in M.C.L.A. § 257.75 and M.C.L.A. § 257.77, respectively. Since there might be circumstances where travel by a truck or truck tractor over a village street or street that is not a designated truck route is necessary, especially for the development and/or construction of projects that involve more than, or other than, a single-family dwelling, this subchapter will provide a means by which the use of a non-designated truck route street may be used. Any work that does not disturb the right-of-way is exempt from permitting requirements except that traffic detours or lane closures must be approved by the Director of Public Works and/or his or her designee. Work covered under §§ 92.25 et seq. shall be subject to the permitting process under §§92.25 et seq.

(B) This subchapter shall not be deemed to apply to construction traffic related to the construction, remodeling or repair of a new or existing single-family home.

(Ord. 57, passed 9-9-2002; Ord. passed 10-2-2002; Ord. passed 10-7-2002; Ord. 155, passed 1-11-2021)

### **§ 92.04 OBTAINING A PERMIT.**

(A) Prior to commencement of any work that would include, but not be limited to, disturbing the pavement, curb and/or gutter, driveway entrance, sidewalk, the street or street right-of-way or the movement of trucks, truck tractors or heavy equipment upon village streets outside village established truck routes, the necessary permit shall be obtained from the Director of Public Works and/or his or her designee. If work on an existing permit has not been started by the expiration date, the permit will become void and a new permit will then be required to initiate the work. The fee for the permit shall be in accordance with the fee schedule then in effect, plus any financial guarantees that might be required, depending upon the nature of the work for which the permit is sought. No permit will be issued until all fees and guarantees have been paid and/or posted. The permit will be issued in the name of the person who requests the permit and not in the name of the contractor or subcontractor.

(B) In the event that the work proposed to be done provides a risk of damage to the surface of the street or is the result of truck or truck tractor traffic, or the movement of heavy equipment on streets outside established village truck routes, the Director of Public Works shall refer the permit applicant to the Village Council for issuance of a permit. The Village Council shall review the application and, if a majority of the Council finds there is a risk of damage or destruction to the street(s), the Council may decide to withhold issuance of the permit until the applicant posts with the village an adequate financial guarantee in cash, bond or a letter of credit acceptable to the Village Council per § 152.026 regarding performance guarantee. The guarantee shall be deemed adequate if it is in an amount equal to the cost that would be incurred if the street surface had to be replaced for the length of the street that will be traveled by the trucks, truck tractors or heavy equipment. This replacement cost shall be computed by the Village Engineer based upon then prevailing costs. The financial guarantee shall be held by the village until two years after the work has been completed and all truck, truck tractor and/or heavy equipment traffic has ceased its use of the village street(s) or street right-of-way for the work for which the permit was issued or as otherwise approved by the Village Council. Thereafter the Village Engineer shall inspect the street to determine the extent of damage attributable to the use. If any repairs or replacement is necessary the village shall order the repairs to be made and the cost shall be deducted from the financial guarantee and any remaining balance returned to the applicant. In the event the financial guarantee proves to be insufficient to cover the repair costs, the applicant shall be responsible to pay any shortfall. During the period of time when the work is being done, or while the trucks, truck tractors or heavy equipment traffic is using the street(s), the applicant shall insure that any dirt, debris and the like from the work or work site is not allowed to accumulate on village streets and shall clean the village street(s) for which the travel route is specified as needed to accomplish this, unless otherwise agreed by the Village Council. Failure of the applicant to so clean the street will be grounds to allow the village, at its option, to clean the street(s) and assess those costs to the applicant including obtaining reimbursement from the guarantee.

(Ord. 57, passed 9-9-2002; Ord. passed 10-2-2002; Ord. passed 10-7-2002; Ord. 155, passed 1-11-2021)

#### **§ 92.05 RESPONSIBILITY.**

The applicant receiving the permit is responsible for the work performed, and the village will contact the applicant to whom the permit was issued for required adjustments or corrections regardless of whether the applicant performed the work himself or herself or subcontracted and assigned the work. The permit is issued to the person applying for the permit and that person is solely responsible for the work performed.

(Ord. 57, passed 9-9-2002; Ord. 155, passed 1-11-2021)

#### **§ 92.06 INSPECTION.**

In all cases the permit applicant shall notify the village when the work will commence so, if necessary, arrangements may be made to have the Village Engineer or qualified Village Agent present while the work is in progress. The applicant will be billed for the necessary expense of this inspection in accordance with the Village Fee Schedule.

(Ord. 57, passed 9-9-2002; Ord. 155, passed 1-11-2021)

#### **§ 92.07 GENERAL WORK SITE RESPONSIBILITIES.**

The applicant shall be responsible to ensure that the condition of any village street or street right-of-way is not damaged as a result of the project for which the permit was issued. Pavement repairs shall be warranted until the time as the village shall overlay or reconstruct the pavement. Should the condition of a patch become such that additional pavement is in jeopardy of failure, the applicant may be held responsible for an area larger than the original repair. Other repairs (sidewalk, curb and gutter, trenches and the like) shall be warranted for the reasonable life of the structures.

(Ord. 57, passed 9-9-2002; Ord. 155, passed 1-11-2021)

#### **§ 92.08 ADDITIONAL CONDITIONS.**

(A) In granting a permit, the Director of Public Works or the Village Council may attach the conditions thereto as may be reasonably necessary to prevent damage to public or private property or to prevent the operation from being conducted in a manner hazardous to life or property or in a manner likely to create a nuisance.

(B) The conditions may include, but shall not be limited to:

- (1) Limitations on the period of time in which the work may be performed;
- (2) Restrictions as to the size and type of equipment commensurate with the work to be done;
- (3) Designation of routes upon which materials may be transported;
- (4) The place and manner of disposal of excavated materials;
- (5) Requirements as to the laying of dust palliative, the cleaning of streets, the prevention of noise and other results offensive or injurious to the neighborhood, the general public or any portion thereof in accordance with the Village Technical Standards; and
- (6) Regulations as to the use of streets in the course of the work which could also include setting the hours during which work can be done in accordance with the Village Technical Standards.

(Ord. 57, passed 9-9-2002; Ord. 155, passed 1-11-2021)

#### **§ 92.09 PERMIT FEES.**

Permit fees shall be set forth in the Village Fee Schedule.

(Ord. 57, passed 9-9-2002; Ord. 155, passed 1-11-2021)

#### **§ 92.10 ROADWAY AND PARKING LOT DESIGN CRITERIA.**

Roadway and parking lot design plans must be submitted to the village as part of the final site plan application. The plans shall be designed and the project constructed in accordance with the Village Technical Standards. Plans are not required for projects limited to resurfacing of roadways or parking lots.

(Ord. 155, passed 1-11-2021)

### **STREET UTILITY RIGHT-OF-WAY**

#### **§ 92.25 PURPOSE.**

The Village of Pinckney needs to be able to monitor work in the village streets and street right-of-ways through the permitting process in order to maintain and protect the condition of the streets and street right-of-ways within the jurisdiction and control of the village. This enables the village to coordinate activities between the village and other entities, maintain a record of work within village streets, establish specific village requirements to help protect village streets and street right-of-ways and to supervise activities on village streets or within street right-of-ways that could damage those streets or street right-of-ways.

(Ord. 56, passed 11-27-2000; Ord. passed 9-9-2002)

#### **§ 92.26 PERMITS REQUIRED.**

Any work within any village street or street right-of-way that will include, but not be limited to, disturbing the pavement, curb and/or gutter, driveway entrance, sidewalk, landscaping or grassed areas requires a permit. A utility company, property owner, or his/her authorized agent, shall complete an "application for authorization to construct utilities, excavate, or perform work in village streets or right-of-way" to apply for a street right-of-way permit at the village. This work may include, but is not limited to, utility main and/or lateral replacement and repair, valve replacement and repair, installation of new underground mains or laterals, structures or accessories, splices, buried drops (under pavement or sidewalks), pole changes for height, accident and the like, cathodic protection, boxes and vault installations and jacking or boring under the right-of-way where disturbance within the right-of-way may occur. The work could also include the travel of any trucks, truck tractors or other heavy equipment upon village streets outside established truck routes as established pursuant to § 71.06 and in accordance with the Motor Vehicle Code adopted by the village by reference in § 70.01. The terms **TRUCK** and **TRUCK TRACTOR** as used herein, shall have the meaning as set forth in M.C.L.A § 257.75 and M.C.L.A. § 257.77, respectively. Any utility work that does not disturb the right-of-way is exempt from the permitting requirements except that traffic detours or lane closures must be approved by the Director of Public Works and/or his or her designee.

(Ord. 56, passed 11-27-2000; Ord. passed 9-9-2002; Ord. 155, passed 1-11-2021)

#### **§ 92.27 EMERGENCY STREET CUTS.**

The Village Engineer, or qualified Village Agent may, if the public safety requires immediate action, grant permission to make a necessary street cut or excavation before a permit is issued. Street cuts shall be per § 92.31.

(Ord. 56, passed 11-27-2000; Ord. 155, passed 1-11-2021)

#### **§ 92.28 OBTAINING PERMITS.**

(A) Prior to commencement of any work that would include, but not be limited to, disturbing the pavement, curb and/or gutter, driveway entrance, sidewalk, the street or street right-of-way or the movement of trucks or heavy equipment upon village streets outside established truck routes, the necessary permit shall be obtained from the village. Unless otherwise agreed, emergency work requires that a permit be obtained as soon as possible but not later than 48 hours after the onset of work. Permits are usually issued for the time period requested by the applicant. However, when situations warrant, the permit expiration date may be extended if prior notification is received and the applicant is otherwise in compliance with applicable village ordinances. If work on an existing permit has not been started by the expiration date, the permit will be canceled and a new permit will then be required to initiate the work. The fee for the permit shall be in accordance with the fee schedule then in effect, plus any financial guarantees that might be required, depending upon the nature of the work for which the permit is sought. No permit will be issued until all fees and guarantees have been paid and/or posted per Village Fee Schedule and § 152.026.

(B) In the event that the work proposed to be done provides a risk of damage to the surface of the street as the result of truck traffic, or the movement of heavy equipment on streets outside established village truck routes, the Village Engineer, Director of Public Works, or other qualified Village Agent shall refer the permit applicant to the Village Council for issuance of a permit. The Village Council shall review the application and, if a majority of the Council finds there is a risk of damage or destruction to the street(s), the Council may decide to withhold issuance of the permit until the applicant posts with the

village an adequate financial guarantee in cash or a letter of credit acceptable to the Village Council. The guarantee shall be deemed adequate if it is in an amount equal to the cost that would be incurred if the street surface had to be replaced for the length of the street that will be traveled by the trucks or heavy equipment. This replacement cost shall be computed by the Village Engineer based upon then prevailing costs. The financial guarantee shall be held by the village until one year after the work has been completed and all truck and/or heavy equipment traffic has ceased its use of the village street(s) or street right-of-way for the work for which the permit was issued. Thereafter the Village Engineer shall inspect the street to determine the extent of damage attributable to the use. If any repairs or replacement is necessary, the village shall order the repairs to be made and the cost shall be deducted from the financial guarantee and any remaining balance returned to the applicant. In the event the financial guarantee proves to be insufficient to cover the repair costs, the applicant shall be responsible to pay any shortfall. During the period of time when the work is being done, or while the truck or heavy equipment traffic is using the street(s), the applicant shall insure that any dirt, debris and the like from the work or work site is cleaned from the village street(s) on a daily basis unless otherwise agreed by the Village Council. Failure of the applicant to so clean the street will be grounds to allow the village, at its option, to clean the street(s) and deduct those costs from the guarantee.

(Ord. 56, passed 11-27-2000; Ord. passed 9-9-2002; Ord. 155, passed 1-11-2021)

#### **§ 92.29 RESPONSIBILITY.**

The applicant receiving the permit is responsible for the work performed and the Village of Pinckney will contact the applicant to whom the permit was issued for required adjustments or corrections regardless of whether the applicant performed the work himself or herself or subcontracted and assigned the work. The permit is issued to the person applying for the permit and that person is solely responsible for the work performed.

(Ord. 56, passed 11-27-2000; Ord. passed 9-9-2002; Ord. 155, passed 1-11-2021)

#### **§ 92.30 INSPECTION.**

In all cases the permit applicant shall notify the village when the work will commence so, if necessary, arrangements may be made to have the Village Engineer or qualified Village Agent present while the work is in progress. The applicant will be billed for the necessary expense of this inspection in accordance with the Village Fee Schedule.

(Ord. 56, passed 11-27-2000; Ord. passed 9-9-2002; Ord. 155, passed 1-11-2021)

#### **§ 92.31 STREET CUTS AND NEW PAVEMENT.**

(A) *Street excavations.* No permit shall be granted for making an excavation or opening within the limits of a street, which will result in permanent or prolonged interference with public use of the street.

(B) *Open cuts.* No permit to make an opening or excavation in or under a paved street shall be granted to any person within seven years after the completion of any paving or resurfacing thereof. Open cuts on graveled streets are permitted. Paved streets that have been resurfaced within seven years will be subject to bore and jack of the street unless authorized by Village Council.

(C) *Saw cuts.* All pavement cuts shall be saw cut in a straight manner and shall be made at right angles or parallel with the centerline of the pavement.

(D) *Emergency openings.* Pavements less than seven years old may be cut in emergency situations or as a necessity as determined by the Village President and the Director of the Department of Public Works.

(Ord. 56, passed 11-27-2000)

#### **§ 92.32 GENERAL WORK SITE RESPONSIBILITIES.**

(A) A copy of the permit shall be kept on the job site at all times. The person to whom the permit was issued shall be responsible to insure that the condition of any village street or street right-of-way is not damaged as a result of the project for which the permit was issued.

(B) *Bonds, insurance, and other requirements.*

(1) At its sole discretion, the village shall determine which requirements and procedures as set forth in the village ordinances.

(2) Pavement repairs shall be warranted for a period of two years. Should the condition of the patch become such that additional pavement is in jeopardy of failure, the permittee may be held responsible for an area larger than the original repair. Other repairs (sidewalk, curb and gutter, trenches, etc.) shall also be warranted for a period of two years. This requirement shall be perfected by a maintenance and guarantee bond per § 152.026.

(Ord. 56, passed 11-27-2000; Ord. passed 9-9-2002; Ord. 155, passed 1-11-2021)

#### **§ 92.33 STANDARDS.**

Backfill and pavement replacement shall be as follows.

(A) *Saw cut.* All pavement cuts shall be saw cut in a straight and true manner, and shall be made at right angles or



parallel to the pavement centerline. Cuts shall be made to full depth. Pavements, less than seven years old, shall be cut in emergencies only, with the approval of the Village Engineer or qualified Village Agent.

(B) *Backfill.* All trenches, holes and pits shall be backfilled in accordance with the Village Technical Standards. All excavated material shall be entirely removed from the street. Excavated material that is wet or otherwise unfit for backfill shall be entirely removed and legally disposed of off site.

(C) *Pavement replacement.*

(1) The work of final restoration, including both paving surface and paving base, shall be performed by the permittee according to the Village Technical Standards, unless prior arrangements for final restoration have been made with the Village Engineer or qualified Village Agent.

(2) Pavement less than seven years old: the existing pavement shall be removed to provide a minimum replacement of 100 square feet with a minimum width of ten feet (measured parallel to the pavement centerline), with the same materials used in the existing pavement. The repair shall be made to the original pavement thickness or six inches, whichever is greater.

(3) Where the line of cut would be less than five feet from an existing expansion or weakened plane joint, or from an existing patch or cold joint, concrete or asphalt shall be removed to the joint.

(4) Pavement more than seven years old: the existing pavement shall be removed to provide a replacement of not less than five feet in width. The repair shall be made to the original pavement thickness or six inches, whichever is greater.

(5) All concrete replacement: including base material, shall be high-early strength concrete and shall be returned to traffic as soon as its strength reaches 2,800 psi (three days).

(6) Undermined pavement: All pavement undermined during construction shall be removed and replaced as directed by the Village Engineer or qualified Village Agent.

(Ord. 56, passed 11-27-2000; Ord. 155, passed 1-11-2021)

#### **§ 92.34 REPLACING SIDEWALK, DRIVEWAY AND CURB.**

Whenever a part of a block, square or section of curb, sidewalk or driveway is broken or damaged by the person making any excavation or opening in or under any street, alley or public place, the entire block, square or section shall be removed to the score, groove or saw cut line and replaced or reconstructed; when the line of cut would be less than two feet from an existing expansion or weakened plan joint, the concrete shall be removed to the joint all according to the Village Technical Standards.

(Ord. 56, passed 11-27-2000; Ord. 155, passed 1-11-2021)

#### **§ 92.35 MARKINGS.**

Each street cut shall be marked on its four corners with a six-inch diameter circle in accordance with § 8 of Public Act 53 of 1974, being M.C.L.A. §§ 460.701 through 460.718, Amendment of Michigan's Miss Dig Color Code.

(Ord. 56, passed 11-27-2000; Ord. 155, passed 1-11-2021)

#### **§ 92.36 TRENCHING OPERATION.**

Trenching shall be in accordance with Village Technical Standards.

(Ord. 56, passed 11-27-2000; Ord. 155, passed 1-11-2021) Penalty, see §92.99

#### **§ 92.37 RESTORING OPENING.**

(A) If the Village Engineer or qualified Village Agent finds that the paving surfaces and adjacent surfaces to the street opening may be damaged where trenches are made parallel to the street, or where a number of cross trenches are laid in close proximity to one another, or where the equipment used may cause the damage, the Village Engineer or qualified Village Agent may require a negotiated contribution from the permittee for the resurfacing in place of patching the street. The total area for the proposed patch or probably damaged area must exceed 25% of the total pavement surfacing between curb faces or between concrete gutter edges in any block. The negotiations shall be carried on and contributions agreed upon prior to issuance of a permit.

## **Streets and Sidewalks 19**

(B) Any operation in the right-of-way not covered by the above specifications, submitted with this permit, shall be done in accordance with instruction of the Village Engineer or qualified Village Agent.

(C) (1) In granting a permit, the Village Engineer or qualified Village Agent or the Village Council may attach the conditions thereto as may be reasonably necessary to prevent damage to public or private property or to prevent the operation from being conducted in a manner hazardous to life or property or in a manner likely to create a nuisance.

(2) The conditions may include, but shall not be limited to:

- (a) Limitations on the period of time in which the work may be performed;
- (b) Restrictions as to the size and type of equipment commensurate with the work to be done;
- (c) Designation of routes upon which materials may be transported;
- (d) The place and manner of disposal of excavated materials;

(e) Requirements as to the application of dust palliative, the cleaning of streets, the prevention of noise and other nuisances offensive or injurious to the neighborhood, the general public or any portion thereof; and

(f) Regulations as to the use of streets in the course of the work which could also include setting the hours during which work can be done.

(D) The permittee shall notify the Village Engineer or qualified Village Agent in writing upon completion of all work accomplished under the provisions of the permit in accordance with the Village Technical Standards.

(E) If any settlement in a restored area occurs within a period of two years from the date of completion of the permanent restoration, any expense incurred by the village in corrected the settlement shall be paid by the permittee or recovered from his or her bond according to the Village Technical Standards, unless the permittee submits proof satisfactory to the Village Engineer or qualified Village Agent that the settlement was not due to defective backfilling.

(F) In no case shall any opening made by the permittee be considered in the charge or case of the village, or any of its officers or employees, and no officer or employee is authorized in any way to take or assume any jurisdiction over any opening, except in the exercise of the police power, when it is necessary to protect life and property.

(Ord. 56, passed 11-27-2000; Ord. passed 9-9-2002; Ord. 155, passed 1-11-2021)

### **§ 92.38 TEMPORARY TRENCH COVERING.**

All trenches across traffic lanes, where it becomes necessary to remove any existing surfacing or pavement, shall be provided in accordance with the Village Technical Standards.

(Ord. 56, passed 11-27-2000; Ord. 155, passed 1-11-2021)

### **§ 92.39 PERMANENT TRENCH COVERING.**

The pavement placement shall take place before the construction year ends, no later than November 15, and all cuts made in the off season, November 15 to April 15, shall be completed before June 15 of the following constructions season, unless prior arrangements have been made with the Director of Public Works or qualified Village Agent.

(Ord. 56, passed 11-27-2000; Ord. 155, passed 1-11-2021)

### **§ 92.40 PERMIT FEES PER UTILITY RIGHT-OF-WAY.**

Permit fees per utility right-of-way shall be as set forth in the Village Fee Schedule.

(Ord. 155, passed 1-11-2021)

### **§ 92.41 ROADWAY AND PARKING LOT DESIGN CRITERIA.**

Roadway and parking lot design plans must be submitted to the village as part of the final site plan application. The plans shall be designed and the project constructed in accordance with the Village Technical Standards.

(Ord. 155, passed 1-11-2021)

### **§ 92.42 DRIVEWAY PERMITS.**

(A) Any work to construct a driveway that will be accomplished within the right-of-way of any road under the jurisdiction of the Village of Pinckney requires a permit as set forth in § 92.04. A plot plan shall be attached to the application and the location of the property corners and proposed driveway approach must be clearly staked. All driveways must be constructed in accordance with the Village Technical Standards.

(B) All pre-existing driveways that are to be resurfaced or paved shall comply with this section.

(C) The property owner or his/her authorized agent shall maintain in perpetuity all conditions set forth in the permit.

(D) The property owner or his/her authorized agent shall undertake all necessary precautions to prevent injury or damages to persons and property from operations covered by the permit and shall use warning signs and safety devices which are in accordance with the current MMUTCD requirements.

(E) In the event of a failure to comply with the terms and conditions of any permit issued in accordance with these rules or failure to obtain an appropriate permit, the village shall have the right to halt such activity until such time that adequate compliance is made. All costs incurred by the village in correcting the following shall be borne by the property owner or his/her authorized agent:

- (1) A failure to comply with the conditions and standards of a permit;
- (2) A failure to obtain a permit;
- (3) Defective workmanship or materials.

(F) *Driveway approach: application, permit and inspection procedures.*

(1) A property owner or his/her authorized agent shall complete an application for authorization to construct utilities, excavate, or perform work in village streets or right-of-way as set forth in § 92.04 to apply for a street right-of-way permit and include a plot plan.

(2) Fees associated with the application, permit and inspection activities will be included in the fee schedule and indicated on the application form. All fees are due when the application is submitted to the village. The village may also require security as provided in the fee schedule to secure the cost of restoring the disturbed portion of the public street right-of-way to a safe and acceptable level. Upon submittal of the application and fees, the applicant will be issued a receipt, and the Village Zoning Administrator will schedule an initial field inspection.

(3) The receipt issued to the applicant will designate an application number and anticipated completion date of the initial field inspection. The applicant will be responsible for contacting the village on or after the date indicated on the receipt for a full status of the initial field inspection. The Village Engineer or qualified Village Agent will conduct the initial field inspection and determine if, in their opinion, the approach standards can be met.

(4) If any of the approach standards cannot be met, the applicant will be advised about the deficiencies. All deficiencies must be corrected to the satisfaction of the Village Zoning Administrator or qualified Village Agent prior to issuance of a street right-of-way permit and in some instances, plans may be submitted, or previously submitted plans may be revised, to indicate proposed corrections. However, the Village Zoning Administrator or qualified Village Agent may require the applicant, or the applicant may prefer to correct the deficiencies under the terms of an interim permit. All of the conditions of the interim permit must be completed, and verified by an interim inspection, prior to issuance of a street right-of-way permit.

(5) If all of the approach standards can be satisfied, the applicant will be issued a street right-of-way permit. Any additional costs incurred by the village, not covered by fees submitted during application, are due at this time. The county building department, prior to their issuance of a building permit, may require a copy of the street right-of-way permit and/or soil erosion and sedimentation control permit.

(6) The permittee will be responsible for completing all items of construction set forth in the street right-of-way permit prior to the expiration date on the permit. Once completed, the permittee will be responsible for notifying the village so that a compliance inspection can be scheduled. Failure to notify the village by the expiration date may result in revocation of the permit and removal (without notice) of any portion of the approach within the public street right-of-way.

(7) Upon satisfactory completion of the approach, verified by a compliance inspection, the village will issue a compliance report to the permittee indicating compliance. If the approach is determined to be in noncompliance, it will be so noted on the compliance report. Items of noncompliance are to be corrected by the permit holder within a reasonable time period, or the permit and approach are subject to revocation and removal, with the permit holder responsible for all costs incurred by the village.

(8) The county building department, prior to their issuance of a certificate of occupancy may require a compliance report indicating satisfactory completion.

(G) *Driveway approach definition.*

(1) A driveway approach for the purpose of serving the residents of one single-family dwelling shall be defined as a residential driveway approach.

(2) A driveway approach for the purpose of serving any property other than one single family dwelling shall be defined as a commercial driveway approach.

(Ord. 155, passed 1-11-2021)

## **SIDEWALKS**

### **§ 92.55 DESIGN, CONSTRUCTION AND REPAIR; COMPLIANCE REQUIRED.**

The sidewalks and curb adjacent to sidewalks of all public streets and alleys in the village designed, constructed or repaired after the effective date of this subchapter shall, unless otherwise ordered by Council, be designed, constructed or repaired in the manner provided in this subchapter and shall meet the requirements of the Village Technical Standards.

Sidewalks shall be constructed on all road frontages within the village unless otherwise waived by the Village Council.

(Ord. 33, passed 7-10-2000; Ord. 155, passed 1-11-2021)

#### **§ 92.56 LINE AND GRADES.**

(A) All sidewalks constructed or repaired as set forth in this subchapter shall conform to the established grade of the street in accordance with the Village Technical Standards, unless otherwise ordered by Council. The line and grade for all walks constructed or repaired as set forth in this subchapter shall be given by, and all of the construction work shall be under the supervision of the Village Engineer or qualified Village Agent.

(B) All sidewalks shall be constructed or repaired in accordance with the Village Technical Standards.

(Ord. 33, passed 7-10-2000; Ord. 155, passed 1-11-2021)

#### **§ 92.57 PERMITS TO CONSTRUCT OR REPAIR; FEE.**

(A) Every person who constructs a sidewalk or repairs and/or replaces sidewalks in the village shall, for each job, first obtain from the appropriate permit to proceed with the proposed work. For sidewalks within the right of way, an application for authorization to construct utilities, excavate, or perform work in village streets or right-of-way is required. For any sidewalks outside the right of way, a land use permit is required. All permits for sidewalk require a plot plan. The permit is to be issued upon receipt of a completed permit application and submission of the permit fee as set forth in the Village Fee Schedule. Every permittee shall comply with all requirements as to grade, width, specifications and all other provisions of this subchapter and the Village Technical Standards relative to the laying, constructing and repairing of sidewalks.

(B) The Council, Village Engineer or qualified Village Agent may revoke a permit issued under this subchapter for incompetency or failure to comply with this subchapter or the rules, regulations, plans and the Village Technical Standards for the construction or repair of sidewalks.

(C) The Village Engineer or qualified Village Agent may cause work to be stopped under a permit granted for the construction or repair of a sidewalk, for any of the causes enumerated in this section, until the next regular meeting of Council.

(Ord. 33, passed 7-10-2000; Ord. 155, passed 1-11-2021)

#### **§ 92.58 NECESSITY OF CONSTRUCTION OR REPAIR.**

The Council shall determine the necessity of construction, repair or replacement of public sidewalks to protect the public health, safety and welfare. The construction of a new sidewalk is required when a vacant parcel is developed, as well as when there is a building addition or usage change requiring site plan approval. The Council may waive the new sidewalk requirement for good cause shown, provided the landowners sign a recordable instrument guaranteeing construction and payment therefore at a future time as directed by the village.

(Ord. 33, passed 7-10-2000; Ord. 155, passed 1-11-2021)

#### **§ 92.59 PARTIAL PAYMENT OF REPAIR BY VILLAGE.**

(A) The village may authorize payment, from an appropriate budgetary account, of an amount as determined by resolution of Council, from time to time, toward the cost of existing sidewalk repair and/or replacement, upon receipt from the property owner involved of a request for the payment. The request for payment by the village shall include a statement from the Village President and/or qualified Village Agent approving the request and the amount thereof. No payment by the village shall be authorized unless:

(1) A sidewalk construction permit was obtained prior to making the repair and/or payment therefore is recommended by the Village President and/or qualified Village Agent; or

(2) The Village President and/or qualified Village Agent caused the work to be done pursuant to §92.61.

(B) This section shall not apply to the construction of new sidewalks.

(C) Pursuant to division (A) above, the village may elect to pay an amount, to be established by Council resolution of the replacement cost through the Village's Sidewalk Replacement Program, toward the cost of sidewalk repair and/or replacement from the appropriate, budgetary account upon receipt from the property owner involved of a request for each payment and upon compliance with the provisions of division (A) above.

(Ord. 33, passed 7-10-2000; Ord. 155, passed 1-11-2021)

#### **§ 92.60 RESPONSIBILITY FOR CONSTRUCTION COSTS; METHOD OF PAYMENT.**

(A) The village may elect to pay a percentage established by Council resolution of the construction cost for sidewalk replacement in the right-of-way abutting private property, in addition to the cost in public areas, intersections and the like. For property owners performing their own sidewalk replacement, the village may choose, based on appropriate documentation, to reimburse the property owner at a rate to be established by Council resolution.

(B) Property owners shall pay the costs of the sidewalk work in full at the time statements and/or invoices are mailed by

the village to the property owners. In the event that the property owners cannot pay or wish to pay in installment payments, installment payments of not less than \$300 per year shall be paid by each property owner on or before February 28, the first installment, however, being due and owing within 30 days of the date of the statement and/or invoice. Statements and/or invoices for subsequent installment payments shall be mailed by the village on or before January of each of the successive years until the time as all payments are made. Interest shall be charged at the rate of 1/2% per month (or any portion thereof) on the unpaid balance, beginning 30 days after the first installment becomes due and owing, if the property owner chooses the installment payment method, any annual installment payment which is not made on or before April 1 of the year in which it is due, the entire unpaid balance, with interest, shall be certified as delinquent and placed on the tax roll of the village for that year. The certification shall make the entire amount due and owing by the property owner a lien on the real estate and the amount shall be collected in a method as set forth and provided for in the Village Charter.

(Ord. 33, passed 7-10-2000)

#### **§ 92.61 NOTICE TO REPAIR OR CONSTRUCT; ACTION BY VILLAGE.**

(A) Whenever Council, by resolution, declare the necessity for the construction or repair of the sidewalk in and on any street in front of or adjacent to private property, the resolution shall state the names of the owners, their addresses and the location of the construction or repair. The Village Clerk shall cause to be prepared two notices. The first notice shall be a notice sent to the property owners affected, and the second notice shall be a notice for public hearing, which notice will notify the public at-large of the intention of the village to make the sidewalk improvements and to charge the cost thereof against the abutting property owner. The form of the notice sent to affected owners shall set forth the owners assessed, the estimated amount of sidewalk to be repaired or replaced, any new sidewalk to be installed and an estimated amount for the work. The notice shall also state that the property owner may cause the work to be done at his or her expense in conformity with the plans and specifications on file in the office of the Village Clerk, provided that this work is completed by a date to be determined by Council after the date of the public hearing. The notice shall also include the public hearing notice. The form of the public hearing notice shall state the time and place at which the Council shall meet for the purpose of reviewing the list of sidewalks so affected and hearing any persons so assessed who consider himself or herself aggrieved thereby. The public notice shall not contain the list of sidewalks so affected, but shall make reference that the list may be reviewed at the Village Clerk's office prior to the hearing. The notice to property owners shall be sent at least ten days prior to the date of the hearing by Council, and the Clerk shall notify the owners by first class mail, so far as the same are known and as shown on the tax rolls of the village. The Village Clerk shall cause the public notice to be published, once in a newspaper of general circulation in the village at least ten days before the public hearing.

(B) At the time and place designated in the notice for public hearing, the Council shall meet and hear all persons interested or affected in the construction or repair of sidewalks within the village, and shall consider all objections either given orally at the public hearing or filed with the Village Clerk. At the time and place, the Council shall review the resolution of necessity and the list of owners affected. The Council may alter, change or correct the same if necessary or may refer the list set forth in the resolution back to the Village President and/or Manager for revision. However, in altering, changing or conflicting the list set forth in the resolution, the Council shall not add any other sidewalk construction or repair not included in the original resolution, except as is necessitated during on-site construction or upon the approval of the affected property owner. Further, the Council may adjourn and continue the hearing from time to time. When the list set forth in the resolution has been set and confirmed by the Council, the Council shall, by resolution, approve the resolution of necessity and authorize the Village President and/or qualified Village Agent to commence work on the construction or repair of sidewalks so affected. The Village President and/or qualified Village Agent shall authorize additional sidewalk repair and/or replacement when, during construction, it is found that the repairs and/or replacement is necessary due to on-site inspection, or at the request of the property owner to enlarge the affected area for repair and/or replacement. A change made under these circumstances shall not require further Council approval or a corrected resolution.

(C) If the property owner fails to cause the work to be done within the time allotted by the Council after the date of the public hearing, then the Village President and/or qualified Village Agent shall proceed to have the work done and shall bill the property owner. The method of payment to be made by the property owner shall conform to § 92.60.

(Ord. 33, passed 7-10-2000; Ord. 155, passed 1-11-2021)

#### **§ 92.62 REMOVAL OF SNOW, ICE, DEBRIS OR DIRT.**

(A) No person owning or occupying any lot or premises abutting upon any street in the village shall permit sidewalks abutting the lot or premises to become obstructed by snow, ice, debris or dirt so as to inconvenience public traffic.

(B) All owners or occupants of any lot, lots or premises within the corporate limits of the village shall be required to remove all snow, ice, debris or dirt from the sidewalks that are adjacent to and abutting upon such lot, lots or premises within the following time frames:

(1) Within 24 hours for any obstructing debris or dirt.

(2) Within 24 hours after any snow or sleet storm shall cease, if the storm results in four or less inches of snow or precipitation.

(3) Within 48 hours after any snow or sleet storm shall cease, if the storm results in more than four inches of snow or precipitation.

(4) *Ice control.* The owner or occupant shall make a prudent effort to control ice accumulation by complete removal or by applying sufficient amounts of deicing material or sand, within the above time frames.



(C) If the sidewalk abutting any lot or premises in the village are not cleared of snow, ice, debris or dirt in the manner and within the time provided in divisions (A) and (B) above, then the village shall cause the sidewalks to be cleared at the expense of the property owner. After cleaning by the village, the actual cost thereof shall be reported to the Village Clerk. The Village Clerk shall keep a record specifying the description of the premises cleaned as aforesaid and, based upon these expenses, issue a certificate determining and certifying the reasonable cost involved for the work with respect to each parcel of property. 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 10%, 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.

(E) No person shall place, throw, deposit or dump any snow, ice, debris or dirt in or on any public right-of-way in any manner which impedes or interferes with the free flow of traffic, unless consent to do so is based upon necessity and permission is granted by the village.

(Ord. 33, passed 7-10-2000; Ord. 125, passed 2-23-2015) Penalty, see §92.99

### **§ 92.63 BUSINESS DISTRICT SNOW, ICE, DEBRIS, DIRT AND ENCROACHMENT REMOVAL.**

(A) The **BUSINESS DISTRICT**, as used in this section, is defined as that area zoned Central Business District, Secondary Business District and Residential Office Business District, as designated on the village zoning map. Every person having the care, either as owner or occupant of any business premises or any unoccupied premises bordered by a paved sidewalk in the Business District shall promptly remove all snow, ice, debris or dirt from the sidewalk within 12 hours after same has fallen, and keep the same free from obstruction, dirt, encroachments, encumbrances, filth and other nuisances. The owner or occupant shall make a prudent effort to control ice accumulation by complete removal or by applying sufficient amounts of deicing material or sand, within the above time frame.

(B) If the sidewalks abutting any business, as defined in the Business District, are not cleared of snow, ice, debris or dirt in the manner and within the time provided in division (A) above, then the village shall cause the sidewalks to be cleared at the expense of the business owner. After the cleaning by the village, the actual cost thereof shall be reported to the Village Clerk. The Village Clerk shall keep a record specifying the description of the premises cleaned as aforesaid and, based upon these expenses, issue a certificate determining and certifying the reasonable cost involved for the work with respect to each parcel of property. 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 10%, 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. 33, passed 7-10-2000; Ord. 92, passed 10-26-2009; Ord. 125, passed 2-23-2015)

### **§ 92.64 ENCROACHMENTS.**

(A) *Trees, bushes and shrubs.*

(1) All trees, bushes and shrubs in the street right-of-way of the Village of Pinckney shall be trimmed or pruned by the abutting property owner so that no branch thereof grows or hangs lower than eight and one-half feet above the level of the sidewalk and the road, and shall also be pruned so that they shall not encroach onto the sidewalk or street.

(2) All trees, bushes and shrubs on private property, the branches of which extend over the line of a street, or sidewalk shall be trimmed and pruned so that no branch grows or hangs over the line of the street or sidewalk lower than eight and one-half feet above the level of the sidewalk and the road, and shall also be pruned so that they shall not encroach onto the street or sidewalk.

(3) For any tree, bush or shrub in the street right-of-way or on private property that has not been trimmed or pruned as provided in division (A)(1) above or division (A)(2) above, the village shall cause those trees, bushes or shrubs to be trimmed or removed at the expense of the property owner. After the trimming or removal by the village, the actual cost thereof shall be reported to the Village Clerk. The Village Clerk shall keep a record specifying the description of the premises and the trees, bushes or shrubs trimmed or removed, and the cost, to the making of the annual assessment roll by the Village Treasurer. The Council may, by resolution, direct the Treasurer to levy on the next general assessment roll the amount which describes the property and trees, bushes or shrubs trimmed or removed by the village and shall state separately the expense chargeable to each description, which amount shall be assessed against the property in the resolution. The amounts of the special assessment for trimming or removal of trees, bushes or shrubs herein provided for shall be collected by the Village Treasurer at the same time and in the same manner as general village, state and county taxes and, upon nonpayment thereto, shall be reported to the County Treasurer in the manner provided by law.

(B) *Outdoor cafés.*



(1) *Definitions.* For the purposes of this subchapter, the term **OUTDOOR CAFÉ** shall mean an outdoor food service area operated adjacent to and in conjunction with a lawfully established restaurant or other establishment that sells food for immediate consumption on the premises. This definition shall include outdoor cafes on private property, a public sidewalk and/or a public right-of-way.

(2) *Permit.* The Zoning Administrator may issue a revocable outdoor café permit for an outdoor café, operated in connection with a lawfully established restaurant or other establishment that sells food for immediate consumption on the premises. The permits shall be issued subject to annual review and the following conditions:

(a) The outdoor café shall fully comply with the requirements of the Livingston County Department of Public Health, Michigan Liquor Control Commission and all other applicable state and local laws. For an outdoor café adjacent to a state trunkline (M-36), the applicant must first obtain a permit for the use from the Michigan Department of Transportation and shall submit a copy of the permit to the Zoning Administrator.

(b) The outdoor café shall not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity.

(c) The outdoor café shall be permitted to operate only during the normal operating hours of the associated restaurant.

(d) No furnishings may be attached by any means to any public area or public property.

(e) All tables, chairs and other equipment shall be constructed and set up in such a manner as to be easily removable, durable, easily cleaned, in sound condition and good repair.

(f) No food may be stored, cooked or otherwise prepared in the outdoor café area.

(g) No soiled food service equipment, utensils or tableware may be kept in the outdoor café area. All clean food service equipment, utensils and tableware must be covered at all times. Trash receptacles shall also be covered at all times and leak proof.

(h) The gross area occupied by the outdoor café shall be included in the required parking calculation under the village's Zoning Ordinance.

(i) No music, intercom or other noise shall be permitted that impacts adjacent properties.

(j) Umbrellas and similar temporary, easily removable shading devices are permitted provided the lowest point of the umbrella or covering is not lower than six feet, eight inches from the ground.

(k) In no event shall the operation of the outdoor café, including the placement of equipment or furnishings:

1. Interfere with the passage of pedestrian or vehicle traffic, or reduce the open portion of the public sidewalk to less than five feet, clear of all obstructions, measured from the edge of the sidewalk closest to the curb, lamppost or parking meter. In addition, no seating or other equipment shall be closer than five feet to any street tree or public sign;

2. Interfere with the use of or access to public or private property, including any building, parking space, curb cut, bus stop, crosswalk, mailbox, fire hydrant, fire escape, fire door or other means of ingress or egress;

3. Obstruct the clear view of any traffic signal, regulatory sign or street sign;

4. Interfere with street cleaning or snow removal activities; and

5. Cause damage to any street, sidewalk, tree, public bench, landscaping or other object lawfully located therein.

(l) The outdoor café may be located only along the length of the associated restaurant building. Under no circumstances shall the area of the outdoor café extend beyond the exterior building facade of the associated restaurant, or in any way encroach upon adjacent private or public property, except as provided for herein.

(m) The permit holder shall provide the village, in a form acceptable to the Village Attorney:

1. An agreement to indemnify, defend and hold harmless the village for any and all claims for liability or damages to persons or property resulting from the operation of the outdoor café; and

2. A certificate of general liability insurance naming the Village of Pinckney as the insured party. The amount of required general liability coverage shall be in accordance with the Fee Schedule for the injury or death of a person in any one incident and for damage to property in any one incident. Evidence of the required insurance shall consist of certification executed by an authorized agent of the insurance company indicating the amount and type of insurance, the location of coverage and shall certify that the insurance shall not be canceled unless notice of the intent to cancel is filed with the village at least ten days prior to the cancellation. The insurer shall have no less than a B++ rating by the most recent AM Best Insurance Rating Guide.

(n) The permit holder shall be responsible for the maintenance and upkeep of the public or private area used for the outdoor café and the replacement of damaged public property. Maintenance shall include daily cleaning of the area and repair or replacement of damaged pavement.

(o) The plot plan submitted and approved as part of the outdoor café permit shall show all of the information required in § 152.389(B), as well as the following:

1. Existing facade of the associated building;
2. All points of ingress and egress;
3. Proposed location of tables, chairs, serving equipment, planters, borders, awnings, umbrellas and other facilities to be included in the seating area; and
4. Location of existing public improvements including fire hydrants, street signs, street lights, traffic signals, mail boxes, trees and tree grates, parking meters, planting boxes, planting areas, fire escapes or similar obstructions.

(p) The person requesting issuance of the outdoor café permit for an outdoor café shall pay the permit fee as established by the Village Fee Schedule.

(3) *Revocation.* A outdoor café permit for an outdoor café may be revoked by the Zoning Administrator upon a finding that the outdoor café does not meet the standards of this section, any other provisions of this code or other applicable law, or that the space is needed for other purposes, or as provided for the revocation of permits under § 152.023. For an outdoor café adjacent to a state trunkline (M-36), the outdoor café permit shall be automatically revoked upon the revocation or expiration of the permit for the use from the Michigan Department of Transportation.

(4) *Appeal.* Persons who are refused a permit for an outdoor café, have their permit revoked or wish to protest the issuance of a permit that has been approved, may appeal that determination before the Zoning Board of Appeals, which shall review the appeal under the same standards applied in reviewing appeals of decisions of the Zoning Administrator under the Village Zoning Ordinance. Requests for a hearing or an appeal must be made within 30 calendar days of the decision in question.

(Ord. 33, passed 7-10-2000; Ord. 77, passed 2-12-2007; Ord. 92, passed 10-26-2009; Ord. 155, passed 1-11-2021)

### **§ 92.99 PENALTY.**

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

(B) Any person, firm or corporation who violates §§92.01*et seq.* is responsible for a misdemeanor and subject to 90 days in jail, a fine of up to \$500 or both. Each day that a violation continues shall constitute a separate offense subject to the penalties and provisions herein. In addition, the village shall also be entitled to file an action for immediate injunctive relief enjoining the activity or act giving rise to the violation of the ordinance and also be entitled to recover all costs incurred by the village in seeking the relief, including its actual attorney fees.

(C) Any person, firm or corporation who violates any provision of §§92.25*et seq.* is responsible for a municipal civil infraction set forth in Chapter 131 of this code, subject to payment of a civil fine as specified in §131.57 plus costs and other sanctions, for each infraction. Repeat offenses shall be subject to increased fines as provided by Chapter 131 herein.

(D) Any person, firm or corporation who violates any provision of §§92.55*et seq.* is responsible for a municipal civil infraction set forth in Chapter 131 of this code, subject to payment of a civil fine as specified in §131.57, plus costs and other sanctions for each infraction. Repeat offenses shall be subject to increased fines as provided by Chapter 131 herein.

(Ord. 33, passed 7-10-2000; Ord. 56, passed 11-27-2000; Ord. 57, passed 9-9-2002)

## **CHAPTER 93: CEMETERIES**

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### Section

#### ***Designation, Regulation and Control of Cemetery***

- 93.01 Definitions
- 93.02 Maintenance by Board of Cemetery Trustees
- 93.03 Sale or transfer of burial spaces
- 93.04 Owner's burial rights
- 93.05 Lot records
- 93.06 Labor charges; work in cemetery
- 93.07 Trespass; prohibited acts
- 93.08 Additional rules
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## DESIGNATION, REGULATION AND CONTROL OF CEMETERY

### § 93.01 DEFINITIONS.

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

**BURIAL SPACE.** A lot, or portion of a lot, in any cemetery designated and maintained for the interment of a human body or bodies and for no other purpose.

**CEMETERY.** The Pinckney Cemetery, as previously established, and any other public cemetery owned, managed or controlled by the village.

**CEMETERY SEXTON.** The Village President or his or her designee, and shall be charged with management, supervision, record keeping and care of the cemeteries.

**OWNER.** Any person or persons owning or possessing the privilege, license or right of interment in any burial space. The term owner shall not be construed in any way to grant title to any real estate within any village cemetery.

(Ord. 78, passed 6-25-2007)

### § 93.02 MAINTENANCE BY BOARD OF CEMETERY TRUSTEES.

The cemeteries which have been or may hereafter be established by the village and maintained either within or without its limits, shall be under the management, supervision and care of the Board of Cemetery Trustees as provided for in M.C.L.A. § 67.57, as amended.

(Ord. 78, passed 6-25-2007)

### § 93.03 SALE OR TRANSFER OF BURIAL SPACES.

(A) All burial right agreements for grave sites shall be executed on behalf of the village by the Village Clerk. Any person desiring to purchase a burial space in any village cemetery shall make application and pay the required amount for the grave site selected to the village. Upon the purchase of any burial space, the Village Clerk shall prepare and deliver to the purchaser, a duly executed burial right agreement for the burial space. The issuance of a burial right agreement shall not constitute a right in land, but rather a right to burial within the village cemetery subject to the rules and regulations of the village and the laws of the state.

(B) The Village Council shall determine the burial space purchase price and transfer fees by resolution and shall set the fees for cemetery services. The required charges shall be paid to the Village Treasurer and shall be deposited in the Cemetery Fund.

(C) No transfer of the burial rights other than by inheritance shall be recognized. Any person owning any burial space who has not used a portion of the burial space and wishes to relinquish his or her ownership, may convey the same to the village and will be paid \$75 for the unused grave site of the burial space at the time of the reconveyance. If any person wishing to relinquish rights for any burial space is not the original purchaser of the space, then that person must provide written proof of ownership of burial rights by inheritance prior to any reconveyance under this section. Private sale of burial rights shall be allowed if registered with the Village Clerk's office and payment of a \$10 fee.

(D) The right to use burial spaces sold, after the effective date of this subchapter, that remain vacant for a period of 50 years from the date of sale shall automatically and unequivocally revert to the Village of Pinckney upon the completion of the following notification:

(1) Notice shall be sent by the Village Clerk by registered first class mail to the last owner of record of burial rights informing of the expiration of the 50-year period and that all rights with respect to a space will be vacated and fully forfeited, if the owner of the rights does not affirmatively respond in writing to the Village Clerk of a desire to retain the burial rights within 60 days from the date of mailing.

(2) Should the Village Clerk not receive a written response to the notice from the last owner of record of the burial rights or from an appropriate heir or legal representative within the 60-day period, all rights shall be considered forfeited to the village.

(Ord. 78, passed 6-25-2007)

### § 93.04 OWNER'S BURIAL RIGHTS.

(A) The owner of any burial space in any village cemetery shall have the right of burial of the dead only and shall allow no internments for remuneration. A grave site shall be used for a single adult interment only, however, it may also be used for two infant internments, provided that space necessary for the interment does not occupy any other grave site. Additional cremane burials may be interred in any occupied grave site upon filing a request with the Cemetery Sexton, and upon his or her approval of same. Up to a maximum of two cremane burials per grave, or one cremane and one traditional burial per grave site.

(B) No burial shall take place unless lot purchase price has been paid in full.

(C) The use of any grave site shall be subject to the rules and regulations and the applicable fees governing the installation of markers and monuments for any village cemetery.

(Ord. 78, passed 6-25-2007)

#### **§ 93.05 LOT RECORDS.**

The Village Clerk shall keep proper records in which the burial right agreements to all burial spaces shall be recorded at length. In connection with all the records, the Village Clerk shall also keep a general index in which it shall be noted alphabetically the name of the party or parties to every instrument of conveyance.

(Ord. 78, passed 6-25-2007)

#### **§ 93.06 LABOR CHARGES; WORK IN CEMETERY.**

(A) The Board of Cemetery Trustees shall charge and cause to be collected on behalf of the village, the fees for work performed in the village cemeteries as may from time to time be fixed by resolution or otherwise by the Village Council. All the fees shall be paid to the Village Treasurer or his or her agents provided for in M.C.L.A. § 67.61, as amended.

(B) No person other than an employee of the village, or contractor approved by the village acting under the direction of the Cemetery Sexton, shall dig or open any grave, nor shall any person grade or fill in burial space or otherwise do any work in connection therewith, i.e. foundation footings for headstones, unless the work be done under supervision of the Village Clerk in charge of the cemetery.

(Ord. 78, passed 6-25-2007) Penalty, see §93.99

#### **§ 93.07 TRESPASS; PROHIBITED ACTS.**

(A) No person shall trespass on any lot or burial space within any village cemetery, nor pick or cut any flowers or shrubs except on his or her own burial space, or cut down, injure or disturb any tree or shrub or otherwise remove any fixture within any village cemetery.

(B) Village cemetery hours shall be set by resolution, and any person in or upon any village cemetery during the closed hours shall be in violation of this subchapter.

(C) No person shall desecrate, or in any manner violate, the sanctity of any cemetery or the appurtenances thereof.

(D) No horses, snowmobiles, minibikes or any other type of recreational vehicle shall be permitted at any time in any municipal cemetery in the village.

(Ord. 78, passed 6-25-2007) Penalty, see §93.99

#### **§ 93.08 ADDITIONAL RULES.**

(A) The Board of Cemetery Trustees, with the approval by resolution by the Village Council, shall from time to time, make the other rules and regulations for the burial of the dead, care, improvement and protection of the grounds, mausoleums, monuments and appurtenances of the cemetery and orderly conduct of persons visiting the same as be deemed necessary and as are consistent with the terms of this subchapter.

(B) Village cemetery regulations shall be available for inspection to the general public at the office of the Village Clerk during regular village business hours. In the event that any rules or regulations are found to be inconsistent with the terms of this subchapter, or with the applicable terms of the Village Charter, being M.C.L.A. §§ 67.55 *et seq.*, as amended, this subchapter or the Village Charter, shall govern.

(Ord. 78, passed 6-25-2007)

#### **§ 93.09 ENFORCEMENT.**

The Village President, or his or her designees and the village's police officers, shall see that this subchapter, and all rules and regulations enacted under it in respect to a cemetery, are strictly enforced.

(Ord. 78, passed 6-25-2007)

#### **§ 93.99 PENALTY.**

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

(B) A person who violates any provision of §§93.01 *et seq.* is responsible for a municipal civil infraction set forth in Chapter 131 of this code, subject to payment of a civil fine as specified in the Village's Municipal Civil Infraction Ordinance, plus costs and other sanctions for each infraction. Repeat offenses shall be subject to increased fines.

(Ord. 78, passed 6-25-2007)

Section

**Control of Tall Weeds, Grass and Brush**

- 94.01 Title
- 94.02 Purpose and intent
- 94.03 Definitions
- 94.04 Application of ordinances
- 94.05 Violation to permit tall weeds, grass and brush; public nuisance
- 94.06 Exemptions
- 94.07 Duty of owner
- 94.08 Notice
- 94.09 Abatement by village
- 94.10 Designation of enforcing official; authority
- 94.11 Reimbursement to village
- 94.12 Appeals
  
- 94.99 Penalty

**CONTROL OF TALL WEEDS, GRASS AND BRUSH**

**§ 94.01 TITLE.**

This subchapter shall be referred to as the Tall Grass and Tall Brush Control Ordinance and shall apply to all property within the Village of Pinckney.

(Ord. 73, passed 7-10-2006)

**§ 94.02 PURPOSE AND INTENT.**

It is the intent of this subchapter to control and eradicate tall weeds, tall grass and tall brush within the Village of Pinckney, to impose obligations upon the owner, agent or occupant of lots or parcels with respect to control and eradication, to implement enforcement of the obligations by lien on the lots or parcels involved, to permit officials of the Village of Pinckney to enter upon property for the enforcement of the control and eradication efforts and further to appoint a commissioner of weeds, grass and brush control, to define their powers, duties and compensation as determined.

(Ord. 73, passed 7-10-2006)

**§ 94.03 DEFINITIONS.**

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

**APPROVED STREET.** Any platted or un-platted street or highway, road or right-of-way, maintained or not maintained.

**COMMISSIONER OF TALL WEEDS, TALL GRASS AND TALL BRUSH CONTROL** or **COMMISSIONER.** The Department of Public Works Director or the Director's designee.

**LOT.** A parcel or parcels that are continuous and located within the Village of Pinckney as identified on the tax rolls for the County of Livingston, including the unpaved portion of any public right-of-way or easement immediately adjacent thereto.

**OTHER PLANTS.** Those recognized as deleterious to health, safety or public welfare and recognized as a common nuisance.

**OWNER.** The person(s) listed on the current property tax roll.

**PARCEL.** Any lot of land located within the Village of Pinckney as identified on the tax rolls for the County of Livingston, including the unpaved portion of any public right-of-way or easement immediately adjacent thereto.

**TALL BRUSH.** Any brush exceeding three feet in height.

**TALL GRASS.** Any grass exceeding nine inches in height.

**TALL WEEDS.** Any weed exceeding nine inches in height.

**VILLAGE.** The Village of Pinckney.

**VILLAGE COUNCIL.** The Village of Pinckney Council.

(Ord. 73, passed 7-10-2006; Ord. 120, passed 7-8-2013)

#### **§ 94.04 APPLICATION OF ORDINANCES.**

This subchapter shall apply to and cover **TALL WEEDS, TALL GRASS** and **TALL BRUSH**, as defined above, found growing in the Village of Pinckney.

(Ord. 73, passed 7-10-2006)

#### **§ 94.05 VIOLATION TO PERMIT TALL WEEDS, GRASS AND BRUSH; PUBLIC NUISANCE.**

(A) It shall be a violation of this subchapter for any owner, occupant, agent or other person having control or management of any lot or parcel within the Village of Pinckney of one acre or less in size to cause or permit to grow on the lot or parcel any tall weeds, tall grass and/or tall brush.

(B) On lots or parcels in excess of one acre in size within the Village of Pinckney, it shall be a violation of this subchapter for any owner, occupant, agent or other person having control or management of the lots or parcels to cause or permit to grow on the lots or parcels any tall weeds, tall grass and/or tall brush within 50 feet of any occupied dwelling, or within 50 feet of an approved street, road or highway right-of-way.

(C) The presence of tall weeds, tall grass or tall brush upon any lots or parcels contrary to this subchapter is hereby deemed to be detrimental to the public health, safety and welfare and shall constitute a public nuisance.

(Ord. 73, passed 7-10-2006) Penalty, see §94.99

#### **§ 94.06 EXEMPTIONS.**

(A) Exempted from the provisions of this subchapter are:

(1) Trees, flower gardens, plots of shrubbery, vegetable gardens and vegetation planted for ornamental purposes; and

(2) Lots or parcels of land devoted to growing corn or small grains such as wheat, oats, barley or rye. An exemption under the terms of division (A) above cannot be claimed unless the land has been cultivated and cared for in a manner appropriated to the exempt categories.

(B) The provisions and requirements of this subchapter shall not apply to any lands which are situated within the wetlands or floodplains of any natural lakes, ponds, streams or watercourses, or any area between the lower or upper banks of the lakes, ponds, streams or watercourses.

(C) The provisions and requirements of this subchapter shall not apply to an area designated a natural area by the village, or over which lot or parcel of land a conservation easement is recorded and in effect.

(D) The provisions and requirements of this subchapter shall not apply to an area:

(1) That by virtue of its size and location, the area would be suitable to retain in a natural state;

(2) The unique vegetation located on the proposed natural area should be preserved in a natural state to enhance the environment;

(3) The topography of the proposed natural area (such as steep slope, wetness, inaccessibility and the like) would create a substantial undue hardship to the owner were the subchapter cutting requirements strictly enforced as to the designated natural area; or

(4) Is within the village designated as parts of public recreation areas.

(E) The owners, occupants, agents and other persons having control or management of land may ask the Commissioner for an exception to this subchapter based on compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. The Commissioner is authorized to grant the exceptions.

(F) Exceptions authorized under division (E) above will be valid for one year and must be renewed each year. Exceptions will be valid from January 1 of the current year to December 31 of the current year. All exception requests granted by the Commissioner under division (E) above must be presented to the Council at its next regularly scheduled meeting, or as soon as possible.

(Ord. 73, passed 7-10-2006)

#### **§ 94.07 DUTY OF OWNER.**

It shall be the duty of all owners, occupants, agents and other persons having control or management of land on which tall weeds, tall grass and/or tall brush are found to be growing contrary to this subchapter to cut the tall weeds, tall grass and/or tall brush.

(Ord. 73, passed 7-10-2006)



#### **§ 94.08 NOTICE.**

(A) In any case in which the owner, occupant, agent or other person having control or management of any lot or parcel within the village allows the presence on any lot or parcel or on any portion of any lot or parcel of any tall weeds, tall grass and/or tall brush in violation of the provisions of this subchapter, the enforcing official shall notify the owner, occupant, agent or person having control of the lot or parcel to abate the violation within ten calendar days.

(B) The notice shall be given to the owner, occupant, agent or person having control of the land by certified mail with return receipt requested or by personal service. In addition, the village may publish a notice in a newspaper of general circulation in the village during the month of March that weeds not cut by June 1 of that year, and as necessary after each June 1 to remain in compliance with this subchapter, will be cut by the village and the owner of the property charged with the cost under the provisions of this subchapter. The village may cut weeds as many times after June 1 as is necessary to keep the lot or parcel in compliance with this subchapter and charge the cost to the property owner. Failure to publish this notice will not relieve property owners of their responsibility.

(Ord. 73, passed 7-10-2006)

#### **§ 94.09 ABATEMENT BY VILLAGE.**

If any person shall fail to comply with the provisions of this subchapter by the specified time, the village shall, through the Department of Public Works or through an independent contractor working under the Commissioner's supervision, cause all the tall weeds, tall grass and/or tall brush to be cut or destroyed upon lands of the person not complying with the provisions of this subchapter. The Commissioner shall keep an accurate account of all expense incurred with respect to each parcel of land entered upon in carrying out the provisions of this subchapter and shall make a sworn statement of the account and present it to the Village Treasurer and the Village Council.

(Ord. 73, passed 7-10-2006)

#### **§ 94.10 DESIGNATION OF ENFORCING OFFICIAL; AUTHORITY.**

The Commissioner, being the Village Department of Public Works Director, is hereby designated the enforcing official of this subchapter. The enforcing official and the official's authorized representatives, employees or agents or independent contractors, are hereby granted access to and from any land for the purpose of investigation to determine whether violations of this subchapter exist, and for the purpose of completing work necessary to accomplish the abatement of any violations of this subchapter found to exist. No person shall deny entry to or otherwise obstruct, molest or interfere with what they are investigating to determine whether violations of this subchapter exist, or are engaged in destroying weeds, as provided herein. Any person found in violation of this section shall be responsible for a municipal civil infraction, subject to payment of a civil fine as specified in the Village's Municipal Civil Infraction Ordinance.

(Ord. 73, passed 7-10-2006) Penalty, see §94.99

#### **§ 94.11 REIMBURSEMENT TO VILLAGE.**

(A) Whenever the village shall enter upon any lot or parcel of land in order to accomplish abatement of an existing violation, pursuant to provisions of this subchapter, 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 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) 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 theretofore. The Council shall, at such times as it may deem advisable direct the Treasurer to prepare a special assessment roll covering all the charges reported to it. The roll shall be filed with the Clerk who shall advise the Council of the filing of the roll, and the Council shall thereupon set a date for the hearing of objections to the assessment roll. The assessment roll shall be open to public inspection for a period of seven days before the Council shall meet to review the roll and hear complaints. The Village Clerk shall give notice in advance by publication of the opening of the roll to public inspection and of the meeting of the Council to hear complaints and shall also give like notice 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. The special assessments and all interest and charge's thereon, shall, from the date of confirmation of the roll, 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 the assessments, when delinquent from the 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 the 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. 73, passed 7-10-2006)

#### **§ 94.12 APPEALS.**

A person who receives a notice of violation may appeal his or her violation to the Village Council in writing or in person.

(Ord. 73, passed 7-10-2006)

**§ 94.99 PENALTY.**

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

(B) A person who violates any provision of §§94.01 *et seq.* is responsible for a municipal civil infraction set forth in Chapter 131 of this code, subject to payment of a civil fine as specified in Village's Municipal Civil Infraction Ordinance, plus costs and other sanctions, for each infraction. Repeat offenses shall be subject to increased fines.

(Ord. 73, passed 7-10-2006)

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## **CHAPTER 95: SPECIAL EVENTS**

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Section

- 95.01 Title
- 95.02 Special event defined
- 95.03 Permit required; exceptions
- 95.04 Application for permit; investigation
- 95.05 Notification to agencies
- 95.06 Criteria for issuing permit
- 95.07 Determination; restrictions, additional permitting required
- 95.08 Classes of permits
  
- 95.99 Penalty

**§ 95.01 TITLE.**

This chapter shall be known and may be cited as the "Special Event Ordinance."

(Ord. 90, passed 9-9-2009)

**§ 95.02 SPECIAL EVENT DEFINED.**

For the purpose of the provisions of this chapter, the term **SPECIAL EVENT** shall mean any event outside the normal course of business that has not received the approval of the Village Council independent of this chapter, and which can reasonably be expected to exceed the interior capacity of the building as set by the State Fire Safety Board, and/or to block, close or significantly hinder or impair the flow of vehicular or pedestrian traffic on any street, road or other public right-of-way within the village. The term **SPECIAL EVENT** shall include, but not be limited to, a parade, demonstration, display, concert, entertainment, special promotion, advertising event, festival, show, celebration, performance, display, seasonal event, video or film production and certain kinds of athletic events (e.g. running races on public streets).

(Ord. 90, passed 9-9-2009; Ord. 125, passed 4-10-2017)

**§ 95.03 PERMIT REQUIRED; EXCEPTIONS.**

(A) It shall be unlawful for any person, organization, group or entity to stage or hold a special event without first obtaining a permit from the village.

(B) Exceptions to the permit requirement include, but are not limited to, the following:

- (1) Funeral processions; and
- (2) A governmental agency acting within the scope of its governmental functions.

(Ord. 90, passed 9-9-2009) Penalty, see §91.99

**§ 95.04 APPLICATION FOR PERMIT; INVESTIGATION.**

(A) The applicant shall pay a permit application fee, as set by Village Council resolution.

(B) An application for a special event permit must be submitted to the Village Clerk on a form provided by the village not less than 60 days prior to the date of the event. Village Council may consider applications submitted less than 60 days prior to the event.

(C) The application shall contain the following information:

- (1) The name, address and telephone number of the person or organization requesting the permit;
- (2) A complete description of the event, the location, the number of participants and the estimated number of those expected to attend the event;
- (3) The date the event is to be conducted and the hour or hours the event will commence and terminate, including time for set-up and clean-up;
- (4) A proposed plan to provide necessary parking, security, crowd control, traffic control, sanitation facilities, noise control and clean-up of the area of the event. In the case of a parade, proposed route and assembly areas must be provided, with written permission from the owners of any property to be used for assembly;
- (5) Whether any music will be provided, either live or recorded, and whether loudspeakers and/or amplifying devices will be used;
- (6) Whether any animals will be participating in the event, what type and any clean-up arrangements that may be required;
- (7) Whether the use of alcoholic beverages will be permitted on the premises upon which the event is to be conducted and, if so, what measures or procedures will be taken to prohibit the sale of alcohol to minors or to visibly intoxicated individuals;
- (8) Evidence of insurance, including satisfactory proof that the applicant's insurance carrier has been apprised of the applicant's proposed use of alcoholic beverages (if any), naming the village as additional insured in an amount sufficient to protect the village from any and all claims for damages from personal injury, property damage or any other injury arising from or as a result of the activity or event. This provision may be waived at the discretion of the Village Council;
- (9) The applicant may be required to indemnify the village for and hold it harmless from and defend it against any and all claims, lawsuits or other liability arising from or as a result of the activity or event; and
- (10) Any other information deemed pertinent by the village in evaluating the effect the event may have on the health, safety and welfare of the residents of the village.

(D) Upon receipt of an application, the Village Clerk will refer it to the Chief of Police and any other department or organization deemed necessary for investigation and a recommendation concerning the application. The findings resulting from the investigation shall be reported to the Village Council.

(Ord. 90, passed 9-9-2009)

#### **§ 95.05 NOTIFICATION TO AGENCIES.**

The Village Clerk will send copies of the permit application to the appropriate governmental agencies, including, but not limited to:

- (A) Putnam Township Fire Department;
- (B) Pinckney Department of Public Works;
- (C) Michigan Department of Transportation;
- (D) Pinckney Community Schools; and
- (E) Livingston County Department of Public Health.

(Ord. 90, passed 9-9-2009)

#### **§ 95.06 CRITERIA FOR ISSUING PERMIT.**

A permit shall be issued by the Village Council if the following criteria are met:

- (A) The application was fully and accurately completed;
- (B) Adequate provisions have been made for the protection of the health, safety and welfare of the community;
- (C) The event will not unreasonably affect the use or enjoyment of private or public property and will not cause unreasonable traffic hazards or delays;
- (D) The event will not constitute a public nuisance;
- (E) The applicant makes payment to the village prior to the event of the costs anticipated to be incurred by the village in assigning personnel to the special event to assure the health, safety and welfare of the community, as determined by evaluating the information submitted in the application. This may include additional police coverage or Department of Public Works services. In addition, the payment shall also include the cost incurred by the village in notifying area property owners, if such notification is determined necessary by the Village Council. The final billing will be adjusted to reflect the actual utilization of village personnel and equipment;

(F) The applicant is current on taxes and utilities owed to the village; and

(G) The event will not adversely impact or unreasonably affect the use or enjoyment of the private property in the vicinity of the event.

(Ord. 90, passed 9-9-2009)

#### **§ 95.07 DETERMINATION; RESTRICTIONS, ADDITIONAL PERMITTING REQUIRED.**

The village will act upon the application within 30 days of receipt of permit application. The village may impose restrictions on any special event in the interest of the health and safety of residents and participants. Other restrictions and permits may be required from other agencies.

(Ord. 90, passed 9-9-2009)

#### **§ 95.08 CLASSES OF PERMITS.**

(A) In addition to any other provisions of this chapter, the following classes of permits are established for special events associated with events held in the village (such as Art in the Park, parades and the like), and using the public right-of-way.

(1) *New sales permit.* For outdoor on-premises sales by an existing licensed business of a type not normally carried on by that business.

(2) *Outdoor sales permit.* For outdoor on-premises sales by an existing licensed business of the type that is normally carried on inside of the business (for example, a sidewalk sale), not including the sale of alcohol.

(3) *Outdoor sales with alcohol.* For outdoor on-premises sales by an existing licensed business of the type that is normally carried on inside the business, including the sale of alcohol (for example, a beer tent).

(4) *Third-party permit.* For a special event, either indoor or outdoor, conducted by any individual or entity on-premises normally occupied by an existing licensed business, pursuant to any form of agreement with the existing licensed business.

(B) Every applicant for a permit to stage or hold a special event associated with events held in the village shall file an application with the Village Clerk on a form provided by the village at least 60 days prior to the event. Village Council may consider applications submitted less than 60 days prior to the event.

(Ord. 90, passed 9-9-2009)

#### **§ 95.99 PENALTY.**

Any person who violates any provision of this chapter shall be subject to the penalties set forth in §10.99.

(Ord. 90, passed 9-9-2009)

## **CHAPTER 96: NOISE**

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### Section

- 96.01 Noise disturbances; definitions
- 96.02 Prima facie violations
- 96.03 General prohibition
- 96.04 Specific prohibitions
- 96.05 Exceptions
- 96.06 Special permits
- 96.07 Violations, fines and penalties

#### **§ 96.01 NOISE DISTURBANCES; DEFINITIONS.**

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

**NOISE.** Any sound that disturbs humans or animals, or that causes or tends to cause an adverse psychological or physiological effect on humans or other animals.

**NOISE DISTURBANCE.** Any sound that:

- (1) Disturbs a reasonable person of normal sensitivities; or
- (2) Is plainly audible as defined in this section.

**PLAINLY AUDIBLE.** Any sound or noise that can be detected by a person using his or her unaided hearing faculties at a distance of 50 feet or more from the real property line of the source of the sound or noise, or which are plainly audible within any neighboring private residence.

**SOUND.** Shall be broadly interpreted to mean any sound, noise, music, voice, or any other forms of noise or sound, whether generated electronically, by any person, an acoustic instrument(s) or device(s), or any other method of sound creation or transmission.

(Ord. 113, passed 8-13-2012)

#### **§ 96.02 PRIMA FACIE VIOLATIONS.**

The making of any of the specific noises set forth in §§96.03 - 96.05 which are plainly audible at a distance of 50 feet from the source, or which are plainly audible within any neighboring private residence, hospital or court, shall constitute prima facie evidence of an unlawful noise in violation of this chapter.

(Ord. 113, passed 8-13-2012)

#### **§ 96.03 GENERAL PROHIBITION.**

It shall be unlawful and a violation of this chapter to make, cause or allow the making of any sound that causes a noise disturbance, as defined herein.

(Ord. 113, passed 8-13-2012)

#### **§ 96.04 SPECIFIC PROHIBITIONS.**

In addition to the general prohibition, and unless otherwise exempted by this chapter, the following specific acts, or the causing or permitting thereof, are declared to be loud, disturbing, injurious, and unnecessary noise disturbances in violation of this chapter; but this enumeration shall not be deemed to be exclusive:

(A) *Audio equipment, musical instrument or similar device.* Operating, playing, or permitting the playing of any radio, televisions, electronic audio equipment, musical instrument or similar device in a residential area such that a noise disturbance is created across a real property boundary in a residential zoning district between the hours of 11:00 p.m. and 7:00 a.m.

(B) *Loudspeakers.* Operating, or permitting the operation of, any loudspeaker, public address system, or similar device for any commercial purpose, on any public road or in any public space between the hours of 11:00 p.m. and 7:00 a.m.

(C) *Yelling, shouting, hooting, whistling or singing.* Yelling, shouting, hooting, whistling or singing on the public streets shall be prohibited between the hours of 11:00 p.m. and 7:00 a.m., or at any time or place as to cause a noise disturbance.

(D) *Explosives, firearms, and similar devices.* The use or firing of explosives, firearms, firecrackers and other fireworks, or similar devices, which create impulsive sound so as to cause a noise disturbance across a real property boundary or on a public space or right-of-way, except as specifically authorized by law. Fireworks may not be discharged in a manner that may create a nuisance nor in violation of § 91.03 of this code.

(E) *School, church or hospital.* Emitting or creating any excessive noise that unreasonably interferes with the operation of any school, church or hospital.

(F) *Animals.* Owning, possessing, or harboring a dog, bird or other animal, that howls, barks, meows, squawks, or makes any sound to cause an annoyance, alarm, or noise disturbance to an ordinary reasonable person of normal sensitivities across a residential or commercial boundary line or within a noise-sensitive area. For the purpose of this section, a **BARKING DOG** shall mean a dog that barks, bays, cries, howls or makes any other noise incessantly for a period of 15 minutes in any one-hour interval, or barks continuously for one-half hour or more to the disturbance of any person at any time of day or night, regardless of whether the dog is physically situated in or upon private property. However, a dog shall not be deemed a **BARKING DOG** in violation of this section if, at the time the dog is barking making any other noise, a person is trespassing or threatening to trespass upon property in or upon which the dog is situated. A person shall be deemed to be **HARBORING** an animal when that person has a property right in or has it in his or her care, custody or control or permits the animal to remain on or about the premises he or she occupies.

(G) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motorboat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises. The provisions of this section shall not apply to motor vehicles operated on a highway or public street and subject to the noise regulations of §§ 707a - 707e of the Michigan Motor Vehicle Code (M.C.L.A. §§ 257.707a - 257.707e) or comparable provisions of the Uniform Traffic Code; and in such case, violations shall be enforced under the procedures set forth in such codes for civil infractions.

(H) *Defect in vehicle or load.* The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise or so as to disturb the peace and quiet of streets or other public places.

(I) *Loading, unloading, opening boxes.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.



(J) *Construction or repairing of buildings, streets or utilities.* The erection (including excavation), demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 7:00 p.m. Monday through Saturday, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building official, which permit may be granted for a period not to exceed three days while the emergency continues and which permit may be renewed for periods of three days or less while the emergency continues. If the building official should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building within the hours of 7:00 p.m. and 7:00 a.m., and if the official shall further determine that substantial loss or inconvenience would result to any party in interest, he or she may grant permission for such work to be done between the hours of 7:00 p.m. and 7:00 a.m., upon application being made at the time the permit for the work is awarded or during the progress of the work. The construction, alteration or repair of public streets or utilities shall not be conducted other than between the hours of 7:00 a.m. and 7:00 p.m. unless the Director of Public Works or a bona fide public utilities service employee determines that an emergency exists which requires such work, or determines that the public health and welfare will not be adversely affected by such work.

(K) *Hawkers, peddlers.* The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

(L) *Drums.* The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.

(M) Operating any machinery, equipment or mechanical device so as to create a noise disturbance; this prohibition does not include domestic power tools as provided below.

(Ord. 113, passed 8-13-2012; Ord. 119, passed 6-24-2013)

#### **§ 96.05 EXCEPTIONS.**

The following uses and activities shall be exempt from the regulations contained in this chapter:

(A) Use of motorized lawn mowers, and other lawn, landscaping, and yard maintenance equipment or domestic power tools, provided such equipment is utilized between the hours of 7:00 a.m. and 11:00 p.m.

(B) Residential use of snow blowers, if in good working order and if used only as needed, and snow removal from commercial or industrial properties by any internal combustion device, if the snow removal equipment has a properly functioning muffler.

(C) The unamplified human voice, except for yelling, shouting, whistling, hooting, or generally creation of a racket such that it creates a noise disturbance during the nighttime hours (11:00 p.m. to 7:00 a.m.) in a residential area in other than a time of emergency.

(D) [Reserved].

(E) Sounds resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.

(F) Any non-amplified noise generated by noncommercial public speaking activities conducted on any public property or public right-of-way pursuant to a permit issued under this chapter.

(G) Sounds produced at organized sports events, by lawful fireworks, and by permitted parades on public property or public rights-of-way, between the hours of 7:00 a.m. and 11:00 p.m.

(H) *Highway maintenance and construction.* Necessary excavations or repairs of bridges, streets or highways by or on behalf of the village or the state during the night, when the public safety, welfare and convenience render it impossible to perform such work during the day.

(I) *Snow removal.* The operation of snow removal equipment necessary for the removal of snow or ice from public or private streets, alleys, drives, sidewalks, and parking areas.

(J) *Sacred music.* The use of sound amplifiers or other such devices by religious organizations or other organizations approved by the Council.

(K) *Parades, festivals and similar events.* City approved or sponsored parades, festivals, fairs, or events or city sponsored music.

(Ord. 113, passed 8-13-2012)

#### **§ 96.06 SPECIAL PERMITS.**

(A) The Village Council may grant a special permit for the generation, operation, or use of sound that would otherwise violate this chapter when the following conditions are met:

(1) The application contains information that demonstrates that bringing the source of sound or activity for which the special permit is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community, or on other persons; and

(2) Such relief would be within the spirit and intent of this chapter, would not adversely affect the public health, safety,



and welfare, and would not be materially injurious to surrounding properties and improvements.

(B) Applicants for a permit may be required to submit any information the Council may reasonably require. In granting or denying an application, the Council shall place on public file a copy of the decision and the reasons for denying or granting the permit. The permit shall be granted by notice to the applicant containing all necessary conditions, including the time limit on the permitted activity. The permit shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the permit shall terminate it and subject the applicant to the provisions of this chapter regulating the source of sound or activity for which the permit was granted.

(Ord. 113, passed 8-13-2012)

#### **§ 96.07 VIOLATIONS, FINES AND PENALTIES.**

Persons who violate a provision of this chapter 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 § 10.99(C), 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.

(Ord. 113, passed 8-13-2012)

## **TITLE XI: BUSINESS REGULATIONS**

Chapter

- 110. PEDDLERS, ITINERANT MERCHANTS, AND SOLICITORS**
- 111. AMUSEMENTS**
- 112. CABLE TELEVISION**
- 113. MISCELLANEOUS BUSINESSES REQUIRING A LICENSE**
- 114. TELECOMMUNICATIONS**

### **CHAPTER 110: PEDDLERS, ITINERANT MERCHANTS, AND SOLICITORS**

Section

- 110.01 Definitions
- 110.02 License requirement
- 110.03 Application procedure
- 110.04 Standards for issuance
- 110.05 Revocation procedure
- 110.06 Standards for revocation
- 110.07 Appeal procedure
- 110.08 Exhibition of identification
- 110.09 Village policy on soliciting
- 110.10 Notice regulating soliciting
- 110.11 Duty of solicitors to ascertain notice
- 110.12 Prohibited solicitation
- 110.13 Hours of operation
  
- 110.99 Violations, fines and penalties

#### **§ 110.01 DEFINITIONS.**

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

**BUSINESS.** The business carried on by any person who is an itinerant merchant, peddler, or solicitor as defined in this section.

**GOODS.** Merchandise of any description whatsoever, and includes, but is not restricted to, wares and foodstuffs.

**ITINERANT MERCHANT.** Any person, whether as owner, agent, or consignee, who engages in a temporary business of selling goods within the village and who, in the furtherance of such business, uses any building, structure, vehicle, or any place within the village.

**PEDDLER.** Any person, not an itinerant merchant, who:

- (1) Travels from place to place by any means carrying goods for sale, or making sales, or making deliveries; or
- (2) Without traveling from place to place, sells or offers goods for sale from any public place within the village.

**SOLICITOR.** Any person who travels by any means from place to place, taking or attempting to take orders for sale of goods to be delivered in the future or for services to be performed in the future. A person who is a solicitor is not a peddler.

#### **§ 110.02 LICENSE REQUIREMENT.**

(A) Any person who is an itinerant merchant, peddler, or solicitor shall obtain a license before engaging in such activity within the village.

(B) The fee for the license required by this chapter shall be as set from time to time by the Village Council.

(C) No license issued under this chapter shall be transferable.

(D) All licenses issued under this chapter shall expire 90 days after the date of issuance thereof.

Penalty, see § 10.99

#### **§ 110.03 APPLICATION PROCEDURE.**

(A) All applicants for licenses required by this chapter shall file an application with the Clerk. This application shall be signed by the applicant if an individual, or by all partners if a partnership, or by the president if a corporation. The applicant may be requested to provide information concerning the following items:

(1) The name and address of the applicant;

(2) (a) The name of the individual having management authority or supervision of the applicant's business during the time that it is proposed to be carried on in the village;

(b) The local address of such individual;

(c) The permanent address of such individual;

(d) The capacity in which such individual will act;

(3) The name and address of the person, if any, for whose purpose the business will be carried on, and, if a corporation, the state of incorporation;

(4) The time period or periods during which it is proposed to carry on applicant's business;

(5) (a) The nature, character, and quality of the goods or services to be offered for sale or delivered;

(b) If goods, their invoice value and whether they are to be sold by sample as well as from stock;

(c) If goods, where and by whom such goods are manufactured or grown, and where such goods are at the time of application;

(6) The nature of the advertising proposed to be done for the business;

(7) Whether or not the applicant, or the individual identified in division (A)(2)(a) above, or the person identified in division (A)(3) has been convicted of any crime or misdemeanor and, if so, the nature of each offense and the penalty assessed for each offense.

(B) Applicants for peddler or solicitor licenses may be required to provide further information concerning the following items, in addition to that requested under division (A) above:

(1) A description of the applicant;

(2) A description of any vehicle proposed to be used in the business, including its registration number, if any.

(C) All applicants for licenses required by this chapter shall attach to their application, if required by the village, credentials from the person, if any, for which the applicant proposes to do business, authorizing the applicant to act as such representative.

(D) Applicants who propose to handle foodstuffs shall also attach to their application, in addition to any attachments required under division (C), a statement from a licensed physician, dated not more than ten days prior to the date of application, certifying the applicant to be free of contagious or communicable disease.

Penalty, see § 10.99

#### **§ 110.04 STANDARDS FOR ISSUANCE.**

(A) Upon receipt of an application, an investigation of the applicant's business reputation and moral character shall be made.

(B) The application shall be approved unless such investigation discloses tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals, or general welfare. In particular, tangible evidence that the applicant:

- (1) Has been convicted of a crime of moral turpitude; or
- (2) Has made willful misstatements in the application; or
- (3) Has committed prior violations of ordinances pertaining to itinerant merchants, peddlers, solicitors, and the like; or
- (4) Has committed prior fraudulent acts; or
- (5) Has a record of continual breaches of solicited contracts.

will constitute valid reasons for disapproval of an application.

#### **§ 110.05 REVOCATION PROCEDURE.**

Any license or permit granted under this chapter may be revoked by the Clerk after notice and hearing, pursuant to the standards in § 110.06. Notice of hearing for revocation shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed to the licensee at his last known address, at least ten days prior to the date set for the hearing.

#### **§ 110.06 STANDARDS FOR REVOCATION.**

A license granted under this chapter may be revoked for any of the following reasons:

- (A) Any fraud or misrepresentation contained in the license application; or
- (B) Any fraud, misrepresentation, or false statement made in connection with the business being conducted under the license; or
- (C) Any violation of this chapter; or
- (D) Conviction of the licensee of any felony, or conviction of the licensee of any misdemeanor involving moral turpitude; or
- (E) Conducting the business licensed in an unlawful manner or in such a way as to constitute a menace to the health, safety, morals, or general welfare of the public.

#### **§ 110.07 APPEAL PROCEDURE.**

(A) Any person aggrieved by a decision under §§ 110.04 or 110.06 shall have the right to appeal to the Village Council. The appeal shall be taken by filing with the Village Council, within 14 days after notice of the decision has been mailed to such person's last known address, a written statement setting forth the grounds for appeal. The Village Council shall set the time and place for a hearing, and notice for such hearing shall be given to such person in the same manner as provided in § 110.05.

(B) The order of the Village Council after the hearing shall be final.

#### **§ 110.08 EXHIBITION OF IDENTIFICATION.**

(A) Any license issued to an itinerant merchant under this chapter shall be posted conspicuously in or at the place named therein. In the event more than one place within the village shall be used to conduct the business licensed, separate licenses shall be issued for each place.

(B) The Clerk shall issue a license to each peddler or solicitor licensed under this chapter. The license shall contain the words "Licensed Peddler" or "Licensed Solicitor," the expiration date of the license, and the number of the license. The license shall be kept with the licensee during such time as he is engaged in the business licensed.

Penalty, see § 10.99

#### **§ 110.09 VILLAGE POLICY ON SOLICITING.**

It is hereby declared to be the policy of the village that the occupants of the residences in the village shall make the determination of whether solicitors shall be, or shall not be, invited to their respective residences.

#### **§ 110.10 NOTICE REGULATING SOLICITING.**

(A) Notice of the refusal of invitation to solicitors, to any residence, shall be given on a weatherproof card, approximately three inches by four inches in size, exhibited upon or near the main entrance door to the residence, indicating the

determination by the occupant, containing the applicable words, as follows:

“NO SOLICITORS INVITED”

(B) The letters shall be at least 1/3-inch in height. For the purpose of uniformity, the cards shall be provided by the Chief of Police to persons requesting, at the cost thereof.

(C) The card so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence of the information contained thereon.

#### **§ 110.11 DUTY OF SOLICITORS TO ASCERTAIN NOTICE.**

(A) It shall be the duty of every solicitor upon going onto any premises in the village upon which a residence is located to first examine the notice provided for in § 110.10 if any is attached, and be governed by the statement contained on the notice. If the notice states “NO SOLICITORS INVITED,” then the solicitor, whether registered or not, shall immediately and peacefully depart from the premises.

(B) Any solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

Penalty, see § 10.99

#### **§ 110.12 PROHIBITED SOLICITATION.**

It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting in defiance of the notice exhibited at the residence in accordance with the provisions of § 110.10 above.

Penalty, see § 10.99

#### **§ 110.13 HOURS OF OPERATION.**

No peddler, itinerant merchant or commercial solicitor shall engage in such business in the village after the hour of 8:00 p.m. and before the hour of 10:00 a.m. during the months of April 1 thru September 30; and from one-half hour after the official sunset time and before the hour of 10:00 a.m. during the months of October 1 to March 31. Commercial solicitation means the request of a donation or transfer of goods or services for a purpose other than a charitable, religious, or political purpose.

(Ord. 132, passed 8-8-2016)

#### **§ 110.99 VIOLATIONS, FINES AND PENALTIES.**

Persons who violate a provision of this chapter or fail to comply with any of the requirements thereof, shall be guilty of a municipal civil infraction and be subject to the civil fines set forth in the schedule of civil fines in § 10.99(C), 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.

(Ord. 132, passed 8-8-2016)

## **CHAPTER 111: AMUSEMENTS**

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Section

### ***Video Game and Arcades***

- 111.01 Definitions
- 111.02 Coin-operated amusement device arcade license required
- 111.03 Coin-operated amusement device arcade license application
- 111.04 Coin-operated amusement devices arcade; inspection of premises
- 111.05 Coin-operated amusement device arcade; denial of license
- 111.06 Coin-operated device arcade; granting of license
- 111.07 Coin-operated amusement device arcade license fee, term, renewal and additional coin-operated amusement devices and relocation of devices
- 111.08 Coin-operated amusement device license required
- 111.09 Coin-operated amusement device license application

- 111.10 Coin-operated amusement device; inspection of premises
- 111.11 Coin-operated amusement device; denial of license
- 111.12 Coin-operated amusement device; granting of license
- 111.13 Coin-operated amusement device license fees, term, renewal and additional coin-operated amusement devices and relocation of devices
- 111.14 Regulations governing coin-operated amusement device arcades and coin-operated amusement devices
- 111.15 Conduct on the premises of coin-operated amusement device arcades and those containing coin-operated amusement devices
- 111.16 Suspension or revocation of coin-operated amusement device arcade license or coin-operated amusement device license

**Rules and Regulations of Recreation Facilities**

- 111.30 Definitions
- 111.31 Enforcement
- 111.32 Rules
- 111.33 Use permits and fees
  
- 111.99 Penalty

**VIDEO GAME AND ARCADES**

**§ 111.01 DEFINITIONS.**

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

**COIN-OPERATED AMUSEMENT DEVICE.** Any mechanical or electrical instrument, machine or contrivance which provides amusement or entertainment which may be operated or set in motion by insertion of a coin or token or which may be permitted by the payment of a fee, excluding juke boxes and vending machines.

**COIN-OPERATED AMUSEMENT DEVICE ARCADE.** Any place of business or establishment wherein is located coin-operated amusement devices, or the principle business purpose of the establishment is the offering of coin-operated amusement devices to the public.

**OWNER.** Any person who has attained the age of 21 years or older, firm, partnership, corporation or entity who owns, operates or conducts or proposes to conduct any business or establishment in which any coin-operated amusement device may be operated, placed or kept for use or play.

**PREMISES.** Any building, or part of a building, wherein coin-operated amusement devices are located under the control of the owner.

(Ord. 28, passed 10-11-1982)

**§ 111.02 COIN-OPERATED AMUSEMENT DEVICE ARCADE LICENSE REQUIRED.**

No coin-operated amusement device arcade shall be established, maintained or conducted in the Village of Pinckney by any owner without first obtaining a license or renewal thereof to operate the place from the Village Clerk.

(Ord. 28, passed 10-11-1982) Penalty, see §111.99

**§ 111.03 COIN-OPERATED AMUSEMENT DEVICE ARCADE LICENSE APPLICATION.**

(A) Application for a coin-operated amusement device arcade license shall be made to the Village Clerk on a form prescribed by the Village Clerk together with an application fee or the fee as is hereafter provided by resolution of the Village of Pinckney. The application shall include the following:

- (1) The name and address of the owner if an individual, or if a partnership, association or other entity, the names and addresses of each member of the partnership, association or other entity, or if a corporation, the names and addresses of its officers;
- (2) The length of time the owner has resided in the State of Michigan;
- (3) The owner's places of residence for the past five years immediately before the time of the application;
- (4) The full name and location of the proposed business;

(5) Whether or not the owner has ever been convicted of any crime involving a controlled substance, alcohol, minors, moral turpitude or the operation of a coin-operated arcade;

(6) At least three references of reputable citizens of each community wherein the owner has last resided; and

(7) A drawing showing the floor plan of the proposed business, all exits and the proposed location of each coin-operated amusement device.

(B) If the applicant for the license is a corporation authorized to do business in the State of Michigan, the application shall be made by the authorized agent of the corporation who will have principal charge of the premises, and the application shall contain all of the statements and furnish all the facts and recommendations in respect to the agent as are required in the case of an individual. The license to a corporation shall be revocable upon the occurrence of a change in the agent so managing the premises, and a new license may be required by the Village of Pinckney before any new agent shall take charge of the premises for the corporation. In the case of a partnership, each active or general partner in the proposed business shall join in the application for the license, and shall furnish all of the information and recommendations required of an individual.

(Ord. 28, passed 10-11-1982)

#### **§ 111.04 COIN-OPERATED AMUSEMENT DEVICES ARCADE; INSPECTION OF PREMISES.**

Before the issuance of a coin-operated amusement device arcade license, the Village of Pinckney shall transmit the application to the Chief of Police for further inspection and investigation of the owner's fitness to obtain a coin-operated amusement device arcade license. Fitness of the owner shall consist of the compliance by the owner and the premises with all applicable ordinances of the Village of Pinckney and the State of Michigan pertaining to the operation of the business.

(Ord. 28, passed 10-11-1982)

#### **§ 111.05 COIN-OPERATED AMUSEMENT DEVICE ARCADE; DENIAL OF LICENSE.**

No coin-operated amusement device license shall be issued:

(A) Where the owner or managing agent of a corporation has been convicted of a crime involving a controlled substance, alcohol, minor, moral turpitude or the operation of a coin-operated amusement device arcade within a five-year period preceding the application;

(B) Where the application is found by the Village of Pinckney to be incomplete or contain material inaccuracies;

(C) Where the premises fail to comply with the pertinent provisions of the laws or ordinances of the Village of Pinckney or the State of Michigan; and

(D) Where the location of the coin-operated amusement devices does not provide for safe ingress or egress within the premises.

(Ord. 28, passed 10-11-1982) Penalty, see §111.99

#### **§ 111.06 COIN-OPERATED DEVICE ARCADE; GRANTING OF LICENSE.**

The Village of Pinckney, upon receiving the application, if presented in due form, shall pass upon the same at its next regular meeting, or any adjournment thereof, and if satisfied that the application possesses the qualifications herein prescribed and the premises conform to the requirements hereof, shall issue the coin-operated amusement device arcade license. All coin operated amusement device arcade licenses shall be in the form as the Village of Pinckney may prescribe and shall contain the owner's name, address, place of business, number of coin-operated amusement devices allowed on the premises and the date of expiration of the license. The license shall be issued to a specific person, firm, association, partnership or corporation and is deemed nontransferable.

(Ord. 28, passed 10-11-1982)

#### **§ 111.07 COIN-OPERATED AMUSEMENT DEVICE ARCADE LICENSE FEE, TERM, RENEWAL AND ADDITIONAL COIN-OPERATED AMUSEMENT DEVICES AND RELOCATION OF DEVICES.**

(A) *Fees.* The fee to be paid upon granting of any coin-operated amusement device arcade license or renewal thereof issued hereunder shall be as set forth by the Village by resolution.

(B) *Term.* The term of any coin-operated amusement device arcade license shall begin November 1 of the license year and shall terminate on October 31 of the following year. Original coin-operated amusement device arcade licenses shall be issued for the balance of the license year at the full license fee.

(C) *Renewal.* Application for renewal of any coin-operated amusement device arcade license shall be in a form prescribed by the Village of Pinckney and be filed with the Village Clerk no later than 30 days prior to the annual expiration date. The Village Clerk shall not renew a coin-operated amusement device arcade license until he or she has determined that the owner remains eligible to receive a renewal and that the premises referred to in the license are in compliance with all applicable provisions of the ordinance or laws of the Village of Pinckney and the State of Michigan. In the event of a non-renewal decision by the Village Clerk, the owner shall be allowed an opportunity for hearing before the Village Council. If an owner is denied a renewal of a license and requests a hearing before the Village Council, then the existing license does not



expire until a final decision is made by the Village Council.

(Ord. 28, passed 10-11-1982)

#### **§ 111.08 COIN-OPERATED AMUSEMENT DEVICE LICENSE REQUIRED.**

No coin-operated amusement device shall be kept, maintained or operated in the Village of Pinckney without the owner first obtaining a license or renewal thereof from the Village Clerk.

(Ord. 28, passed 10-11-1982) Penalty, see §111.99

#### **§ 111.09 COIN-OPERATED AMUSEMENT DEVICE LICENSE APPLICATION.**

(A) Application for a coin-operated amusement device license shall be made to the Village Clerk on a form prescribed by the Village Clerk together with an application fee as is hereafter provided by resolution of the Village of Pinckney. The application shall include the following:

(1) The name and address of the owner, if an individual or if a partnership, association or other entity, the names and addresses of each member of the partnership, association or other entity, or is a corporation, the names and addresses of its officers.

(2) A diagram showing a floor plan of the premises in which the coin-operated amusement device will be located, showing all exits and the proposed location of each coin-operated amusement device.

(B) If the applicant for the license is a corporation authorized to do business in the State of Michigan, the application shall be made by the authorized agent of the corporation who will have principal charge of the premises, and the agent shall set forth on the application all of the statements as are required in the case of an individual.

(Ord. 28, passed 10-11-1982)

#### **§ 111.10 COIN-OPERATED AMUSEMENT DEVICE; INSPECTION OF PREMISES.**

Before the issuance of a coin-operated amusement device license, the Village of Pinckney shall transmit the application to the Chief of Police for further inspection and investigation of the owners' fitness to obtain a coin-operated amusement device license. Fitness of the owner shall consist of the compliance by the owner and the premises with all applicable ordinances of the Village of Pinckney and the State of Michigan pertaining to the operation of a device and place of business.

(Ord. 28, passed 10-11-1982)

#### **§ 111.11 COIN-OPERATED AMUSEMENT DEVICE; DENIAL OF LICENSE.**

No coin-operated amusement device license shall be issued:

(A) Where the owner or managing agent of a corporation has been convicted of a crime involving a controlled substance, alcohol, minor, moral turpitude or the operation of a coin-operated amusement device, within a five-year period preceding the application;

(B) Where the premises fails to comply with the pertinent provisions of the ordinances or laws of the Village of Pinckney or the State of Michigan; and

(C) Where the location of such does not provide for safe ingress or egress within the premises.

(Ord. 28, passed 10-11-1982) Penalty, see §111.99

#### **§ 111.12 COIN-OPERATED AMUSEMENT DEVICE; GRANTING OF LICENSE.**

The Village of Pinckney, upon receiving the application, if presented in due form, shall pass upon the same within 60 days, following receipt of the application and if satisfied that the application possesses the qualifications herein prescribed and the premises conform to the requirements hereof, shall issue the coin-operated amusement device license. All coin-operated amusement device licenses shall be in such form as the Village Clerk prescribes and shall contain the owners name, address, place of business, number of coin-operated amusement devices allowed on the premises and the date of expiration of the license. The license shall be issued to a specific person, firm, association, partnership or corporation and is deemed non-transferable.

(Ord. 28, passed 10-11-1982)

#### **§ 111.13 COIN-OPERATED AMUSEMENT DEVICE LICENSE FEES, TERM, RENEWAL AND ADDITIONAL COIN-OPERATED AMUSEMENT DEVICES AND RELOCATION OF DEVICES.**

(A) *Fees.* The fees to be paid upon granting of any coin-operated amusement device license or renewal thereof issued hereunder shall be as set forth by the Village by resolution providing no more than four devices are permitted on a premises.

(B) *Term.* The term of any coin-operated amusement device license shall begin November 1 of the license year and shall terminate on October 31 of the following year. Original coin-operated amusement device licenses shall be issued for the balance of the license year at the full license fee.

(C) *Renewal.* Application for renewal of any coin-operated amusement device license shall be in a form prescribed by the Village Clerk and be filed with the Clerk no later than 30 days prior to the annual expiration date. The Village Clerk shall not renew a coin-operated amusement device license until he or she has determined that the owner remains eligible to receive a renewal and that the premises referred to in the license is in compliance with all applicable provisions of the ordinances or laws of the Village of Pinckney and the State of Michigan. In the event of a non-renewal decision by the Village Clerk, the owner shall be allowed an opportunity for hearing before the Village Council. If an owner is denied a renewal of a license and requests a hearing before the Village Council, then the existing license does not expire until a final decision is made by the Village Council.

(D) *Additional coin-operated devices and relocation of devices.* If, after issuance of any coin-operated amusement device license, the owner desires to operate additional coin-operated devices up to a maximum of four devices, or to relocate those devices already in place, the owner shall submit an amended application to the Village Clerk showing the additions, changes or modifications desired.

(Ord. 28, passed 10-11-1982)

#### **§ 111.14 REGULATIONS GOVERNING COIN-OPERATED AMUSEMENT DEVICE ARCADES AND COIN-OPERATED AMUSEMENT DEVICES.**

(A) Each owner shall, at all times, open each and every portion of the premises for inspection by the Police, Fire and other village Departments for the purpose of enforcing any provisions of this subchapter.

(B) Each owner shall, at all times, display the license granted hereunder in a conspicuous place near the entrance to the licensed establishment.

(C) Each owner shall have present on the premises at least one adult manager or employee at all times that the premises are open to the public, who has not been convicted of a crime involving moral turpitude and who has been so certified by the Pinckney Police Department.

(Ord. 28, passed 10-11-1982)

#### **§ 111.15 CONDUCT ON THE PREMISES OF COIN-OPERATED AMUSEMENT DEVICE ARCADES AND THOSE CONTAINING COIN-OPERATED AMUSEMENT DEVICES.**

No owner, by himself or herself, directly or indirectly, or by any servant, agent or employee shall:

(A) Permit any indecent, immoral or profane language, or indecent, immoral or disorderly conduct;

(B) Permit gambling or the use, possession or presence of gambling paraphernalia in the premises;

(C) Permit intoxicated persons in the premises;

(D) Permit the possession or use of any alcoholic liquor in the premises. This provision shall not apply while a Michigan Liquor Control Commission License is in effect at the licensed premises;

(E) Permit the use of any controlled substance or narcotic, including marijuana, on the premises; and

(F) Permit the premises to constitute a public nuisance.

(Ord. 28, passed 10-11-1982) Penalty, see §111.99

#### **§ 111.16 SUSPENSION OR REVOCATION OF COIN-OPERATED AMUSEMENT DEVICE ARCADE LICENSE OR COIN-OPERATED AMUSEMENT DEVICE LICENSE.**

All licenses issued to the provisions of this subchapter are subject to suspension or revocation by the Chief of Police for the violation of any of the provisions hereof, the ordinances of the Village of Pinckney or the laws of the State of Michigan. Before the commencement of proceedings for suspension or revocation, the Village Chief of Police shall give notice, personally or by mail, to the owner of the facts or conduct which warrant the intended action. The owner shall be given the opportunity to show compliance with all lawful requirements for retention of the license. If the Village Chief of Police finds that the public health, safety or welfare requires emergency action and incorporates this finding in his or her order, summary suspension of a license may be ordered effective on the date specified in the order or in the service of a certified copy on the owner, whichever is later and effective during the proceedings. The proceedings shall be promptly commenced and determined.

(Ord. 28, passed 10-11-1982)

### **RULES AND REGULATIONS OF RECREATION FACILITIES**

#### **§ 111.30 DEFINITIONS.**

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

**CHAIRPERSON.** The chairperson of the Parks and Recreation Committee or his or her authorized representative.

**GOVERNING BODY.** The governing body shall be the Parks and Recreation Committee.

**PERMISSION.** In writing unless otherwise specified.

**RECREATION FACILITIES.** Any or all bodies of water, grounds, buildings, structure, equipment, machinery or other appurtenance owned, managed, controlled or operated by the Village of Pinckney.

(Ord. 26, passed 8-11-1980)

### **§ 111.31 ENFORCEMENT.**

(A) The Chairperson, his or her authorized representative and/or village police shall enforce the provisions hereof and shall have the authority to eject from the village's recreational facilities any person acting in violation of these rules and regulations. Further, the Chairperson, his or her authorized representative and/or village police shall have the authority to deny use of facilities to individuals or groups who refuse to comply with these rules and regulations.

(B) All persons entering upon land or water owned, managed, controlled or operated by the Village of Pinckney shall abide by the rules and regulations of the Village of Pinckney, County of Livingston and State of Michigan, and federal laws and the instructions and directions of duly authorized employees of the Village of Pinckney.

(Ord. 26, passed 8-11-1980)

### **§ 111.32 RULES.**

(A) *Hours of use.* Park areas will be closed from 10:00 p.m. to 6:00 a.m. daily. Lighted fields and courts will be closed as specified. It shall be unlawful for any person to enter, loiter or remain in or on any Village of Pinckney facility after the facility is closed for public use except as may otherwise be posted or with permission of the Chairperson or his or her authorized representative.

(B) *Care of public property.* It shall be unlawful for any person to mark, deface, disfigure, injure, tamper with or displace or remove or attach to, any building, bridges, tables, benches, fencing, paving or, paving material, water lines or other public utilities, or parts of appurtenances thereof; signs, notices placards, whether temporary or permanent, monuments, stakes, posts or other boundary markers, or other structures or equipment, facilities of Village of Pinckney property whatsoever, either real or personal.

(C) *Restrooms, dressing rooms and washrooms.* Male persons shall not resort to any restroom and washroom facilities set apart for women and female persons shall not resort to restroom and washroom facilities set apart for men, provided, that this shall not apply to children accompanied by an adult person. Further, no person shall loiter in or about the facilities nor shall any person use the facilities for purposes other than those intended.

(D) *Care of trees, shrubbery and lawns.* It shall be unlawful for any person to misuse, damage, cut, carve, transplant or remove any tree, plant, wood turf or ground cover, or pick the flowers or seeds of any tree or plant, or attach any rope, wire or other object to any tree or plant, except as authorized.

(E) *Climbing trees or other objects.* It shall be unlawful for any person to climb any tree or walk, stand or sit upon monuments, fountains, railing, fences or upon other property not designated or customarily used for the purposes.

(F) *Care of wild life.* It shall be unlawful for any person to hunt, molest, harm, frighten, kill, trap, chase, tease, shoot or throw objects at any animal, reptile or bird except for normal protective action against dangerous animals and poisonous reptiles, or pick, harm or destroy the natural plants, flowers, shrubs or wild life.

(G) *Fishing.* It shall be unlawful for any person to take or collect fish or any other marine life except in areas and at times designated under law by the Department of Natural Resources, State of Michigan.

(H) *Possession of firearms and other weapons.* It shall be unlawful for a person, other than peace officers and authorized staff in the discharge of their duties, to use, carry or possess firearms, air rifles, BB guns, bow and arrows, cross bows, spears, slings or any other dangerous weapons, except in specific times set aside for the uses.

(I) *Refuse, trash and litter.* It shall be unlawful for any person to dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, bottle caps, cartons, dirt, rubbish, waste, garbage or any other trash except that incidental to the use of the facility (land or water) and which must be deposited in the receptacles provided.

(J) *Advertising matter.* It shall be unlawful for any person to distribute, circulate, give away, throw or deposit in or on any Village of Pinckney facility any handbills, circulars, pamphlets, papers or advertisements or post the same to any tree, fence or structure in any Village of Pinckney facility without permission of the Chairperson. The permission shall be granted upon satisfactory showing that no public nuisance shall be created.

(K) *Automobiles and other wheeled vehicles.* It shall be unlawful for any person to operate or drive an automobile, bicycle, motorcycle, truck trailer, motor scooter, snowmobile or ATV on other than roads, riding trails or paths designated for the purpose, except with permission of the Chairperson. A bicyclist shall be permitted to wheel or push a bicycle by hand over any grassy area and walkway reserved for pedestrian use. Automobiles, bicycles, motorcycles, trucks, trailers, motor scooters, snowmobiles or ATV's shall at all times be operated with reasonable regard to the safety of others. In no event shall the maximum speed of any conveyance exceed ten mph except as otherwise designated. All the conveyances when left unattended shall be parked in an area and manner designated. No conveyances shall be left unattended in any place or position where other persons may trip over or be injured by them. At no time shall maintenance work, or washing of vehicles take place in or on Village of Pinckney parks.

(L) *Control of dogs or other animals.* No horse or other animal except dogs or cats shall be permitted in or upon land or water owned, managed, controlled or operated by the Village of Pinckney. A dog or cat must be under full and proper control by the person responsible for the animal on a leash of no more than six feet in length.

(M) *Abandonment of dogs, cats or other animals.* Persons shall not leave or deposit dogs, cats or other animals or fowl or fish, whether dead or alive, within the boundaries of land or water owned, managed, controlled or operated by the Village of Pinckney.

(N) *Building of fires.* No person, other than one acting under authorization, direction or permission of the Chairperson, shall build, light, kindle or maintain any open or outdoor fire at any place within the boundaries of land or water owned, managed, controlled or operated by the Village of Pinckney, except in areas or facilities specifically built and designated for this purpose.

(O) *Alcoholic beverages.* No person shall sell, serve or cause to be served, consume or possess alcoholic beverages of any kind whatsoever on or about any Village of Pinckney facility on village maintained or owned parks, unless authorized by the Village of Pinckney Council.

(P) *Duplication of keys.* No person other than one acting under authorization, direction or permission of the Chairperson shall duplicate keys used for padlocks, door locks or other of any type or description.

(Q) *Horseback riding.* No person other than one acting under authorization or direction of the Chairperson or his or her authorized representative shall ride a horse, pony or animal of any description onto or over land owned, managed, controlled or operated by the Village of Pinckney other than upon roads, trails and areas and at times designated for horseback riding.

(R) *Model crafts.* No person shall operate powered, line attached model crafts or remote controlled crafts of any kind or description including airplanes, boats, automobiles on or over land or water owned, managed, controlled or operated by the Village of Pinckney except in areas set aside for those specific activities.

(S) *Appropriation or encumbrance of real property.* No person shall enter upon any of the public land, water front or submerged lands or any other lands belonging to or held by the Village of Pinckney and dig up the earth or deposit any earth, rock or other substances or shall erect or attempt to erect any structures of any kind, or in any other manner appropriate or encumber any portion of the real estate belonging to or held by the Village of Pinckney unless the person shall have first obtained proper authority to do so.

(T) *Limitations on active sports and games.* The playing or engaging in an active sport or game is to be done on areas suitable and set apart for the use, and with suitable equipment and performed in a manner as to provide for reasonable protection to both individuals and property.

(U) *Washing or repairing autos or other conveyances.* Washing or repairing of any private individual's automobiles is not allowed except for certain group activities as approved by the Chairperson.

(V) *Wearing of proper footgear.* No person shall wear footgear that will damage, injure or create need for excessive maintenance on any field, court, deck, floor, turf or specialized surface prepared for particular games or activities. In areas posted with a sign specifying footgear authorized or approved, it shall be unlawful for any person to enter any area other than with the footgear so designated.

(W) *Boating.* All persons operating a boat on water owned, managed, controlled or operated by the Village of Pinckney shall comply with conditions, limitations and all applicable laws contingent to the body of water used.

(X) *Limitations on swimming.* No person shall enter any body of water owned, managed, controlled or operated by the Village of Pinckney for the purposes of swimming, wading or bathing except in those areas and times designated.

(Y) *Overnight parking.* No person shall park, abandon or otherwise allow to remain, automobiles and other conveyances in the Village of Pinckney recreational facilities between the hours of 10:00 p.m. and 6:00 a.m.; except with permission of the Chairperson or as otherwise posted. Any automobile or other conveyance parked, abandoned or otherwise allowed to remain in the Village of Pinckney recreation facilities after 10:00 p.m. without permission will, unless otherwise posted, be deemed to be unlawfully parked or left standing and the vehicle may be ordered towed away.

(Z) *Water pollution.* No person shall pollute in any way, any water owned, managed, controlled or operated by the Village of Pinckney. No person shall deposit or cause to be deposited any foreign material such as glass, metal, paper, garbage, waste or rubbish or any kind in the waters, or alter the chemical balance so as to cause harm to any marine life or the health of humans.

(AA) *Unintended use of facilities.* No person, group or organization shall use of Village of Pinckney facility for a purpose other than that for which it is intended by the Village of Pinckney except with permission of the Chairperson.

(Ord. 26, passed 8-11-1980) Penalty, see §111.99

### **§ 111.33 USE PERMITS AND FEES.**

(A) Persons using a Village of Pinckney facility or equipment subject to a fee or service charge may only use such upon paying the proper amount for the corresponding time and period.

(B) Further, persons using a facility which is subject to reservation by permit, but who do not possess the permit shall

vacate the facility when holders of permits present themselves.

(Ord. 26, passed 8-11-1980)

**§ 111.99 PENALTY.**

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

(B) Any person, firm or corporation who violates any provision §§111.01*et seq.* is responsible for a municipal civil infraction, subject to payment of a civil fine as specified in § 131.57, plus costs and other sanctions for each infraction. Repeat offenses shall be subject to increased fines as provided by Chapter 131 herein.

(C) (1) Violation of any provisions or rules of §§111.30*et seq.* shall be considered a misdemeanor and punishable by a fine of up to \$100 and/or 90 days in jail. Each day that a violation shall continue shall be considered a separate offense and punishable by the full penalties provided herein.

(2) In addition to the penalties provided for violating its provisions, any person convicted of an act of vandalism shall reimburse the Village of Pinckney for up to three times the amount of the damage as determined by the court. In every case of conviction for the offenses, the court before whom the conviction is obtained, shall enter judgment in favor of the Village of Pinckney and against the defendant for liquidated damages in a sum as provided above. The Village of Pinckney shall, with the assistance of the prosecuting attorney, collect the award by execution or otherwise. If two or more defendants are convicted of the vandalism, the judgment for damages shall be entered against them jointly. If the defendant is a minor, the judgment shall be entered against his or her parents.

(3) Upon collection, the sums shall be credited, to the general fund of the Village of Pinckney and shall be used for repairs and improvements to the parks.

(Ord. 26, passed 8-11-1980; Ord. 28, passed 10-11-1982; Ord. passed 5-22-2000)

## **CHAPTER 112: CABLE TELEVISION**

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Section

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## GENERAL PROVISIONS

### § 112.01 SHORT TITLE.

This chapter may be known and referred to as the Village of Pinckney Cable Television Rate Regulation Ordinance.  
(Ord. 46, passed 11-8-1993)

### § 112.02 PURPOSE.

The purpose of this chapter is to regulate rates of cable television basic service and associated equipment through adoption of regulations consistent with the provisions of the Federal Communications Act of 1934, as amended, including the Cable Television Consumer Protection and Competition Act of 1992, Pub. Law No. 102-385 and the Federal Communication Commission's rules and/or regulations promulgated pursuant thereto; and to provide procedures applicable to rate regulation which offer a reasonable opportunity for comment by interested parties.

(Ord. 46, passed 11-8-1993)

### § 112.03 DEFINITIONS.

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

**ACT.** The Federal Communications Act of 1934, as amended, specifically including the amendments contained in the Cable Television Consumer Protection and Competition Act of 1992, Pub. Law No. 102-385.

**ASSOCIATED EQUIPMENT.** Equipment used by a subscriber to receive basic service cable programming regardless of whether the equipment is also used to receive other tiers of regulated programming service and/or unregulated tiers of programming service(s). **ASSOCIATED EQUIPMENT** includes, but is not limited to:

- (1) Converter boxes;
- (2) Remote control units;
- (3) Connections for additional television receivers; and
- (4) Other cable home wiring.

**BASIC SERVICE.** The level or tier of cable television programming which includes, at a minimum, all signals of domestic television broadcast stations provided to any subscriber (except a signal secondarily transmitted by satellite carrier beyond the local service area of the station, regardless of how the signal is ultimately received by the cable system), a public, educational and/or governmental programming required by the Franchise Authority to be carried as a basic service and any additional video programming signals added to the basic service by the Regulated Cable Operator.

**CABLE TELEVISION COMMISSION.** The agent of the Franchising Authority with all the powers of the Franchising Authority.

**EXISTING RATES.** The rates for basic service and associated equipment charged by a regulated cable operator on the initial date of regulation by the Franchising Authority.

**F.C.C.** The United States Federal Communications Commission.

**F.C.C. RULES** and/or **REGULATIONS.** Any and all rules and/or regulations which the F.C.C. promulgates and/or adopts pursuant to the Act.

**FRANCHISING AUTHORITY.** The Village Council.

**ORDINANCE.** This Cable Television Basic Service Regulation Ordinance.

**RATE INCREASE.** An increase in rates for basic service and/or associated equipment including among others increases in rates that are the result of reductions in programming provided under the basic service.

**REGULATED CABLE OPERATOR.** Any operator of a cable television system that is subject to regulation by a Certified Franchising Authority.

**VILLAGE.** The general law Village of Pinckney.

(Ord. 46, passed 11-8-1993)

### § 112.04 UNDEFINED WORDS OR TERMS.

Any word or term which is not specifically defined in §112.03 shall be given its normal, ordinary meaning. Provided that any word or term which is used in this chapter and which is not specifically defined in § 112.03 but is defined in F.C.C. rules and/or regulations, shall have the meaning given to the word or term in the F.C.C. rules and/or regulations.

(Ord. 46, passed 11-8-1993)

## RULES AND REGULATIONS



## **§ 112.20 RATE REGULATION; ADOPTION OF F.C.C. RULES AND/OR REGULATIONS.**

(A) The village, by this reference, hereby adopts all rules and/or regulations regarding basic service rates and associated equipment rates which the F.C.C. promulgates pursuant to the Act, and makes the rules and/or regulations part of this chapter.

(B) The village has submitted an application to the F.C.C. for certification as a cable Franchising Authority pursuant to the Act. Upon certification as a cable Franchising Authority, the village shall regulate the basic service rates and associated equipment rates in compliance with the Act, the F.C.C. rules and/or regulations and this chapter.

(C) Upon receiving its certification, the Franchising Authority shall send written notice of its certification and notice that it has adopted the required regulations, return receipt requested, to all regulated cable operators within the village. The date upon which the Franchising Authority gives this notice is the initial date of regulation.

(Ord. 46, passed 11-8-1993)

## **§ 112.21 DESIGNATION OF CABLE FRANCHISING AUTHORITY.**

Effective upon certification of the village as a cable Franchising Authority, the Village Council is hereby designated as the cable Franchising Authority for the village and shall execute the powers, duties and responsibilities given to the Cable Franchising Authority in this chapter, the Act and the F.C.C. rules and/or regulations, unless a Cable Television Commission is established and the Cable Television Commission shall be the agent for the Village Council and shall have all the powers designated to the Franchising Authority.

(Ord. 46, passed 11-8-1993)

## **§ 112.22 REGULATED CABLE OPERATORS.**

(A) A regulated cable operator shall comply with all duties and obligations imposed upon the regulated cable operator by the Act, F.C.C. rules and/or regulations and this chapter.

(B) A regulated cable operator has the burden of proving that its submitted existing rates or a proposed rate increase comply with the Act and F.C.C. rules and/or regulations.

(Ord. 46, passed 11-8-1993)

## **§ 112.23 SUBMISSION OF EXISTING RATE SCHEDULE.**

(A) Within 30 days of receiving the notice identified in §112.20, a regulated cable operator shall submit an original and eight copies of a written schedule of the regulated cable operator's existing rates to the Franchising Authority. The schedules shall be addressed in care of the Village Clerk.

(B) The schedule(s) identified in division (A) above shall contain a detailed statement explaining whether the regulated cable operator's existing rates comply with existing F.C.C. rules and/or regulations for basic service rates and associated equipment rates.

(C) Upon receipt of the existing basic service rate and associated equipment rate schedule(s), the Village Clerk shall provide the schedule(s) to the Franchising Authority or its agent, within seven days.

(Ord. 46, passed 11-8-1993)

## **§ 112.24 FRANCHISING AUTHORITY; EXISTING RATE REVIEW.**

(A) Unless the time for conducting the public hearing and entering a decision is extended by the issuance of a Tolling Order by the Franchising Authority pursuant to § 112.23, the Franchising Authority shall hold a public hearing on the existing rate schedule(s) which the regulated cable operator submitted to the Franchising Authority, and enter a decision on the submitted schedule(s) within 30 days of the date the Village Clerk received the schedule(s). If the time for conducting the public hearing is extended pursuant to § 112.23, a public hearing should be held and decision rendered before the extended time period expires.

(B) The existing rates identified in the submitted schedule(s) of rates shall go into effect 30 days from the date of the Village Clerk's receipt of the schedule(s) unless the Franchising Authority disapproves the rate or extends the time period for conducting the review of existing rates pursuant to § 112.23.

(C) If the Franchising Authority fails to act on the submitted existing rates by the end of the respective tolling period, then the rates will remain in effect. If the Franchising Authority subsequently disapproves any portion of the rates, refunds may not be ordered unless a brief written order is issued by the Franchising Authority before the end of the respective tolling period directing the regulated cable operator to keep an accurate accounting of all its customers and the amounts paid by each as a result of the rates.

(Ord. 46, passed 11-8-1993)

## **§ 112.25 REGULATION OF RATE INCREASES.**

(A) A regulated cable operator cannot institute a rate increase charged to its subscribers unless the regulated cable

operator complies with the Act, F.C.C. rules and/or regulations of this chapter.

(B) A regulated cable operator which proposes a rate increase must submit at least eight copies of the proposed rate increase(s) request to the Franchising Authority in care of the Village Clerk.

(Ord. 46, passed 11-8-1993)

#### **§ 112.26 FRANCHISE AUTHORITY RATE INCREASE REVIEW.**

(A) Unless the time for conducting the public hearing and entering a decision is extended by the issuance of a Tolling Order by the Franchising Authority pursuant to § 112.23, the Franchising Authority shall conduct a public hearing and render a decision upon the regulated cable operator's proposed rate increase request within 30 days of the Village Clerk's receipt of a proposed rate increase request. If the time for holding the public hearing is extended pursuant to § 112.23, the public hearing should be held and a decision rendered, before the extended time period expires.

(B) A proposed rate increase requested by a regulated cable operator will become effective after 30 days have elapsed from the date the Village Clerk received the proposed rate increase request unless the Franchising Authority disproves the proposed rate increase or extends the time period for conducting the review of the proposed rate increase pursuant to § 112.23.

(C) If the Franchising Authority allows rate increases to go into effect at the end of the respective tolling period through inaction and then subsequently disapproves any portion of the rates, then refunds may not be ordered unless a brief written order is issued by the Franchising Authority before the end of the respective tolling period, directing the regulated cable operator to keep an accurate accounting of all its customers and the amounts paid by each as a result of the rates.

(Ord. 46, passed 11-8-1993)

#### **§ 112.27 TOLLING ORDER.**

(A) If the Franchising Authority is unable to determine, based upon the material submitted by the regulated cable operator, that the existing rates or proposed rate increase(s) are reasonable or if the regulated cable operator has submitted a cost of service showing, then the Franchising Authority may toll the 30-day deadline for an additional 90 days in cases not involving cost of service showings.

(B) In order for the Franchising Authority to toll the 30-day period pursuant to § 112.23, the Franchising Authority must issue an order explaining that additional time and/or information is necessary in order for the Franchising Authority to act upon the existing rates or the proposed rate increase. The order must be in writing, by resolution adopted within the 30-day period.

(C) The Franchising Authority shall send a copy of the tolling order to the regulated cable operator by first class mail within seven days after the effective date of the decision.

(Ord. 46, passed 11-8-1993)

#### **§ 112.28 PUBLIC HEARING.**

(A) During the public hearing on the review of a regulated cable operator's existing rates or on review of a proposed rate increase, the Franchising Authority shall provide the regulated cable operator and all other interested persons with the opportunity to comment on the rates either in person, in writing or by agent.

(B) The Franchising Authority may conduct as many public hearings as necessary to carry out the provisions of the Act, F.C.C. rules and/or regulations and this chapter.

(C) If the Franchising Authority deems it necessary, either prior to or following a public hearing, the Franchising Authority may direct the preparation of a written report for the Franchising Authority. This report may contain recommendation to the Franchising Authority for its decision on the review of the existing rate schedule(s) or proposed rate request submitted by a regulated cable operator. This recommendation should also summarize and be based upon the schedule or request submitted by the regulated cable operator, comments or objections to the schedule or request which the Franchising Authority received from the regulated cable operator, any additional information received from the regulated cable operator, information which the Franchising Authority received from a consultant, its staff or its attorney and other information which it deems appropriate.

(D) The Franchising Authority shall send, by first class mail, a copy of any report to the regulated cable operator prior to the Franchising Authority's consideration of the report at a public hearing.

(Ord. 46, passed 11-8-1993)

#### **§ 112.29 PUBLIC HEARING NOTICE.**

(A) The Franchising Authority shall send a written notice of the date, time and location of the public hearing to the regulated cable operator which submitted the existing rates or proposed rate increase for review no less than seven days before the date of the public hearing. The notice is to be sent to the regulated cable operator by first class mail.

(B) The Franchising Authority shall cause to be published, in a qualified newspaper of general circulation within the village, a notice of the public hearing on the existing rate schedule(s) or proposed rate increase request no less than seven

days before the public hearing. The notice shall:

- (1) State that a regulated cable operator has submitted the existing rate schedule(s) or proposed rate increase request to the Franchising Authority for review pursuant to this chapter;
- (2) State the location and times at which the public may examine the submitted schedule(s) of existing rates or proposed rate increase request;
- (3) State the date, time and location at which the Franchising Authority will conduct the public hearing; and
- (4) State that all interested persons shall have an opportunity to comment on the rates at the public hearing, and/or to submit written comments on or before the date of the public hearing to the Franchising Authority.

(Ord. 46, passed 11-8-1993)

### **§ 112.30 FRANCHISING AUTHORITY DECISION ON REVIEW OF EXISTING RATES OR PROPOSED RATE INCREASE.**

The Franchising Authority shall issue a written order supported by its reasons, by resolution which:

- (A) Approves the regulated cable operator's existing rate or proposed rate increase;
- (B) Disapproves the regulated cable operator's existing rate or proposed rate increase;
- (C) Approves, in part, and disapproves, in part, the regulated cable operator's existing rate or proposed rate increase;
- (D) Orders a rate reduction;
- (E) Prescribes a reasonable rate;
- (F) Determines that a refund hearing should be held pursuant to §112.31; and/or
- (G) Orders any further appropriate relief permitted by this chapter, the act or the F.C.C. rules and/or regulations.

(Ord. 46, passed 11-8-1993)

### **§ 112.31 REFUND HEARING.**

(A) If the Franchising Authority determines that the subscribers to a regulated cable operator may be entitled to a refund pursuant to F.C.C. rules and/or regulations (specifically 47 C.F.R. § 76.942), the Franchising Authority shall include a notice in its decision issued pursuant to § 112.30, that the Franchising Authority will hold a public hearing to consider ordering the regulated cable operator to make a refund to subscribers.

(B) The Franchising Authority shall then conduct a public hearing to determine whether to order a refund to subscribers and the amount of the refund.

(C) The Franchising Authority shall send, by first class mail, to the regulated cable operator, written notice of the date, time and location of the public hearing. The notice must be sent no less than seven days before the public hearing.

(Ord. 46, passed 11-8-1993)

### **§ 112.32 REFUND HEARING; DECISION.**

(A) *Refund hearing.* At any refund hearing, the regulated cable operator may appear in person, by agent or in writing to comment upon whether the Franchising Authority should order a refund.

(B) *Public.* Members of the public may also comment at the refund hearing in person, by agent or in writing.

(C) *Authority refund.* At the conclusion of the refund hearing, the Franchising Authority shall issue a written order, by resolution:

- (1) Denying a refund; or
- (2) Ordering the regulated cable operator to implement.

(Ord. 46, passed 11-8-1993)

### **§ 112.33 NOTICE OF FRANCHISING AUTHORITY DECISIONS.**

(A) All decisions of the Franchising Authority issued pursuant to §112.30 and/or § 112.32 of this chapter shall be:

- (1) In writing, by resolution, supported by its reasons; and
- (2) Effective as of the date the Franchising Authority makes the decision.

(B) Notice of all decisions of the Franchising Authority issued pursuant to §112.30 and/or § 112.32 shall be published in a qualified newspaper of general circulation in the village no less than 15 days after the effective date of the decision. The notice shall include:

- (1) A summary of the Franchising Authority's decision;
- (2) A statement that copies of the Franchising Authority decision are available for public inspection; and
- (3) A statement as to the location at which, and times during which, the public may inspect copies of the Franchising Authority's decision.

(C) The Franchising Authority shall send, by first class mail, a copy of the Franchising Authority's decision to the regulated cable operator not more than seven days after the effective date of the Franchising Authority's decision.

(Ord. 46, passed 11-8-1993)

#### **§ 112.34 PROPRIETARY INFORMATION AND PRODUCT DOCUMENTS.**

(A) The Franchising Authority may require the regulated cable operator to produce documents needed to make rate decisions.

(B) Requests that proprietary information be held confidential shall be supported by the regulated cable operator and be handled in a manner analogous to the procedures and criteria set forth in 47 C.F.R. § 0.459.

(Ord. 46, passed 11-8-1993)

#### **§ 112.35 CABLE TELEVISION COMMISSION.**

The Franchising Authority may create a Cable Television Commission. The Cable Television Commission shall have the same authority as the Franchising Authority and shall act as the agent of the Village Council. The authority of the Cable Television Commission may be created by an ordinance setting up the Commission with the full authority of the franchising authority and with all of the powers of the Village Council acting as its agent.

(Ord. 46, passed 11-8-1993)

## **CHAPTER 113: MISCELLANEOUS BUSINESSES REQUIRING A LICENSE**

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Section

### ***Sexually-Oriented Business***

113.01 Prohibiting nude entertainment

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## **SEXUALLY-ORIENTED BUSINESS**

### **§ 113.01 PROHIBITING NUDE ENTERTAINMENT.**

(A) For the purposes of this section, **ALCOHOLIC COMMERCIAL ESTABLISHMENT** shall mean any hotel, motel, tavern, restaurant, park, nightclub, cocktail lounge, burlesque house, bar, cabaret, taproom or club, licensed by the State of Michigan Liquor Control Commission or where alcoholic beverages, including beer, are dispensed and consumed. This definition shall exclude any theater or auditorium.

(B) It shall be unlawful for any person to perform in any alcoholic commercial establishment as defined above, or for any person who owns or operates premises constituting an alcoholic commercial establishment to knowingly permit or allow to

be performed therein, any of the following acts or conduct:

- (1) The public performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;
- (2) The actual or simulated touching, caressing or fondling on the breasts, buttocks, anus or genitals in public; or
- (3) The actual or simulated public displaying of the pubic hair, anus, vulva or genitals.

(C) It shall be unlawful for the owner, operator, agent or employee of an alcoholic commercial establishment to allow any female to appear in an alcoholic commercial establishment so costumed or dressed that one or both breasts are wholly or substantially exposed to public view. Topless or bottomless or totally uncovered waitresses, bartenders or barmaids, entertainers including dancers, impersonators, or any other form for the attraction or entertainment of customers is strictly prohibited. Wholly or substantially exposed to public view, as it pertains to breasts, shall mean the showing of the female breast in an establishment with less than a fully opaque covering of all portions of the areola and nipple.

(D) It shall further be unlawful for any employee, agent, servant or contractor of an alcoholic commercial establishment to permit himself or herself to be subjected to any of the acts prohibited in division (A) above by any other persons, including but not limited to, customers, patrons or fellow servants.

(Ord. 51, passed 2-12-1996) Penalty, see §10.99

## **MARIHUANA ESTABLISHMENTS**

### **§ 113.30 PURPOSE.**

(A) The purpose of this subchapter is to regulate recreational Marihuana Establishments, consistent with the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, M.C.L.A. 333.27951 et seq. (hereafter referred to as the "MRTMA"), The Village finds that these activities are significantly connected to the public health, safety, security and welfare of its residents and it is therefore necessary to regulate and enforce safety, security, fire, policing, health and sanitation practices related to such activities. This ordinance also provides a method to defray the costs incurred by such regulation and enforcement.

(B) It is not the intent of this subchapter to diminish, abrogate or restrict protections for the medical use of marihuana provided in the Michigan Medical Marihuana Act. Nothing in this subchapter is intended to grant individuals immunity from the enforcement of federal laws prohibiting marihuana activity. The provisions of this subchapter are regulatory in nature and not intended to be interpreted as zoning laws.

(Ord. 151, passed 11-23-2020; Ord. 152, passed 11-23-2020)

### **§ 113.31 DEFINITIONS.**

Words and phrases used herein shall have the definitions as provided for in Initiated Law 1 of 2018, M.C.L.A. 333.27953 of the MRTMA, as the same may be amended from time to time, which words and phrases are incorporated herein by reference.

(Ord. 151, passed 11-23-2020; Ord. 152, passed 11-23-2020)

### **§ 113.32 ACTS PROHIBITED.**

(A) No person shall operate a marihuana establishment in the village without first obtaining a state license as per the State of Michigan Marihuana Regulatory Agency (hereafter referred to as the "Agency") and village license pursuant to the MRTMA and in accordance with the provisions of this Code.

(B) A licensed marihuana establishment in the village shall be subject to all applicable village zoning regulations including but not limited to site plan, design, location, signage, parking, lot and building size, and occupancy, as well as those regulations and building specifications unique to this type of business.

(Ord. 151, passed 11-23-2020; Ord. 152, passed 11-23-2020)

### **§ 113.33 AUTHORIZATION OF MARIHUANA ESTABLISHMENTS.**

Except as provided herein and pursuant to the MRTMA, the village shall authorize the following number of state licensed marihuana establishments to operate within its boundaries:

- (A) Marihuana Safety Compliance Facility - one (1) license.
- (B) Marihuana Secure Transporter - one (1) license.
- (C) Marihuana Microbusiness - one (1) license.
- (D) Marihuana Retailer -one (1) license.
- (E) Marihuana Processor - one (1) license.
- (F) Marihuana Grower (any class) - one (1) license.



(Ord. 151, passed 11-23-2020; Ord. 152, passed 11-23-2020)

### **§ 113.34 REQUIREMENTS AND PROCEDURES FOR ISSUING MUNICIPAL LICENSES.**

(A) No person shall operate a marihuana establishment in the village without a valid municipal license issued by the village pursuant to the provisions of this subchapter.

(B) No person shall be issued a municipal license by the village without first having obtained a special use permit authorizing the operation of the establishment pursuant to the village zoning ordinance.

(C) No person who is employed by the village, acts as a consultant for the village or acts as an advisor to the village, and is involved in the implementation, administration or enforcement of this subchapter shall have an interest, directly or indirectly, in a marihuana establishment.

(D) Every applicant for a municipal license to operate a marihuana establishment shall file an application in the Village Clerk's office upon a form provided by the village. The application shall include:

- (1) The appropriate nonrefundable municipal license application fee in the amount determined by the village;
- (2) If the applicant is an individual, the applicant's name; date of birth; Social Security number; physical address, including residential and any business address; copy of government-issued photo identification; email address; one or more phone numbers, including emergency contact information;
- (3) If the applicant is not an individual, the names; dates of birth; physical addresses, including residential and any business address; copy of government-issued photo identifications; email address; and one or more phone numbers of each stakeholder of the applicant, including designation of the highest ranking representative as an emergency contact person; contact information for the emergency contact person; articles of incorporation or organization; assumed name registration; Internal Revenue Service EIN confirmation letter; copy of the operating agreement of the applicant, if a limited liability company; copy of the partnership agreement, if a partnership; names and addresses of the beneficiaries, if a trust, or a copy of the bylaws or shareholder agreement, if a corporation;
- (4) The name and address of the proposed marihuana establishment;
- (5) A copy of the special use permit issued by the village Planning Commission;
- (6) A location area map of the marihuana establishment and surrounding area that identifies the relative locations and the distances (closest property line to the subject marihuana establishment's building) to the closest real property comprising a public or private elementary, vocational or secondary school;
- (7) A signed acknowledgment that the applicant is aware and understands that all matters related to marihuana growing, cultivation, possession, testing, safety compliance and transporting, are currently subject to state and federal laws, rules and regulations, and that the approval or granting of a license hereunder does not exonerate or exculpate the applicant from abiding by the provisions and requirements and penalties associated with those laws, rules, and regulations, or exposure to any penalties associated therewith; and further, the applicant waives and forever releases any claim, demand, action, legal redress, or recourse against the village, its elected and appointed officials, and its employees and agents for any claims, damages, liabilities, causes of action, damages, or attorney fees that the applicant may incur as a result of the violation by the applicant, its stakeholders and agents of those laws, rules, and regulations; and
- (8) Any other information which may be required by the Village Clerk.

(E) Upon an applicant's completion of the above-described form and furnishing of all required information and documentation, the Village Clerk shall file the same and assign it a sequential application number by establishment type based on the date and time of acceptance. The Village Clerk shall act to approve or deny an application not later than 90 days from the date the completed application is filed. If approved, the Village Clerk shall issue the applicant a provisional license. A final license shall be approved by Village Council after issuance by the state of Michigan of an operating license. Such approval will occur at Council's regularly scheduled meeting after village has received notice of state approval of an operating license.

(F) If the application is denied, the Village Clerk shall issue a written notice of denial to the applicant and mail the same by first class mail to the address for the applicant provided in the application.

(G) Should the Village Clerk deny an application, the applicant shall have 30 days from the mailing of the denial to appeal the denial to the Village Council. To appeal the decision of the Village Clerk the applicant must file a notice of appeal with the Village Clerk. Village Council shall hear the appeal at its next regular meeting, but not sooner than seven days from the receipt of the appeal.

(H) Maintaining a valid license issued by the state is a condition for the maintenance of a license under this subchapter and continued operation of a marihuana establishment. A provisional license does not authorize operations until a final license is issued, which will only occur upon issuance of the appropriate license by the state of Michigan and the issuance of a certificate of occupancy.

(I) A license issued under this subchapter is not transferable without the prior approval of the village under the same terms and conditions required for the initial issuance of a license under this subchapter.

(J) The MRTMA in Section 9.4. (M.C.L.A. 333.27959 4.) requires that the village establish a competitive process to select



applicants who are best suited to operate in compliance with the MRTMA and this subchapter, when more than one applicant has applied for a single available license. The process for scoring and ranking applications in competition shall be detailed in the village's Marihuana business scoring and ranking policy. Pursuant to this requirement the village requires that applicants provide:

(1) An estimate of the number and type of jobs that the marihuana establishment is expected to create, and the amount and type of compensation expected to be paid for such jobs;

(2) A business plan which contains, but is not limited to, the following: The applicant's experience in operating other similarly permitted or licensed businesses and the applicant's general business management experience; The proposed ownership structure of the establishment, including percentage ownership of each person or entity; A current organizational chart that includes position descriptions and the names of each person holding each position; Planned tangible capital investment in the village, including if multiple permits are proposed, an explanation of the economic benefits to the village and job creation, if any, to be achieved through the award of such multiple permits, with supporting factual data; Expected job creation from the proposed marihuana establishment(s); If a marihuana grower establishment is proposed, the number of plants anticipated; Financial structure and financing of the proposed marihuana establishment(s); and; Community outreach/education plans and strategies.

(3) A written description of the training and education that the applicant will provide to all employees, including planned continuing education for existing employees. Further, a written description of the method(s) for record retention of all training provided to existing and former employees; and

(4) A facility sanitation plan to protect against any marihuana being ingested by any person or animal, indicating how the waste will be stored and disposed of, and how any marihuana will be rendered unusable upon disposal. Disposal by on-site burning or introduction into the sewerage system is prohibited.

(Ord. 151, passed 11-23-2020; Ord. 152, passed 11-23-2020)

#### **§ 113.35 APPLICATION FEE.**

(A) The village shall establish a nonrefundable provisional license application fee to be paid upon filing any application for a marihuana establishment by a local applicant. The amount of the initial provisional license application fee shall be set by Council annually as part of the village fee schedule and to be paid to the village upon approval of a state operating license issued by the agency for the license type at the business facility address.

(B) The municipal license fee is in addition to any other fees required, including but not limited to zoning fees.

(Ord. 151, passed 11-23-2020; Ord. 152, passed 11-23-2020)

#### **§ 113.36 LICENSES GENERALLY.**

(A) A village full license authorization that is issued under this Code, and the state operating license shall be posted at all times inside the marihuana establishment in a conspicuous location near the entrance.

(B) Except as provided in this Code, the term of a village full license authorization shall be for one calendar year subject to renewal.

(Ord. 151, passed 11-23-2020; Ord. 152, passed 11-23-2020)

#### **§ 113.37 RENEWALS.**

(A) Provisional licenses shall be valid for one calendar year from the date they are issued.

(B) Application for a village full license authorization renewal shall be made in writing to the Clerk at least 90 days prior to the expiration of an existing license. Licenses shall be renewed annually.

(C) An application for a provisional license renewal or a village full license authorization renewal required by this Code shall be made under oath on forms provided by the Clerk.

(D) An application for a provisional license renewal or a village full license authorization renewal shall be accompanied by a renewal fee, which shall be set by resolution of the Village Council, but shall not exceed \$5,000.

(Ord. 151, passed 11-23-2020; Ord. 152, passed 11-23-2020)

#### **§ 113.38 LICENSE REVOCATION OR SUSPENSION.**

Each marihuana establishment within the village for which a village full license authorization is granted shall be operated and maintained in accordance with all applicable laws, rules, and regulations in the village and state. Upon any material violation of this Code that a local applicant has failed to remedy, the Clerk may revoke or suspend such license as hereinafter provided. The time allowed for remedy will depend upon the violation but shall be no fewer than three days and no more than 14 days.

(Ord. 151, passed 11-23-2020; Ord. 152, passed 11-23-2020)

#### **§ 113.39 CRITERIA FOR NONRENEWAL, SUSPENSION, OR REVOCATION OF LICENSE.**

In addition to any other reasons set forth in this Code, the village may refuse to issue a license or grant renewal of the license or suspend or revoke the license for any of the following reasons:

(A) A material violation of any provision of this Code that a license holder has failed to remedy after being provided with sufficient time to make the correction. Failure to meet the requirements of § 113.39 (C) of this Code shall be considered a material violation of this Code.

(B) The inability of the licensee or provisional license holder to obtain or maintain a license from the agency pursuant to the MRTMA within one calendar year after the issuance of a provisional license subject to.

(C) Failure of the licensee to demonstrate to the village that it has complied with minimum business standards (see above).

(Ord. 151, passed 11-23-2020; Ord. 152, passed 11-23-2020)

#### **§ 113.40 PENALTY.**

A person or entity who violates any of the provisions of §113.30 through § 113.40 of this Code of Ordinances shall be responsible for a municipal civil infraction punishable by a civil fine of no more than \$500, as provided in § 10.99 of this Code of Ordinances.

(Ord. 151, passed 11-23-2020; Ord. 152, passed 11-23-2020)

## **CHAPTER 114: TELECOMMUNICATIONS**

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### Section

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## GENERAL PROVISIONS

### § 114.01 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, being M.C.L.A. §§ 484.3101 through 484.3120) (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. 60, passed 2-24-2003)

### § 114.02 CONFLICT.

Nothing in this chapter shall be construed in such a manner as to conflict with the Act or other applicable law.

(Ord. 60, passed 2-24-2003)

### § 114.03 TERMS DEFINED.

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

**ACT.** The Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002, being M.C.L.A. §§ 484.3101 through 484.3120), as amended from time to time.

**PERMIT.** 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.** The Village of Pinckney.

**VILLAGE COUNCIL.** The Village Council of the Village of Pinckney 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 PRESIDENT.** The Village President or his or her designee.

(B) *Defined words.* 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.** The Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to § 3 of the Act.

**MPSC.** 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.** An individual, corporation, partnership, association, governmental entity or any other legal entity.

**PUBLIC RIGHT-OF-WAY.** 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.** 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 § 332(d) of part I of title HI of the Communications Act of 1934, Ch. 652, 48 Stat. 1064, 47 U.S.C. § 332 and further defined as commercial mobile radio service in 47 C.F.R. § 20.3, and service provided by any wireless, two-way communication device.

**TELECOMMUNICATIONS PROVIDER, PROVIDER** and **TELECOMMUNICATIONS SERVICES.** Those terms as defined in § 102 of the Michigan Telecommunications Act, 1991 Public Act 179, being M.C.L.A. §§ 484.2101 through 484.2701. **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 § 332(d) of part 1 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 C.F.R. § 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; and

(c) A person providing broadband internet transport access service.

(Ord. 60, passed 2-24-2003)

## PERMIT

### § 114.20 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 § 6(1) of the Act. A telecommunications provider shall file one copy of the application with the Village Clerk and 1 copy with the Village President. Upon receipt, the Village Clerk shall make two copies of the application and distribute a copy to the head of the DPW and to the Chief of Police. 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 § 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, Public Act 442 of 1976, M.C.L.A. §§ 15.231 to 15.246, pursuant to § 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 non-refundable application fee in the amount of \$500.

(E) *Additional information.* The Village President may request an applicant to submit additional information which the Village President deems reasonably necessary or relevant. The applicant shall comply with all the requests in compliance with reasonable deadlines for the additional information established by the Village President. 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 § 6(2) of the Act.

(F) *Previously issued permits.* Pursuant to § 5(1) of the Act, authorizations or permits previously issued by the village under § 251 of the Michigan Telecommunications Act, Public Act 179 of 1991, M.C.L.A. §§ 484.2101 through 484.2701 and authorizations or permits issued by the village to telecommunications providers prior to the 1995 enactment of § 251 of the Michigan Telecommunications Act but after 1985 shall satisfy the permit requirements of this chapter.

(G) *Existing providers.* Pursuant to § 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 the date, that has not previously obtained authorization or a permit under § 251 of the Michigan Telecommunications Act, 1991 Public Act 179, M.C.L.A. §§ 484.2101 through 484.2701, shall submit to the village an application for a permit in accordance with the requirements of this chapter. Pursuant to § 5(3) of the Act, a telecommunications provider submitting an application under this section is not required to pay the \$500 application fee required under division (D) above. A provider under this section shall be given up to an additional 180 days to submit the permit application if allowed by the Authority, as provided in § 5(4) of the Act.

(Ord. 60, passed 2-24-2003)

### § 114.21 ISSUANCE OF PERMIT.

(A) *Approval or denial.* The authority to approve or deny an application for a permit is hereby delegated to the Village President. Pursuant to § 15(3) of the Act, the Village President 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 § 4(b) of this chapter for access to a public right-of-way within the village. Pursuant to § 6(6) of the Act, the Village President shall notify the MPSC when the Village President 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 President shall not unreasonably deny an application for a permit.

(B) *Form of permit.* If an application for permit is approved, the Village President shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms in accordance with § 6(1), 6(2) and 15 of the Act.

(C) *Conditions.* Pursuant to § 15(4) of the Act, the Village President 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 § 15(3) of the Act, and without limitation on division (C) above, the Village President 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. 60, passed 2-24-2003)

### § 114.22 CONSTRUCTION AND/OR 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 this chapter, for construction within the public rights-of-way. No fee shall be charged for a construction or engineering permit.

(Ord. 60, passed 2-24-2003)

## **POLES AND MAP**

### **§ 114.35 CONDUIT OR UTILITY POLES.**

Pursuant to § 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. 60, passed 2-24-2003)

### **§ 114.36 ROUTE MAPS.**

(A) Pursuant to § 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.

(B) The route maps should be in paper or electronic format unless and until the MPSC determines otherwise, in accordance with § 6(8) of the Act.

(Ord. 60, passed 2-24-2003)

### **§ 114.37 REPAIR DAMAGE.**

Pursuant to § 15(5) of the Act, a telecommunications provider undertaking an excavation, 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. 60, passed 2-24-2003)

## **FEES AND FUNDS**

### **§ 114.50 ESTABLISHMENT AND PAYMENT OF MAINTENANCE FEE.**

In addition to the non-refundable application fee paid to the village set forth in § 14.20(D) above, a telecommunications provider with telecommunications facilities in the village's public rights-of-way shall pay an annual maintenance fee to the Authority pursuant to § 8 of the Act.

(Ord. 60, passed 2-24-2003)

### **§ 114.51 MODIFICATION OF EXISTING FEES.**

In compliance with the requirements of § 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 § 13(4) of the Act, the village also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of-way within the village's boundaries, so that those providers pay only those fees required under § 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 § 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, the 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. 60, passed 2-24-2003)

### **§ 114.52 SAVINGS CLAUSE.**

Pursuant to § 13(5) of the Act, if § 8 of the Act is found to be invalid or unconstitutional, the modification of fees under § 114.51 shall be void from the date the modification was made.

(Ord. 60, passed 2-24-2003)

### **§ 114.53 USE OF FUNDS.**

Pursuant to § 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 Public Act 51 of 1951, being M.C.L.A. §§ 247.651 through 247.675.

(Ord. 60, passed 2-24-2003)

## **MISCELLANEOUS PROVISIONS**

### **§ 114.70 ANNUAL REPORT.**



Pursuant to § 10(5) of the Act, the Village President shall file an annual report with the Authority on the use and disposition of funds annually distributed by the Authority.

(Ord. 60, passed 2-24-2003)

#### **§ 114.71 CABLE TELEVISION OPERATORS.**

Pursuant to § 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. 60, passed 2-24-2003)

#### **§ 114.72 EXISTING RIGHTS.**

Pursuant to § 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. 60, passed 2-24-2003)

#### **§ 114.73 COMPLIANCE.**

(A) 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.

(B) The village shall comply in all respects with the requirements of the Act, including but not limited to the following:

- (1) Exempting certain route maps from the Freedom of Information Act, Public Act 442 of 1976, M.C.L.A. §§ 15.231 to 15.246, as provided in § 114.20(C);
- (2) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with § 114.20(F);
- (3) Allowing existing providers additional time in which to submit an application for a permit and excusing the providers from the \$500 application fee, in accordance with § 114.20(G);
- (4) Approving or denying an application for a permit within 45 days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the village, in accordance with § 114.21(A);
- (5) Notifying the MPSC when the village has granted or denied a permit, in accordance with § 114.21(A);
- (6) Not unreasonably denying an application for a permit, in accordance with § 114.21(A);
- (7) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in § 114.21(B);
- (8) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider access and usage of the public right-of-way, in accordance with § 114.21(C);
- (9) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider's access and use, in accordance with § 114.21(D);
- (10) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with § 114.22;
- (11) Providing each telecommunications provider affected by the village's right-of-way fees with a copy of this chapter, in accordance with § 114.51;
- (12) Submitting an annual report to the Authority, in accordance with § 114.70; and
- (13) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with § 114.71.

(Ord. 60, passed 2-24-2003)

#### **§ 114.74 RESERVATION OF POLICE POWERS.**

Pursuant to § 5(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. 60, passed 2-24-2003)

#### **§ 114.75 AUTHORIZED VILLAGE OFFICIALS.**



The Village President or a member of the Village Police Department is hereby designated as the authorized village official to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the Municipal Chapter Violations Bureau) for violations under this chapter as provided by the Village Code.

(Ord. 60, passed 2-24-2003)

**§ 114.99 PENALTY.**

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 payment of a civil fine as specified in § 131.57, plus costs and other sanctions for each infraction. Repeat offenses shall be subject to increased fines as provided by Chapter 131 herein. 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. 60, passed 2-24-2003)

## TITLE XIII: GENERAL OFFENSES

Chapter

**130. OFFENSES AGAINST PUBLIC MORALS**

**131. INFRACTIONS**

**132. CRIME**

### CHAPTER 130: OFFENSES AGAINST PUBLIC MORALS

Section

130.01 Unlawful to harass another with repetitive telephone calls

**§ 130.01 UNLAWFUL TO HARASS ANOTHER WITH REPETITIVE TELEPHONE CALLS.**

(A) It shall be unlawful for any person or persons to telephone any other person repeatedly or cause any person to be telephoned repeatedly for the sole purpose of harassing or molesting the other person or his or her family, whether or not conversation ensues, except for telephone calls made for legitimate business purposes.

(B) It shall be unlawful for any person or persons to use any threatening, vulgar, indecent, obscene, immoral or insulting language over any telephone.

(Ord. 7, passed 9-8-1966) Penalty, see §10.99

### CHAPTER 131: INFRACTIONS

Section

***General Provisions***

131.01 Title

131.02 Definitions

131.03 Title of Office

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131.05 Grammatical interpretation

131.06 Acts by agents

131.07 Prohibited acts include causing and permitting

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131.10 Repeal shall not revive any ordinances

***Civil Infraction***

131.25 Commencement of municipal civil infraction action

131.26 Service of municipal civil infraction violation notice

### **Violations Bureau**

131.40 Municipal Ordinance Violations Bureau

131.41 Authority of Bureau

### **Charges and Violations**

131.55 Election of person charged with violation

131.56 Procedure for persons electing not to respond to municipal civil infractions violations notice

131.57 Schedule of civil fines established

131.99 Penalty

## **GENERAL PROVISIONS**

### **§ 131.01 TITLE.**

The title of this chapter shall be the Village of Pinckney Municipal Civil Infractions Ordinance.

(Ord. 54, passed 5-22-2000)

### **§ 131.02 DEFINITIONS.**

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

**ACT.** Act No. 236 of the Public Acts of 1961, being M.C.L.A. §§ 600.101 through 600.9948, as amended.

**AUTHORIZED VILLAGE OFFICIAL.** A police officer or other personnel of the village authorized by this chapter or any ordinance to issue municipal civil infraction citations or municipal civil infraction violation notices.

**BUREAU.** The Village of Pinckney Municipal Ordinance Violations Bureau.

**COUNCIL.** The Village Council of the Village of Pinckney.

**COUNTY.** The County of Livingston.

**PERSON.** A natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization or the manager, lessee, agent, servant, officer or employee of any of them.

**PERSONAL PROPERTY.** Money, goods, chattels, things in action and evidences of debt.

**PRECEDING** and **FOLLOWING.** Next before and next after, respectively.

**PROPERTY.** Real and personal property.

**REAL PROPERTY.** Lands, tenements and hereditaments.

**REPEAT OFFENSE.** A determination of responsibility for a second, or any subsequent, municipal civil infraction with regard to the same ordinance, committed by the same person within any five year period, unless some other period is specifically provided with regard to a specific ordinance.

**RESPONSIBLE** or **RESPONSIBILITY.** A determination entered by a court or magistrate that a person is in violation of an ordinance prescribed to be a municipal civil infraction.

**SIDEWALK.** That portion of a street between the curblin and the adjacent property line intended for the use of pedestrians.

**STATE.** The State of Michigan.

**STREET.** All streets, highways, avenues, lanes, alleys, courts, places, square, curbs or other public ways in the village which have been or may hereafter be dedicated and open to public use or the other public property so designated in any law of this state.

**TENANT** and **OCCUPANT.** Applied to a building or land, includes any person who occupies the whole or a part of the building or land, whether alone or with others.

**VIOLATION.** Any act which is prohibited or made or declared to be unlawful or an offense under an ordinance, including affirmative acts as well as omissions and/or failures to act where the act is required by an ordinance.

**WRITTEN.** Printed, typewritten, mimeographed, multi-graphed or otherwise reproduced in permanent visible form.

**YEAR.** A calendar year.

(Ord. 54, passed 5-22-2000)

### **§ 131.03 TITLE OF OFFICE.**

Use of the title of any officer, employee, department, board or commission means that officer, employee, department, board or commission of the Village of Pinckney.

(Ord. 54, passed 5-22-2000)

### **§ 131.04 INTERPRETATION OF LANGUAGE.**

All words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to the peculiar and appropriate meaning.

(Ord. 54, passed 5-22-2000)

### **§ 131.05 GRAMMATICAL INTERPRETATION.**

The following grammatical rules shall apply in the ordinances of the Village of Pinckney, unless it is apparent from the context that a difference construction is intended:

(A) *Gender.* Each gender includes the masculine, feminine and neuter genders.

(B) *Singular and plural.* The singular number includes the plural and the plural includes the singular.

(C) *Tenses.* Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable.

(Ord. 54, passed 5-22-2000)

### **§ 131.06 ACTS BY AGENTS.**

When an act is required by an ordinance, the same being such that it may be done as well by an agent as by the principal, the requirement shall be construed to include all the acts performed by an authorized agent.

(Ord. 54, passed 5-22-2000)

### **§ 131.07 PROHIBITED ACTS INCLUDE CAUSING AND PERMITTING.**

Whenever in the ordinances of the Village of Pinckney any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of the act or omission.

(Ord. 54, passed 5-22-2000)

### **§ 131.08 COMPUTATION OF TIME.**

Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is Sunday or a holiday, in which case it shall also be excluded.

(Ord. 54, passed 5-22-2000)

### **§ 131.09 CONSTRUCTION.**

The provisions of the ordinances of the Village of Pinckney and all proceedings under them, are to be construed with a view to effect their objects and to promote justice.

(Ord. 54, passed 5-22-2000)

### **§ 131.10 REPEAL SHALL NOT REVIVE ANY ORDINANCES.**

The repeal of an ordinance shall not repeal the repealing clause of an ordinance or revive any ordinance which has been repealed thereby.

(Ord. 54, passed 5-22-2000)

## **CIVIL INFRACTION**

### **§ 131.25 COMMENCEMENT OF MUNICIPAL CIVIL INFRACTION ACTION.**

(A) A municipal civil infraction action may be commenced upon the issuance by an authorized official of either of the following:

- (1) A municipal civil infraction citation directing the person alleged to be responsible to appear in court; or
- (2) A municipal civil infraction violation notice directing the person alleged to be responsible to appear at the Village of

Pinckney Municipal Ordinance Violations Bureau.

(B) The form of citations used to charge municipal civil infraction violations shall be in accordance with state law (See M.C.L.A. § 600.8709).

(C) The basis for issuance of a municipal civil infraction citation shall be as set forth below:

(1) An authorized official who witnesses a person violate an ordinance, the violation of which is a municipal civil infraction, shall prepare and subscribe as soon as possible and as completely as possible, an original and three copies of a citation unless the official issues a municipal civil infraction violation notice.

(2) An authorized official may issue a citation to a person if, based upon investigation, the official has reasonable cause to believe that a person is responsible for a municipal civil infraction.

(3) An authorized official may issue a citation to a person if, based upon investigation of a complaint by someone who allegedly witnessed the person violate an ordinance a violation of which is a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction and if the prosecuting attorney for the Village of Pinckney approves in writing the issuance of the citation.

(D) Municipal civil infraction citations shall be served in the following manner:

(1) Except as otherwise provided below, the authorized official shall personally serve a copy of the citation upon the alleged violator.

(2) In a municipal civil infraction action involving the use or occupancy of land or a building or other structure, a copy of the citation need not be personally served upon the alleged violator but may be served upon an owner or occupant of the land, building or structure by posting the copy 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.

(3) A citation served as provided in division (D)(2) above, for a violation involving the use or occupancy of land or a building or other structure, shall be processed in the same manner as a citation served personally upon a defendant.

(Ord. 54, passed 5-22-2000)

#### **§ 131.26 SERVICE OF MUNICIPAL CIVIL INFRACTION VIOLATION NOTICE.**

(A) Except as provided in division (B) below, an authorized official shall personally serve a copy of the municipal civil infraction violation notice upon an alleged visitor.

(B) In a municipal civil infraction action involving the use or occupancy of land, a building or other structure, a copy of the municipal civil infraction violation notice need not be personally served upon the alleged violator but may be served upon an owner or occupant of the land, building or structure by posting the copy on the land or attaching the copy to the building or structure. In addition, a copy of the notice shall be sent by first class mail to the owner of the land, building or structure at the owner's last known address.

(Ord. 54, passed 5-22-2000)

### **VIOLATIONS BUREAU**

#### **§ 131.40 MUNICIPAL ORDINANCE VIOLATIONS BUREAU.**

(A) The Village of Pinckney hereby establishes a Municipal Ordinance Violations Bureau (Bureau) as authorized under § 8396 of the Act to accept admissions of responsibility and to collect and retain civil fines and costs for municipal civil infractions in response to municipal civil infraction violation notices.

(B) Payments made to the Bureau shall be retained and accounted for as fines and shall be deposited in the general fund.

(C) The Bureau shall be located at the Village of Pinckney Village Hall and shall be under the supervision and control of the Village of Pinckney Police Department; however, payments shall be made to the Village Treasurer or the other village official designated by the Village Council.

(Ord. 54, passed 5-22-2000)

#### **§ 131.41 AUTHORITY OF BUREAU.**

(A) The Bureau is authorized to accept payment of fines in response to municipal civil infraction violation notices, and shall not be authorized to accept monies or admissions of responsibility in response to municipal civil infraction citations.

(B) The Bureau shall not accept payment of a fine from any person who denies having committed a municipal civil infraction charged in a municipal civil infraction violation notice.

(C) The Bureau shall not have authority or jurisdiction to determine, or attempt to determine, the truth or falsity of any fact or matter relating to an alleged violation.

(Ord. 54, passed 5-22-2000)

## CHARGES AND VIOLATIONS

### § 131.55 ELECTION OF PERSON CHARGED WITH VIOLATION.

(A) Any person receiving a municipal civil infraction violation notice shall be permitted to dispose of the charge alleged in the notice by making payment of the fine to the Bureau. However, a person shall have the right to elect not to have the violation processed by the Bureau and to have the alleged violation processed in a Court of competent jurisdiction. The unwillingness of any person to dispose of a violation at the Bureau shall not prejudice the person or in any way diminish the person's rights, privileges and protection accorded by law.

(B) A person electing to have the alleged violation processed at the Bureau shall appear at the Bureau and pay the specified fine within the time specified for appearance in the municipal civil infraction violation notice. The appearance may be made by mail, in person or by representation, provided if appearance is made by mail, the person charged in the notice shall have the responsibility for timely delivery of the fine within the time specified in the municipal civil infraction violation ordinance.

(Ord. 54, passed 5-22-2000)

### § 131.56 PROCEDURE FOR PERSONS ELECTING NOT TO RESPOND TO MUNICIPAL CIVIL INFRACTIONS VIOLATIONS NOTICE.

In the event a person elects not to admit responsibility and pay the specified civil fine prescribed for the respective violation, a municipal civil infraction citation may be filed with the District Court, in which case a copy of the citation shall be served by first class mail upon the person charged with the municipal civil infraction at the person's last known address. The citation filed with the court shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violations notice and shall fairly inform the defendant how to respond to the citation.

(Ord. 54, passed 5-22-2000)

### § 131.57 SCHEDULE OF CIVIL FINES ESTABLISHED.

(A) A schedule of civil fines payable to the Bureau for admissions of responsibility by persons served with municipal ordinance violation notices is hereby established as follows:

<b>Code Provision/Ordinance Number</b>	<b>Offense</b>	<b>Fine</b>
Chapters 70 and 71	Violations concerning the parking of vehicles (excluding disabled parking space violations)	\$25 for each infraction
Chapters 70 and 71	Violations concerning parking spaces reserved for use by disabled person	\$100 for each infraction
Any municipal civil infraction	Failure to comply with any provision	\$125
Any municipal civil infraction	First repeat offense (second offense)	\$200
Any municipal civil infraction	Second (or any subsequent) repeat offense (Third Offense, Fourth Offense and the like)	\$400

(B) A copy of the schedule, as may be amended from time to time, shall be posted at the Bureau.

(Ord. 54, passed 5-22-2000; Ord. 115, passed 1-14-2013; Ord. 131, passed 8-8-2016)

### § 131.99 PENALTY.

General penalties and sanctions for violations village ordinances, continuing violations and injunctive relief.

(A) Unless a violation of an ordinance of the Village of Pinckney is specifically designated in the ordinance as a municipal civil infraction, the violations shall be deemed to be a misdemeanor.

(B) The penalty for a misdemeanor violation shall be a fine not exceeding \$500 (plus costs of prosecution), or imprisonment not exceeding 90 days, or both, unless a specific penalty is otherwise provided for the violation by the ordinance.

(C) The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by this or any ordinance, plus any costs, damages, expenses and other sanctions as authorized by law.

(1) Unless otherwise specifically provided for in a particular ordinance, the civil fine for a municipal infraction violation shall be not less than \$125, plus costs and other sanctions, for each infraction.

(2) Increased civil fines shall be imposed for repeated violations of an ordinance. Unless otherwise specifically provided by an ordinance for a particular municipal civil infraction violation, the increased fine for a first repeat offense (Second Offense) shall be not less than \$200, plus costs and other sanctions for each offense, and the increased fine for second (or

any subsequent) repeat offenses (Third Offense, Fourth Offense and the like) shall be not less than \$400, plus costs and other sanctions for each offense.

(3) The judge or magistrate shall be authorized to reduce a fine upon a determination of extraordinary circumstances.

(4) The Judge or magistrate shall also be authorized to impose costs, damages and expenses as provided by law.

(5) In addition to ordering the Defendant determined to be responsible for a municipal civil infraction to pay a civil fine, costs, damages and expenses, the judge or magistrate shall be authorized to issue any judgment, writ or order necessary to enforce or enjoin violation of an 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.

(E) In addition to any remedies available at law, the village may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of an ordinance.

(Ord. 54, passed 5-22-2000; Ord. 115, passed 1-14-2013)

## **CHAPTER 132: CRIME**

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### Section

#### ***General Provisions***

132.001 Short title

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#### ***Disorderly Persons and Related Offenses***

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- 132.043 Hurling projectiles at persons or motor vehicles
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- 132.065 Interference and destruction of village property
- 132.066 Damaging; unauthorized tampering; meddling with motor vehicle; exception
- 132.067 Breaking and entering or entering without breaking, without permission, places open to public; police officers
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- 132.070 Malicious destruction of property
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- 132.074 Larceny under \$100

***Offenses Concerning Minors***

- 132.090 Prohibition of minors in place where liquor is sold
- 132.091 Alcoholic beverages; furnishing to person under 21
- 132.092 Fraudulent information or evidence as to persons under 21 to secure liquor
- 132.093 Purchase, consumption or possession by minor furnishing or use of fraudulent id; effect upon civil or criminal liability
- 132.094 Possession and transportation of alcohol in motor vehicle by minor
- 132.095 Contributing to neglect or delinquency of child
- 132.096 Curfew violation
- 132.097 Purchase, sale, possession of tobacco, cigarettes, papers and the like by minors
- 132.098 Possession of knives by minors
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***Fraud and Related Offenses***

- 132.115 Fraudulent procurement of food and lodging
- 132.116 Fraudulent procurement of lodging
- 132.117 Same; prima facie evidence of intent
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***Narcotics***

- 132.140 (Reserved)
- 132.141 Hypodermic syringes, needles and the like, possession prohibited; exceptions
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***Crimes Involving Morals***

- 132.160 Soliciting and accosting
- 132.161 Prostitution
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#### ***Littering***

- 132.180 Littering
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#### ***Miscellaneous Offenses***

- 132.195 Abandoned ice boxes or other containers
- 132.196 Excavations
- 132.197 Coal tar ordinance

- 132.999 Penalty

### **GENERAL PROVISIONS**

#### **§ 132.001 SHORT TITLE.**

This chapter shall be known and may be cited as the Criminal Code of the Village of Pinckney.

(Ord. 27, passed 12-14-1981)

#### **§ 132.002 RULES OF CONSTRUCTION.**

The rule that a criminal statute is to be strictly construed shall not apply to this chapter or any of the provisions thereof. All provisions of this code shall be construed according to the fair import of their terms, to promote justice and to effect the objects of the law.

(Ord. 27, passed 12-14-1981)

#### **§ 132.003 DEFINITIONS AND RULES OF CONSTRUCTION.**

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

**PERSON** and **ACCUSED.** Includes similar words include, unless a contrary intention appears, public and private corporation, co-partnerships and unincorporated or voluntary associations.

**PROPERTY.** Any matter of thing upon or in respect to which any offense may be committed.

**PUBLIC PLACE.** As used in this chapter, shall mean any public building, any place of business or assembly open to the public view, or to which the public has access.

**WRITING** and **WRITTEN.** Any term of like import includes words printed, painted, engraved, lithographed, photographed or otherwise copied, traced or made visible to the eye.

(B) The singular number includes the plural and the plural includes the singular.

(C) The masculine gender includes the feminine and neuter genders.

(Ord. 27, passed 12-14-1981)

### **DISORDERLY PERSONS AND RELATED OFFENSES**

#### **§ 132.020 ASSAULT.**

It shall be unlawful for any person to commit an assault or an assault and battery on any person.

(A) Assault is any intentional, unlawful offer of corporal injury to another by force under circumstances which reasonably creates fear of imminent danger coupled with apparent ability to carry out the attempt if it is not prevented.

(B) Battery or assault and battery, is willfully touching the person of one by another or by some attack put in motion by the other without the consent of the person being touched.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.021 DISTURBANCE IN BUSINESS, PUBLIC AND LAWFUL MEETINGS.**

It shall be unlawful for any person to make or excite any disturbance or contention in any tavern, store or grocery, manufacturing establishment or any other business place or in any street, lane, alley, highway, public building, grounds or park, or at any election of other public building, grounds or park, or at any election of other public meeting where citizens are peaceably and lawfully assembled.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.022 DISTURBANCE AT ATHLETIC EVENT.**

It shall be unlawful for any person to invade the playing areas of any athletic contest or exhibition while in progress, except officials or participants.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.023 THROWING OBJECTS ON PLAYING AREA.**

It shall be unlawful for any person to cast, throw, hurl or fling any bottle, can or any other object which could cause injury or damage in the spectator or playing area while a game is in progress, intermission or delays of the event.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.024 DISTURBING THE PEACE.**

It shall be unlawful for any person to disturb the public peace and quiet by loud, boisterous or vulgar conduct.

(A) *Disturbance of the peace.* No person shall disturb, tend to disturb or aid in disturbing the peace of others by violent, tumultuous, offensive or obstreperous conduct, and no person shall permit any conduct in any house or upon any premise owned or possessed by him or her or under his or her control or management when, within his or her power to prevent, so that others in the vicinity are or may be disturbed thereby.

(B) *Lights.* No person shall use light(s), the installation of light(s), light(s) emitting device or other similar device to annoy another. Nor shall any illuminating device, structure or otherwise be so used or maintained or directed so as to shine unto or illuminate property or premises other than that owned, rented, leased or under the control of the person(s) not using, maintaining or directing the illuminating device structure of or otherwise.

(C) *Exceptions.* The above shall not apply to illuminating devices such as streetlights erected by a bona-fide governmental agency or designee thereof, nor shall the above section apply in the event of common use or agreement between adjoining property owners for joint illumination.

(Ord. 27, passed 12-14-1981; Ord. 113, passed 8-13-2012) Penalty, see §132.999

#### **§ 132.025 DISORDERLY PERSONS AND RESPONSIBILITY.**

(A) *Unlawful.* It shall be unlawful for any person to permit or suffer any place occupied or controlled by him or her to be a report of noisy, boisterous or disorderly persons.

(B) *Disorderly places.* No person owning, renting, managing, occupying or trespassing upon any premises shall allow the premises to be used as a place of assignation or as a place of resort for common prostitutes, and no person owning, renting, managing, occupying or trespassing upon any premises shall permit persons having the name and reputation of being common prostitutes to congregate and assemble in or upon the premises; nor shall any person owning, renting, managing, occupying or trespassing upon any premises allow same to be used for gambling purposes; nor shall any person owning, renting, managing, occupying or trespassing upon any premises allow the premises to be used for any illegal or immoral purposes.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.026 JOSTLING.**

It shall be unlawful for any person to be found jostling or roughly crowding people unnecessarily in a public place. **JOSTLING** can be defined as pushing or crowding in passing.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.027 ANNOYING CONDUCT.**

(A) *Unlawful.* It shall be unlawful for any person to insult, accost, molest or otherwise annoy, either by word of mouth, sign or motion any person in any public place.

(B) *Annoy.* To annoy shall include but not limited to the intentional infliction of a feeling of discomfort, vexation, imposition or oppression upon another.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.028 FIGHTING.**

(A) *Unlawful.* It shall be unlawful for any person to engage in any disturbance, fight or quarrel in a public place.

(B) *Fighting*. No person shall assault, strike or fight another; provided that the section shall not be construed to extend to authorized athletic events.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.029 OBSTRUCTING PUBLIC PASSAGE.**

It shall be unlawful for any person to loiter on any public street or sidewalk or in any park, or public building or conduct himself or herself in any public place so as to obstruct the free and uninterrupted passage of the public.

(A) *Obstruction of travel*. No person shall stand or loiter either individually or with others in a manner resulting in the obstruction of free travel, of either pedestrian or vehicle in any public right-of-way or in any private right-of-way commonly used by the public under permission of the owner, or his or her legal tenant.

(B) *Loitering*. To loiter shall include but not be limited to, standing round or moving slowly about or spending time idly, delay or to linger.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.030 INTERFERENCE WITH POLICE DEPARTMENT AND RELATED OFFENSES.**

(A) No person shall resist any police officer and member of the Police Department or any person duly empowered with police authority while in the discharge or apparent discharge of his or her duty, or in any way interfere with or hinder him or her in the discharge of his or her duty.

(B) No person shall offer or endeavor to assist any person in the custody of a police officer, a member of the Police Department or a person duly empowered with police authority to escape or attempt to escape from the custody.

(C) No person other than an official police officer of the Village of Pinckney shall wear or carry the uniform apparel, badge identification card or any other insignia of office like or similar to, or colorable imitation of that adopted and worn or carried by the official police officers of the Village of Pinckney.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.031 OBSTRUCT, RESIST AND HINDER VILLAGE OFFICIAL.**

It shall be unlawful for any person to obstruct, resist or hinder any Village of Pinckney official, public safety officer, firefighter or employee in the discharge of his or her duties.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.032 IMPROPER CONDUCT.**

It shall be unlawful for any person to engage in any indecent, insulting, immoral or obscene conduct in any public place.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.033 INDECENT EXPOSURE.**

It shall be unlawful for any person to make any immoral exhibition or indecent exposure of his or her person.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.034 FALSE POLICE OR FIRE CALLS.**

It shall be unlawful for any person to summon, as a joke, prank or otherwise, the Police or Fire Department or any public or private ambulance to any address where the service called for is not needed.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.035 MALICIOUS ANNOYANCE.**

It shall be unlawful for any person to knowingly send or deliver, make and for the purpose of being delivered or sent, to part with the possession of, any letter, postal card or writing containing any obscene language with or without a name subscribed thereto or signed with a fictitious name, or with any letter, mark or other designation, with the intent thereby to cause annoyance to any person, or with a view or intent to extort or gain any money or property of any description belonging to another.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.036 FALSE REPORT OF CRIME.**

No person shall make or file with the Police Department of the Village of Pinckney, a fictitious report of the commission of any crime, knowing the same to be false.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.037 ANNOYING CONDUCT BY USE OF TELEPHONING.**

It shall be unlawful for any person to use any service provided by a communications common carrier with intent to terrorize, frighten, intimidate, threaten, harass, molest or annoy any other person, or to disturb the peace and quiet of any other person by any of the following:

(A) Threatening physical harm or damage to any person or property in the course of a telephone conversation;

(B) Falsely and deliberately reporting by telephone or telegraph message that any person has been injured, has suddenly taken ill, has suffered death or has been the victim of a crime or of an accident;

(C) Deliberately refusing or failing to disengage between a telephone and another telephone or between a telephone and other equipment provided for the transmissions of messages by telephone, thereby interfering with any communications service; and/or

(D) Using any vulgar, indecent, obscene or offensive language or suggesting any lewd or lascivious act in the course of telephone conversation.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.038 WINDOW PEEPING.**

It shall be unlawful for any person to trespass on property owned or under the control of any other person for the purpose of subjecting that person to eavesdropping or surveillance.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.039 INTENTIONALLY AIMING A FIREARM WITHOUT MALICE.**

It shall be unlawful for any person to intentionally without malice, point or aim any firearm at or toward any other person

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.040 UNLAWFUL DISCHARGE OF FIREARMS.**

It shall be unlawful for any person to discharge any firearm within the village. This will include BB guns, air rifles and sling shots.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.041 RECKLESS USE OF FIREARMS.**

It shall be unlawful for any person to recklessly, heedlessly, willfully or wantonly, carry or handle any firearm without due caution and circumspection for the rights, safety or property of others.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.042 HURLING PROJECTILES FROM MOTOR VEHICLES.**

It shall be unlawful for any person to wrongfully throw or propel any snowball, missile or object from any moving motor vehicle.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.043 HURLING PROJECTILES AT PERSONS OR MOTOR VEHICLES.**

It shall be unlawful for any person to wrongfully throw or propel any snowball missile or object at any passenger train, sleeping car, passenger coach, express car, mail car, baggage car, locomotive, caboose, freight train, motor vehicle or person.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.044 POSSESSION OF A SWITCH BLADE KNIFE.**

(A) *Unlawful.* It shall be unlawful for any person, firm or corporation to sell, offer for sale, keep, possess, use or loan any switch blade knife.

(B) *Switch blade knife.* A **SWITCH BLADE KNIFE** is defined as any knife having the appearance of a pocket knife, the blade or blades of which can be opened by the flick of a button, pressure of a handle or other mechanical contrivance.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.045 UNLAWFUL POSSESSION OF A KNIFE.**

It shall be unlawful for any person to be in possession of any knife with blade more than three inches in length having the character of a dangerous weapon, in any street or public place.

(A) A knife having a blade more than three inches in length is a dangerous weapon if carried for the purpose of assault or defense.

(B) A hunting knife adapted and carried as such is exempted from this section.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.046 DRINKING.**

No person shall drink or consume alcoholic beverages except on his or her own private property or as an invitee on private property, duly licensed establishments or where permitted by law in public places, and no person shall have in his or her possession an open or unsealed container containing an alcoholic beverage except on his or her own private property or as an invitee on private property or in a duly licensed establishment or where permitted by law in public places.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.047 TRESPASSING.**

Any person who shall wilfully enter, upon the lands or premises of another without lawful authority, after having been forbidden so to do by the owner or occupant, agent or servant of the owner or occupant, or any person being upon the land or premises of another upon being notified to depart therefrom by the owner or occupant, the agent or servant of either, who without lawful authority neglects or refuses to depart therefrom, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for not more than 90 days or by a fine or both, in the discretion of the court.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

### **OFFENSES CONCERNING PROPERTY**

#### **§ 132.065 INTERFERENCE AND DESTRUCTION OF VILLAGE PROPERTY.**

It shall be unlawful for any person to willfully destroy, remove, damage, alter or in any manner deface any property not his or her own; or any public school building, park meter, bridge, fire hydrant, alarm box, street light, street sign or make or post hand bills, on, or in any manner mar the walls of any public building or destroy, tree or pole within the Village of Pinckney, or destroy, take or meddle with any property belonging to the Village of Pinckney, or remove the same from the building or place where it may be kept, placed or stored, without proper authority, or disturb, tamper with, disconnect or damage a water meter without proper authority. Destruction of public property; no person shall molest, injure, deface, interfere with or obstruct the use of any public property.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.066 DAMAGING; UNAUTHORIZED TAMPERING; MEDDLING WITH MOTOR VEHICLE; EXCEPTION.**

(A) It shall be unlawful for any person to intentionally and without authority from the owner, start or cause to be started the motor of any motor vehicle or maliciously shift or change the start device or gears of a standing motor vehicle to a position other than in which it was left by the owner or driver of the motor vehicle; or intentionally cut, mark, scratch or damage the chassis, running gear, body, sides, top, covering or upholstery of any motor vehicle, the property of another or intentionally cut, mash, mark, destroy and damage the motor vehicle, or any of the accessories, equipment, appurtenances or attachments thereof, or any spare or extra parts thereon being or thereto attached, without the permission of the owner thereof.

(B) Intentionally release the brake upon any standing motor vehicle with the intent to injure the machine or cause the same to remove without the consent of the owner. Provided that this section shall not apply in case of moving or starting of motor vehicle by the police under authority of local ordinance or by members of Fire Departments in case of emergency in the vicinity of a fire.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.067 BREAKING AND ENTERING OR ENTERING WITHOUT BREAKING, WITHOUT PERMISSION, PLACES OPEN TO PUBLIC; POLICE OFFICERS.**

(A) It shall be unlawful for any person to break and enter or to enter without breaking, any dwelling, house, tent, hotel, office, store, shop, warehouse, barn, granary, factory or other building, boat, ship railroad car or structure used or kept for public or private use or any private apartment therein, or any cottage, clubhouse, boathouse, hunting or fishing lodge, garage or the out-buildings belonging thereto, without obtaining permission to enter from the owner or occupant, agent or person having immediate control thereof. Provided, that this section shall not apply to entering without breaking any place which at that time of the entry was open to the public, unless the entry has been expressly denied.

(B) This section shall not apply in cases where the breaking and entering or entering without breaking were committed by a peace officer or someone under his or her direction in the lawful performance of his or her duties as the peace officer.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.068 DESTROYING OR INJURING PROPERTY BY CARELESS, RECKLESS OR NEGLIGENT DISCHARGING OF FIREARM.**



It shall be unlawful for any person to, because of carelessness, recklessness or negligence, but not willfully or wantonly, cause or allow any firearm under his or her control to be discharged so as to destroy or injure the property of another real or personal.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.069 CONVERSION OF LIBRARY PROPERTY.**

It shall be unlawful for any person to procure or take in any way from any public library or the library of any literary scientific, historical or library society or association, whether incorporated or unincorporated, any book, pamphlet, map, chart, painting, picture, photograph, periodical, newspaper, magazine, manuscript or exhibit or any part thereof, with intent to convert the same to be his or her own use, or with intent to defraud the owner thereof, or who having procured or taken any such book pamphlet, map, chart, painting, picture, photograph, periodical, newspaper, magazine, manuscript or exhibit or any part thereof to thereafter convert the same to his or her own use or fraudulently deprive the owner thereof.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.070 MALICIOUS DESTRUCTION OF PROPERTY.**

It shall be unlawful for any person to willfully and maliciously destroy or injure the personal property of another by any means.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.071 MALICIOUS DESTRUCTION OF A BUILDING.**

It shall be unlawful for any person to willfully and maliciously destroy or injure any house, barn or other building of another, or the appurtenances thereof.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.072 MALICIOUS DESTRUCTION OF LITERARY PROPERTY.**

It shall be unlawful for any person to willfully, maliciously or wantonly tear, deface, mutilate or write upon or mark any book, pamphlet, map, chart, painting, picture, photograph, periodical, newspaper, magazine, manuscript or exhibit or any part thereof belonging to or loaned to any public library, or to the library of an literary, scientific, historical or library society or association, whether incorporated or unincorporated.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.073 RECEIVING, CONCEALING AND THE LIKE, STOLEN, EMBEZZLED OR CONVERTED PROPERTY; PRESUMPTION.**

(A) It shall be unlawful for any person to buy, receive or aid in the concealment of any stolen, embezzled or converted money, goods or property knowing the same to have been stolen, embezzled or converted.

(B) Any person being a dealer in or collector of any merchandise or personal property, or the agent, employee or representative of the dealer or collector who fails to make reasonable inquiry that the person selling or delivering any stolen, embezzled or converted property to him or her as a legal right to do so, shall be presumed to have bought or received the property knowing it to have been stolen, embezzled or converted. This presumption may, however, be rebutted by proof.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.074 LARCENY UNDER \$100.**

Larceny, property subject to value, any person who shall commit the offense of larceny, by stealing of the property of another, any money, goods or chattels or any banknote, bill, bond, promissory note, due bill, bill of exchange or other bill, draft, order or certificate, or any book or accounts for or concerning money or goods due or to become due, or to be delivered, or any deed or writing containing a conveyance of land or any other valuable contract in force, or any receipt, release or defeasance, or any writ, process or public record, shall be guilty of a misdemeanor.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

### **OFFENSES CONCERNING MINORS**

#### **§ 132.090 PROHIBITION OF MINORS IN PLACE WHERE LIQUOR IS SOLD.**

It shall be unlawful for any person under the age of majority to be permitted to remain in any dance hall, saloon, barroom or any place where any spirituous or intoxicating liquor or any wine or beer, or any beverage, liquor or liquors containing any spirituous or intoxicating liquor, beer or malt accompanied by parent or guardian. It shall be unlawful for any proprietor, keeper or manager of any place to permit the minor child to remain in any place, and it shall be unlawful for any person to knowingly encourage or induce in any way the minor child to enter the place or to remain therein.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

### **§ 132.091 ALCOHOLIC BEVERAGES; FURNISHING TO PERSON UNDER 21.**

(A) It shall be unlawful for any person to knowingly give or furnish any alcoholic beverage to a person under age 21 except upon authority of and pursuant to a prescription of a duly licensed physician.

(B) Any person, who willfully gives or furnishes any alcoholic beverages to a person under age 21 except upon authority of and pursuant to a prescription of a duly license physician, shall be guilty of a misdemeanor.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

### **§ 132.092 FRAUDULENT INFORMATION OR EVIDENCE AS TO PERSONS UNDER 21 TO SECURE LIQUOR.**

It shall be unlawful for any person to give fraudulent information regarding the age of another person under 21 years of age for the purpose of procuring the sale of intoxicating liquor to him or her or who furnishes fraudulent documentary evidence to a person under 21 years of age who uses the evidence to purchase intoxicating liquor.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

### **§ 132.093 PURCHASE, CONSUMPTION OR POSSESSION BY MINOR FURNISHING OR USE OF FRAUDULENT ID; EFFECT UPON CIVIL OR CRIMINAL LIABILITY.**

(A) A person under the age of 21 who purchases or consumes alcoholic liquor in a licensed premise or who possesses alcohol is guilty of a misdemeanor.

(B) A person who furnishes fraudulent identification to a person under 21 years of age or a person under 21 years of age who uses a fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

### **§ 132.094 POSSESSION AND TRANSPORTATION OF ALCOHOL IN A MOTOR VEHICLE BY MINOR.**

No person under the age of 21 years shall knowingly possess or transport any alcoholic liquor, or knowingly transport or have under his or her control in any motor vehicle any alcoholic liquor unless the person is employed by a licensee licensed under the Michigan Liquor Control Code of 1998, being M.C.L.A. §§ 436.1101 through 436.2303 as amended, and is possessing, transporting or having the alcoholic liquor in a motor vehicle under his or her control during the regular working hours and in the course of his or her employment.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

### **§ 132.095 CONTRIBUTING TO NEGLECT OR DELINQUENCY OF CHILD.**

No person shall by any act or by any word, encourage, contribute toward, cause or tend to cause any minor child under the age of 17 years to become neglected or delinquent so as to come or tend to come under the jurisdiction of the juvenile division of the Probate Court, as defined in § 2 or chapter 12a of Public Act 288 of 1939, being M.C.L.A. §§ 701.1 through 713.6, as added by Public Act 54 of 1944 of the First Extra Session, being M.C.L.A. Chapter 712A, and any amendments thereto, whereto or no child shall in fact be adjudicated a ward of the Probate Court.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

### **§ 132.096 CURFEW VIOLATION.**

Curfew violation, prohibiting children under certain years of age from loitering or remaining upon the public streets or highways or in any public place after certain hours of the night, to fix the responsibility for the violation of the provisions thereof and to provide a penalty for the violation thereof.

(A) It shall be unlawful for any minor under the age of 17 years to loiter, idle, congregate or otherwise be in or on any public street, highway, alley or any public place between the hours of 10:00 p.m. and 6:00 a.m. immediately following on Sunday, Monday, Tuesday, Wednesday and Thursday of each week, and between the hours of 12:00 a.m. and 6:00 a.m. immediately following on Friday and Saturday of each week, except when the minor is accompanied by a parent or guardian or where the presence of the minor in the place or places is connected with and required by some legitimate work, trade, profession or occupation in which the minor is engaged, or where the minor is upon an errand or other legitimate business directed by his or her parent or guardian.

(B) Any person of the age of 17 or over assisting, aiding, abetting or encouraging any minor under the age of 17 years to violate the provisions of division (A) above, shall be guilty of a violation of this chapter.

(C) When any minor is found violating the provisions of division (A) above, a presumption shall arise that the parent or guardian having the care and custody of the minor allowed, permitted, assisted, aided, abetted and encouraged the minor is so violating division (A) above.

(D) This section does not apply to a minor who is:

- (1) Accompanied by the minor's parent or guardian;
- (2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;

- (3) In a motor vehicle involved in interstate travel;
- (4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
- (5) Involved in an emergency;
- (6) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
- (7) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the village, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the village, a civic organization, or another similar entity that takes responsibility for the minor;
- (8) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
- (9) Married or had been married or had disabilities of minority removed in accordance with state law.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.097 PURCHASE, SALE, POSSESSION OF TOBACCO, CIGARETTES, PAPERS AND THE LIKE BY MINORS.**

(A) It shall be unlawful for any juvenile to misrepresent his or her age to purchase cigarettes, wrapper, tobacco and papers for the purpose of making cigarettes.

(B) It shall be unlawful for any juvenile under the age of 18 years to have in his or her possession any cigarettes, papers, wrappers and tobacco from which cigarettes might be made.

(C) It shall be unlawful for any person to sell, furnish, procure for or give away to any juvenile under the age of 18 years, any tobacco, cigarettes, wrappers or any substitute for either, or persuade, counsel or advise any minor to smoke cigarettes.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.098 POSSESSION OF KNIVES BY MINORS.**

It shall be unlawful for any person under the age of 18 years to be in possession of any knife, dart or instrument of any description that could be used for cutting or stabbing in any street or public place, (except for boy scouts, girl scouts or work tool).

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.099 ABANDONMENT OF CHILDREN.**

It shall be unlawful for any person, parent or guardian, custodian or anyone else to whose care, children under 11 years of age are entrusted to leave, neglect or abandon the children in a parked motor vehicle in any public place or place open to the public without furnishing someone over the age of 17 years for supervision of the children.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

### **FRAUD AND RELATED OFFENSES**

#### **§ 132.115 FRAUDULENT PROCUREMENT OF FOOD AND LODGING.**

It shall be unlawful for any person to stop, put up, board or lodge at any boarding house as a guest or boarded by the day, week or month, or to procure any food, entertainment or accommodation without paying therefore, unless there is distinct and express agreement made by the person with the owner, proprietor or keeper of the boarding house for credit, with intent to defraud the owner, proprietor or keeper out of the pay for the board, lodging, food, entertainment or accommodation, or for any person who, with the intent to so defraud, to obtain credit at any boarding house for the board, lodging, food, entertainment or accommodation by means of any false show of baggage or effects brought thereto; provided, that no conviction shall be made within ten days of the time of the violation thereof.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.116 FRAUDULENT PROCUREMENT OF LODGING.**

It shall be unlawful for any person to put up at any hotel, motel, inn, restaurant or café as a guest and to procure any food, entertainment or accommodation without paying therefore, except when credit is given therefore by express agreement, with intent to defraud the keeper thereof out of the pay for the same, or for any person with intent to defraud the keeper out of the pay therefore, to obtain credit at any hotel, motel, restaurant or café for food, entertainment or accommodation, by means of any false show of baggage or effects brought thereto.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.117 SAME; PRIMA FACIE EVIDENCE OF INTENT.**

Obtaining food, lodging and/or accommodation by false pretense or by false or fictitious show of baggage or other property, or refusal or neglect to pay therefore on demand, or payment thereof with check, draft or order upon a bank or other depository on which payment was refused, or absconding without paying, or surreptitiously removing or attempting to remove baggage shall be prima facie evidence of the intent to defraud mentioned in §§ 132.118 and 132.119.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.118 CONTROL OF CHECKS WRITTEN WITHOUT SUFFICIENT FUNDS.**

(A) *Defraud.* Any person who, with intent to defraud shall, make, draw, utter or deliver any checks, draft or order for the payment of money, to apply on account or otherwise, upon any bank or ether depository, knowing at the time of the making, drawing, uttering or delivering, that the maker or drawer, has not sufficient funds in or credit with the bank or other depository, for the payment of the check, draft or order, in full, upon its presentation or any person who, with the intent to defraud, shall make, draw, utter or deliver any check, draft or order for the payment of money to apply on account or otherwise, upon any bank or other depository and who shall not have sufficient funds for the payment for same when presentation for payment is made to the drawee, except where the lack of funds is due to garnishment, attachment, levy or other lawful cause, and the fact was not known to the person who made, drew, uttered or delivered the instrument at the time of so doing, shall, if the amount payable in the check is \$100 or less, the person shall be guilty of a misdemeanor.

(B) *Second offense.* Punishment, second offense, any person found guilty of a second offense under this chapter shall be guilty of a misdemeanor punishable by imprisonment in the county jail not more than 90 days or by a fine.

(C) *Evidence of intent to defraud.* As against the maker or drawer thereof, the making, drawing, uttering or delivering of a check, draft or order, payment of which is refused by the drawee when presented in the usual course of business, shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds in or credit with the bank or other depository, provided the maker or drawer shall not have paid the drawee thereof the amount due thereon, together with all costs and protest fees, within five days after receiving notice that the check, draft or order has not been paid by the drawee.

(D) *Notice of protest as evidence of intent to defraud.* Where the check, draft or order is protested, on the ground of insufficiency of funds or credit, the notice of protest thereof shall be admissible as proof of presentation, nonpayment and protest, and shall be prima facie evidence of intent to defraud, and of knowledge of insufficient funds or credit with the bank or other depository.

(E) *Credit construed.* The word **CREDIT** as used herein, shall be construed to mean an arrangement or understanding with the bank or depository, for the payment of the check, draft or order, in full, upon the presentation thereof for payment.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.119 FALSE PRETENSES WITH INTENT TO DEFRAUD.**

It shall be unlawful for any person to, with intent to defraud or cheat, to designedly, by color or any false token or writing or by any false or bogus check or other written, printed or engraved instrument, by spurious coin or metal in the similitude of coin, or by an other false pretense, cause any person to grant, convey, assign, demise, lease or mortgage any land or interest in land, or obtain the signature of any person to any written instrument, the making whereof would be punishable as forgery, or obtain from any person any money or personal property or the use (of any instrument, facility or article or other valuable thing or service, or by means of any false weights or measures obtain a larger amount or quantity or property other than was bargained for, if such and or interest in land, money personal property, use of the instrument, facility or article, valuable thing, service, larger amount of obtained or less amount disposed of.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.120 OBTAINING CREDIT BY FALSE DEVICE.**

It shall be unlawful for any person to knowingly obtain or attempt to obtain credit, or purchase or attempt to purchase any goods, property or service, by the use of any false, fictitious or counterfeit credit card, credit number, telephone number of other credit device, or by the use of any credit card, without the authority of the person to whom the card, number or device was issued, or by the use of any credit card, credit number, telephone number or other credit card, credit number or device has been revoked and notice or revocation has been given to the person to whom issued.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

### **NARCOTICS**

#### **§ 132.140 (Reserved)**

#### **§ 132.141 HYPODERMIC SYRINGES, NEEDLES AND THE LIKE, POSSESSION PROHIBITED; EXCEPTIONS.**

No person shall at any time have or possess a hypodermic syringe or needle or any other instrument or implement adapted for the use of narcotic drugs by subcutaneous injection or intracutaneous injection or any other manner or method of introduction and which is possessed for that purpose, unless the possession is authorized by the certificate of a licensed medical doctor or osteopathic physician issued within the period of one year; provided, that the prohibition contained in this section shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, 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. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.142 SAME; SALE AND THE LIKE PROHIBITED.**

(A) It shall be unlawful for any person to sell, furnish, supply or give away any hypodermic syringe or needle or other instrument or implement adapted for the use of narcotic drugs by subcutaneous injection or intracutaneous injection or any other manner or method of introduction to any person known to be a non-medical habitual user of a narcotic drug.

(B) For the purposes of this section, a **NON-MEDICAL HABITUAL USER OF NARCOTIC DRUGS** shall mean any person who uses narcotic drugs merely to satisfy a craving for the drugs and who does not have a legitimate medical need for narcotic drugs.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.143 FRAUD AND DECEIT IN OBTAINING DRUGS AND THE LIKE.**

Any fraud, deceit, misrepresentation, subterfuge, concealment of a material fact, or the use of a fraudulent name or the giving of a fraudulent address for the purpose of obtaining any narcotic drug or barbituric acid or any derivative, compound, preparation or mixture thereof, or hypodermic syringe or needle or other instrument or implement or empty gelatin capsules or fraudulent statement on any prescription blank shall be deemed a violation of this section. No person who shall have obtained the possession of any narcotic drugs, hypodermic syringes, needles or other instruments or implements adapted for the use of the drugs or empty gelatin capsules pursuant to the terms of this section shall use the same or permit or authorize his or her use for any purpose other than that specifically authorized in the prescription or order by means of which the possession was obtained.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.144 INHALATION PROHIBITED.**

No person shall inhale, drink, eat or otherwise introduce into his or her respiratory or circulatory system, any compound, liquid, chemical or any substance known as glue, adhesive, cement, mucilage, dope, plastic, solvent or any other material or substance or combination thereof with the intent of becoming intoxicated, elated, dazed, paralyzed, irrational or in any manner changing, distorting or disturbing the eyesight, thinking process, judgment, balance or coordination of the person. For the purpose of this section, any condition so induced shall be deemed to be an intoxicated condition.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

### **CRIMES INVOLVING MORALS**

#### **§ 132.160 SOLICITING AND ACCOSTING.**

It shall be unlawful for any person to accost, solicit or invite another in any public place, or in or from any building or vehicle, by word, gesture or any other means, to commit prostitution or to any lewd, illegal or immoral act.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.161 PROSTITUTION.**

It shall be unlawful for any person to engage in any act of prostitution.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.162 ADMITTING TO PLACE FOR PROSTITUTION.**

It shall be unlawful for any person to receive or admit or offer to receive or admit any person into any place, structure, house, building or vehicle for the purpose of prostitution, lewdness or assignation, or who shall knowingly permit any person to remain in any place for any purpose.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

### **LITTERING**

#### **§ 132.180 LITTERING.**

It shall be unlawful for any person to knowingly dump, deposit, place, throw or leave, cause or permit the dumping, depositing, placing, throwing or leaving of litter on any public or private property or waters other than that property designated and set aside for the purposes.

(A) The phrase public or private property or waters includes, but is not limited to, the right-of-way of any road or highway, any body of water or watercourse or the shores of beaches thereof, and including the ice above the waters, any park, playground, building, refuge or conservation or recreation area and any residential or farm properties or timberlands.

(B) The term **LITTER** as used herein, means all rubbish, refuse, waste material, garbage, offal, paper, glass, cans,



bottles, trash, debris or other foreign substances of every kind and description.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.181 LITTERING WITH DANGEROUS SUBSTANCES.**

It shall be unlawful for any person to place or throw glass or other dangerous pointed or edged substances in or on any beach or waters adjacent hereto, highway or walk or on public property.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.182 OBJECTS THROWN INTO PATH OF VEHICLES.**

It shall be unlawful for any person to knowingly cause any litter or any objects to fall or to be thrown into the path or to hit a vehicle traveling the highway.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

### **MISCELLANEOUS OFFENSES**

#### **§ 132.195 ABANDONED ICE BOXES OR OTHER CONTAINERS.**

It shall be unlawful for any person to knowingly leave in a place accessible to children, any abandoned, unattended or discarded ice box, refrigerator or other container of a kind and size sufficient to permit the entrapment and suffocation of a child therein, without first removing the snaplock or other locking device from the lip or cover thereof, or otherwise render the containers harmless.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.196 EXCAVATIONS.**

It shall be unlawful for any person to hereafter dig or cause to be dug, an excavation or a partially constructed basement for any building or structure, and who shall fail to cover or fence, in a safe manner, the same within a period of 90 days after the excavations have been commenced.

(Ord. 27, passed 12-14-1981) Penalty, see §132.999

#### **§ 132.197 COAL TAR ORDINANCE.**

(A) *Title.* This section is to be known and cited as the Village of Pinckney Coal Tar Ordinance.

(B) *Purpose.*

(1) The purpose of this section is to promote the public health, safety, comfort, and general welfare of the community through prohibiting the use and sale of sealant products or substances containing greater than 0.1% polycyclic aromatic hydrocarbons (PAHs) by weight, including coal tar based sealer in the Village of Pinckney in order to protect, restore, and preserve the quality of its waters and protect the health of its residents.

(2) The Village of Pinckney understands that lakes, rivers, streams and other bodies of water are natural assets which enhance the environmental, recreational, cultural, and economic resources and contribute to the general health and welfare of the community.

(3) The use of sealers on asphalt driveways is a common practice. However, scientific studies on the use of driveway sealers have demonstrated a relationship between the use of coal tar based sealers and certain health and environmental concerns, including increased cancer risk to humans and impaired water quality in streams.

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

**ASPHALT BASED SEALER.** A petroleum based sealer material that is commonly used on driveways, parking lots, and other surfaces.

**COAL TAR.** A byproduct of the process used to manufacture coke from coal.

**COAL TAR SEALANT PRODUCT.** A surface applied sealing product containing coal tar, coal tar pitch, coal tar pitch volatiles, RT-12, refined tar, or any variation thereof, including those substances assigned the Chemical Abstracts Service (CAS) numbers 65996-92-1, 65996-93-2, 65996-89-6, or 8007-45-2, or related substances containing more than 0.1% PAHs, by weight.

**HIGH PAH CONTENT SEALANT PRODUCT.** A surface applied product containing steam-cracked petroleum residues, steam-cracked asphalt, pyrolysis fuel oil, heavy fuel oil, ethylene tar, or any variation of those substances including those substances assigned the Chemical Abstracts Service (CAS) numbers 64742-90-1, 69013-21-4, or related substances containing more than 0.1% PAHs, by weight.

**PAHs or POLYCYCLIC AROMATIC HYDROCARBONS.** A group of organic chemicals formed during the incomplete burning of coal, oil, gas, or other organic substances. **PAHs** are present in coal tar and known to be harmful to humans,



fish, and other aquatic life.

**VILLAGE.** The Village of Pinckney.

(D) *Prohibitions.*

(1) No person or entity shall apply a coal tar or other high PAH content sealant product or substance on any surfaces within the village.

(2) No person or entity shall sell a coal tar or other high PAH content sealant product that is formulated or marketed for application on surfaces within the village.

(3) No person or entity shall allow a coal tar or other high PAH content sealant product to be applied upon property that is under that person's ownership or control.

(4) No person or entity shall contract with any commercial sealer product applicator, residential or commercial developer, or any other person for the application of any coal tar or other high PAH content sealant product to any driveway, parking lot, or other surface within the village.

(5) No commercial sealer product applicator, residential or commercial developer, or other similar individual, organization, or entity shall direct any employee, independent contractor, volunteer, entity, or other person to apply any coal tar or other high PAH content sealant product to any driveway, parking lot, or any other surface within the village.

(E) *Asphalt based sealcoat products.* The provisions of this section shall only apply to coal tar or other high PAH content sealant products in the village and shall not otherwise affect the use of asphalt based sealer products within the village.

(F) *Registration and reporting requirements and procedures for commercial applicators.*

(1) All commercial applicators shall register with the village prior to applying pavement sealant in the village in any calendar year.

(2) Registration under this section shall be valid until expiration. Registration shall begin on January 1 and shall expire on December 31 of each calendar year.

(3) Commercial applicators shall submit a complete registration application to the Village Offices, along with the registration fee according to the schedule established by resolution of Village Council. The fee shall be calculated to include the cost of registration application review and periodic field inspection.

(4) The following information shall be included in a complete application for registration:

(a) The legal name of the commercial applicator, any other names used, the address, telephone number, and contact person for the applicant;

(b) The product name, type of use, and PAH content including CAS numbers;

(c) A notarized, sworn statement signed by an owner or duly authorized representative of a commercial applicator indicating that the applicator will comply with the requirements of the this section throughout the registration period; and

(d) All other information requested on the application.

(5) The application shall be approved if it is complete, the applicator has complied with the previous year's reporting requirement, and the use of pavement sealant complies with this section.

(6) The application for registration shall be approved or denied within 21 days of submission of a completed application.

(7) A registered applicator shall notify the village in writing of any change in the information in the application for registration within seven days of any such change.

(G) *Establishment and enforcement.* Within 30 days of passage of this section by the Village Council, a letter will be prepared and mailed to all identifiable area service companies and retailers that may apply, supply, or distribute sealants containing any of the substances herein prohibited. Enforcement shall be the responsibility of the Zoning Administrator and the Police Department in coordination to identify, investigate, and cite the owner of any property in violation immediately upon being made aware. The recognizable odor of coal tar or other high PAH substances as identified by any village employee is considered sufficient to prove violation in the absence of containers, packaging, receipts, or any other documents. Any person or entity found to be in violation during or after application shall be ticketed and fined; there is no option of a warning or relaxation of this section in any way.

(H) *Penalty.* Any person or entity that violates any of the provisions of this section will be responsible for a municipal civil infraction with fines up to \$500.

(Ord. 140, passed 10-9-2017)

## **§ 132.999 PENALTY.**

Any person or persons who violate any of the sections of this chapter shall, upon conviction, be deemed guilty of a misdemeanor and be subject to a fine not to exceed \$500 by the Village of Pinckney or imprisonment for a period not to exceed 90 days, or by both the fine and imprisonment at the discretion of the court.

## TITLE XV: LAND USAGE

### Chapter

- 150. LOTS AND MOBILE HOMES
- 151. WETLANDS AND WATERCOURSES
- 152. ZONING
- 153. DDA DEVELOPMENT PLAN
- 154. UNSAFE BUILDINGS
- 155. REGISTRATION OF RESIDENTIAL RENTAL DWELLING UNITS

### CHAPTER 150: LOTS AND MOBILE HOMES

### Section

#### *Lots*

- 150.01 Lot divisions
- 150.02 Application for lot division approval
- 150.03 Procedure for review of application for lot division approval
- 150.04 Standards for approval of land division
- 150.05 Allowance for approval of other land divisions/transfers
- 150.06 Consequences of noncompliance with land division approval requirements

#### *Mobile Homes and Trailer Coaches*

- 150.20 Title
- 150.21 Purpose
- 150.22 Terms
- 150.23 Unlawful actions and exemptions
- 150.24 Valid nonconforming use of mobile homes and trailer coaches
- 150.25 Termination of valid nonconforming use
- 150.26 Establishment of parks

- 150.99 Penalty

### LOTS

#### § 150.01 LOT DIVISIONS.

Any lot, out-lot or other parcel of land in a recorded plat may be divided for the purpose of sale, lease or building development provided the same is reviewed by the Planning Commission and approved by Village Council, as authorized pursuant to M.C.L.A. § 560.263. However, no such division shall be authorized that does not fully comply with the Michigan Land Division Act, being M.C.L.A. §§ 560.101 *et seq.*, as amended, and the resulting divisions are in conformity with the ordinances of the village. The procedures in this subchapter shall not apply to platted lots that are modified pursuant to a duly approved replat of a recorded subdivision under the Michigan Land Division Act, or are altered by a court order pursuant to M.C.L.A. § 560.226, as amended.

(Ord. 31, passed 11-11-1985; Ord. 142, passed 2-12-2018)

#### § 150.02 APPLICATION FOR LOT DIVISION APPROVAL.

An applicant shall file all of the following with the village Zoning Administrator or other official designated by the Village Council. The submittal shall include:

- (A) A completed application on such form as may be prescribed by the village and payment of the application fee as set

by Village Council resolution;

(B) Proof of fee ownership of the land proposed to be divided;

(C) A statement indicating any deed restrictions and/or covenants which apply to or run with the land having bearing upon the proposed division;

(D) The history and specifications of any previous divisions and combinations of land sufficient to establish the lot to be divided is subject to further division restrictions under the Michigan Land Division Act;

(E) Proof that all taxes which are due and payable and all special assessments which are outstanding pertaining to the land proposed to be divided have been paid in full;

(F) A detailed written description of the development planned for such land which is the subject of the request for division; and

(G) A survey map of the land proposed to be divided, prepared by a registered land surveyor or civil engineer licensed by the State of Michigan, which shows the dimensions and legal descriptions of the existing parcels or tracts, the location of all existing or proposed structures and other land improvements, the location of any existing easements and the accessibility of the parcels for vehicular traffic and utilities from the existing public roads.

(H) *New parcel map.*

(1) A complete, proposed new parcel map drawn to scale is required. The new parcel map shall be prepared by a registered land surveyor or civil engineer licensed by the State of Michigan and shall include the following requirements:

(a) Dated, north arrow, scale, and name of the individual or firm responsible for the completion of the tentative new parcel map;

(b) Proposed lot lines and their dimensions;

(c) Location and nature of proposed ingress and egress locations to any existing public streets;

(d) The location of any public or private street, driveway, or any easements located or to be located within any proposed lot or parcel. Copies of the instruments describing and granting such easements shall be submitted with the application;

(e) General topographical features including contour intervals no greater than ten feet and including a delineation of any wetland or floodplain areas;

(f) The location of any existing buildings, structures, public or private streets, and driveways within 50 feet of all proposed property lines; and

(g) The zoning classification of all proposed lots or parcels.

(2) In lieu of such new parcel map, and prior to submitting a formal application, the applicant may submit a tentative preliminary new parcel map to be reviewed, for conceptual purposes, by the village Zoning Administrator. The tentative preliminary new parcel map shall be drawn to a scale of not less than that provided for in the application form, and shall include an accurate legal description for each proposed division, and shall show the boundary lines, dimensions, and accessibility of each proposed division from existing or proposed public roads and public utilities. When submitting a tentative preliminary new parcel map, the applicant shall waive the time limit requirements for a decision and shall include a fee that is set by resolution of the Village Council. The Zoning Administrator's recommendations regarding the feasibility of the proposed lot division(s) is not binding upon the Planning Commission or Village Council. The Zoning Administrator may waive the new parcel map requirement where the foregoing tentative preliminary new parcel map is deemed to contain adequate information to approve a proposed land division. However, an accurate legal description of all proposed divisions prepared by a registered land surveyor or civil engineer licensed shall at all times be required.

(I) Any time limits for approval shall not commence until all of the requirements for an application have been completed and received by the Zoning Administrator.

(Ord. 31, passed 11-11-1985; Ord. 142, passed 2-12-2018)

### **§ 150.03 PROCEDURE FOR REVIEW OF APPLICATION FOR LOT DIVISION APPROVAL.**

(A) Upon receipt of a completed land division application package for review, the Zoning Administrator shall forward the materials to the Planning Commission, which shall set a public hearing on the application, and thereafter shall vote on the matter and report its recommendations to the Village Council.

(B) Upon receipt of the Planning Commission's recommendation, Village Council shall consider the request, may within its discretion elect to hold an additional public hearing, and shall vote on the final decision of the village on the application.

(C) The Zoning Administrator, Planning Commission, Village President, or Village Council may, if deemed appropriate and necessary, request a review and report on the application by the Village Planner, Village Engineer, Village Attorney, Village Treasurer, Village DPW Director, Township Assessor, County Building Department, County Drain Commissioner, and/or other consultants or officials.

(Ord. 31, passed 11-11-1985; Ord. 142, passed 2-12-2018)

## **§ 150.04 STANDARDS FOR APPROVAL OF LAND DIVISION.**

A proposed lot division shall be approved only if all of the following criteria are met.

(A) All of the parcels to be created by the proposed lot division must fully comply with the applicable lot (parcel) width, access, setback, and area requirements of the Village Zoning Ordinance, other applicable village ordinances, and any deed restrictions concerning the number, size, or location of structures allowed on the parcel.

(B) The proposed division complies with all requirements of the Land Division Act and the Village Zoning Ordinance.

(C) All parcels created and remaining have existing adequate accessibility as defined in the Michigan Land Division Act and Village Zoning Ordinance, or have an area available to provide such accessibility to a public road for public utilities and emergency and other vehicles, not less than the requirements of the applicable village ordinances and technical standards.

(D) There is adequate storm drainage and public utilities to serve the parcels created by the division, as determined by the Village Engineer, or as a condition of approval of the division, suitable easements are provided to allow the extension of adequate storm drainage and public utilities in the future. Unless a lot division creates a parcel which is acknowledged and declared to be "not buildable" under § 150.05, all divisions shall result in "buildable" parcels and must each have separate public water and sewer service with separate connections available as required by this code; or, if public water and/or sewer service is not available, the applicant shall provide a letter from the Livingston County Health Department that states an on-site septic system, a well, or both where both would be required, can be installed on the each parcel in accordance with the legally required standards if needed.

(E) All taxes and special assessments on the properties sought to be divided or combined have been paid.

(F) The ratio of depth to width of any parcel created by a land division (including a remnant parcel) shall not exceed 4:1 unless otherwise provided by the Village Zoning Ordinance.

(G) The proposed division shall not cause any existing building or structure to become nonconforming.

(H) The proposed division would not result in a parcel containing more than one zoning classification, unless the village has determined that multiple zoning classifications on a resultant parcel promotes orderly and harmonious development between adjacent parcels, such as creating a desirable transitional buffer between adjacent parcels of different zoning classifications.

(I) Approval of a proposed division of land shall be subject to the dedication of any easements necessary for current or future public roads, public utilities, bicycle/nonmotorized vehicle paths, sidewalks, or other necessary required public facilities.

(J) If the land division involves the use of a new curb cut to a public street or road, the applicant must submit evidence of review and approval of the curb cut location by the Village Public Works Department.

(K) The village may require such additional conditions and safeguards as are deemed necessary to ensure compliance with the requirements of this subchapter.

(Ord. 142, passed 2-12-2018)

## **§ 150.05 ALLOWANCE FOR APPROVAL OF OTHER LAND DIVISIONS/TRANSFERS.**

Notwithstanding disqualification from approval pursuant to this subchapter, a proposed lot division which does not fully comply with the applicable lot, setback, accessibility, and area requirements of the Village Zoning Ordinance or this chapter may be approved where the applicant executes and records a permanent deed restriction with the Livingston County Register of Deeds, in a form acceptable to the village, designating the parcel as "not buildable" and also not usable for anything other than passive uses, which restrictions shall be enforceable by the village. 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 used except for passive uses.

(Ord. 142, passed 2-12-2018)

## **§ 150.06 CONSEQUENCES OF NONCOMPLIANCE WITH LAND DIVISION APPROVAL REQUIREMENTS.**

(A) Any division of land in violation of any provisions of this subchapter shall not be recognized as a lot division on the assessment roll and no construction thereon shall be permitted which requires the issuance of a land use, construction, or building permit; and the land shall not be eligible for zoning approvals, such as conditional land use approval or site plan approval. The village shall have the authority to initiate injunctive or other relief to prevent any violation or continuance of violation of this subchapter.

(B) An unlawful division or attempted division shall also be voidable at the option of the purchaser and shall subject the seller to the forfeiture of all consideration received or pledged to be paid, together with any damages sustained by the purchaser, recoverable in an action at law.

(C) Any person, firm, corporation, trust, partnership, or other legal entity which violates or refuses to comply with any provision of this subchapter or knowingly provides false information on an application for approval of a lot division shall be subject to the municipal civil infraction provisions of § 131.99 of this code.

(D) In addition to the penalties prescribed by §131.99 of this code, any person who violates any of the provisions of this subchapter shall also be subject to a civil action seeking invalidation of the land division and appropriate injunctive or other relief.

(Ord. 142, passed 2-12-2018)

## MOBILE HOMES AND TRAILER COACHES

### § 150.20 TITLE.

This subchapter shall be known and cited as the Village of Pinckney Mobile Home and Trailer Coach Ordinance.

(Ord. 6, passed - -)

### § 150.21 PURPOSE.

The comprehensive plan and scope of this subchapter is to safeguard and promote the public health, safety, morals, prosperity and general welfare of the residents of the Village of Pinckney by having certain regulations and restrictions.

(Ord. 6, passed - -)

### § 150.22 TERMS.

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

**MOBILE HOME** or **TRAILER COACH.** Any movable vehicular unit with or without motive power, designed to permit occupancy as a dwelling or sleeping place by one or more persons.

**TRAILER COACH PARK.** Any tract, lot site, parcel of land or field arranged or designed to accommodate three or more trailer coaches or mobile homes, for either transient, temporary or more or less permanent type of occupancy.

(B) Words used in the present tense include the future; words used in the singular include the plural; words used in the plural number include the singular and the word **SHALL** is mandatory and not mere directory.

(Ord. 6, passed - -)

### § 150.23 UNLAWFUL ACTIONS AND EXEMPTIONS.

From and after the effective date of this subchapter, it shall be unlawful for any person to use, within the limits of the Village of Pinckney, any mobile home or trailer coach for dwelling purposes or any other purpose, except as provided and permitted by this subchapter.

(A) The Village Council may permit, upon application, the use of a trailer or mobile home as a temporary dwelling for a period of one year when the occupant of the trailer is definitely engaged in the erection of a permanent dwelling on the same lot and when necessary and proper health, sanitation, plumbing and fresh water facilities are provided. If substantial progress has been made toward the completion of the permanent dwelling, the Village Council may grant an extension of 12 months.

(B) The Village Council may permit, upon application and upon receipt of proof of unique hardship, the use of a trailer coach or mobile home as an accessory dwelling to a permanent dwelling. Not more than one trailer may be used and occupied as the accessory dwelling and then only if the occupants of the trailer have access to and the unlimited use of the sanitary facilities of the permanent dwelling.

(C) Trailers which are brought by visitors for traveling purposes may be occupied and allowed, provided, the visitors occupying the trailers use the toilets, bathing and laundry facilities of the dwelling of that property owner or occupants they are visiting. Provided further, that the maximum period for the use shall be 30 days without permit and the use shall be limited to one visiting trailer at a dwelling. The Village Council may extend this period at its discretion provided application is made in writing to the Council.

(D) Mobile homes and trailer coaches shall be legally used when located on a farm of 40 acres or more under a temporary permit for the occupancy of migratory farm workers. The farm owner or lessee shall first make written application to the Village Clerk, who shall issue the permit for one or more vehicular units after an inspection shows:

- (1) Location of units to be not less than 200 feet from any public highway and/or boundary of adjoining property; and
- (2) Adequate fresh water supply and sanitary facilities a permit shall be for a period of 60 days.

(E) Mobile homes and trailer coaches shall be legally used when located on a land site approved by the village under temporary permit for the occupancy of construction workers on a specific job. The employer shall first make written application through the Village Clerk, giving all pertinent data, including description of land to be used and number of vehicular units to be used. Providing inspection shows:

- (1) Location or units to be not less than 200 feet from any public highway and/or boundary of adjoining property; and
- (2) Adequate fresh water supply and sanitary facilities, then a temporary permit shall be issued covering the period of

the specific construction job, not to exceed one year, subject to an extension for one-year period for good cause.

(F) Mobile homes and trailer coaches shall be legally used when openly parked by the owner's own dwelling site, providing the vehicular unit is unoccupied and located as follows: back of rear wall of dwelling not closer than ten feet to any side or, rear line if not a street line or closer than 100 feet to any street line. The open parking or storage subject to restriction governing the use of the premises.

(Ord. 6, passed - -) Penalty, see §150.99

#### **§ 150.24 VALID NONCONFORMING USE OF MOBILE HOMES AND TRAILER COACHES.**

The use of any mobile home or trailer coach placed on a lot, parcel or tract of land in the Village of Pinckney prior to the effective date of this subchapter which use is prohibited by this subchapter, shall be a valid nonconforming use, that may be continued subject to the provisions pertaining to nonconforming uses herein contained.

(Ord. 6, passed - -)

#### **§ 150.25 TERMINATION OF VALID NONCONFORMING USE.**

It is hereby provided that as of the effective date of this subchapter that any nonconforming use of a mobile home or trailer coach shall cease to be valid and shall become illegal forthwith in event of any one or more of the following conditions pertain to the use thereof:

(A) If the mobile home or trailer coach is removed from the lot parcel or tract of land on which it has been located, the identical home or trailer coach, nor any other vehicular unit shall be thereafter moved upon or used on the premises; provided, however, the owner and occupant may improve the premises by exchanging trailers or coaches so long as the exchange is accomplished within a period of seven days and the request is made, before the Village Council;

(B) If any accessory structure, garage or storage shed shall be erected adjacent to or in proximity of the vehicular unit;

(C) If the mobile home or trailer coach is not connected with fresh water supply, septic tank and drain field sewerage system prior to the effective date of this subchapter; and

(D) If the yards surrounding the mobile home or trailer coach shall be kept and unsightly to the extent or being an eyesore and a nuisance.

(Ord. 6, passed - -) Penalty, see §150.99

#### **§ 150.26 ESTABLISHMENT OF PARKS.**

Establishment of trailer coach or mobile home parks shall be by permit issued by the Village Council and under the safeguards and conditions as the Pinckney Village Council shall prescribe.

(Ord. 6, passed - -)

#### **§ 150.99 PENALTY.**

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

(B) Violation of §§ 150.01*et seq.* shall be sufficient cause for denial of an application for a building permit.

(C) Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any provisions of §§ 150.20*et seq.* shall, upon conviction, be fined not less than \$25 nor more than \$100 for the offense. Each day that a violation is permitted to exist shall constitute a separate offense. On imposition of any fine, the court shall have the power and authority to make further order or judgement in the matter of sentence that any person or persons so convicted shall be imprisoned in the county jail until the fine and costs shall be paid and the imprisonment shall be for a period of not to exceed 30 days.

(Ord. 6, passed - -; Ord. 31, passed 11-11-1985)

## **CHAPTER 151: WETLANDS AND WATERCOURSES**

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Section

### ***General Provisions***

151.01 Short title

151.02 Purpose

151.03 Definitions

### ***General Requirements***



- 151.20 Lands to which chapter applies
- 151.21 Official wetlands map
- 151.22 Notice to Department of Environment, Great Lakes and Energy
- 151.23 Property inspection
- 151.24 Use permits required
- 151.25 Permitted activities
- 151.26 Nonconforming activities
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### ***Floodplain Management***

- 151.45 Agency designated
- 151.46 Code appendix enforcement
- 151.47 Designation of regulated flood prone hazard areas
  
- 151.99 Penalty

## **GENERAL PROVISIONS**

### **§ 151.01 SHORT TITLE.**

This chapter shall be known and may be cited as the Village of Pinckney's Wetlands and Watercourses Ordinance.  
(Ord. 34, passed 7-24-1989)

### **§ 151.02 PURPOSE.**

- (A) The wetlands and watercourses of the village are indispensable but sensitive natural resources subject to flooding, erosion, soil bearing capacity limitations and other hazards.
- (B) In their natural state, wetlands and watercourses serve multiple functions for flood control, stormwater storage and release, pollution control, erosion control, wildlife habitat, aesthetics, open space and recreation.
- (C) The continued destruction and loss of wetlands and watercourses constitutes a distinct and immediate danger to the public health, safety and general welfare.
- (D) Pursuant to the Michigan Constitution 1963, Art. IV, 52, the conservation and development of natural resources of the state is a matter of paramount public concern in the interest of the health, safety and general welfare of the people.
- (E) It is, therefore, the policy of the Village of Pinckney:
  - (1) To protect wetlands and watercourses while taking into account varying economic, ecological, hydrologic, recreation and aesthetic values;
  - (2) To provide for the protection, preservation, replacement, proper maintenance and use of wetlands and watercourses located in the Village of Pinckney in order to minimize disturbance to them and to prevent damage from erosion, siltation and flooding;
  - (3) To provide for the issuance of use permits and approved activities;
  - (4) To establish standards and procedures for the review of proposed activities in wetlands and watercourses; and
  - (5) To establish penalties for the violation of this chapter.

(Ord. 34, passed 7-24-1989)

### **§ 151.03 DEFINITIONS.**

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

**ACTIVITY.** Any use, operation or action including, but not limited to, filling, dredging, constructing or excavating material and/or structures.

**AQUATIC VEGETATION.** Plants and plant life forms which naturally occur in, at, near or predominantly near water.

**BOTTOMLAND.** All land area of a lake, stream or watercourse which lies below the ordinary high water mark and which may or may not be covered by water.

**CHANNEL.** The geographical area within the natural or artificial banks of a watercourse required to convey continuously or intermittently flowing water under normal or average flow conditions.

**CONTIGUOUS.** Any of the following:

- (1) A permanent surface water connection or other direct physical contact with an inland lake or pond;
- (2) A seasonal or intermittent direct surface water connection; and
- (3) A wetland partially or entirely located within 500 feet of the ordinary high water mark.

**DRAINAGEWAY.** Any drain, pipe, stream, creek or swale which serves to transport water runoff to the primary watercourse system.

**FILL MATERIAL.** Any soil, sand, gravel, clay, peat, debris and refuse, waste of any kind or any other material which displaces soil or water or reduces water retention potential.

**HYDRIC SOIL.** A soil that is saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

**MINOR ACTIVITIES.** Activities that are similar in nature, that will cause only minimal adverse environmental effects when performed separately and that will have only minimal cumulative adverse effects on the environment.

**MINOR DRAINAGE.** Includes ditching or tiling for the removal of excess soil moisture incidental to the planting, cultivating, protecting or harvesting of crops or improving the productivity of land in established use for agriculture, horticulture, silviculture or lumbering.

**OFFICIAL MAP.** The official Wetlands Map of the Village of Pinckney is found on the Michigan Department of Environment, Great Lakes, and Energy website.

**ORDINARY HIGH WATER.** The line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is markedly distinct from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation. On an inland lake which has a level established by law, the ordinary high water mark means the high establishing level. When water returns to its natural level as a result of the permanent removal and abandonment of a dam, it means the natural ordinary high water mark.

**OWNER.** Any person who has dominion over, control of, title to and/or any other proprietary interest in wetland and watercourse areas, or title to an obstruction, natural or otherwise, to wetland and watercourse properties.

**PERSON.** Any individual, firm, partnership, association, corporation, company, organization or legal entity of any kind, including governmental agencies conducting operations within the Village of Pinckney.

**RUNOFF.** Surface discharge of precipitation to a watercourse or low area.

**SEASONAL.** Any intermittent or temporary activity which occurs annually and is subject to interruption from changes in weather, water level or time of year and may involve annual removal and replacement of a device or structure.

**STRUCTURE.** Any assembly of materials above or below the surface of the land or water, including but not limited to houses, buildings, bulkheads, piers, docks, landings, dams, waterway obstructions, towers and utility transmission devices.

**TEMPORARY.** A time period as specified in the use permit, or if unspecified, means an uninterrupted time period less than one year in duration.

**WATERCOURSE.** Any waterway, drainageway, drain, river, stream, lake, pond or retention basin, or any body of surface water having well defined banks, whether continually or intermittently flowing. Watercourses subject to regulation are designated on the official wetlands map.

**WETLANDS.** Lands characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances do support wetland vegetation or aquatic life and are commonly referred to as bogs, swamps, marshes and wet meadows.

(Ord. 34, passed 7-24-1989; Ord. 155, passed 1-11-2021)

## GENERAL REQUIREMENTS

### § 151.20 LANDS TO WHICH CHAPTER APPLIES.

Those wetlands subject to the regulatory terms of this section include:

(A) All wetlands contiguous to designated watercourses including but not limited to a 20-foot buffer zone on each side of Mill Pond, and a ten-foot buffer zone on each side of all other streams and drains illustrated on the official wetlands and watercourses map.

(B) All wetlands of more than one acre in size.

(C) All other wetlands determined by the Village of Pinckney to be essential for preventing pollution, impairments or destruction of natural resources systems and the environment, and which are so designated on the official wetlands map.

(D) All retention and detention facilities constructed for the purpose of collecting and/or directing runoff water onto any wetland or watercourse identified but not limited to the official wetlands and watercourses map.

(Ord. 34, passed 7-24-1989; Ord. 155, passed 1-11-2021)

#### **§ 151.21 OFFICIAL WETLANDS MAP.**

(A) The designated wetlands are hereby established as shown on the official wetlands map which accompanies this chapter and which map with all notations, references and the information shown thereon, shall be as much a part of this chapter as if fully described herein. The official wetlands map is not definitive of all possible wetlands within the village. Individuals may request an on-site wetland determination from the Department of Environment, Great Lakes and Energy. The official wetlands map was compiled from the following sources: USGS Datum Survey, 1965 and photo revised in 1983 and the United States Department of the Interior, Fish and Wildlife Service National Wetlands Inventory Map. Only limited accuracy may be obtained from the use of the official wetlands map due to scale and detail. A site specific evaluation and field investigation by the Village Zoning Administrator or like official will also be made during the site plan approval process to verify parcels in question.

(B) The Village Council may revise the official wetlands map at any time that new and substantial data for wetlands and watercourses are available. Where the official wetlands map is amended to and an individual property or several properties are affected, notice of the proposed amendment and hearing shall be given to all owners of the property or properties at least 15 days before the hearing.

(Ord. 34, passed 7-24-1989; Ord. 155, passed 1-11-2021)

#### **§ 151.22 NOTICE TO DEPARTMENT OF ENVIRONMENT, GREAT LAKES AND ENERGY.**

The Village of Pinckney shall notify the Department of Environment, Great Lakes and Energy of the State of Michigan of the adoption of this section. The village will require applicants to obtain applicable state permits during the site plan approval process prior to the issuance of a final site plan approval.

(Ord. 34, passed 7-24-1989; Ord. 155, passed 1-11-2021)

#### **§ 151.23 PROPERTY INSPECTION.**

The Village of Pinckney, its officials, agents and employees may make reasonable entry upon any lands or water within the village for the purpose of enforcement of this chapter or the conduct of any investigation, survey or study contemplated by this chapter.

(Ord. 34, passed 7-24-1989)

#### **§ 151.24 USE PERMITS REQUIRED.**

(A) The draining of any wetland is an activity expressly prohibited under Act 203; any activity occurring within the wetlands will be done in accordance with Public Act 203.

(B) Except for those activities expressly permitted by § 151.25, it shall be unlawful for any person to conduct any activity with a wetlands area without first having obtained a use permit upon proper application, including but not limited to the following:

(1) Depositing or permitting the depositing of any material, including but not limited to, hazardous chemicals, non-biodegradable aquatic pesticides and herbicides and harmful fertilizers into, within or upon any watercourse or wetland area;

(2) Dredging, removing or permitting the dredging or removal of material or minerals from a watercourse or wetland area;

(3) Erecting or building any structure including, but not limited to, buildings, roadways, bridges of any type, tennis courts, paving, utility or private poles or towers within or upon any watercourse or wetland area;

(4) Constructing, operating or maintaining any land use or development in a wetland or watercourse area;

(5) Enlarging, diminishing or altering any lake, stream or other naturally occurring watercourse;

(6) Creating, enlarging or diminishing any natural or artificially constructed canal, channel, ditch, lagoon, pond, lake or other waterway for navigation or any other purpose, whether or not connected to an existing lake, stream or watercourse;

(7) Constructing, placing, enlarging, extending or removing any temporary, seasonal or permanent operation or structure upon bottomland or wetlands, except seasonal docks, rafts, diving platforms and other water recreational devices

customarily owned and used by individual households;

(8) Constructing, extending, enlarging or connecting any conduit, pipe, culvert or open or closed drainage facility carrying storm water runoff from any site, or any other land use permitting discharge of silt, sediment, organic or inorganic material, chemicals, fertilizers, flammable liquids or other polluting substances except in accordance with requirements of county, state, federal agencies and the Village of Pinckney;

(9) Constructing, enlarging, extending or connecting any private or public sewage or waste treatment plant discharge to any lake, pond, stream, watercourse or wetland, except in accordance with requirements of county, state, federal agencies and the Village of Pinckney; and

(10) Developments that increase the use of human density upon a wetland or watercourse that would threaten the natural character of the resource or produce a recreational impact beyond the capacity of the lake and/or stream to provide for the health and safety of existing users.

(Ord. 34, passed 7-24-1989) Penalty, see § 151.99

#### **§ 151.25 PERMITTED ACTIVITIES.**

Notwithstanding the prohibition of § 151.24, the following activities are permitted with wetland areas without a use permit, unless otherwise prohibited by statute or ordinance:

(A) Fishing, trapping and hunting;

(B) Conservation of soil, vegetation, water, fish, wildlife and other natural resources;

(C) Swimming and boating;

(D) The operation and maintenance of existing dams and other water control devices, if in compliance with all applicable state statutes and ordinances;

(E) Installation on lakes, for noncommercial use, of any type of dock, boat hoist, ramp, raft or other recreational structure which is placed in a lake and removed at the end of the boating season;

(F) Activities by a governmental entity relating to the construction, maintenance or repair of a public highway, street, roadway, sewer system, drainage system or watermain facility. If constructed within a wetland, would fall under the jurisdiction of Public Act 203.

(G) Where a final subdivision plat or a final site development plan containing work, as defined in this section, has been reviewed and approved by the Council in conformance with the requirements of this section, the approval, together with any additional terms and conditions attached hereto, shall be considered to have completed the requirements for a permit under this section, which shall then be issued by the Village of Pinckney.

(Ord. 34, passed 7-24-1989)

#### **§ 151.26 NONCONFORMING ACTIVITIES.**

An activity that was lawful before October 12, 1988, but which is not in conformity with the provisions of this section may be continued subject to the following:

(A) No activity shall be expanded, changed, enlarged or altered in a way that increases its nonconformity with this section;

(B) On a building or structure devoted in whole or in part to a nonconforming use or activity, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding 50% of the assessed value of the building or structure;

(C) If a nonconforming activity is discontinued for six consecutive months, any resumption of the activity shall conform to this section;

(D) If any nonconforming use or activity is destroyed, it shall not be resumed except in conformity with the provisions of this section; and

(E) Activities that are or become nuisances shall not be entitled to continue as nonconforming activities.

(Ord. 34, passed 7-24-1989) Penalty, see § 151.99

#### **§ 151.27 USE PERMIT APPLICATION.**

A use permit applicant shall submit the following materials to the Village Clerk:

(A) A completed use permit application which includes the following information:

(1) The name, address and telephone number of the applicant and of the applicant's agent;

(2) The name, address and telephone number of the owner of the property;

(3) The project location, including as applicable, the street, road or highway, section number, name of subdivision and

name of any wetlands or watercourses which will or may be impacted;

(4) A detailed description and statement of the purpose of the proposed activity;

(5) The location and number of trees to be removed of three-inch caliper or greater. (The caliper of a tree is its diameter at four and one-half feet above the ground);

(6) Whenever the removal of material, placement of fill material or grading is proposed; and

(7) The amount of type of material to be removed or deposited.

(B) A use permit application fee in an amount equal to the prevailing land use permit fee;

(C) Where the applicant is not the owner of the property, a written authorization from the owner permitting the proposed activity; and

(D) A site plan, including topographical survey, sealed by a registered engineer or registered surveyor, which includes the following information:

(1) The shape and dimensions of the lot or parcel, together with the existing and proposed locations of structure and improvements, if any;

(2) Specification of the extent of all areas to be disturbed, the depths at which removal or deposition activities are proposed, the angle or repose of all slopes of deposition material, and/or sides of channels or excavation resulting from removal operations;

(3) Existing general soil conditions throughout the parcel;

(4) Location and dimensions of all setbacks, easements and existing and proposed public and private utilities; and

(5) Statements as to grade changes proposed and proposed drainage pattern changes for the lot or parcel and how the changes for the lot or parcel and how the changes will affect these regulations. Existing contour data for the entire property with a vertical contour interval of no more than two feet, and vertical contour data at an interval of no more than one foot for all areas to be disturbed by proposed operations, extending for a distance of at least 50 feet beyond the limits of the areas. Indicated elevations shall be based on United States Geological Survey datum.

(Ord. 34, passed 7-24-1989; Ord. 155, passed 1-11-2021)

#### **§ 151.28 REVIEW OF USE PERMIT APPLICATIONS.**

(A) The Zoning Administrator shall review the submitted use permit application to insure that all required information has been provided. At the request of the applicant or the Zoning Administrator, an administrative review meeting may be held to review the proposed activity in light of the purpose and review standards of this chapter. The Zoning Administrator, Village Engineer or qualified Village Agent shall, after review of the proposed activity, submit a report and recommendations as to the propriety of the proposed use under the review standards of § 151.29.

(B) The granting or denying of all use permits shall be the responsibility of the Village of Pinckney Zoning Administrator. The granting or denying of all permits shall be governed by the standards contained in § 151.29.

(C) Prior to a determination by the Zoning Administrator on a use permit application, notice of the application and the date, time and location for public comment shall be mailed by regular first class mail to those persons to whom real property adjacent to the proposed activity is assessed. Notice shall include a date prior to which written comments regarding the application may be submitted to the village for consideration by the Zoning Administrator.

(D) Whenever a use permit application is denied, the reasons for denial shall be transmitted, in writing to the applicant.

(E) Whenever a use permit application is granted, the Zoning Administrator shall:

(1) Impose the conditions on the manner and extent of the proposed activity or use as are necessary to ensure that the intent of this chapter is carried out and that the activity or use will be conducted in the manner as will cause the least possible damage, encroachment or interference with natural resources and natural processes within the watercourse and/or wetland area;

(2) The expiration date of which any wetland operation must be completed shall be within one year from the date of issuance;

(3) Require the filing with the village administration of a cash bond or irrevocable letter of credit, in the form and amount as determined necessary by the village to ensure compliance with the approved use permit; and

(4) Send written notice of the granting of the permit to all persons who have submitted written comments on the application to the Zoning Administrator.

(F) A permit approved by the Zoning Administrator shall not be issued until ten calendar days following the date of the approval. Any interested person who is aggrieved by the granting or denying of a use permit may request an appeal of the decision to the Village Council. A request for appeal must be filed within ten calendar days following the grant or denial. If an appeal is requested during the ten- day period, the issuance of any permit shall be suspended pending the outcome of the appeal. The Village Council, upon review, may reverse, affirm or modify the determination and/or permit issued by the Zoning

Administrator.

(Ord. 34, passed 7-24-1989; Ord. 155, passed 1-11-2021)

### **§ 151.29 REVIEW STANDARDS.**

The following standards shall govern the grant or denial of use permit applications:

- (A) The proposed activity shall not threaten public health or safety by increasing flooding, erosion, siltation, pollution or stormwater runoff volumes;
- (B) The proposed activity shall not interfere with the natural functions of wetlands and watercourses, including the flow of waters and nutrients between wetlands and adjacent watercourses;
- (C) The proposed activity shall not unnecessarily alter the natural grade or soils of any wetland or watercourse, or alter the flow of surface or subsurface water to or from the wetland at any season of the year;
- (D) The proposed activity shall not result in the destruction of critical wildlife and waterfowl habitat, including habitat important for migratory waterfowl;
- (E) The proposed activity shall not interfere with public rights to the enjoyment and use of public waters;
- (F) The proposed activity shall not interfere with the scenic, aesthetic recreational and educational benefits of wetlands and watercourses;
- (G) There shall be no less harmful, feasible and prudent alternatives to the proposed activities;
- (H) The proposed activity must be consistent with the promotion of the public health, safety and welfare in light of the paramount concern for the protection of its natural resources from pollution, impairment or destruction;
- (I) The proposed activity shall be in compliance with all other applicable statutes and ordinances; and
- (J) Proposed recreational activities shall not increase user density beyond the ability of the resource to provide for a safe and healthy environment.

(Ord. 34, passed 7-24-1989) Penalty, see § 151.99

### **§ 151.30 DISPLAY PERMITS.**

The permit grantee shall prominently display on the site the permit was issued. The display shall be continuous while work authorized under the permit is being done, and for at least ten days after the completion thereof. Failure to allow entry for inspection by village representatives pursuant to the conditions attached to the permit shall constitute a violation of this chapter.

(Ord. 34, passed 7-24-1989)

### **§ 151.31 TAKING WITHOUT COMPENSATION.**

- (A) This chapter shall not be construed to abrogate rights or authority otherwise protected by law.
- (B) For the purposes of determining if there has been a taking of property without just compensation under Michigan Law, an owner of property who has sought and has been denied a permit or has been made subject to modifications or conditions in the permit under this chapter may file an action in a court of competent jurisdiction.
- (C) If the court determines that an action of the village pursuant to this chapter constitutes a taking of the property of a person, then the court shall order the village, at the village's option, to do one or more of the following:
  - (1) Compensate the property owner for the full amount of the lost value;
  - (2) Purchase the property in the public interest as determined before its value was affected by this chapter; and
  - (3) Modify its action with respect to the property so that the action will not constitute a taking of the property.

(Ord. 34, passed 7-24-1989)

### **§ 151.32 INTERPRETATION AND APPLICATION.**

In the interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience or general welfare. It is not intended by this chapter to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of law or ordinance with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to activities within wetland areas; provided, however, that where this chapter imposes a greater restriction than is required by existing ordinance or by rules, regulations or permits, the provisions of this chapter shall control.

(Ord. 34, passed 7-24-1989)

## **FLOODPLAIN MANAGEMENT**

### **§ 151.45 AGENCY DESIGNATED**



**§ 151.45 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, being M.C.L.A. § 125.1508b(6), the building officials of the county is hereby designated as the enforcing agency to discharge the responsibility of the village under Act 230, of Public Acts of 1972, as amended, being M.C.L.A. §§ 125.1501 et seq. The county assumes responsibility for the administration and enforcement of said act throughout the corporate limits of the community adopting this subchapter.

(Ord. 100, passed 4-11-2011; Am. Ord. 105, passed 6-13-2011)

**§ 151.46 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, being , M.C.L.A. § 125.1508b(6) Appendix G of the Michigan Building Code shall be enforced by the enforcing agency within the county.

(Ord. 100, passed 4-11-2011; Am. Ord. 105, passed 6-13-2011)

**§ 151.47 DESIGNATION OF REGULATED FLOOD PRONE HAZARD AREAS.**

The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) entitled “Livingston County, Michigan (All Jurisdictions)” and dated September 17, 2008, and the Flood Insurance Rate Map(s) (FIRMS) panel number(s) of 26993C, 0430D and 0433D and dated September 17, 2008, are adopted by reference for the purposes of administration of the Michigan Construction Code, and declared to be a part of Section 1612.3 of the Michigan Building Code, and to provide the content of the “Flood Hazards” section of Table R301.2(1) of the Michigan Residential Code.

(Ord. 100, passed 4-11-2011; Am. Ord. 105, passed 6-13-2011)

**§ 151.99 PENALTY.**

(A) Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction therefore shall be fined a maximum of \$1,000 for each conviction, or shall be punished by imprisonment for a period not to exceed 90 days for each offense, or by both the fine and imprisonment in the discretion of the court, together with costs of the prosecution. Each day upon which the violation shall occur shall constitute a separate offense.

(B) Any use or activity in violation of the terms of this chapter is hereby declared to be a nuisance per se, and may be abated by order of any court of competent jurisdiction. The Village Council, in addition to other remedies, including those provided in division (C) below, may institute any appropriate action or proceeding to prevent, abate or restrain the violation. All costs, fees and expenses in connection with the action shall be assessed as damages against the violation.

(C) In the event of a violation, the Village of Pinckney shall have the power to order complete restoration of the wetland area involved by the person or agent responsible for the violation. If the responsible person or agent does not complete the restoration within the time specified in the order (not to exceed 18 months), the village shall have the authority to restore the affected wetlands to the prior condition wherever possible and the person or agent responsible for the original violation shall be held liable to the village for the cost of restoration.

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

(Ord. 34, passed 7-24-1989)

**CHAPTER 152: ZONING**

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**PURPOSE AND SCOPE**

This chapter is adopted pursuant to the City and Village Zoning Act, Public Act 207 of 1921, as amended (M.C.L.A §§ 125.581 *et seq.*) and subsequently amended pursuant to the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended (M.C.L.A. §§ 125.3101 *et seq.*). This chapter shall be known and may be cited as the Village of Pinckney Zoning Ordinance and may hereinafter be referred to as this chapter.

(Ord. 37, passed 8-28-2005; Ord. 87 ZBA, passed 3-23-2009)

#### **§ 152.002 PURPOSE.**

It is the purpose of this Zoning Ordinance to promote public health, safety and welfare, encourage the use of land and natural resources in accordance with their character, adaptability and suitability for particular purposes, enhance social and economic stability, prevent excessive concentration of population, reduce natural and man-made hazards, lessen traffic congestion, promote the development of adequate improvements, provide recreation opportunities and open space, enhance the value of real property, allow for a variety of land uses and to facilitate the expenditure of funds for public facilities and services by establishing herein standards for physical development in accordance with the goals, objectives and policies contained in the Village of Pinckney Comprehensive Plan and Parks and Recreation Plan and to provide for the administration and enforcement of the standards.

(Ord. 37, passed 8-28-2005)

#### **§ 152.003 SCOPE.**

No lot, land use or structure, or part thereof, shall hereafter be created, established, developed, erected, constructed, reconstructed, expanded or altered, except as permitted by the provisions of this chapter.

(Ord. 37, passed 8-28-2005)

#### **§ 152.004 VESTED RIGHT.**

Nothing in this Zoning Ordinance shall be interpreted or construed to give rise to any permanent vested right in the continuation of any particular use, zoning district or permissible activity therein. Any such use, zoning district or activity is hereby declared to be subject to subsequent amendment, change or modification by the village as may be necessary to protect public health, safety and welfare.

(Ord. 37, passed 8-28-2005)

#### **§ 152.005 CONFLICTING LAWS AND REGULATIONS.**

(A) It is not intended by this Zoning Ordinance to repeal, abrogate, annul or in any way impair or interfere with any existing provision of law or ordinance, other than the Zoning Ordinance previously adopted by the village and any amendments.

(B) The Village Planning Commission, Village Council or Zoning Board of Appeals may withhold granting of approval of any use, site plan or other approval required by this chapter pending approvals that may be required by state, county or federal agencies or departments.

(C) Whenever this Zoning Ordinance imposes more stringent requirements than are imposed by the provisions of any other law or ordinance, this Zoning Ordinance shall govern. Whenever any other law or ordinance imposes more stringent requirements than are imposed by the provisions of this Zoning Ordinance, the provisions of the other laws or ordinances shall govern.

(Ord. 37, passed 8-28-2005)

### **ADMINISTRATION AND ENFORCEMENT**

#### **§ 152.020 COMPLIANCE REQUIRED.**

(A) No permit shall be issued by the village, or any official thereof, for the creation, establishment, development, erection, grading, clearing, construction, reconstruction, movement, expansion or alteration of any lot, land use or structure except as permitted by the provisions of this chapter. In the event a permit is issued in violation of this chapter, it is "void ab initio" (void from the beginning).

(B) The village may suspend or revoke a permit issued under the provisions of this chapter whenever the permit is issued erroneously on the basis of incorrect information supplied by the applicant or his or her agent and/or is in violation of this chapter or any other village ordinances or regulations.

(Ord. 37, passed 8-28-2005) Penalty, § 152.999

#### **§ 152.021 ZONING ADMINISTRATION.**

The provisions of this chapter shall be administered and enforced by the Zoning Administrator who shall be nominated by the Village President and appointed by the Village Council.

(Ord. 37, passed 8-28-2005)



## § 152.022 DUTIES OF THE ZONING ADMINISTRATOR.

### (A) *Administrative duties.*

(1) *Land use applications.* The Zoning Administrator shall receive and review zoning and land use applications for compliance or noncompliance with the provisions of this chapter, and then process the applications as follows:

(a) *Land use permits.* The Zoning Administrator shall review all land use permit applications and approve the land use permit when there is full compliance with this chapter.

(b) *Preliminary site plans.* The Zoning Administrator shall review all applications for preliminary site plan approval, and other matters that the Planning Commission is required to decide under this chapter, formulate recommendations, refer applications with recommendations to the Planning Commission for determination and notify the applicant, in writing, of any decision of the Planning Commission.

(c) *Final site plans, special land uses and re-zonings.* The Zoning Administrator shall review all applications for final site plan approval, special land use permits, re-zonings and other matters that the Village Council or Planning Commission is required to decide under this chapter, formulate recommendations, report to the Planning Commission with recommendations, submit to the Village Council the applications together with the recommendations of the Planning Commission and notify the applicant, in writing, of any decision of the Planning Commission or Village Council.

(d) *Variances and appeals.* The Zoning Administrator shall review all applications for variances and appeals, and other matters that the Zoning Board of Appeals is required to decide under this chapter, formulate recommendations, refer applications with recommendations to the Zoning Board of Appeals for determination and notify the applicant, in writing, of any decision of the Zoning Board of Appeals.

(2) *Public notice.* When the provisions of this chapter require a public hearing, the Zoning Administrator shall inform the Village Clerk of the date, time and substance of the public hearing and the Clerk shall provide public notice of the hearing in accordance with the standards and procedures established in division (C) below.

(3) *Other administrative duties.* The Zoning Administrator shall:

(a) Evaluate proposals for uses in all districts to assure compliance with provisions of this chapter;

(b) Conduct field inspections, surveys and investigations, prepare maps, charts and other materials when necessary or desirable for the administration of this chapter;

(c) Maintain an updated copy of the official zoning map, consistent with the original map to be maintained by the Village Clerk;

(d) Maintain a record of the legal nonconforming uses and structures in the village for the purpose of implementing §§ 152.415 *et seq.*;

(e) Maintain written records of all actions taken by the Zoning Administrator and keep custody of all records of the Planning Commission and Zoning Board of Appeals; and

(f) Provide the forms necessary for the various land use applications to the village as required by this chapter.

(B) *Enforcement duties.* There is vested in the Zoning Administrator the duty of enforcing this chapter and the power necessary for the enforcement. In implementing this duty, the Zoning Administrator shall conduct investigations to determine compliance or noncompliance with the provisions of this chapter, and any conditional approvals of the Planning Commission, Village Council or Zoning Board of Appeals and order correction, in writing, of all conditions found to be in violation.

(1) The written orders shall be served personally or by certified mail upon any person, firm or corporation deemed by the Zoning Administrator to be violating the provisions of this chapter. If the person, firm or corporation is not the owner of the land on, or the structure in which the violation is deemed to exist, a copy of the order shall be sent by certified mail to the owner of the land or structure. The date of mailing shall be deemed the date of service of any order served by certified mail.

(2) The written orders shall include an order to immediately cease and desist all regulated activities until the development site is brought into compliance.

(3) All violations shall be corrected within three days after the order to correct is issued or in the longer period of time, not to exceed six months, as the Zoning Administrator shall deem necessary and appropriate. A violation not corrected within this period shall be reported to the Village Attorney, who is hereby authorized to and may initiate procedures to eliminate the violation (see § 152.999). The Zoning Administrator may otherwise issue municipal civil infraction citations for any violations.

(C) *Public notice.* When notice of a village action is required, such notice shall comply with the Michigan Zoning Enabling Act, Public Act 110 of 2006, M.C.L.A. §§ 125.3101 *et seq.*, the Open Meetings Act, M.C.L.A. §§ 15.261 *et seq.* and the provisions of this section.

(1) *Responsibility.* When the provisions of this section or the Michigan Zoning Enabling Act requires that public notice be provided, the Zoning Administrator or other person specifically designated by the Village Council shall be responsible for preparing the notice, having it published in a newspaper of general circulation in the village and mailed or delivered as

provided in this section.

(2) *Content.* All required mail, personal and newspaper notices shall include the following information.

(a) *Nature of the request.* The notice shall identify whether the request is for a re-zoning, text amendment, special land use, planned unit development, variance, appeal, ordinance interpretation or other purpose.

(b) *Information regarding the subject property.* The notice shall provide the following information with regard to the property that is the subject of the request, herein referred to as the "subject property." The notice shall list all existing street addresses relative to the subject property(s). Street addresses do not need to be created and listed if no such addresses currently exist relative to the subject property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number, identifying the nearest cross streets and/or including a map showing the location of the subject property. Street addresses do not need to be listed when 11 or more adjacent properties are proposed for a zoning amendment, or re-zoning, or when the request is for an ordinance interpretation not involving a specific property.

(c) *Time and place of hearing.* The notice shall indicate the date, time and place of any public hearing(s).

(d) *Time and place where proposed text and maps are located.* The notice shall indicate the time and place where any proposed zoning ordinance text and any maps may be examined.

(e) *Written comments.* The notice shall include a statement describing when and where written comments will be received concerning the request, and that the public may appear at the public hearing in person or by counsel.

(f) *Handicap access.* The notice shall provide information concerning how handicap access will be accommodated if the meeting facility is not handicap accessible.

(3) *Publication of notice in newspaper.* When notice of a public hearing is required, the Zoning Administrator shall cause such notice to be published in a newspaper of general circulation within the village not less than 15 days before the scheduled date of the public hearing.

(4) *Notice by mail or personal delivery.*

(a) *General.* When the provisions of this section or state law require that notice be provided by mail or personal delivery, such notice shall be provided as follows:

1. To the owner(s) of the subject property and to the applicant, if the applicant is different than the owner(s) of the property;

2. If real property is the subject of the notice, to all persons to whom real property is assessed within 300 feet of the subject property, and to all occupants of structures within 300 feet of the subject property, regardless of whether the property or occupant is located within the boundaries of the village;

3. Notification to owners and occupants (but not applicants) shall not be required for any zoning amendment requests involving 11 or more adjacent properties, or an ordinance interpretation request or for appeals that do not involve a specific property;

4. If the name of the occupant is not known, the term "occupant" may be used in making notification required hereunder;

5. 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;

6. Each gas, electric and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the Airport Manager of each airport that registers its name and mailing address with the Clerk of the Village for the purpose of receiving notices of public hearing; and

7. To all other individuals, organizations, firms or corporations which have registered in accordance with division (C) (4)(a)6. above.

(b) *Procedures regarding notice.* Notice shall be deemed mailed upon its deposit with the United States Postal Service, properly addressed and mailed first class with postage fully prepaid. The Zoning Administrator shall prepare a list of property owners, registrants and others to whom notice was mailed, as well as anyone else to whom notice was delivered otherwise than by mail.

(c) *Timing.* Unless otherwise provided in the Michigan Zoning Enabling Act, M.C.L.A. §§ 125.3101*et seq.*, notice of a public hearing shall be provided, whether via mail or in person, not less than 15 days before the scheduled date of the public hearing.

(5) *Conformance to court decree.* Any amendment for the purpose of conforming a provision of the Zoning Ordinance to a decree of a court of competent jurisdiction as to any specific lands may be adopted by the Village Council and the notice of the adopted amendment published without referring the amendment to any board or agency provided for under the Michigan Zoning Enabling Act, M.C.L.A. §§ 125.3101 *et seq.*

(Ord. 37, passed 8-28-2005; Ord. 87 ZBA, passed 3-23-2009; Ord. 139, passed 9-11-2017; Ord. 154, passed 1-11-2021)

### **§ 152.023 LAND USE PERMITS.**

#### *(A) Compliance required.*

(1) No lot shall be cleared, graded or changed in use, and no structure, including sheds, shall be erected, altered or changed in use until the Zoning Administrator has approved a land use permit waiver for the activity.

(2) A land use permit shall be applied for at least 14 business days prior to commencement of any activity regulated by this Zoning Ordinance and prior to application for a building permit.

*(B) Application information.* An application for a land use permit shall include the established processing fee, a village application form and any other information required by this chapter, including a plot plan or approved site plan in compliance with §§ 152.385*et seq.* The application shall also include proof of any other necessary village approvals such as re-zonings, variances and special use permits.

*(C) Review process.* The Zoning Administrator shall confirm that the application fully complies with the requirements of this chapter. Upon approval, the Zoning Administrator shall keep a copy of the approved land use permit, including accompanying plot plans or site plans in the Village Hall.

(1) *Land use permit.* The Zoning Administrator shall issue a land use permit so as to allow the beginning of construction. Upon issuance of a land use permit, the petitioner shall apply for all necessary building permits from the Livingston County building official and all other relevant agencies.

(2) *Certificate of compliance.* Upon completion of construction, it shall be the duty of the property owner or his or her designee to contact the Zoning Administrator and request issuance of a certificate of compliance. The certificate of compliance shall be approved if the development is in compliance with this chapter, the Village Technical Standards and any conditions imposed hereunder. Upon issuance of a certificate of compliance, the petitioner shall apply for all necessary certificates of occupancy from the Livingston County Building Official.

*(D) Expiration.* 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.

*(E) Revocation.* If the property owner and/or developer deviates from the approved land use permit, the Zoning Administrator shall provide written notice of permit violation in accordance with § 152.022(B).

(1) The notice shall include an order to immediately cease and desist all activity in violation of the approved land use permit, effective upon the date of service.

(2) The notice shall also include written notification that the Zoning Administrator will revoke the land use permit in ten business days and civil infraction penalties may be imposed in accordance with legal procedures until the project is brought into compliance.

(Ord. 37, passed 8-28-2005; Ord. 82, passed 5-12-2008; Ord. 154, passed 1-11-2021) Penalty, see §152.999

### **§ 152.024 CONSULTANTS.**

From time to time, at the cost of the applicant, the village may employ planning, engineering, legal, traffic or other special consultants to assist in the review of site plans, special land use permits, re-zonings or other matters related to the planning and development of the village.

(Ord. 37, passed 8-28-2005)

### **§ 152.025 FEES.**

The Village Council shall establish a schedule of fees, charges and expenses, and a collection procedure for all zoning applications, appeals and other matters pertaining to this chapter. The village shall have the authority to include fees for the use of engineering, planning, legal or other special consultants. The schedule of fees shall be posted in the village offices and may be altered, amended or waived only by the Village Council. No permit, site plan or land use approval shall be issued until the costs, charges, fees or expenses have been paid in full, nor shall any action be taken by the village until preliminary charges and fees have been paid in full.

(Ord. 37, passed 8-28-2005; Ord. 154, passed 1-11-2021)

### **§ 152.026 PERFORMANCE GUARANTEE.**

*(A) Purpose.* The Village Council or Qualified Village Agent may require that a performance guarantee be deposited with the Village Clerk to ensure compliance with the provisions of this chapter and any conditions imposed hereunder and full completion of necessary improvements [see definition under § 152.026 (B), below]. The performance guarantee shall be of an amount equal to 125% of the estimated construction costs associated with the project to cover costs associated with the normal rate of inflation.

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

**IMPROVEMENTS.** Those features and actions associated with a project that are considered necessary by the Planning Commission or Village Council to protect natural resources or the public health, safety and welfare, including roads, lighting, utilities, sidewalks, screening, landscaping and drainage. Improvements do not include the entire project that is the subject of zoning approval.

**PERFORMANCE GUARANTEE.** A cash deposit, certified check, irrevocable bank letter of credit, corporate surety bond or combination thereof, in the amount of 125% of the estimated cost of the improvements for which the guarantee is required.

(C) *Estimated cost of improvements.* The estimated cost of the improvements for which a performance guarantee is required shall be determined by the applicant and verified by the village. The village shall be authorized to employ the Village Engineer and/or Department of Public Works and/or consultants to review cost estimates and conduct periodic inspections of the improvements. If the amount of the estimated cost is not reasonably ascertainable by the village, the applicant may be required to submit:

- (1) A certified estimate prepared by the applicant's licensed engineer or architect; or
- (2) Alternatively, a bona fide contract for the work to be performed, including a provision authorizing enforcement of the contract by the village in the event of a default by the applicant.

(D) *Terms and provisions of performance guarantees.*

(1) The performance guarantee shall be deposited with the Village Clerk at the time of the issuance of a land use permit authorizing the development. The village may not require the deposit of the performance guarantee before the date on which the village is prepared to issue the land use permit.

(2) The land use permit shall prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. This period shall begin from the date of issuance of the land use permit and shall not exceed two years.

(3) A letter of credit and corporate surety bond shall cover a time period equal to or longer than the time anticipated to complete improvements, and shall require 30 days' advance written notice to the village prior to termination.

(4) If the performance guarantee is in the form of cash or a certified check, the Clerk shall deposit the funds in an interest-bearing account in a financial institution with which the village regularly conducts business.

(5) The entire performance guarantee, including accrued interest, shall be returned to the applicant upon satisfactory completion of the required improvements, as determined by the village.

(6) In the event the performance guarantee posted is a cash deposit or certified check, the village, upon written request by the applicant, shall rebate to the applicant 50% of the deposited funds when 75% of the required improvements are completed as confirmed by the village, and rebate the remaining 50% of the deposited funds when 100% of the required improvements are completed as confirmed by the village.

(7) In the event the applicant does not install or maintain the required improvements within the time period established by the village, following notice to the property owner and/or other responsible parties, the village shall have the right to use the performance guarantee and any accrued interest to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements. One or more of the following methods may be used to provide notice to the property owner, regular mail to the address on the permit application and/or by delivery of the notice to the property owner at the address and/or by posting the property.

(8) If the performance guarantee is not sufficient to allow the village to complete the improvements for which the guarantee was posted, the applicant shall be required to pay the village the amount by which the cost of completing the improvements exceeds the amount of the performance guarantee deposited. Should the village use the performance guarantee, or a portion thereof to complete the required improvements, any amounts remaining after the completion shall be applied first to the village's administrative costs including, without limitation, attorney fees, planning consultant fees, engineering consultant fees and similar expenses, with any balance remaining being refunded to the applicant.

(9) If the applicant has posted a performance guarantee or bond with another governmental agency other than the village to insure completion of a required improvement, the applicant shall not be required to deposit a performance guarantee with the village for that same improvement.

(10) At the time the performance guarantee is deposited with the village and prior to the issuance of a land use permit, the applicant may be required to enter into a written agreement with the village incorporating the terms and provisions applicable to the use of the performance guarantee, provided, however, that in the absence of such an agreement, the terms and provisions of this section shall govern.

(11) A performance guarantee in the form of a performance bond shall be posted by the proprietor prior to the beginning of construction to insure complete construction of structures and development of the land area as proposed and approved. Such bond shall be posted in an amount equal to 125% of the estimated cost of the site improvements as identified in the fee schedule and may be reduced in proportion to the amount of work accomplished or the amount of land left undisturbed upon recommendation of the Village Engineer or Qualified Village Agent. A performance bond shall be returnable in full upon the issuance of a certificate of compliance of the completion of all construction phases, and approval from the Village Engineer or Qualified Village Agent. The performance bond will meet the requirements set forth in §

152.026(E)(1) through (E)(4).

(E) *Maintenance and guarantee bonds.* The proprietor shall submit to the village a two-year maintenance and guarantee bond, equal to the estimated cost of the site improvements as established by the fee schedule. This shall be done before the village accepts any improvements by the proprietor. An acceptable surety bond shall be issued:

(1) By a company licensed to do business in the State of Michigan by the Department of Labor and Economic Growth, Office of Financial and Insurance Services;

(2) By a company with a rating of not less than "A" as determined by A.M. Best Company or a similarly recognized rating agency;

(3) In a form that does not require the village to expend money to complete the project bonded and thereafter seek reimbursement from the surety company; and

(4) With a provision specifying that any dispute on whether and/or the amount of payment to be made by the surety shall be resolved by binding arbitration.

(F) *Insurance.*

(1) Prior to construction and/or project improvements, the contractor shall procure and maintain during the term of the project, public liability and property damage insurance with an insurance company rated A+ with Michigan Best Rating System, in such amounts as will be adequate to protect the public, the village, village employees and agents, Village Engineer, Livingston County Drain Commission, Livingston County Road Commission, Livingston County Building Department, and other parties of interest as required by the village and shall not be less than the limits set forth in the fee schedule.

(2) Certificates of insurance will be furnished and the Village of Pinckney will be the certificate holder. Underground construction, where applicable, shall be specified in the coverage. Certificates of coverage signed by the insurance carriers shall include a guarantee that 30 days written notice shall be given by the insurance carrier to the village prior to cancellation of or any changes in the respective policies. In the event that insurance is canceled, operations shall cease prior to the cancellation date and shall not resume until evidence is provided that proper insurance is again in effect. Additional insured shall include the Village of Pinckney, the Village Council and individual members thereof, village employees and agents for the village, the Village Engineer and their employees, Livingston County Drain Commission, Livingston County Road Commission, Livingston County Building Department and other parties of interest as required by the village.

(Ord. 37, passed 8-28-2005; Ord. 154, passed 1-11-2021)

## **ZONING DISTRICTS AND MAP**

### **§ 152.040 ESTABLISHMENT OF DISTRICTS.**

For the purpose of this chapter, the village is hereby divided into the following ten zoning districts, which shall be known by the following symbols and names:

- (A) R1: Low Density Residential District;
- (B) R2: Medium Density Residential District;
- (C) R3: High Density Residential District;
- (D) R4: Multiple-Family Residential District;
- (E) ROB: Residential-Office-Business District;
- (F) CBD: Central Business District;
- (G) SBD: Secondary Business District;
- (H) RTO: Research-Technology-Office;
- (I) O: Office; and
- (J) PL: Public Lands Office.

(Ord. 37, passed 8-28-2005; Ord. 98, passed 3-28-2011)

### **§ 152.041 ZONING MAP.**

(A) The boundaries of the districts listed in §152.040 are defined and established as depicted on the official zoning map of the Village of Pinckney. The zoning map along with all notations, references and other explanatory information, shall accompany and be made a part of this chapter.

(B) Regardless of the existence of purported copies of the zoning map that may be published, a true and current copy of the zoning map available for public inspection shall be located in and maintained by the Office of the Village Clerk. The Clerk's copy shall be the final authority as to the current status of any land, lot, district, use or structure in the village. The official zoning map shall be identified by the signature of the Village President, attested to by the Village Clerk.

(C) Three copies of the official zoning map shall be maintained and kept up-to-date by the Village of Pinckney. One in the Clerk's office, one in the Zoning Administrator's office and one in the Pinckney Community Public Library.

(Ord. 37, passed 8-28-2005)

#### **§ 152.042 INTERPRETATION.**

Where uncertainty exists with respect to the boundaries of any of the districts indicated on the zoning map, the following rules shall apply:

- (A) A boundary that approximately follows the centerline of a road, alley or easement shall be construed as following the centerline;
- (B) A boundary that approximately follows a recorded lot line or the line bounding a parcel shall be construed as following the line;
- (C) A boundary that approximately follows a municipal boundary line shall be construed as following the line;
- (D) A boundary that follows a railroad line shall be construed as being located midway in the right-of-way;
- (E) The scale of the zoning map shall determine any distance not specifically indicated on the map; and
- (F) Where an existing physical feature is at variance with that shown on the zoning map, or another circumstance (such as scale, lack of detail or illegibility) prevents a clear interpretation of a zoning district boundary, the Zoning Board of Appeals shall interpret the location of the district boundary upon written application or its own motion.

(Ord. 37, passed 8-28-2005)

#### **§ 152.043 APPLICATION.**

(A) *Compliance.* All lots, uses and structures shall comply with the standards set forth in the district in which they are located, except as otherwise provided for in this chapter. Uses and structures in all districts shall comply with all other provisions of this chapter, including §§ 152.240*et seq.* through §§ 152.415*et seq.*, and all other applicable federal, state and local codes and ordinances.

(B) *Allowable uses.* Allowable land uses are specifically listed within each district and are classified as follows:

- (1) *Permitted use.* A use allowed by right, if otherwise in compliance with the standards set forth in the applicable zoning district.
- (2) *Special use.* A use that may be compatible with permitted uses, if approved by the village at its discretion, subject to a public hearing and conditions.
- (3) *Accessory use.* A use that is customarily incidental and subordinate to the principal use and located on the same lot as the principal use.

(C) *Unlisted uses.* Any use of land not specifically permitted is prohibited, except that the Zoning Board of Appeals shall have the power to classify a use that is not specifically listed along with a comparable permitted or prohibited use for the purpose of clarifying the use regulations in any district, if so petitioned in accordance with the requirements of this chapter. If the Zoning Board of Appeals finds no comparable uses based on an examination of the characteristics of the proposed use, it shall so state and the Planning Commission may be petitioned to initiate an amendment to the text of the ordinance to establish the appropriate district(s), type of use (by right or special approval) and criteria that will apply for that use. Once the ordinance has been amended to include the new regulations, then an application to establish that use can be processed.

(D) *Lots.*

- (1) No lot or setback area existing before the effective date of this chapter shall be reduced below the minimum area or dimensions established herein.
- (2) All lots and setback areas created after the effective date of this chapter shall comply with the minimum requirements established herein.
- (3) No portion of any lot improved with a structure shall be used to create another lot, unless each lot resulting from the lot division, lot line adjustment or sale conforms to all of the requirements established herein.

(E) *Zoning vacated areas.* Whenever any road, alley or other public right-of-way or portion thereof within the village is vacated, it shall automatically be zoned the same district as the adjacent property to the centerline of the right-of-way.

(Ord. 37, passed 8-28-2005) Penalty, see § 152.999

#### **§ 152.044 TABLE OF DIMENSIONS.**



<b>Zoning District</b>	<b>Minimum Lot Area</b>	<b>Minimum Lot Width (In Feet)</b>	<b>Minimum Front Yard/ Setback (In Feet)</b>	<b>Minimum Side Yard/ Setback (In Feet)</b>	<b>Minimum Rear Yard/ Setback (In Feet)</b>	<b>Maximum Lot Coverage</b>	<b>Maximum Building Height</b>
R1	0.75 acres./ 0.5 acres <sup>1</sup>	85	30	8	30	30%	2.5 stories/35 feet
R2	12,000 square feet	66	30	6	30	30%	2.5 stories/35 feet
R3	8,712 square feet	66	30	6	20	40%	2.5 stories/35 feet
R4	8,712 square feet <sup>2</sup>	66	20	6	20	40%	2.5 stories/35 feet
ROB	8,712 square feet	66	20	6	20	40%	2.5 stories/35 feet
CBD	None	None	N/A <sup>3</sup>	None <sup>4</sup>	None <sup>5</sup>	None	3 stories/40 feet
SBD	5,000 square feet	66	25	None <sup>6</sup>	20	50%	2.5 stories/35 feet
RTO	1 acre	200	50 <sup>7</sup>	25 <sup>8</sup>	40 <sup>9</sup>	40%	2.5 stories/35 feet
O	8,712 square feet	66	20	6	20	40%	2.5 stories/35 feet
PL	11,000 square feet	66	30	N/A <sup>10</sup>	N/A <sup>10</sup>	35%	2.5 stories/35 feet

<sup>1</sup> 0.75 acres without public sewer; 0.5 acres with public sewer.

<sup>2</sup> Single-family dwellings only. Lots occupied by two-family dwellings shall be 10,000 square feet. Lots occupied by multiple-family dwellings shall comply with § 152.123(D).

<sup>3</sup> The front setback line shall be established by the existing building line within 200 feet on both sides of the lot.

<sup>4</sup> When abutting a residential district, the side yard shall be the same as the required side yard in the residential district.

<sup>5</sup> When abutting a residential district or use, the rear yard shall be at least 20 feet.

<sup>6</sup> The principal building may be constructed on the side lot line; however, the total minimum side yard shall be 15 feet. When abutting a residential district or use, the side yard shall be at least 20 feet.

<sup>7</sup> Where parking spaces are located in the front yard the front setback shall be at least 75 feet.

<sup>8</sup> When abutting a residential district or use, the side yard shall be at least 50 feet.

<sup>9</sup> When abutting a residential district or use, the rear yard shall be at least 70 feet.

<sup>10</sup> Side and rear yards shall conform to the requirements of the abutting zoning district.

**§ 152.045 TABLE OF USES.**

- (A) The following table lists permitted uses and special land uses by zoning district.
- (B) Uses marked with a “P” are a permitted use and do not require a public hearing.
- (C) Uses marked with an “S” are a special land use and do require a public hearing.
- (D) For definition of **LAND USES** see § 152.267.

<b>LAND USE</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>R4</b>	<b>ROB</b>	<b>CBD</b>	<b>SBD</b>	<b>RTO</b>	<b>O</b>	<b>PL</b>
<b>LAND USE</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>R4</b>	<b>ROB</b>	<b>CBD</b>	<b>SBD</b>	<b>RTO</b>	<b>O</b>	<b>PL</b>
Adult foster care family home (1 to 6 adults)	P	P	P	P	P	S			S	
Adult foster care small group home (7 to 12 adults)	S	S	S	S	S	S	P			
Adult foster care large group home (13 to 20 adults)							P			
Adult foster care congregate facility (>20 adults)							S			
Artificial pond	S									
Bed and breakfast inn	S	S	S	S	S	S	P		S	
Book, magazine and newspaper printing								S		
Business support service					S	P	P	P	P	
Cemetery										P
Central dry cleaning plant									S	
Changeable message sign							S			
Commercial indoor recreation						S <sup>1</sup>	S			
Commercial kennel							S			
Commercial outdoor display							S			
Commercial outdoor recreation							S	P		S
Composting center									S	
Conference center							S	S		
Construction contractor's establishment								S		
Convenience store without gasoline sales						P	P		S	
Day Care: child care center		S	S	S	S		P			
Day Care: family day care home (1 to 6 children)	P	P	P	P	P	S			S	
Day Care: group day care home (7 to 12 children)	S	S	S	S	S					
Dwelling, multiple-family				P	S	-				
Dwelling, single-family	P	P	P	P	P	S			P	
Dwelling, two-family				P		-				
Dwelling, upper floor						P			P	
Farmers market						P	S		P	P
Financial institution with up to three drive-through windows						S	P	P	S	
Financial institution without drive-through window						P			S	
Funeral home and mortuary				S		S	P		S	
Health club							P			
Home for the elderly	S	S	S	S	S		P			
Home occupation	S	S	S	S	S				S	
Hospital							S			

Hotel and motel						S	P <sup>2</sup>			
Indoor self-storage facility							S	S		
Landscape nursery							S			
Laundromat and dry cleaner						P	P		S	
Light manufacturing								S		
Limited warehousing and wholesale establishments								S		
Manufactured home park	S									
Marihuana grower facility - Class A or B							S	S		
Marihuana grower facility - Class C								S		
Marihuana microbusiness							S	S		
Marihuana processor facility								S		
Marihuana retailer							S	S		
Marihuana safety compliance facility							S	S		
Marihuana secure transporter facility							S	S		
Nursing home				S	S		P			
Office: business, professional, medical and dental and non-profit					P <sup>6</sup>	P	P	P	P	
Outdoor recreational vehicle storage lot							S			
Parcel delivery service								S		
Personal service					P <sup>6</sup>	P	P		P	
Photography, art and craft studio and gallery					P <sup>6</sup>	P	P		P	
Private club							S			
Produce stand							S			
Public and private riding stables										S
Public building	S	S	S	S	S	P	P	P	P	P
Public park	P	P	P	P	P	S	P		P	P
Public swimming pools and golf courses										S
Public utility facility				S			S	P		P
Recreation equipment rental							S			
Religious institution	S	S	S	S	S	S	S			S
Research and development facility								P		
Residential open space development	S	S	S							
Restaurant, carry-out and open front							S			
Restaurant, fast food							S			
Restaurant, standard						P	P		S	
Retail store and retail food store						P <sup>1</sup> /S <sup>3</sup>	P <sup>4</sup> /S <sup>5</sup>			
Rooming house				P						
School, elementary, middle and high	S	S	S	S		P	P		P	P
School, personal improvement					P <sup>6</sup>	P			P	

School, vocational and higher education institution			S	S			S	S		
Shopping center							S			
Tavern and nightclub						P	P			
Telecommunication tower								S		S
Theater						S	P		S	
Tool and die machinery shop								S		
Vehicle service station						S	S		S	
Vehicle repair service, vehicle dealership and car wash							S			
Veterinary clinic						S	S		S	
Video rental establishment							P			

<sup>1</sup>Maximum 5,000 square feet of floor area.  
<sup>2</sup>Maximum 20 guest rooms.  
<sup>3</sup>More than 5,000 square feet of floor area.  
<sup>4</sup>Maximum 15,000 square feet of floor area.  
<sup>5</sup>More than 15,000 square feet of floor area.  
<sup>6</sup>See restrictions in § 152.141(B)  
P= Permitted Land Use (No public hearing required)  
S= Special land use (Public hearing required)

(Ord. 37, passed 8-28-2005; Ord. 98, passed 3-38-2011; Ord. 153, passed 12-14-2020; Ord. 154, passed 1-11-2021)

## LOW DENSITY RESIDENTIAL DISTRICT

### § 152.060 PURPOSE.

The purpose of the Low Density Residential District (R1) is to encourage single-family residential uses on relatively large lots. The requirements of this district are designed to protect the essential character of low density, single-family residential areas and to encourage a high quality, suitable and safe environment for family life.

(Ord. 37, passed 8-28-2005)

### § 152.061 PERMITTED USES.

- (A) One single-family dwelling per lot.
- (B) Public parks.
- (C) Family day care homes (one to six children).
- (D) Adult foster care family homes (one to six adults).
- (E) Accessory uses customarily incidental and subordinate to permitted uses.

(Ord. 37, passed 8-28-2005)

### § 152.062 SPECIAL LAND USES.

The following special land uses are permitted in the R1 District, subject to compliance with §§152.240*et seq.*

- (A) Group day care homes (seven to 12 children);
- (B) Adult foster care small group homes (seven to 12 adults);
- (C) Homes for the elderly;
- (D) Religious institutions;
- (E) Public buildings;
- (F) Elementary, middle and high schools;
- (G) Bed and breakfast inns;
- (H) Home occupations;
- (I) Residential open space development;
- (J) Artificial ponds; and
- (K) Manufactured home park.

(Ord. 37, passed 8-28-2005)

### **§ 152.063 SITE DEVELOPMENT STANDARD.**

The following standards shall apply to all uses and structures in the R1 District unless otherwise modified by the provisions of §§ 152.240*et seq.*, §§ 152.260 *et seq.*, §§ 152.415*et seq.* or §§ 152.440*et seq.*

(A) *Lot area.* The minimum lot area shall be as follows:

- (1) Without public sewer: 32,670 square feet (three-quarters acre); and
- (2) With public sewer: 21,780 square feet (one-half acre).

(B) *Lot width.* The minimum lot width shall be 85 feet, measured along the front lot line. For cul-de-sac and flag lots, the lot width may be measured along the front setback line.

(C) *Yards and setbacks.* The minimum yards and setbacks shall be as follows:

- (1) *Front yard.* Structures shall be setback at least 30 feet from the road right-of-way.
- (2) *Side yard.* Structures shall be setback at least eight feet from a side lot line, except for corner lots, the interior side yard shall be at least eight feet in width, and the street side yard shall be at least 20 feet in width.
- (3) *Rear yard.* Structures shall be setback at least 30 feet from the rear lot line.
- (4) *Shed setback.* Sheds must be in the back or side yard and setbacks will be at least five feet in the rear and sides.
- (5) *Outbuilding setback.* Outbuildings must be in the back or side yard and setbacks will abide by structure (not shed) restrictions.

(D) *Lot coverage.* Lot coverage shall not exceed 30%.

(E) *Structure height.* No building shall be erected or altered to a height greater than two and one-half stories or 35 feet, whichever is less. No structure shall be erected or altered to a height greater than 21 feet. (See § 152.267 for definitions of building height and structure height).

(F) *Compliance required.* Uses and structures shall comply with all other provisions of this chapter, including §§ 152.240*et seq.* through §§ 152.415*et seq.* and all other applicable federal, state and local codes and ordinances.

(Ord. 37, passed 8-28-2005; Ord. 82, passed 5-12-2008) Penalty, see §152.999

## **MEDIUM DENSITY RESIDENTIAL DISTRICT**

### **§ 152.080 PURPOSE.**

(A) The purpose of the Medium Density Residential District (R2) is to encourage a predominance of single-family residential uses, located on individual parcels.

(B) The requirements for this district are intended to protect the essential character of medium density, single-family residential areas and to encourage a high quality, suitable and safe environment for family life.

(Ord. 37, passed 8-28-2005)

### **§ 152.081 PERMITTED USES.**

- (A) One single-family dwelling per lot.
- (B) Public parks.
- (C) Family day care homes (one to six children).
- (D) Adult foster care family homes (one to six adults).
- (E) Accessory uses customarily incidental and subordinate to permitted uses.

(Ord. 37, passed 8-28-2005)

### **§ 152.082 SPECIAL LAND USES.**

The following special land uses are permitted in the R2 District, subject to compliance with §§152.240*et seq.*

- (A) Group day care homes (seven to 12 children);
- (B) Adult foster care small group homes (seven to 12 adults);
- (C) Homes for the elderly;
- (D) Religious institutions;
- (E) Public buildings;

- (F) Elementary, middle and high schools;
- (G) Bed and breakfast inns;
- (H) Home occupations; and
- (I) Residential open space development.

(Ord. 37, passed 8-28-2005)

**§ 152.083 SITE DEVELOPMENT STANDARDS.**

The following standards shall apply to all uses and structures in the R2 District unless otherwise modified by the provisions of §§ 152.240*et seq.*, §§ 152.260 *et seq.*, §§ 152.415*et seq.* or §§ 152.440*et seq.*

(A) *Lot area.* The minimum lot area shall be 12,000 square feet.

(B) *Lot width.* The minimum lot width shall be 66 feet, measured along the front lot line. For cul-de-sac and flag lots, the lot width may be measured along the front setback line.

(C) *Yards and setbacks.* The minimum yards and setbacks shall be as follows:

(1) *Front yard.* Structures shall be setback at least 30 feet from the road right-of-way.

(2) *Side yard.* Structures shall be setback at least six feet from a side lot line, except for corner lots, the interior side yard shall be at least six feet in width, and the street side yard shall be at least 20 feet in width.

(3) *Rear yard.* Structures shall be setback at least 30 feet from the rear lot line.

(4) *Shed setback.* Sheds must be in the back or side yard and setbacks will be at least five feet in the rear and sides.

(5) *Outbuilding setback.* Outbuildings must be in the back or side yard and setbacks will abide by structure (not shed) restrictions.

(D) *Lot coverage.* Lot coverage shall not exceed 30%.

(E) *Structure height.* No building shall be erected or altered to a height greater than two and one-half stories or 35 feet; whichever is less. No structure shall be erected or altered to a height greater than 21 feet. (See § 152.267 for definitions of building height and structure height)

(F) *Compliance required.* Uses and structures shall comply with all other provisions of this chapter, including §§ 152.240*et seq.* through §§ 152.415*et seq.* and all other applicable federal, state and local codes and ordinances.

(Ord. 37, passed 8-28-2005; Ord. 82, passed 5-12-2008) Penalty, see §152.999

**HIGH DENSITY RESIDENTIAL DISTRICT**

**§ 152.100 PURPOSE.**

The purpose of the High Density Residential District (R3) is to encourage a predominance of single-family residential uses, located on relatively small individual parcels. The requirements for this district are designed to protect the essential character of high density, single-family residential areas and to encourage a high quality, suitable and safe environment for family life.

(Ord. 37, passed 8-28-2005)

**§ 152.101 PERMITTED USES.**

(A) One single-family dwelling per lot.

(B) Public parks.

(C) Family day care homes (one to six children).

(D) Adult foster care family homes (one to six adults).

(E) Accessory uses customarily incidental and subordinate to permitted uses.

(Ord. 37, passed 8-28-2005)

**§ 152.102 SPECIAL LAND USES.**

The following special land uses are permitted in the R3 District, subject to compliance with §§152.240*et seq.*:

(A) Child care centers;

(B) Group day care homes (seven to 12 children);

(C) Adult foster care small group homes (seven to 12 adults);



- (D) Homes for the elderly;
- (E) Religious institutions;
- (F) Public buildings;
- (G) Elementary, middle and high schools;
- (H) Higher education institutions and vocational schools;
- (I) Bed and breakfast inns;
- (J) Home occupations; and
- (K) Residential open space development.

(Ord. 37, passed 8-28-2005)

### **§ 152.103 SITE DEVELOPMENT STANDARDS.**

The following standards shall apply to all uses and structures in the R3 District unless otherwise modified by the provisions of §§ 152.240*et seq.*, §§ 152.260 *et seq.*, §§ 152.415*et seq.* or §§ 152.440*et seq.*

- (A) *Lot area.* The minimum lot area shall be 8,712 square feet (one-fifth acre).
- (B) *Lot width.* The minimum lot width shall be 66 feet, measured along the front lot line. For cul-de-sac and flag lots, the lot width may be measured along the front setback line.
- (C) *Yards and setbacks.* The minimum yards and setbacks shall be as follows:
  - (1) *Front yard.* Structures shall be setback at least 30 feet from the road right-of-way.
  - (2) *Side yard.* Structures shall be setback at least six feet from a side lot line, except for corner lots, the interior side yard shall be at least six feet in width, and the street side yard shall be at least 20 feet in width.
  - (3) *Rear yard.* Structures shall be setback at least 20 feet from the rear lot line.
  - (4) *Shed setback.* Sheds must be in the back or side yard and setbacks will be at least five feet in the rear and sides.
  - (5) *Outbuilding setback.* Outbuildings must be in the back or side yard and setbacks will abide by structure (not shed) restrictions.
- (D) *Lot coverage.* Lot coverage shall not exceed 40%.
- (E) *Structure height.* No building shall be erected or altered to a height greater than two and one-half stories or 35 feet; whichever is less. No structure shall be erected or altered to a height greater than 21 feet. (See § 152.267 for definitions of building height and structure height).

(F) *Compliance required.* Uses and structures shall comply with all other provisions of this chapter, including §§ 152.240*et seq.* through §§ 152.415*et seq.* and all other applicable federal, state and local codes and ordinances.

(Ord. 37, passed 8-28-2005; Ord. 82, passed 5-12-2008) Penalty, see §152.999

## **MULTIPLE-FAMILY RESIDENTIAL DISTRICT**

### **§ 152.120 PURPOSE.**

(A) The purpose of the Multiple-Family Residential District (R4) is to achieve the same high quality, stable, suitable and safe residential environment as is intended for the single-family residential districts.

(B) The only essential difference between the R4 District and the Single-Family Residential Districts is that multiple-family dwellings are permitted.

(C) This district is applied to those areas within the village that are particularly suited for higher population density because of their central location, existing high density development and availability of public services and transportation facilities.

(Ord. 37, passed 8-28-2005)

### **§ 152.121 PERMITTED USES.**

- (A) One single-family dwelling per lot.
- (B) Two-family dwellings.
- (C) Multiple-family dwellings.
- (D) Rooming houses.
- (E) Public parks.

- (F) Family day care homes (one to six children).
- (G) Adult foster care family homes (one to six adults).
- (H) Accessory uses customarily incidental and subordinate to permitted uses.

(Ord. 37, passed 8-28-2005)

#### **§ 152.122 SPECIAL LAND USES.**

The following special land uses are permitted in the R4 District, subject to compliance with §§152.240*et seq.*

- (A) Child care centers;
- (B) Group day care homes (seven to 12 children);
- (C) Adult foster care small group homes (seven to 12 adults);
- (D) Nursing homes and homes for the elderly;
- (E) Religious institutions;
- (F) Public buildings and public utility facilities;
- (G) Elementary, middle and high schools;
- (H) Higher education institutions and vocational schools;
- (I) Bed and breakfast inns;
- (J) Funeral homes; and
- (K) Home occupations.

(Ord. 37, passed 8-28-2005)

#### **§ 152.123 SITE DEVELOPMENT STANDARDS.**

The following standards shall apply to all uses and structures in the R4 District unless otherwise modified by the provisions of §§ 152.240*et seq.*, §§ 152.260 *et seq.*, §§ 152.415*et seq.* or §§ 152.440*et seq.*

(A) *Lot area.* The minimum lot area shall be 8,712 square feet (one-fifth acre) except:

- (1) Lots occupied by two-family dwellings shall be at least 10,000 square feet; and
- (2) Lots occupied by multiple-family dwellings shall comply with division (D) below.

(B) *Lot width.* The minimum lot width shall be 66 feet, measured along the front lot line. For cul-de-sac and flag lots, the lot width may be measured along the front setback line.

(C) *Yards and setbacks.* The minimum yards and setbacks shall be as follows:

- (1) *Front yard.* Structures shall be setback at least 20 feet from the road right-of-way.
- (2) *Side yard.* Structures shall be setback at least six feet from a side lot line. Except for corner lots, the interior side yard shall be at least six feet in width, and the street side yard shall be at least 20 feet in width.
- (3) *Rear yard.* Structures shall be setback at least 20 feet from the rear lot line.
- (4) *Shed setback.* Sheds must be in the back or side yard and setbacks will be at least five feet in the rear and sides.
- (5) *Outbuilding setback.* Outbuildings must be in the back or side yard and setbacks will abide by structure (not shed) restrictions.

(D) *Multiple-family dwelling density.* The number of multiple-family dwelling units permitted on a site shall be determined as follows:

- (1) The number of dwelling units allowed per acre shall be based upon the net acreage of the site;
- (2) All dwelling units shall have at least one living room and one bedroom, except not more than 10% may be efficiency dwelling units;
- (3) The room assignments below shall control the number of dwelling units allowed per acre;
  - (a) Efficiency: one room;
  - (b) One bedroom: two rooms;
  - (c) Two bedroom: three rooms;
  - (d) Three bedroom: four rooms; and

(e) Four bedroom: five rooms.

(4) The total number of rooms shall not exceed the net acreage of the site, in square feet, divided by 1,600.

### **Density: Multiple-Family Dwellings**

Example: A site with five net acres proposed for multiple-family development:

STEP 1. Convert acres to square feet: five acres = 5 x 43,560 square feet = 217,800 square feet

STEP 2. Convert square feet to total rooms: 217,800 square feet/1,600 = 136 rooms

STEP 3. Convert total rooms to dwelling units/acre:

136 rooms/2 rooms = 68 one-bedroom units/five acres = 13.6 dwelling units/acre

136 rooms/3 rooms = 45 two-bedroom units/five acres = 9.0 dwelling units/acre

136 rooms/4 rooms = 34 three-bedroom units/five acres = 6.8 dwelling units/acre

136 rooms/5 rooms = 27 four-bedroom units/five acres = 5.4 dwelling units/acre

(E) *Floor area per dwelling unit.* All dwelling units shall meet the minimum floor area requirements set forth in § 152.262(C).

(F) *Dwelling units per building.* The maximum number of dwelling units allowed within any multiple-family dwelling shall be eight.

(G) *Building length.* No multiple-family dwelling, two-family dwelling or group of attached single-family dwellings shall be longer than 160 feet.

(H) *Lot coverage.* Lot coverage shall not exceed 40%.

(I) *Structure height.* No building shall be erected or altered to a height greater than two and one-half stories or 35 feet; whichever is less. No structure shall be erected or altered to a height greater than 21 feet. (See § 152.267 for definitions of building height and structure height).

(J) *Landscaping.* Landscaped buffer areas shall be required on all lots used for multiple-family dwellings in accordance with § 152.329.

(K) *Recreation.* Exclusive of other yard and setback requirements herein, all multiple-family dwellings on lots that are three or more acres shall provide common open space equal to at least 25 square feet per dwelling unit with a minimum of 1,200 square feet.

(L) *Compliance required.* Uses and structures shall comply with all other provisions of this chapter, including §§ 152.240*et seq.*, §§ 152.260 *et seq.*, §§ 152.415*et seq.* or §§ 152.440*et seq.* and all other applicable federal, state and local codes and ordinances.

(Ord. 37, passed 8-28-2005; Ord. 82, passed 5-12-2008) Penalty, see §152.999

## **RESIDENTIAL-OFFICE BUSINESS DISTRICT**

### **§ 152.140 PURPOSE.**

The purpose of the Residential-Office-Business District (ROB) is to provide for a mixture of residential and complementary commercial uses. The intent is to allow low impact businesses that serve and are harmonious with adjacent residential uses, while maintaining the quality and stability of residential neighborhoods. Commercial activities that have an adverse effect upon the value, use or enjoyment of surrounding residential properties shall be prohibited in the ROB District.

(Ord. 37, passed 8-28-2005) Penalty, see §152.999

### **§ 152.141 PERMITTED USES.**

(A) All permitted uses in the R3 District.

(B) Business uses within a single-family dwelling unit provided:

(1) Permitted business uses shall include only the following:

- (a) Business offices, professional offices, medical or dental offices and non-profit organization offices;
- (b) Personal services and personal improvement schools; and
- (c) Photography, art and craft studios and galleries.

(2) Not more than one business use shall be permitted within any dwelling unit;

(3) The property owner or business owner shall permanently reside in the dwelling unit;

(4) All business activity shall take place on the ground floor of the dwelling unit;

(5) Not more than 50% of the ground floor area of the dwelling unit shall be in business use and this area shall not include kitchens or bathrooms. The remaining 50% of the ground floor area and 100% of all upper stories, if any, shall be restricted to residential use only;

(6) The business shall not employ more than three people including the business owner(s); and

(7) Parking shall comply with §§ 152.280*et seq.* Mixed uses shall comply with § 152.282(E)(1).

(C) Accessory uses customarily incidental and subordinate to a permitted use.

(Ord. 37, passed 8-28-2005)

### **§ 152.142 SPECIAL LAND USES.**

The following special land uses are permitted in the ROB District, subject to compliance with §152.240*et seq.*

(A) Multiple-family dwellings (subject to compliance with § 152.123(D));

(B) Child care centers;

(C) Group day care homes (seven to 12 children);

(D) Adult foster care small group homes (seven to 12 adults);

(E) Homes for the elderly and nursing homes;

(F) Religious institutions;

(G) Public buildings;

(H) Bed and breakfast inns;

(I) Business support services;

(J) Home occupations that do not meet the criteria for a permitted use; and

(K) Businesses allowed under § 152.141(B), that employ more than three people or use more than 50% of the ground floor area of the dwelling unit or where the property owner does not reside in the residence.

(Ord. 37, passed 8-28-2005; Ord. 154, passed 1-11-2021)

### **§ 152.143 SITE DEVELOPMENT STANDARDS.**

The following standards shall apply to all uses and structures in the ROB District unless otherwise modified by the provisions of §§ 152.240*et seq.*, §§ 152.260 *et seq.*, §§ 152.415*et seq.* or §§ 152.440*et seq.*

(A) *Lot area.* The minimum lot area shall be 8,712 square feet (one-fifth acre).

(B) *Lot width.* The minimum lot width shall be 66 feet, measured along the front lot line. For cul-de-sac and flag lots, the lot width may be measured along the front setback line.

(C) *Yards and setbacks.* The minimum yards and setbacks shall be as follows:

(1) *Front yard.* Structures shall be setback at least 20 feet from the road right-of-way.

(2) *Side yard.* Structures shall be setback at least six feet from a side lot line. Except for corner lots, the interior side yard shall be at least six feet in width, and the street side yard shall be at least 20 feet in width.

(3) *Rear yard.* Structures shall be setback at least 20 feet from the rear lot line.

(4) *Shed setback.* Sheds must be in the back or side yard and setbacks will be at least five feet in the rear and sides.

(5) *Outbuilding setback.* Outbuildings must be in the back or side yard and setbacks will abide by structure (not shed) restrictions.

(D) *Lot coverage.* Lot coverage shall not exceed 40%.

(E) *Structure height.* No building shall be erected or altered to a height greater than two and one-half stories or 35 feet; whichever is less. No structure shall be erected or altered to a height greater than 21 feet. (See § 152.267 for definitions of building height and structure height).

(F) *Compliance required.* Uses and structures shall comply with all other provisions of this chapter, including §§ 152.240*et seq.* through §§ 152.415*et seq.* and all other applicable federal, state and local codes and ordinances.

(Ord. 37, passed 8-28-2005; Ord. 82, passed 5-12-2008) Penalty, see §152.999

## **CENTRAL BUSINESS DISTRICT**

### **§ 152.160 PURPOSE.**

(A) The purpose of the Central Business District (CBD) is to encourage shopping, business, civic and related activities along Main Street in the village center.

(B) The district is designed to protect the existing character of this area, and create a suitable and safe environment for compatible and sustainable commercial uses.

(C) It is further intended to promote commercial establishments that provide economic diversity and stability and prohibit conflicting uses that detract from the CBDs intended function as a vibrant economic and social village focal point.

(Ord. 37, passed 8-28-2005)

#### **§ 152.161 PERMITTED USES.**

(A) Upper floor dwelling units, provided adjacent nonresidential uses, have a separate entrance and sanitary facilities.

(B) Retail stores and retail food stores with not more than 5,000 square feet of floor area.

(C) Laundromats and dry cleaners (does not include dry cleaning plants).

(D) Restaurants, standard.

(E) Financial institutions without drive-through facilities.

(F) Convenience stores.

(G) Business offices, professional offices, medical or dental offices and non-profit organization offices.

(H) Business support services.

(I) Photography, art, and craft studios and galleries.

(J) Personal services.

(K) Personal improvement schools.

(L) Farmers markets.

(M) Public buildings.

(N) Elementary, middle and high schools.

(O) Taverns and nightclubs subject to the standards of §152.243(I).

(P) Accessory uses, customarily incidental and subordinate to a permitted use.

(Ord. 37, passed 8-28-2005; Ord. 88, passed 7-13-2009; Ord. 154, passed 1-11-2021)

#### **§ 152.162 SPECIAL LAND USES.**

The following special land uses are permitted in the CBD District, subject to compliance with §§152.240*et seq.*

(A) All permitted uses in the R3 District;

(B) Bed and breakfast inns;

(C) Veterinary clinics;

(D) Retail stores and retail food stores with more than 5,000 square feet of floor area;

(E) Financial institutions with up to three drive through facilities;

(F) Religious institutions;

(G) Commercial indoor recreation with no more than 5,000 square feet of floor area;

(H) Vehicle service stations;

(I) Theaters;

(J) Funeral homes;

(K) Hotels and motels;

(L) Childcare centers subject to the standards of §152.243(F);

(M) Group day care homes subject to the standards of §152.243(F);

(N) Adult foster care small group homes;

(O) Any new business in the CBD established after the effective date of this section with normal hours of operation that extend later than 11:00 p.m. or begin prior to 6:00 a.m. shall require a special land use permit. A request to operate a business during the extended hours noted shall be submitted, in writing, to the village for Planning Commission review and

approval. The Planning Commission shall, at minimum, consider the following factors:

- (1) Nature of the goods or services being provided;
- (2) Nature and character of the surrounding neighborhood;
- (3) Availability of the goods or services throughout the village;
- (4) Applicant's lighting plan;
- (5) Amount of traffic that is generated by the use; and
- (6) Overall effect that the extended hours will have on the character, safety and general welfare of the surrounding neighborhood.

(P) All buildings over 20,000 square feet gross floor area require a special land use permit.

(Ord. 37, passed 8-28-2005; Ord. 88, passed 7-13-2009; Ord. 139, passed 9-11-2017; Ord. 154, passed 1-11-2021)

#### **§ 152.163 SITE DEVELOPMENT STANDARDS.**

The following standards shall apply to all uses and structures in the CBD District unless otherwise modified by the provisions of §§ 152.240*et seq.*, §§ 152.260*et seq.*, §§ 152.415*et seq.* or §§ 152.440 *et seq.*

(A) *Lot area.* There shall be no minimum lot area.

(B) *Lot width.* There shall be no minimum lot width.

(C) *Yards and setbacks.* The minimum yards and setbacks shall be as follows:

(1) *Front yard.* The front setback line shall be established by the existing building line within 200 feet on both sides of the subject lot.

(2) *Side yard.* None, except where the side lot line abuts a residential district the side yard shall be the same as the required side yard in the residential district.

(3) *Rear yard.* None, except where the rear lot line abuts a residential district or residential use, all structures shall be setback at least 20 feet from the rear lot line.

(D) *Lot coverage.* There shall be no maximum lot coverage.

(E) *Structure height.* No building shall be erected or altered to a height greater than three stories or 40 feet; whichever is less. No other structure shall be erected or altered to a height greater than 40 feet. (See § 152.267 for definitions of building height and structure height.)

(F) *Off-street parking and loading.* To allow for design flexibility in the CBD, the Village Council may waive or modify the requirements of §§ 152.280*et seq.* upon finding that all of the criteria in §152.281(B) are met.

(G) *Compliance required.* Uses and structures shall comply with all other provisions of this chapter, including §§ 152.240*et seq.* through §§ 152.415*et seq.* and all other applicable federal, state and local codes and ordinances.

(H) *Access.* New curb cuts are prohibited and closure of existing curb cuts is recommended. Exceptions will be considered if vehicle access is required and not otherwise possible.

(I) *Architectural standards.* Architectural standards for approval include the following items: rooflines and cornices, fenestration and brackets, shape and style of windows, shape and style of lights within windows, colors and finish materials. Exterior building materials shall employ a variety of textures and colors and window and door details. Desirable materials include brick, stone (natural and cast), wood siding and glass. Exterior materials that should not be used in large applications, but can be used as detail material or as a small application include EIFS (exterior insulation and finishing system), vinyl siding, asphalt or metal siding, composite fiberglass and reflective glass. Review of architectural concepts, colors and materials will be part of the site plan review.

(1) *Additions to buildings.* New construction, additions and modifications to buildings shall be harmonious with the historic scale and nature of other structures in the vicinity. Additions may be made to building facades not facing a street. Additions to a structure may be permitted except that additions to a structure's facade (the front side of the building facing the street) may be made only when such addition adds to the historical or architectural value and significance of the structure. Items to be considered for site plan review include the following:

(a) Whether modifications are consistent with the existing architectural motif;

(b) Whether new exterior additions are constructed to minimize the loss of historical materials and so that character-defining features are not obscured, damaged, destroyed or covered;

(c) Whether attached exterior additions are located at the rear or on an inconspicuous side of a historic building and minimize, to the extent possible, its size and scale relative to the historic building; and

(d) Whether new exterior additions are designed in a manner that makes clear what is historic and what is new while maintaining consistent design motifs from the historical building.



(2) *Constancy.* General architecture, front facade and overall building appointments should be consistent with the historical buildings of the downtown Main Street area. As an example, a multistory, brick building with historically formatted storefront windows and doors with upper and lower cornices.

(3) *Surface covering.* Existing and proposed buildings may be painted or stained to be consistent with the majority of the established buildings in the area or which are consistent with a documented earlier or original condition of existing buildings. Surfaces which are currently covered by wood, vinyl or aluminum siding may be repaired with the same material as currently exists. Exterior color shall be consistent with the majority of the established buildings in the Central Business District. "Non-traditional" or "Non-historical" colors are not permitted. The use of paint to attract attention or advertise using geometric shapes and color, or is in other ways inconsistent with the surrounding architecture is prohibited.

(J) *First floor.* All new buildings shall have at least 70% of their first floor facade on the street-facing sidewalk as non-reflective/non-tinted glass. The use of reflective/tinted glass on the first floor side and rear windows is discouraged. Use of reflective/tinted windows requires Planning Commission approval.

(K) *Pedestrian entrance.* All new buildings shall have at least one pedestrian entrance on the front. Rear or side entrances should be provided where parking is on the side or rear of the building.

(L) *Businesses to be retail and service establishments.* All business establishments shall be retail or service establishments dealing directly with customers. All goods produced on the premises shall be sold at retail on premises where produced.

(M) *Where business conducted.* All business, servicing or processing, except for loading, shall be conducted within a completely enclosed building.

(N) *Exterior walls and hiding unsightly objects.* Exterior walls facing public rights-of-way, customer-parking areas and adjoining property that is zoned or used for residential purposes shall have a finished appearance, using the same materials as used on the front of the building. Wherever possible, meter boxes, dumpsters and mechanical equipment should be screened on a side of the building that faces residentially zoned or used property, or mounted and screened on the roof.

(O) *Site design.* The site design shall be sensitive to pedestrian and bicycle needs. Buildings over 6,000 square feet gross floor area must provide a minimum of two bicycle hoops.

(P) *Additional standards.* The Planning Commission may determine that additional standards are required to be harmonious with the historic scale and nature of other structures in the vicinity. To achieve this objective the Planning Commission may, at its discretion, add to or modify the required standards above.

(Ord. 37, passed 8-28-2005; Ord. 88, passed 7-13-2009; Ord. 139, passed 9-11-2017; Ord. 146, passed - -2020) Penalty, see § 152.999

## SECONDARY BUSINESS DISTRICT

### § 152.180 PURPOSE.

The Secondary Business District (SBD) is intended to accommodate those business activities that typically require large areas of land, may generate a large volume of automobile traffic, may require large areas of off-street parking and are potential obstacles to an efficient, convenient neighborhood service or central business district.

(Ord. 37, passed 8-28-2005)

### § 152.181 PERMITTED USES.

- (A) Financial institutions with up to three drive-through facilities.
- (B) Business offices, professional offices, medical or dental clinics and non-profit organization offices.
- (C) Business support services.
- (D) Photography, art and craft studios and galleries.
- (E) Personal services.
- (F) Adult foster small group homes (seven to 12 adults) and adult foster care large group homes (13 to 20 adults).
- (G) Homes for the elderly and nursing homes.
- (H) Public buildings and public parks.
- (I) Elementary, middle and high schools.
- (J) Child care centers.
- (K) Bed and breakfast inns.
- (L) Hotels and motels with no more than 20 guest rooms.
- (M) Health clubs.

- (N) Theaters.
- (O) Taverns and nightclubs.
- (P) Restaurants, standard.
- (Q) Retail stores and retail food stores with not more than 15,000 square feet of floor area.
- (R) Video rental establishments.
- (S) Convenience stores without gasoline sales.
- (T) Funeral homes.
- (U) Laundromats and dry cleaners (does not include dry cleaning plants).
- (V) Accessory uses customarily incidental and subordinate to a permitted use.

(Ord. 37, passed 8-28-2005)

**§ 152.182 SPECIAL LAND USES.**

The following special land uses are permitted in the SBD District, subject to compliance with §§152.240*et seq.*

- (A) Adult foster care congregate facility (more than 20 adults);
- (B) Retail stores with more than 15,000 square feet of floor area;
- (C) Religious institutions;
- (D) Vocational schools and higher education institutions;
- (E) Private clubs;
- (F) Restaurants, carry-out with open front service and walk-up windows;
- (G) Restaurants, fast food;
- (H) Farmers markets and produce stands;
- (I) Landscape nurseries;
- (J) Commercial indoor recreation;
- (K) Commercial outdoor recreation, including golf courses;
- (L) Recreation equipment rental;
- (M) Vehicle service stations, vehicle repair services, vehicle dealerships and car washes;
- (N) Commercial outdoor displays;
- (O) Hospitals;
- (P) Veterinary clinics;
- (Q) Commercial kennels;
- (R) Indoor self-storage facilities;
- (S) Conference centers;
- (T) Shopping centers;
- (U) Public utility facilities;
- (V) Changeable message signs;
- (W) Buildings and other structures with a height exceeding the maximum allowed under §152.183; and
- (X) Outdoor storage lot for recreational vehicles.
- (Y) Adult use marihuana establishments including: marihuana grower facility - Class A or B, marihuana microbusiness, marihuana retailer, marihuana safety compliance facility, and marihuana secure transporter facility, subject to the provision of Chapter 113, Miscellaneous Businesses Requiring a License; Title XI, Business Regulations, of this Code of Ordinances.

(Ord. 37, passed 8-28-2005; Ord. 134, passed 11-14-2016; Ord. 153, passed 12-14-2020)

**§ 152.183 SITE DEVELOPMENT STANDARDS.**

The following standards shall apply to all uses and structures in the SBD District unless otherwise modified by the provisions of §§ 152.240*et seq.*, §§ 152.260 *et seq.*, §§ 152.415*et seq.* or §§ 152.440*et seq.*

(A) *Lot area.* The minimum lot area shall be 5,000 square feet.

(B) *Minimum lot width.* The minimum lot width shall be 66 feet, measured along the front lot line. For cul-de-sac and flag lots, the lot width may be measured along the front setback line.

(C) *Yards and setbacks.* The minimum yards and setbacks shall be as follows:

(1) *Front yard.* Structures shall be setback at least 25 feet from the front lot line.

(2) *Side yard.* The principal building may be constructed on the side lot line; however, the entire side yard shall total at least 15 feet in width. Where the side lot line abuts a residential district or residential use, the side yard shall be at least 20 feet in width.

(3) *Rear yard.* Structures shall be setback at least 20 feet from the rear lot line.

(D) *Lot coverage.* Lot coverage shall not exceed 50%.

(E) *Structure height.* No building shall be erected or altered to a height greater than two and one-half stories or 35 feet; whichever is less. No other structure shall be erected or altered to a height greater than 35 feet. (See § 152.267 for definitions of building height and structure height)

(F) *Compliance required.* Uses and structures shall comply with all other provisions of this chapter, including §§ 152.240*et seq.* through §§ 152.415*et seq.* and all other applicable federal, state and local codes and ordinances.

(Ord. 37, passed 8-28-2005) Penalty, see §152.999

## RESEARCH-TECHNOLOGY-OFFICE DISTRICT

### § 152.200 PURPOSE.

It is the purpose of the Research-Technology-Office District (RTO) to provide for a community of research and development, light industrial and office park uses in a campus setting, rather than separate individual facilities isolated among other unrelated land uses. The district is designed to limit the type and scope of uses and their location, to ensure compatibility with the existing village character and prevent negative impacts on roads, surrounding land uses and the environment. The RTO District is further intended to expand the tax base and employment opportunities within the village without compromising the health, welfare and quality of life of village residents.

(Ord. 37, passed 8-28-2005)

### § 152.201 PERMITTED USES.

(A) Research and development facilities located within a completely enclosed building, including scientific, medical, chemical, mechanical, electronic, computer and automobile research, product development and testing facilities.

(B) Business offices, professional offices, medical or dental clinics and non-profit organization offices.

(C) Business support services.

(D) Financial institutions, with up to three drive-through facilities.

(E) Commercial outdoor recreation.

(F) Public buildings and public utility facilities.

(G) Accessory uses customarily incidental and subordinate to a permitted use, including, but not limited to, laboratories, child care centers, employee health clubs and dining facilities.

(Ord. 37, passed 8-28-2005)

### § 152.202 SPECIAL LAND USES.

The following special land uses are permitted in the RTO District, subject to compliance with §§152.240*et seq.*

(A) Construction contractor's establishments with related offices;

(B) Conference centers;

(C) Composting centers;

(D) Indoor self-storage facilities;

(E) Central dry cleaning plants or laundries provided that the plants shall not deal directly with retail consumers;

(F) Limited warehousing and wholesale establishments;

(G) Parcel delivery service;

(H) Vocational schools and higher education institutions;

(I) Book, magazine and newspaper printing, publishing and related facilities;

(J) Light manufacturing;

(K) Tool and die machinery shops; and

(L) Radio and television studios and wireless telecommunications facilities, including transmission towers.

(M) Adult use marijuana establishments including marijuana grower Class A, B or C, marijuana microbusiness, marijuana retailer, marijuana processor facility, marijuana safety compliance facility, and marijuana secure transporter facility, subject to the provision of Chapter 113, Miscellaneous Businesses Requiring a License, of this Code of Ordinances.

(Ord. 37, passed 8-28-2005; Ord. 153, passed 12-14-2020)

### **§ 152.203 SITE DEVELOPMENT STANDARDS.**

The following standards shall apply to all uses and structures in the RTO District unless otherwise modified by the provisions of §§ 152.240*et seq.*, §§ 152.260 *et seq.*, §§ 152.415*et seq.* or §§ 152.440*et seq.*

(A) *Lot area.* The minimum lot area shall be one acre.

(B) *Lot width.* The minimum lot width shall be 200 feet measured along the front lot line. For cul-de-sac and flag lots, the lot width may be measured along the front setback line.

(C) *Yards and setbacks.* The minimum yards and setbacks shall be as follows:

(1) *Front yard.* Structures shall be setback at least 50 feet from the front lot line, except where parking spaces are located in the front yard the minimum setback shall be 75 feet.

(2) *Side yard.* Structures shall be setback at least 25 feet from side lot lines, except where the side lot line abuts a residential district or use the setback shall be 50 feet.

(3) *Rear yard.* Structures shall be setback at least 40 feet from the rear lot line, except where the rear lot line abuts a residential district or use the setback shall be 70 feet.

(D) *Lot coverage.* Lot coverage shall not exceed 40%.

(E) *Structure height.* No building shall be erected or altered to a height greater than two and one-half stories or 35 feet; whichever is less. No other structure shall be erected or altered to a height greater than 35 feet. (See § 152.267 for definitions of building height and structure height)

(F) *Outdoor storage areas.* All storage outside of a building shall be located within a designated area that is fully enclosed on all sides by a six-foot wall or fence and landscaping sufficient to completely obscure the storage area from surrounding roads and properties.

(G) *Environmental performance.* No use shall result in the emission of glare, noise, vibration, dust, pollution or any other negative impact, as regulated by §§ 152.370*et seq.*

(H) *Enclosure and screening.* Enclosure and screening shall comply with §§152.325*et seq.* Furthermore, where a planned development on a site with a gross acreage of five acres or more is proposed:

(1) The development site shall be surrounded along all exterior property boundaries by a continuous landscaped buffer area of at least 100 feet in width. This landscaped buffer area shall be sufficiently planted with trees and shrubs so as to completely obscure the planned development from surrounding roads and properties. Furthermore, the landscaped buffer area shall be perpetually maintained as approved by the village; and

(2) Curb cuts shall be reduced to the degree possible by the use of combined drives and common parking areas.

(I) *Compliance required.* Uses and structures shall comply with all other provisions of this chapter including §§ 152.240*et seq.* through §§ 152.415*et seq.* and all other applicable federal, state and local codes and ordinances.

(Ord. 37, passed 8-28-2005) Penalty, see §152.999

## **OFFICE DISTRICT**

### **§ 152.210 PURPOSE.**

(A) The purpose of the Office District (O) is to provide a transitional land use between residential and more intensive commercial uses.

(B) The district is designed to protect the existing character of this area, and create a suitable and safe environment for compatible and sustainable commercial uses.

(C) Uses in this district are intended to have less of an impact on surrounding uses than auto-related commercial uses.

(Ord. 98, passed 3-28-2011)

### **§ 152.211 PERMITTED USES.**

(A) Upper floor dwelling units, provided adjacent nonresidential uses, have a separate entrance and sanitary facilities;

- (B) Dwelling, single-family;
- (C) Business offices, professional offices, medical or dental offices and non-profit organization offices;
- (D) Business support services;
- (E) Photography, art, and craft studios and galleries;
- (F) Personal services;
- (G) Personal improvement schools;
- (H) Farmers markets;
- (I) Public buildings;
- (J) Public Park;
- (K) Elementary, middle, and high schools; and
- (L) Accessory uses, customarily incidental and subordinate to a permitted use.

(Ord. 98, passed 3-28-2011)

### **§ 152.212 SPECIAL LAND USES.**

The following special land uses are permitted in the Office District, subject to compliance with §§152.240*et seq.*

- (A) Adult foster care family home (one to six adults), subject to standards;
- (B) Bed and breakfast inns;
- (C) Convenience stores without gasoline sales;
- (D) Daycare: family child care home (one to six children), subject to standards;
- (E) Financial institution with up to three drive-through windows;
- (F) Financial institution without drive-through facilities;
- (G) Funeral home or mortuary;
- (H) Home occupation;
- (I) Laundromats and dry cleaners (does not include dry cleaning plants);
- (J) Restaurants, standard;
- (K) Theaters;
- (L) Vehicle service stations;
- (M) Veterinary clinics.

(Ord. 98, passed 3-28-2011)

### **§ 152.213 SITE DEVELOPMENT STANDARDS.**

The following standards shall apply to all uses and structures in the Office District unless otherwise modified by the provisions of §§ 152.240*et seq.*, §§ 152.260*et seq.*, §§ 152.415*et seq.* or §§ 152.440*et seq.*

- (A) *Lot area.* The minimum lot area shall be 8,712 square feet (one-fifth acre).
- (B) *Lot width.* The minimum lot width shall be 66 feet, measured along the front lot line. For cul-de-sac and flag lots, the lot width may be measured along the front setback line.
- (C) *Yards and setbacks.* The minimum yards and setbacks shall be as follows:
  - (1) *Front yard.* Structures shall be setback at least 20 feet from the road;
  - (2) *Side yard.* Structures shall be setback at least six feet from a side lot line. Except for corner lots, the interior side yard shall be at least six feet in width, and the street side yard shall be at least 20 feet in width; and
  - (3) *Rear yard.* Structures shall be setback at least 20 feet from the rear lot line.
- (D) *Lot coverage.* Lot coverage shall not exceed 40%.
- (E) *Structure height.* No building shall be erected or altered to a height greater than two and a half stories or 35 feet; whichever is less. No other structure shall be erected or altered to a height greater than 35 feet. (See § 152.267 for definitions of **BUILDING HEIGHT** and **STRUCTURE HEIGHT**).
- (F) *Off-street parking and loading.* To allow for design flexibility in the office, the Planning Commission may waive or

modify the requirements of §§ 152.280*et seq.* upon finding that all of the criteria in §152.281(B) are met.

(G) *Compliance required.* Uses and structures shall comply with all other provisions of this chapter, including §§ 152.240*et seq.* through §§ 152.415*et seq.* and all other applicable federal, state, and local codes and ordinances.

(H) *Access.* New curb cuts are prohibited and closure of existing curb cuts is recommended. Exceptions will be considered if vehicle access is required and not otherwise possible.

(I) *Architectural standards.* Architectural standards for approval include the following items: rooflines and cornices, fenestration and brackets, shape and style of windows, shape, and style of lights within windows, colors, and finish materials. Exterior building materials shall employ a variety of textures and colors and window and door details. Desirable materials include brick, stone (natural and cast), wood siding, and glass. Exterior materials that should not be used in large applications, but can be used as detail material or as a small application include EIFS (exterior insulation and finishing system), vinyl siding, asphalt or metal siding, composite fiberglass and reflective glass. Review of architectural concepts, colors, and materials will be part of the site plan review.

(J) All new buildings shall have at least one pedestrian entrance on the front. Rear or side entrances should be provided where parking is on the side or rear of the building.

(K) All business establishments shall be retail or service establishments dealing directly with customers. All goods produced on the premises shall be sold at retail on premises where produced.

(L) All business, servicing, or processing, except for loading, shall be conducted within a completely enclosed building.

(M) Exterior walls facing public rights-of-way, customer-parking areas, and adjoining property that is zoned or used for residential purposes shall have a finished appearance, using the same materials as used on the front of the building. Wherever possible, meter boxes, dumpsters, and mechanical equipment should be screened on a side of the building that faces residentially zoned or used property, or mounted and screened on the roof.

(Ord. 98, passed 3-28-2011; Ord. 139, passed 9-11-2017)

## PUBLIC LANDS DISTRICT

### § 152.220 PURPOSE.

It is the purpose of the Public Lands (PL) District to provide sufficient land for public buildings and uses and to encourage the development of attractive public spaces that are conducive to community interaction, recreation and services.

(Ord. 37, passed 8-28-2005)

### § 152.221 PERMITTED USES.

- (A) Public parks.
- (B) Public buildings and public utility facilities.
- (C) Elementary, middle and high schools.
- (D) Cemeteries.
- (E) Accessory uses customarily incidental and subordinate to permitted uses.
- (F) Farmers markets and produce stands.

(Ord. 37, passed 8-28-2005; Ord. 118, passed 6-10-2013)

### § 152.222 SPECIAL LAND USES.

The following special land uses are permitted in the PL District, subject to compliance with §§152.240*et seq.*:

- (A) Religious institutions;
- (B) Public swimming pools and golf courses;
- (C) Commercial outdoor recreation;
- (D) Public or private riding stables; and
- (E) Telecommunication towers.

(Ord. 37, passed 8-28-2005)

### § 152.223 SITE DEVELOPMENT STANDARDS.

The following standards shall apply to all uses and structures in the PL District unless otherwise modified by the provisions of §§ 152.240*et seq.*, §§ 152.260 *et seq.*, §§ 152.415*et seq.* or §§ 152.440*et seq.*

- (A) *Lot area.* The minimum lot area shall be 11,000 square feet.



(B) *Lot width.* The minimum lot width shall be 66 feet measured along the front lot line. For cul-de-sac and flag lots, the lot width may be measured along the front setback line.

(C) *Yards and setbacks.* The minimum yards and setbacks shall be as follows:

- (1) *Front yard.* Structures shall be setback at least 30 feet from the road right-of-way.
- (2) *Side yards.* Side yards shall conform to the side yard requirements of the abutting zoning district.
- (3) *Rear yards.* Rear yards shall conform to the rear yard requirements of the abutting zoning district.

(D) *Lot coverage.* Lot coverage shall not exceed 35%.

(E) *Structure height.* No building shall be erected or altered to a height greater than two and one-half stories or 35 feet; whichever is less. No other structure shall be erected or altered to a height greater than 35 feet. (See § 152.267 for definitions of building height and structure height)

(F) *Compliance required.* Uses and structures shall comply with all other provisions of this chapter, including §§ 152.240*et seq.* through §§ 152.415*et seq.* and all other applicable federal, state and local codes and ordinances.

(Ord. 37, passed 8-28-2005) Penalty, see §152.999

## **PLANNED UNIT DEVELOPMENT**

### **§ 152.230 PURPOSE.**

(A) It is the purpose of this subchapter to allow flexibility in development which either includes a mix of land uses or is proposed for a site containing unique natural features which the developer and the village desire to preserve. The standards of this subchapter are intended to encourage innovative design and to create opportunities which may not be obtainable through the more rigid standards of the other zoning districts.

(B) The Planned Unit Development (hereinafter referred to in this subchapter as the "PUD") standards are not intended to be used as a technique to circumvent the intent of this chapter, to avoid imposition of specific zoning ordinance standards, or the planning upon which this chapter is based. Thus, the provisions of this subchapter are designed to promote land use substantially consistent with recommendations of the village's master plan and the character of the surrounding area, with modifications and departures from generally applicable requirements made to provide the developer with flexibility in design on the basis of the total PUD plan approved by the village.

(Ord. 150, passed 10-12-2020)

### **§ 152.231 GENERAL REQUIREMENTS.**

(A) A PUD may be applied for in any zoning district. The approval of a PUD application shall require a rezoning by way of amendment of this chapter upon the recommendation of the Village Planning Commission and approval of the Village Council. The process for PUD approval shall be in accordance with § 152.235. Notification and public hearing requirements shall be in accordance with § 152.460.

(B) Generally, proposed uses shall be consistent with the underlying zoning designation before application for PUD and the future land use map in the village master plan. However, it is recognized that the PUD option may allow mixed uses and flexibility in use. In this regard, mixed or different uses may be allowed as part of flexibility in use. In this regard, mixed or different uses may be allowed as part of a PUD application, provided that uses are consistent with the goals and objectives of the master plan and subject to adequate public health, safety, and welfare protection mechanisms, which are designed into the development to ensure the compatibility of varied land uses both inside and outside the development.

(Ord. 150, passed 10-12-2020)

### **§ 152.232 ELIGIBILITY CRITERIA.**

The applicant for a PUD must demonstrate each of the following criteria:

(A) The subject site is under the control of one owner or group of owners and shall be capable of being planned and developed as one integral unit.

(B) Granting the PUD will result in at least one of the following:

- (1) A recognizable and material benefit to the ultimate users of the project and to the community, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the PUD regulations, including special sensitivity to adjacent land uses, well-designed access and circulation systems, and/or integration of various site features into a unified development;
- (2) Long-term protection and preservation of natural resources and natural features of a significant quantity, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the PUD regulations.
- (3) Long-term protection of historic structures or significant architecture worthy of historic preservation.
- (4) The PUD will provide a complementary mixture of uses or a variety of housing types within a unique, high-quality design that could not occur without the use of the PUD option; or

(5) Redevelopment of a nonconforming site where creative design can address unique site constraints.

(C) There is a finding that the proposed type and density of use shall not result in an unreasonable increase in the need for or burden upon public services, facilities, roads, and utilities.

(D) The proposed PUD shall not result in an unreasonable negative environmental impact or loss of a historic structure on the subject site or surrounding land.

(E) The proposed PUD shall not result in an unreasonable negative economic impact upon surrounding properties.

(F) The proposed use or uses shall be of such location, size, density, and character as to be in harmony with the zoning district in which they are situated and shall not be detrimental to the adjoining zoning districts.

(G) The proposed development shall be consistent with the master plan.

(H) The proposed PUD shall be harmonious with the public health, safety, and welfare of the village.

(I) The proposed PUD is not an attempt by the applicant to circumvent the strict application of zoning standards.

(Ord. 150, passed 10-12-2020)

**§ 152.233 DENSITY.**

(A) *Residential uses.*

(1) All residential uses may be permitted with the following minimum lot sizes per unit, based upon a discretionary 25% density credit from the zoning district in which the property is situated immediately prior to classification under this subchapter. In the event that the property is already zoned PUD, density shall be allowed at the discretion of the Village Planning Commission and Village Council, based on the master plan and surrounding land use densities and character. Land area under water, public road rights-of-way, and private road easements shall not be included in the gross density calculation.

<i>Minimum Residential Lot Sizes</i> <i>PUD District</i>	<i>Minimum Lot Size</i> <i>per Unit</i>
R1	16,335 square feet
R2	9,000 square feet
R3	6,534 square feet
R4	6,534 square feet

(2) Additional density greater than specified above may be allowed depending on the type and character of the development at the discretion of the Planning Commission and Village Council based upon a demonstration by the applicant of design excellence and conformance to the standards listed in § 152.232, Eligibility Criteria, as well as conformance to the master plan.

(B) The Planning Commission and Village Council may allow a residential PUD in areas having a nonresidential base zoning subject to compliance with the master plan or a determination by the Planning Commission and Village Council that the proposed development meets the general intent of § 152.232, Eligibility Criteria.

(C) A planned unit development incorporating nonresidential uses, such as commercial, institutional or a mix of nonresidential and residential uses, may also be allowed subject to compliance with the master plan or a determination by the Planning Commission and Village Council that the proposed development meets the general intent of § 152.232, Eligibility Criteria.

(Ord. 150, passed 10-12-2020)

**§ 152.234 SITE DEVELOPMENT STANDARDS.**

Any planned unit development shall comply with the following project design standards:

(A) *Generally.*

(1) The proposed PUD shall meet the eligibility criteria of §152.232.

(2) *Uses permitted.* Any residential, office or commercial use is permitted, upon a determination that the uses would meet the intent of this subchapter.

(3) *Harmony with surrounding uses.* The uses and design of the PUD shall be harmonious with the character of the surrounding area in terms of density, intensity of use, size and height of buildings, architecture and other impacts.

(B) Setbacks, general provisions, and other applicable zoning requirements shall be met in relation to each respective land use in the PUD based upon the zoning districts in which the use is listed. In all cases, the strictest provisions shall

apply.

(C) *Vehicular and pedestrian circulation.*

(1) Thoroughfare, drainage, and utility designs shall meet or exceed the standards otherwise applicable in connection with each of the respective types of uses served.

(2) The pedestrian circulation system, and its related sidewalks and pathways, shall be separated from vehicular thoroughfares.

(3) The number and dimensions of off-street parking shall be sufficient to meet the minimum required of §§152.280 et seq. However, when warranted by overlapping or shared parking arrangements or based upon specific findings, the Village Council may approve a reduction of the required number of parking spaces as recommended by the Planning Commission.

(D) *Utilities.*

(1) There shall be underground installation of utilities, including electricity and telephone, unless otherwise permitted by the village.

(2) The uses and design shall be consistent with the available capacity of the existing street network and utility systems or the applicant shall upgrade the infrastructure as required to accommodate the PUD. All streets and parking areas within the proposed PUD shall meet the minimum construction and other requirements of village ordinances and Technical Specifications.

(3) Mechanical equipment shall be placed on the roof or in a side yard or rear yard and shall be screened from the street. Mechanical equipment on the roof shall be screened from abutting streets with parapets or other types of visual screening materials.

(E) *Design features.* The PUD shall use design features that foster attractiveness and usability throughout the project and that create compatibility with adjoining properties.

(1) Signage, lighting, landscaping, architecture and building materials for the exterior of all structures, and other features of the project, shall be designed and completed with the objective of achieving a quality, integrated development, consistent with the character of the community, surrounding development or developments, and natural features of the area.

(2) Where nonresidential uses adjoin residentially zoned or used property outside the proposed PUD, noise reduction and visual landscape buffer areas such as landscape berms and/or decorative walls, shall be employed in accordance with § 152.329.

(3) The proposed PUD shall provide a minimum of 20% of the gross site acreage as open space. Gross site area for the purposes of computing required open space does not include private and public rights-of-way or detention/retention basins. Such open space will remain undisturbed and reserved for passive enjoyment of the users of the development and shall not include retention ponds or other bodies of water, required yards around residential building lots, or other similar features. This open space requirement may be waived by the Planning Commission and Village Council, if determined to be not applicable due to the type and character of development.

(4) *Natural and historic features.* The development shall be designed to promote the preservation of any significant natural or historic features on the site. Vegetation shall be preserved and/or new landscaping generously provided to ensure that proposed use will be adequately buffered from one another and from surrounding public and private property.

(F) *Additional considerations.* Deviations with respect to ordinance regulations may be granted as part of the overall approval of the PUD. The deviations may be considered, provided that there are features or elements demonstrated by the applicant and deemed adequate by the Planning Commission and Village Council and designed into the project plan for the purpose of achieving the objectives of this subchapter.

(Ord. 150, passed 10-12-2020)

**§ 152.235 PUD REZONING APPLICATION AND PROCEDURE.**

Application for PUD rezoning and approval shall be processed as follows:

(A) *Pre-application conference.* Prior to formal submission of an application for PUD approval, a meeting between the applicant and village staff shall be held to obtain guidance that will assist the applicant in preparation of the application and plan. The village shall charge a fee for the conference to cover administrative costs.

(B) *PUD application submittal.* The applicant shall prepare and submit a preliminary site plan of the proposed PUD to the village. A narrative report shall accompany the site plan providing a description of the project, discussion of the market concept of the project, and explanation of the manner in which the criteria set forth in the preceding design standards have been met. The preliminary site plan for the PUD shall contain at a minimum the following information:

(1) A completed PUD rezoning application and processing fee as established by Village Council.

(2) The plans and narrative shall provide all information required according to §152.389, Preliminary Site Plan Application.

(3) The applicant shall also provide a project narrative which indicates the following information:

(a) An explanation of how the project meets the criteria set forth in §152.232, Eligibility Criteria.

(b) An explanation of why the submitted PUD plan is superior to a plan that could have been prepared under strict adherence to related sections of this subchapter.

(c) A list of anticipated deviations from this chapter which would otherwise be applicable.

(C) *Review process.*

(1) *Review for completeness.* The Zoning Administrator shall review the preliminary PUD plan application submittal and determine if all the necessary information has been provided. A complete application must be submitted to the Zoning Administrator at least 15 business days prior to the Planning Commission meeting at which the proposal will first be considered.

(2) *Distribution.* The Zoning Administrator shall transmit the PUD application submittal and the Village Planner's report to the Planning Commission for review. The Zoning Administrator shall provide notice of the public hearing in accordance with the requirements of § 152.022(C).

(3) *Public hearing and Planning Commission action.* Upon conclusion of the public hearing, the Planning Commission shall make a recommendation to the Village Council to deny or approve, with or without conditions, the preliminary PUD plan. If no decision or recommendation is made at the advertised hearing, disposition of the case must be set to a date certain at that time, and this date must be clearly stated in the meeting minutes. If no certain date is set and duly noted in the public record, notice of the next meeting at which the case will be considered shall be provided. The Planning Commission shall make a decision or recommendation upon each case within 60 days of the public hearing, unless additional time is granted by the applicant.

(4) *Village Council action.* A summary of the Planning Commission recommendation and comments submitted at the public hearing shall be transmitted with the preliminary PUD application submittal and the Village Planner's report to the Village Council. The Village Council may hold additional public hearings if it considers it necessary. The Village Council shall make a decision upon each case within 60 days of the Planning Commission's recommendation or refer the proposal back to the Planning Commission for further consideration, unless additional time is granted by the applicant. The Village Council shall take one of the following actions:

(a) *Approval.* Upon finding that the preliminary PUD plan meets the criteria and standards set forth in §152.230 et seq., the Village Council shall grant preliminary PUD approval. Approval shall constitute approval of the uses and design concept as shown on the preliminary PUD plan and shall confer upon the applicant the right to proceed through the subsequent PUD plan review phases.

(b) *Approval with changes or conditions.* The Village Council may recommend conditional approval subject to modifications as performed by the applicant as long as the PUD plan meets the criteria established in § 152.234.

(c) *Denial.* Upon finding that the preliminary PUD plan does not and cannot meet the criteria and standards set forth in § 152.234, the Village Council shall deny preliminary approval.

(5) *Effective period of approval.* The PUD plan approval shall remain valid for a period of two years. If a final plan is not submitted during that time frame, the PUD request becomes void. If a final plan is submitted during that time frame and is approved, the rezoning to PUD shall remain in effect until such time as the owner of the property involved requests a change to the zoning. The Village Council may approve extensions to the PUD rezoning of up to one year.

(6) *Submittal of final PUD plan to the Planning Commission.* If the preliminary PUD plan is approved by the Village Council, the applicant shall submit a final PUD plan for final PUD review and recommendation by the Planning Commission in accordance with § 152.391, Final Site Plan Application. This must be done during the validity period for the rezoning to a PUD as set forth in division (5) above. The Planning Commission shall recommend approval, approval with conditions, or denial of the project. If no action is taken because more information is required from the applicant, the Planning Commission shall table the agenda item to a date certain, which shall be specified in the meeting minutes. The applicant shall submit a revised plan to the Planning Commission addressing its concerns.

(7) *Submittal of final PUD plan to Village Council.* A summary of the Planning Commission recommendation shall be transmitted with the final PUD Plan submittal and the Village Planner's report to the Village Council. The Village Council shall take one of the following actions:

(a) *Approval.* Upon finding that the final plan meets the criteria and standards set forth in §152.234, the Village Council shall grant final approval.

(b) *Tabling.* Upon finding that the final plan does not meet the criteria and standards set forth in §152.234 but could meet such criteria if revised, the Village Council may table action until a revised final plan is resubmitted.

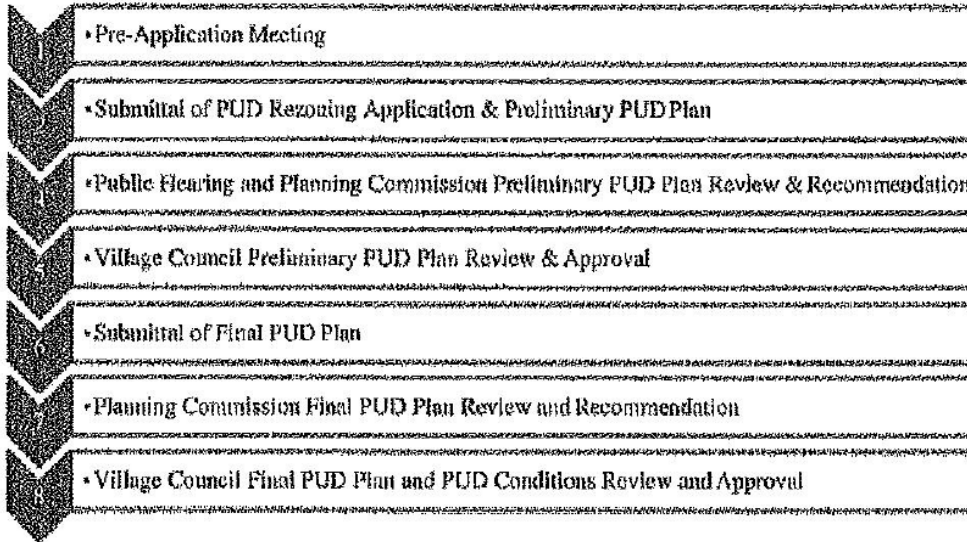
(c) *Denial.* Upon finding that the final plan does not and cannot meet the criteria and standards set forth in §152.234, the Village Council shall deny final approval.

(8) All actions on the preliminary PUD plan or final PUD plan by the Planning Commission and the Village Council shall state the reasons for approval, conditional approval, postponement or denial within the body of the motion. Approval of the final PUD by the Village Council shall constitute amendment of the official zoning map. The applicant shall then be authorized to proceed with any necessary permits, such as final platting or construction submittals.

(9) *Amendments.* If the Planning Commission and/or Village Council determines that a proposed use or site plan is not consistent with the approved PUD, the applicant shall be directed to submit a request to amend the PUD following the same procedures outlined above.

(10) *Change in ownership.* An approved PUD plan runs with the land, not with the landowner. If the land is sold or otherwise exchanged, the approved PUD plan shall remain in effect unless the applicant submits a request to amend or terminate the PUD plan.

**Table 8**  
**PUD Process: Initiated by Private Owner**



(Ord. 150, passed 10-12-2020)

**§ 152.236 PUD CONDITIONS.**

(A) Reasonable conditions may be required before the approval of a PUD, to the extent authorized by law, for the purpose of ensuring that existing 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, protecting the natural environment and conserving natural resources and energy, ensuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner.

(B) Permit conditions may be drafted in writing specifying conditions of approval and:

- (1) Conditions may stipulate that the PUD may only be used for selective land uses, provided that the restraint(s):
  - (a) Advances, rather than injures, the interests of adjacent landowners;
  - (b) Is a means of harmonizing private interests in land, thus benefiting the public interest;
  - (c) Is for the purpose of ensuring that the PUD fulfills the purposes and intent of this subchapter and thus benefits the public interest; and/or
  - (d) Possesses a reasonable relationship to the promotion of the public health, safety, and welfare.

(2) A change of land use from that which was previously approved will render the PUD null and void or will require application for a revised PUD.

(C) Conditions imposed shall be designed to protect natural resources and the public health, safety, and welfare of individuals in the project and those immediately adjacent, and the community as a whole, and shall be reasonably related to the purposes affected by the PUD and necessary to meet the intent and purpose of this chapter, and related to the objective of ensuring compliance with the standards of this chapter. All conditions imposed shall be made a part of the written record of the approved planned unit development, which shall include a site plan and written PUD permit conditions signed by the village and the applicant.

(D) In the event that conditions set forth herein are not complied with, the Zoning Administrator shall have the right to follow enforcement procedures pursuant to § 152.020 et seq. Additional conditions may be imposed by the Village Council, or the applicant may be required to submit a new PUD application.

(Ord. 150, passed 10-12-2020)

**§ 152.237 AUTHORITY OF ZONING BOARD OF APPEALS REGARDING VARIANCES.**



(A) The Zoning Board of Appeals shall have the authority to hear and decide appeal requests by property owners for variances from this chapter. However, the Zoning Board of Appeals shall not have the authority to change conditions or make interpretations to the PUD plan or written agreement.

(B) The Zoning Board of Appeals shall not have authority to grant variances from the approved PUD plan pertaining to uses, perimeter setbacks, perimeter landscaping or setbacks. Such changes shall require an amendment to the PUD plan.

(Ord. 150, passed 10-12-2020)

#### **§ 152.238 PHASING AND COMMENCEMENT OF CONSTRUCTION.**

(A) *Phasing.* Where a project is proposed for construction in phases, the planning and designing shall be such that, upon completion, each phase shall be capable of standing on its own in terms of the presence of services, facilities, and open space and shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the planned unit development and the residents of the surrounding area. In addition, in developments which include residential and nonresidential uses, the relative mix of uses and the scheduled completion of construction for each phase shall be disclosed and determined to be reasonable by the Village Council after recommendation from the Planning Commission.

(B) *Commencement and completion of construction.* Construction shall be commenced within one year following final approval of a PUD and shall proceed in conformance with the schedule set forth by the applicant. If construction has not commenced within such time, any approval of a site plan on the project shall expire and be null and void; however, an extension for a specified period may be granted by the Planning Commission upon good cause shown if such request is made to the Planning Commission prior to the expiration of the initial period. Moreover, in the event that a site plan has expired, the Village Council shall take action to reclassify the property to its previous zoning designation, by adopting an amendment to this chapter, after Planning Commission review and public hearing(s) as required by § 152.235.

(Ord. 150, passed 10-12-2020)

#### **§ 152.239 VIOLATIONS.**

A violation of the PUD plan or agreement shall be considered a violation of this chapter.

(Ord. 150, passed 10-12-2020)

### **SPECIAL LAND USES**

#### **§ 152.240 PURPOSE.**

(A) The purpose of this subchapter is to provide a means for the Village of Pinckney to authorize, subject to minimum standards and appropriate conditions, certain specified uses that may be compatible with permitted uses in a district, but that may also have a greater impact on surrounding properties. This subchapter is intended to provide an opportunity for the public, and the Planning Commission to review each proposed special land use, and identify potential impacts with regard to the individual circumstances of the site and use.

(B) It is further intended to provide an opportunity for the Planning Commission to impose the conditions as are necessary to ensure that the special land use will be compatible with surrounding uses and consistent with the purpose of the district in which it will be located. If it is determined that one or more negative impacts will be generated by the special land use and that these impacts cannot be reasonably mitigated, the Planning Commission may deny the special land use in order to protect the health, safety, welfare and quality of life of village residents.

(C) Sections 152.241 and 152.242 contain general procedures and standards that apply to all special land uses. Section 152.243 contains specific standards that apply only to the specific special land uses listed in §152.243.

(Ord. 37, passed 8-28-2005; Ord. 91, passed 10-12-2009; Ord. 134, passed 11-14-2016; Ord. 139, passed 9-11-2017)

#### **§ 152.241 PERMIT APPLICATION AND PROCESS.**

Applications for a special land use permit shall be submitted and processed as follows:

(A) *Application submittal.* No application shall be considered by the village unless it is accompanied by the following:

(1) A village application form completed in full by the applicant and signed by all persons, firms or corporations having an ownership interest in the property. For the purposes of this section, **OWNERSHIP INTEREST** shall mean the titled owner(s) and land contract holder(s);

(2) A preliminary site plan containing all of the information required by §152.389;

(3) A written statement by the applicant and any supporting evidence explaining how the special land use will comply with the following:

(a) The general criteria in §152.242; and

(b) The specific criteria in §152.243 as applicable.

(4) A processing fee as established by the Village Council; and



(5) An application for a residential open space development shall also include a parallel site plan prepared in compliance with § 152.353(A).

(B) *Process.*

(1) The Zoning Administrator shall transmit the full special land use permit application to the Planning Commission for review. The Planning Commission shall fix a reasonable time for a public hearing. The Zoning Administrator shall provide notice of the public hearing in accordance with the requirements of § 152.022(C).

(2) Upon conclusion of the public hearing, the Planning Commission shall deny or approve, with or without conditions, or table for further consideration the special land use permit; or in the case of special land use permit applications for a marijuana establishment, residential open space development, condominium project, or other planned development, shall make a recommendation to the Village Council to deny or approve, with or without conditions, the special land use permit. If no decision or recommendation is made at the advertised hearing, disposition of the case must be set to a date certain at that time, and this date must be clearly stated in the meeting minutes. If no certain date is set and duly noted in the public record, notice of the next meeting at which the case will be considered shall be provided as required in division (B)(1) above. The Planning Commission shall make a decision or recommendation upon each case within 60 days of the public hearing, unless additional time is granted by the applicant.

(3) For special land use permit applications for a marijuana establishment, residential open space development, condominium project, or other planned development, a summary of the Planning Commission recommendation and comments submitted at the public hearing shall be transmitted with the special land use permit application and staff report to the Village Council. The Village Council may hold additional public hearings if it considers it necessary. The Village Council shall make a decision upon each case within 60 days of the Planning Commission's recommendation or refer the proposal back to the Planning Commission for further consideration, unless additional time is granted by the applicant.

(C) *Permit expiration.* A special land use permit issued pursuant to this subchapter 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, the Zoning Administrator shall notify the applicant in writing, no more than 30 days before the expiration date, that upon expiration, the permit will become null and void.

(D) *Permit amendment.* Changes to an approved site plan shall comply with §152.394. Changes to other condition(s) of approval, including but not limited to performance standards, shall be processed in compliance with division (B) above.

(E) *Permit renewal.* Upon written request by the applicant, a one-year extension may be granted by the Planning Commission if it finds that the approved special land use permit and site plan still comply with the requirements of this chapter. A written request for permit renewal must be received by the village prior to the expiration date, or a new application for a special land use permit will be required. Upon expiration of the initial one-year extension on a special use permit. Planning Commission may grant, upon written request by the applicant, subsequent one-year extensions of the special land use permit, upon showing of good cause.

(F) *Revocation.* Based upon a recommendation by the Zoning Administrator, the Planning Commission shall have the authority to revoke any special land use permit after it has been proved that the holder of the permit has failed to comply with any of the applicable requirements of this chapter and/or permit approval. The Zoning Administrator shall give written notice of the violation to the holder of the permit, and correction must be made within 30 days. After a 30-day period, the Zoning Administrator shall give a second notice, and the use for which the permit was granted must cease within 60 days from the date of second notice.

(G) *Re-application.* No application for a special land use permit that 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.

(H) For special land use permit applications for a residential open space development, condominium project, or other planned development, special land use permit amendments, renewals, and revocations shall also require the Village Council's approval.

(Ord. 37, passed 8-28-2005; Ord. 83, passed 10-27-2008; Ord. 91, passed 10-12-2009; Ord. 139, passed 9-11-2017; Ord. 153, passed 12-14-2020) Penalty, see § 152.999

## **§ 152.242 GENERAL APPROVAL CRITERIA.**

(A) Before approving or denying a special land use permit application, the Planning Commission shall review the particular facts and circumstances of the application and establish a preponderance of the evidence.

(B) The Planning Commission shall approve the application only if all proposed uses and structures on the subject site comply with the general standards set forth in this section.

(C) These general standards apply to all uses authorized by a special land use permit.

(D) The specific and detailed standards set forth in §152.243 apply to particular uses, as indicated, and must be met in addition to the general standards below, where applicable.

(1) *Compliance with Comprehensive Plan.* The special land use shall be consistent with the general goals, objectives and policies of the adopted Village of Pinckney Comprehensive Plan.

(2) *Compliance with Zoning District.*

(a) Special land uses permitted within any district shall be only those listed within the district.

(b) The special land use shall be consistent with the purpose of the zoning district in which it will be located.

(c) Unless otherwise specified in this chapter, the special land use shall comply with the lot, access, yard, setback and other site design requirements of the zoning district in which it is located.

(3) *Compatibility.* The special land use shall be designed, constructed, operated and maintained in a manner that is compatible with the essential character, permitted use, enjoyment and value of surrounding property and shall enhance the community as a whole.

(4) *Infrastructure and services.* The special land use shall be adequately served by essential public services and other infrastructures such as roads, emergency services, drainage structures and water and sewage facilities. The proposed use shall not create a need for additional public facilities or services at public cost.

(5) *Traffic.* The special land use shall minimize traffic impacts. In determining whether this requirement is met, consideration shall be given to anticipated traffic generation, automobile circulation, access to public roads, relationship to intersections, sight distances, access to off-street parking and pedestrian traffic. Access drives connected to roads under state and county jurisdiction shall comply with applicable road agency standards.

(5) *Environmental performance.* The special land use shall not involve uses, activities, processes, materials, equipment or conditions of operation that may be detrimental to any person or property, or to public health, safety and welfare. In determining whether this requirement is met, consideration shall be given to the production of runoff, traffic, noise, vibration, smoke, fumes, odors, dust, glare and light.

(6) *Natural resources.* The special land use shall minimize impacts on the natural environment. In determining whether this requirement is met, consideration shall be given to scenic views, floodplains, surface waters, wetlands, groundwater recharge areas, woodlands, wildlife habitat and steep slopes.

(7) *Architecture.* The architectural design of all structures, including buildings and signs, shall be compatible with the design and character of structures in the surrounding area. As part of the application, the Planning Commission may require detailed drawings of proposed signs and architectural facades, including full construction elevations and information on exterior materials, colors and detailing.

(8) *Compliance required.* Uses and structures shall comply with all other provisions of this chapter, including §§ 152.240*et seq.* through §§ 152.415*et seq.* and all other applicable federal, state and local codes and ordinances.

(Ord. 37, passed 8-28-2005; Ord. 139, passed 9-11-2017)

**§ 152.243 SPECIFIC APPROVAL CRITERIA.**

(A) *Home occupations.* Home occupations are permitted as a special land use in all residential districts (R1, R2, R3, R4 and ROB) provided the following conditions are met:

(1) A home occupation must be clearly incidental and secondary to the primary use of the dwelling unit for dwelling purposes and shall not change the character of the residential nature of the premises, both in terms of use and appearance. Such home occupation shall be carried on within the dwelling that is occupied by the owner of the home occupation.

(2) A home occupation use shall not create a nuisance or endanger the health, safety, welfare, or enjoyment of any other person in the area by reason of noise, vibration, glare, fumes, odor, unsanitary or unsightly conditions, fire hazards, or the like, involved in or resulting from such home occupation.

(3) No employees shall be permitted, either gratuitously or for compensation of any kind, other than members of the resident family.

(4) There shall be limited additional vehicular traffic permitted for the home occupation/category one, such as is normally generated for a dwelling unit in a residential area, both as to volume and type of vehicles.

(5) The village may impose additional conditions and regulations, as it deems necessary, to adequately protect adjoining residents and property owners. It may require that the particular business be operated only for a specified period of months or years unless an additional permit is granted. A home occupation shall operate within the hours and days as set in the special land use permit.

(6) The area of the identification sign shall not exceed one foot by two feet; and the height of the identification sign shall not be more than four feet above grade.

(7) *Customers, clients, students or patients.* No more than two customers, clients, students or patients shall be on the premises where a valid home occupation special use permit has been secured.

(8) *Exterior alterations.* Home occupations shall not require exterior alterations or involve construction features not customary in dwellings, or required use of mechanical or electrical equipment which shall create a nuisance to the adjacent neighborhood.

(9) *Interior alterations.* Any permanent structural alterations to the interior of the dwelling unit for purposes of conducting the home occupation which would render it unsuitable for residential use shall be prohibited.

(10) *Outdoor storage.* There shall be no outdoor storage of items supportive of the home occupation.

(11) *Medical marihuana.* A registered primary caregiver, in compliance with the General Rules of the state Department of Community Health, the state Medical Marihuana Act, P.A. 2008, Initiated Law, being M.C.L.A. § 333.26423(d), and the requirements of this chapter, shall be allowed as a home occupation special use. Nothing in this chapter, or in any companion regulatory provision adopted in any other provision of this code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with that Act and the General Rules. Also, since federal law is not affected by that Act or the General Rules, nothing in this chapter, or in any companion regulatory provision adopted in any other provision of this code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under federal law. The state Medical Marihuana Act does not protect users, caregivers or the owners of properties on which the medical use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the federal Controlled Substances Act. The following requirements for a registered primary caregiver shall apply:

(a) The medical use of marihuana shall comply at all times and in all circumstances with the state Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;

(b) A registered primary caregiver must be located outside of a 1,000-foot radius from any school, including child care or day care facility, to insure community compliance with federal "Drug- Free School Zone" requirements;

(c) A registered primary caregiver must be located outside of a 1,000-foot radius from any other registered primary caregiver;

(d) Not more than one primary caregiver shall be permitted to service qualifying patients on a parcel;

(e) Not more than five qualifying patients shall be assisted with the medical use of marihuana within any given calendar week;

(f) All medical marihuana shall be contained within the main building in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver or qualifying patient, as reviewed and approved by the village Police Department;

(g) All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the residential structure in which electrical wiring, lighting and/or watering devices that support the cultivation, growing or harvesting of marihuana are located;

(h) If a room with windows is utilized as a growing location, any lighting methods that exceed usual residential periods between the hours of 11 p.m. to 7 a.m. shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that may create a distraction for adjacent residential properties;

(i) That portion of the residential structure where energy usage and heat exceeds typical residential use, such as a grow room, and the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the Pinckney Area Fire Department to insure compliance with the state Fire Protection Code.

(B) *Educational institutions.*

(1) *Principal uses.* Elementary, middle and high schools, vocational schools and higher education institutions.

(2) *Lot area.* The minimum lot area shall be one acre.

(3) *Road frontage and access.*

(a) At least one lot line shall abut an arterial road or collector road.

(b) All vehicular access shall be directly from an arterial road or collector road.

(4) *Accessory use.* Support uses offered solely to students may be permitted provided they are strictly an accessory use to the principal use. The uses may include, but are not limited to: latch key child care programs, child care centers, congregate student dining and social and recreational facilities such as playgrounds and play fields.

(C) *Nursing homes and homes for the aged.*

(1) *Road frontage and access.*

(a) At least one lot line shall abut an arterial road or collector road.

(b) All vehicular access shall be directly from an arterial road or collector road.

(2) *Setbacks.* The following setbacks shall apply to structures, excluding signs, walls and fences:

(a) No structure less than two stories in height shall be closer than 50 feet to any street line or to any lot line abutting a residential district or use;

(b) No structure two or more stories in height shall be closer than 100 feet to any street line or to any lot line abutting a residential district or use; and

(c) Structures shall be setback from any lot line abutting a nonresidential district and use as specified for permitted uses on the subject site.

(3) *Enclosure and screening.* Ambulance and delivery areas shall be obscured from all residential districts and uses by a solid fence or masonry wall no less than four feet and no more than six feet in height.

(4) *Accessory use.* Support uses offered solely to residents may be permitted provided they are strictly accessory uses to the principal use. The uses may include congregate dining, health care, personal services and social, recreational and educational facilities.

(D) *Recreation.*

(1) *Principal uses.* Commercial outdoor recreation and commercial indoor recreation. (Public indoor recreation is included within the definition of public building, see § 152.267)

(2) *Road frontage and access.* If the site and proposed uses are intended to serve areas beyond the immediate neighborhood, at least one lot line shall abut a paved public road. All vehicular access shall be directly from the road.

(3) *Setbacks.* The following setbacks shall apply to parking and structures, including spectator seating, but excluding signs, walls and fences. Where unique site conditions apply, the Planning Commission may modify these setback requirements.

(a) All parking and structures shall be setback at least 50 feet from any street line or lot line abutting a nonresidential district and use.

(b) All parking and structures shall be setback at least 100 feet from any lot line abutting a residential district or use.

(4) *Enclosure and screening.* Swimming pools shall comply with the enclosure and access requirements in § 152.262(H).

(5) *Modifications.* The Planning Commission may modify off-street parking requirements in those instances wherein it is demonstrated that a significant number of the site's users will be pedestrians.

(E) *Indoor self-storage facility.*

(1) *Principal use.* Indoor storage of personal goods within a completely enclosed building.

(2) *Accessory use.* The only permitted accessory use shall be limited retail sales to tenants of locks, packing materials and similar goods incidental to the principal use.

(3) *Prohibited uses.*

(a) Commercial activity other than the principal use and accessory use permitted above.

(b) Storage of any goods or materials outside of a completely enclosed building.

(c) Storage of combustible, flammable, explosive or toxic liquids or materials within storage units or elsewhere upon the premises.

(4) *Lot area.* The minimum lot area shall be two acres and the maximum lot area shall be five acres.

(5) *Road frontage and access.*

(a) At least one lot line shall abut an arterial road or collector road.

(b) All vehicular access shall be directly from an arterial road or collector road.

(c) Access to the site shall be restricted to employees, tenants and emergency response vehicles only, by means of locked gates and/or other access-control devices.

(6) *Setbacks.* The following setbacks shall apply to structures, excluding signs, walls and fences:

(a) Structures shall be setback at least 50 feet from any lot line abutting a residential district or use; and

(b) Structures shall be setback from any lot line abutting a nonresidential district and use as specified for permitted uses on the subject site.

(7) *Lot coverage.* Lot coverage shall not exceed 40%.

(8) *Enclosure and screening.*

(a) The perimeter of the site shall be completely surrounded by a wall or fence no less than four feet and no more than six feet in height. The use of barbed wire or electrical fencing shall not be permitted.

(b) The wall or fence shall be setback at least 30 feet from all street lines and from any lot line abutting a residential district or use.

(c) The setback area between the wall or fence and street line or residential lot line shall be landscaped with appropriate plant materials.

(d) The design and materials used for the wall or fence and for landscaping within the setback area shall be approved by the Planning Commission.

(9) *Internal circulation and off-street parking.*

(a) All storage units shall be accessible via an interior drive clearly marked to distinguish vehicle direction and parking areas.

(b) The applicant shall demonstrate that emergency response vehicles can both fully access the premises and safely circulate through the site. Sufficient area and turning radii shall be provided at the end of all storage units to accommodate emergency response vehicles. The distance between storage unit buildings shall be no less than 35 feet. Where no parking is provided between storage unit buildings, the building separation may be reduced to no less than 25 feet.

(c) Interior drives and off-street parking areas shall be paved with a permanent surface of concrete or asphalt and shall be graded and drained to dispose of all storm water without negatively impacting surrounding property.

(10) *Facility management office.* If a management office for the facility is provided, the office shall be located within the walled or fenced area required by division (E)(8) above, and calculated as part of the maximum 40% lot coverage. Parking for the office shall not be less than one parking space for every 25 storage units on the site.

(F) *Child care facilities.*

(1) *Family day care homes.* Family day care homes serving six or fewer children shall be considered a residential use of property and a permitted use in all residential districts.

(2) *Group child care homes.* Group child care homes serving seven to 12 children shall comply with the following:

(a) Appropriate licenses with the State of Michigan shall be maintained;

(b) There shall be no more than one dwelling unit on the subject lot. Child care activities shall not be permitted within any structure other than the dwelling unit;

(c) No structure on the subject lot shall be constructed or altered for nonresidential use;

(d) There shall be a minimum of 35 square feet of indoor play area for every licensed child care slot. The play area shall not exceed 25% of the floor area of the dwelling unit. Indoor play areas shall not include bathrooms, kitchens, closets or storage areas, utility rooms, enclosed porches or similar spaces;

(e) There shall be a useable outdoor playground on the premises:

1. The playground shall not be located within the front yard, unless the Planning Commission specifically finds that it is the most appropriate location;

2. The minimum size of the playground shall be no less than 100 square feet for every licensed child care slot. The Planning Commission may reduce or waive this requirement if a public park is located within 500 feet of the subject lot;

3. All playgrounds shall be enclosed by a wall or fence at least four feet but no more than six feet in height and designed for child safety; and

4. The Planning Commission may require the playground to be obscured from abutting residential districts and uses by plant material.

(f) The hours of operation shall not exceed 16 hours within a 24-hour period. Activity between the hours of 10:00 p.m. and 6:00 a.m. shall be limited so that the drop-off and pick-up of children is not disruptive to neighboring residents.

(3) *Child care centers.* Child care centers shall comply with divisions (F)(2)(a) through (f) above.

(G) *Funeral homes, not including crematoriums.*

(1) Appropriate licenses with the State of Michigan shall be maintained.

(2) Road frontage and access:

(a) At least one lot line shall abut an arterial road or collector road; and

(b) All vehicular access shall be directly from an arterial road or collector road.

(3) The following setbacks shall apply to structures, excluding signs, walls and fences:

(a) All structures shall be setback at least 40 feet from any lot line abutting a residential district or use; and

(b) All structures shall be setback at least 20 feet from any lot line abutting a nonresidential district and use.

(4) Loading areas used by ambulances, hearses or other service vehicles shall be completely obscured from all surrounding properties as shown on the site plan and approved by the Planning Commission.

(5) Sufficient off-street parking and vehicle assembly area shall be provided for the purpose of conducting funeral processions. The assembly area shall be provided in addition to the requirements of §§ 152.280*et seq.* A circulation plan identifying the arrangement of the vehicle assembly area shall be provided as part of the required preliminary site plan.

(H) *Vehicle service stations, repair services and washes.*

(1) *Principal uses.* Vehicle service stations, vehicle repair services and car washes.

(2) *Prohibited uses.*

(a) Vehicle sales, including vehicle dealerships;

(b) Equipment or activity related to vehicle repair services outside of a completely enclosed building;

(c) Outdoor commercial display or storage of vehicle parts, supplies or repair equipment, except within an area defined on the site plan, approved by the Planning Commission and located no more than ten feet beyond the principal building;

(d) Storage of inoperative or unlicensed vehicles for more than 14 days. The storage shall not occur in the front yard, side yard, or road; and

(e) Storage of discarded or salvaged materials.

(3) *Lot area.* The minimum lot area shall be 17,424 square feet.

(4) *Road frontage and access.*

(a) The subject lot shall have at least 132 feet of frontage on an arterial road or collector road.

(b) All vehicular access shall be directly from an arterial road or collector road.

(5) *Driveway and parking.* All driveways and parking lots must comply with the requirements set forth in the Village Technical Standards (approach, sight distance, curb, etc.)

(6) *Setbacks.* The following setbacks shall apply to structures including fuel pumps, but excluding signs, walls and fences:

(a) *Street line:*

1. Buildings shall be setback at least 50 feet from the edge of any road right-of-way; and

2. All other structures shall be setback at least 15 feet from the edge of any road right-of-way.

(b) Structures shall be setback at least 50 feet from any lot line abutting a residential district or use.

(c) Structures shall be setback from any lot line abutting a nonresidential district and use as specified for permitted uses on the subject site.

(7) *Enclosure and screening.*

(a) If the subject lot is adjacent to a residential district or use, all commercial activity shall be completely obscured from the residential district or use by means of a continuous solid wall or fence six feet in height and a landscaped buffer area in compliance with § 152.329.

(b) Outside dumpsters shall be completely enclosed and obscured by an opaque fence or wall and gate and in compliance with § 152.262(M).

(8) *Drainage of storm water.* The entire service area shall be paved with a permanent surface of concrete or asphalt and shall be graded and drained to dispose of all storm water without negatively impacting adjacent property.

(9) *Car washes.* All vehicles waiting to enter the facility shall be provided with adequate off-street stacking spaces. No vehicle stacking area shall cross any maneuvering lane, drive, sidewalk or public right-of-way. A bypass lane or other suitable means of direct access to a public road shall be provided for vehicles that do not use the car wash.

(I) *Restaurants, taverns and nightclubs.*

(1) *Principal uses.* Standard restaurants, fast food restaurants, taverns and nightclubs.

(2) *Lot area.* The minimum lot area shall be 15,000 square feet.

(3) *Road frontage and access.* All vehicular access shall be directly from an arterial road or collector road.

(4) *Setbacks.* The following setbacks shall apply to structures, excluding signs, walls and fences:

(a) Structures shall be setback at least 15 feet from the edge of any road right-of-way;

(b) Structures shall be setback at least 50 feet from any lot line abutting a residential district or use; and

(c) Structures shall be setback from any lot line abutting a nonresidential district and use as specified for permitted uses on the subject site.

(5) *Enclosure and screening.*

(a) If the subject lot is adjacent to a residential district or use, all commercial activity shall be completely obscured from the residential district or use by means of a continuous solid wall or fence six feet in height and a landscaped buffer



area in compliance with § 152.329.

(b) Outside dumpsters shall be completely enclosed and obscured by an opaque fence or wall and gate, in compliance with § 152.262(M).

(6) *Fast food restaurants.*

(a) All patrons served in their vehicles via a drive-through facility shall be provided with adequate off-street standing spaces. No vehicle stacking areas shall cross any maneuvering lane, drive, sidewalk or public right-of-way. A bypass lane or other suitable means of access to a public road shall be provided for automobiles that do not use the drive-through facility.

(b) One illuminated menu board sign shall be allowed in addition to all other signs permitted by §§152.300*et seq.* The surface area of the menu board sign shall not exceed 32 square feet and the height shall not exceed six feet above grade.

(7) *Fast food restaurants, open front restaurants and outdoor cafés.* The Village Planning Commission may restrict outdoor loudspeakers or hours of operation to control noise.

(8) *Serving alcohol.* All restaurants, taverns and nightclubs permitted by the Planning Commission to serve alcohol shall comply in every respect with the Michigan Liquor Control Code of 1998, as amended.

(J) *Veterinary clinics.*

(1) *Lot area.* The minimum lot area shall be 15,000 square feet.

(2) *Road frontage and access.* All vehicular access shall be directly from an arterial road or collector road.

(3) *Setbacks.* The following setbacks shall apply to structures, excluding signs, walls and fences:

(a) All structures shall be setback from the edge of any road right-of-way as required by the zoning district in which they are located;

(b) All structures shall be setback at least 50 feet from any lot line abutting a residential district or use; and

(c) Structures shall be setback from any lot line abutting a nonresidential district and use as specified for permitted uses on the subject site.

(4) *Odors and sounds.* All facilities shall be completely enclosed within a building in such a manner as to produce no odor or sound at the lot line. No outdoor exercise runs, pens or kennels shall be allowed.

(K) *Commercial outdoor display.*

(1) *Principal uses.* Outdoor sale of vehicles, recreational equipment, manufactured homes, farm equipment, building supplies, contractor's yards, construction equipment, garden and/or landscape supplies and similar goods.

(2) *Accessory uses.* Car washes, vehicle service stations and minor vehicle repair may be permitted only as incidental accessory uses, and shall be conducted entirely within a completely enclosed building.

(3) *Prohibited uses.*

(a) Major vehicle repair;

(b) Storage of inoperative or unlicensed vehicles;

(c) Storage of discarded or salvaged materials; and

(d) Loudspeakers or other devices for broadcasting music and/or announcements.

(4) *Lot area.* The minimum lot area shall be 35,000 square feet.

(5) *Road frontage and access.*

(a) At least one lot line shall abut an arterial road or collector road.

(b) All vehicular access shall be directly from an arterial road or collector road.

(6) *Setbacks.* The following setbacks apply to structures, excluding signs, walls and fences:

(a) Structures shall be setback at least 50 feet from any lot line abutting a residential district or use; and

(b) Structures shall be setback from any lot line abutting a nonresidential district and use as specified for permitted uses on the subject site.

(7) *Enclosure and screening.* If the subject lot is adjacent to or across a road or alley from a residential district or use, all outdoor commercial displays shall be obscured from the residential district or use by means of a continuous solid wall or fence six feet in height and a landscaped buffer area in compliance with § 152.329.

(8) *Outdoor commercial display area.* The entire outdoor commercial display area shall be graded and drained to dispose of all storm water without negatively impacting adjacent property.

(9) *Stockpiles.* Any stockpiles of soil, fertilizer or similarly loose material shall be sufficiently covered and contained to

prevent dust, blowing or draining of the material off-site.

(L) *Supermarkets and department stores.*

- (1) *Principal uses.* Supermarkets, department stores and retail stores with more than 5,000 square feet of floor area.
- (2) *Lot size.* The minimum lot area shall be 15,000 square feet.
- (3) *Road frontage and access:*
  - (a) The subject lot shall have at least 66 feet of frontage on an arterial road or collector road; and
  - (b) All vehicular access shall be directly from an arterial road or collector road.
- (4) *Setbacks.* The following setbacks shall apply to structures, excluding signs, walls and fences:
  - (a) *Street line:*
    1. Buildings shall be setback at least 50 feet from the edge of any road right-of-way; and
    2. All other structures shall be setback at least 15 feet from the edge of any road right-of-way.
  - (b) Structures shall be setback at least 50 feet from any lot line abutting a residential district or use; and
  - (c) Structures shall be setback from any lot line abutting a nonresidential district or use as specified for permitted uses on the subject site.
- (5) *Enclosure and screening.*
  - (a) If the subject lot is adjacent to a residential district or use, all commercial activity shall be completely obscured from the residential district or use by means of a continuous solid wall or fence no less than four feet and no more than six feet in height and a landscaped buffer area in compliance with § 152.329.
  - (b) Outside dumpsters shall be completely enclosed and obscured by an opaque fence or wall and gate, in compliance with § 152.262(M).
- (6) *Parking and loading areas.* Parking and loading areas shall be paved with a permanent surface of concrete or asphalt and shall be graded and drained in accordance with the Village Technical Standards.
- (7) *Building height.* No building shall be erected or altered to a height greater than one story.

(M) *Hotels and motels.*

- (1) *Lot area.* The minimum lot area shall be one acre.
- (2) *Road frontage and access.*
  - (a) The subject lot shall have at least 66 feet of frontage on an arterial road or collector road.
  - (b) All vehicular access shall be directly from an arterial road or collector road.
- (3) *Setbacks.* The following setbacks shall apply to structures, excluding signs, walls and fences:
  - (a) *Street line:*
    1. All buildings shall be setback at least 50 feet from the edge of any road right-of-way;
    2. All other structures shall be setback at least 15 feet from the edge of any road right of-way; and
    3. Within developed neighborhoods, the Village Planning Commission may allow the front setback line to be established by at least 50% of the buildings within 300 feet of either side of the subject lot.
  - (b) Structures shall be setback at least 50 feet from any lot line abutting a residential district or use; and
  - (c) Structures shall be setback from any lot line abutting a nonresidential district and use as specified for permitted uses on the subject site.
- (4) *Enclosure and screening.*
  - (a) If the subject lot is adjacent to a residential district or use, all commercial activity shall be completely obscured from the residential district or use by means of a continuous solid wall or fence no less than four feet and no more than six feet in height and a landscaped buffer area in compliance with § 152.329.
  - (b) Outside dumpsters shall be completely enclosed and obscured by an opaque fence or wall and gate, in compliance with § 152.262(M).
- (5) *Parking and loading areas.* Parking and loading areas shall be paved with a permanent surface of concrete or asphalt and shall be graded and drained in accordance with the Village Technical Standards.

(N) *Changeable message signs.*

(1) *Purpose.* To promote traffic safety, enhance environmental aesthetics and ensure greater public participation in decisions about the placement of changeable message signs in the Village of Pinckney, changeable message signs shall comply with the requirements of §§ 152.242 and 152.300*et seq.* and the following design standards:

(a) The placement of the sign on the lot shall not impair the traffic safety of motorists or pedestrians. Compliance with this standard shall be verified by all applicable road authorities including:

1. Michigan Department of Transportation for signs visible from M-36;
2. Livingston County Road Commission for signs visible from D-19 or Dexter-Pinckney Road; and/or
3. Village Department of Public Works Director, Village Engineer or Qualified Village Agent for signs visible from all other village roads.

(b) The placement of the sign on the lot shall not be detrimental to environmental aesthetics by creating visual clutter or obstructing views of significant architectural or natural features;

(c) The message change cycle of a changeable message sign shall not be less than one minute per message, except in a combined time and temperature sign where the change cycle shall be not less than 30 seconds;

(d) The changeable message shall have no more than two lines and no more than 18 characters per line, exclusive of a combined time and temperature indication; and

(e) Flashing, blinking, moving and/or scrolling lights are prohibited.

(O) *Artificial ponds.*

(1) *Uses.* Ponds constructed on private property for the purpose of aesthetic value, recreation, wildlife habitat, irrigation and fire protection, and ponds created as a result of excavation, including mining operations but not including:

- (a) Naturally occurring wetlands;
- (b) Storm water detention or retention ponds regulated by the Livingston County Drain Commissioner; and
- (c) Swimming pools as defined in §152.267. Swimming pools are distinguished from artificial ponds because of their:
  1. Impervious manufactured liners;
  2. Source of water that is not directly dependent upon natural drainage, a watercourse or groundwater aquifer; and
  3. Complete seasonal drainage by the property owner.

(2) *Prohibited uses.* Any pond created by impounding a watercourse by means of an embankment, dam or other obstruction is prohibited.

(3) *Federal, state and county compliance.* The requirements of federal, state and county agencies that regulate floodplains, wetlands, land clearing or grading and drainage, including detention and retention ponds, supersede village special land use permit requirements. Soil erosion control during construction shall comply with Livingston County Drain Commissioner permitting requirements.

(4) *Site development standards.* Large and small artificial ponds.

- (a) The minimum lot area shall be as follows:
  1. Artificial ponds one acre or more in surface area: four acres; and
  2. Artificial ponds less than one acre in surface area: one acre.
- (b) Artificial ponds shall cover less than 25% of the lot area.
- (c) The minimum depth shall be 18 inches and the maximum depth shall be ten feet.
- (d) No excavation shall occur within 100 feet of a wetland, lake, river, stream or mapped floodplain boundary.
- (e) No excavation shall occur within 50 feet of any road right-of-way or lot line in order to ensure sublaterals support to surrounding property.
- (f) Artificial ponds shall be located to minimize the chance of pollution from septic tanks, industries and similar sources.
- (g) Location under power lines shall be avoided.
- (h) The location and design of artificial ponds shall not adversely impact existing drainage, wetlands, floodplains, lakes, rivers, streams, groundwater levels, wildlife habitat, neighboring properties or public health, safety or welfare. Evidence of compliance with this standard shall be submitted and sealed by an engineer licensed in the State of Michigan.
- (i) Erosion control during construction shall comply with the Livingston County Drain Commissioner's permitting requirements.
- (j) Permanent erosion control shall be provided for disturbed surface areas and the margins of the artificial pond as

approved by the Planning Commission.

(k) Where the artificial pond is determined by the Planning Commission to be a public hazard, it shall be completely enclosed by a fence no less than four feet and no more than six feet in height. Fences shall be adequate to allow maintenance access and prevent trespass and shall be placed no closer than 50 feet to the top or bottom of any slope.

(l) Artificial ponds shall be adequately maintained and not create a nuisance in regards to mosquitoes, stagnant algae or accumulated trash or debris.

(m) No building shall be erected on the premises except as may be a permitted use in the zoning district.

(P) *Residential open space development.* Residential open space development shall be permitted as a special land use in the Low Density Residential (R1), Medium Density Residential (R2) and High Density Residential (R3) Districts, subject to the following:

(1) The provisions of this subchapter;

(2) Residential Open-Space Development and § 152.266; and

(3) The Condominium Public Act 59 of 1978, being M.C.L.A. §§ 559.101 through 559.272, Land Division Act, Public Act 288 of 1967, being M.C.L.A. §§ 560.101 through 560.293 and Village of Pinckney Ordinance No. 31, as amended.

(Q) *Bed and breakfast establishments.*

(1) *Intent.* It is the intent of this section is to permit the operation of bed and breakfast establishments as a vehicle for preserving historical resources within the village. Historical preservation is recognized as a public purpose by statute and local ordinance as a means to safeguard local heritage, preserve cultural, social, economic, political and architectural history, to stabilize and improve property values, to foster civic beauty, to strengthen local economies and to promote the education, pleasure and welfare of the citizenry. The purpose of this section is to advance those goals by enhancing the viability of historical preservation.

(2) *Satisfactory conditions.* Bed and breakfast establishments shall be required to satisfy all of the following conditions.

(a) Each premises must be occupied and operated by its owner.

(b) The proposed use shall not cause a nuisance to adjoining residences due to noise, odor, lighting or traffic.

(c) No bed and breakfast sleeping room shall be permitted that does not comply with the Michigan Building Code.

(d) No kitchen or other food preparation area or facilities shall be provided in or available to the rooms in a bed and breakfast operation. Cooking facilities in a dwelling containing a bed and breakfast operation shall be limited to the residential kitchen.

(e) Bed and breakfast bedrooms shall be a minimum of 120 square feet for the first two occupants and an additional 30 square feet for each additional occupant.

(f) The stay of bed and breakfast occupants shall be no more than 14 consecutive days and not more than 30 days in any one calendar year.

(g) The operator of each facility shall keep a list of the names of all persons staying at the bed and breakfast, which list shall be available for inspection by the Building Inspector or village designee.

(h) One bathroom for every three sleeping rooms shall be provided, with a minimum of two bathrooms.

(i) Every bed and breakfast bedroom shall contain a functional smoke detector, and an approved fire extinguisher shall be located on each floor on which such sleeping room is located.

(j) One parking space shall be provided off-street in the side or rear yard area for each bed and breakfast bedroom. The Planning Commission may increase or decrease required parking in order to meet the purposes of this section and protect the public health and safety.

(k) Meals or other services provided on the premises shall only be available to residents, employees and overnight guests of the inn.

(l) Maximum sign size shall be five square feet with a maximum height of six feet. Sign materials are to be compatible with the architecture of the building. Signs must meet setback standards for the district in which they are located. Internal illumination is prohibited.

(m) No exterior alterations to the structure shall be made which would change the residential appearance of the structure.

(n) The applicant shall comply with any fire and life safety requirements imposed by the Livingston County Building Department according to the Building or Fire Code.

(R) *Outdoor storage lot for recreational vehicles.*

(1) *Principal use.* Outdoor storage of unoccupied recreational vehicles, as defined in §152.267, which would include boats, jet skis, snowmobiles and temporary dwellings such as motor homes.

(2) *Accessory use.* The only permitted accessory uses shall be:

(a) Village approved facilities for emptying and flushing holding tanks, filling or emptying water tanks, inflating tires, minor recreational vehicles repairs, and similar operations that could be required.

(b) Accessory retail sales limited to the tenants of items incidental to the recreational vehicles storage and could include packing materials and goods to assist in "mothballing" vehicles.

(3) *Prohibited uses.*

(a) Commercial activity other than the principal use and accessory use permitted above.

(b) Sales of bottled gas, special gasoline for stoves and lanterns, fuel oil, and similar specialized convenience goods.

(c) Storage of materials or equipment, inoperative or unlicensed recreational vehicles, and commercial activities other than what may be reasonable as an accessory use.

(d) Storage of combustible, flammable, explosive or toxic liquids or materials.

(e) Storage of unoccupied mobile homes that are designed and normally used for year-round living in a permanent location is prohibited in a recreational storage area.

(f) The outdoor storage of wrecked vehicles, junk or supplies shall be strictly prohibited.

(g) Recreational vehicles in storage shall not be connected to electricity, water, gas, or sanitary sewer services while in storage.

(h) Recreational vehicles in storage shall not be used for living or housekeeping purposes, or habitation of any kind.

(4) *Lot area.* The minimum lot area shall be two acres and the maximum lot area shall be five acres.

(5) *Road frontage and access.*

(a) At least one lot line shall abut an arterial road or collector road.

(b) All vehicular access shall be directly from an arterial road or collector road.

(c) Access to the site shall be restricted to employees, tenants and emergency response vehicles only, by means of locked gates and/or other access-control devices.

(6) *Setbacks.* The following setbacks shall apply to structures, excluding signs, walls and fences:

(a) Structures shall be setback at least 50 feet from any lot line abutting a residential district or use. Structures should comply with setbacks of the underlying zoning district when not abutting a residential district or use.

(b) Structures shall be setback at least 25 feet from any lot line abutting a nonresidential district.

(c) Recreational vehicles storage shall be setback at least 15 feet from any lot line when not abutting a residential district or use, and 50 feet from a lot line when abutting a residential district or use.

(7) *Impervious Surface Ratio.* Because of the nature of the outdoor storage lot use, the requirement for lot coverage shall be based upon a lot impervious surface ratio that takes into consideration not only buildings, but also paved areas including parking, internal roadways, and sidewalks.

(a) **IMPERVIOUS SURFACES** for the purposes of this special use shall be defined as a hard surface area that prevents or substantially impedes the natural infiltration of water into the underlying soil, resulting in an increased volume and velocity of surface water runoff. Impervious surfaces include, but are not limited to, buildings, roadways, driveways, parking, sidewalks, patios, and paved recreational facilities.

(b) The **IMPERVIOUS SURFACE RATIO (ISR)** for the purposes of this special use shall be defined as the total area of impervious surfaces divided by the net area of the lot, excluding any road right-of-way.

(c) The allowable **IMPERVIOUS SURFACE RATIO (ISR)** for the purposes of this special use shall be a maximum of 65%.

(8) *Height.*

(a) All buildings on the property must comply with the maximum height for buildings allowed in the SBD District, being 2 1/2 stories or 35 feet, whichever is less.

(b) All vehicles or units stored on the outdoor recreational vehicle storage lot must be limited to a maximum of 14 feet in height.

(9) *Enclosure and screening.*

(a) The perimeter of the site shall be completely surrounded by a wall or fence of six feet in height. The use of barbed wire or electrical fencing shall not be permitted.

(b) The wall or fence shall be setback at least 30 feet from any lot line abutting a residential district or use.

(c) The wall or fence shall be setback at least 20 feet from any street lines.

(d) The setback area between the wall or fence and street line or residential lot line shall be landscaped with appropriate plant materials.

(e) The design and materials used for the wall or fence and for landscaping within the setback area shall be approved by the Planning Commission.

(10) *Internal circulation and off-street parking.*

(a) All storage spaces/units shall be accessible via an interior drive clearly marked to distinguish vehicle direction and parking areas. All traffic aisles, whether primary or secondary, shall be no less than 31 feet.

(b) The applicant shall demonstrate that emergency response vehicles can both fully access the premises and safely circulate through the site. Sufficient area and turning radii shall be provided at the end of all storage spaces/units to accommodate emergency response vehicles.

(c) The outside storage spaces/units should be clearly marked (with striping, staking, or another approved method).

(d) Interior drives and off-street parking areas shall be paved with a permanent surface of concrete or asphalt and shall be graded and drained to dispose of all storm water without negatively impacting surrounding property.

(11) *Facility management office.* If a management office for the facility is provided, the office shall be located within the walled or fenced area required by division (R)(9) above, and calculated as part of the maximum lot coverage. Parking for the office shall not be less than one parking space for every 25 storage spaces/units on the site.

(S) *Adult use marihuana establishments.* A marihuana establishment, in compliance with the Michigan Regulation and Taxation of Marihuana Act, P.A. 2018, Initiated Law, being M.C.L.A. § 333.27951 et. seq., Chapter 113, Miscellaneous Businesses Requiring a License; Title XI, Business Regulations, of the Village of Pinckney Code of Ordinances, and the provisions of this division, shall be permitted as a special land use, in the SBD and/or RTO Districts as specified in §§ 152.045, 152.182, and 152.202. Nothing in this chapter, or in any companion regulatory provision adopted in any other provision of this code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with that Act. Also, since federal law is not affected by that Act, nothing in this chapter, or in any companion regulatory provision adopted in any other provision of this code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under federal law. The state Regulation and Taxation of Marihuana Act does not protect users, caregivers or the owners of properties on which the recreational or medical use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the federal Controlled Substances Act. The following standards shall apply:

(1) *Intent.* The purpose of this division is to regulate marihuana establishments and enforce safety, security, health, and sanitation practices related to such establishments.

(2) *Prohibited uses.* Any marihuana establishment or marihuana event not specifically listed as a permitted business or event in §§ 152.045, 152.182, and 152.202 shall be prohibited within the village.

(3) *State license.* An application for a marihuana establishment special use permit and site plan approval shall not be accepted by the village unless the applicant has received prequalification approval from the Michigan Regulatory Agency. The appropriate state license to conduct the business shall be provided to the village prior to a certificate of occupancy being issued.

(4) *Co-location and stacked licenses.* Co-location of marihuana establishments and/or licenses on one property is permitted subject to all applicable state laws, rules, and regulations concerning co-location and provided all uses are permitted within the property.

(5) *Hours of operations.* Business hours for marihuana retailers shall be no earlier than 9:00 a.m. to no later than 9:00 p.m.

(6) *Security.* All marihuana or marihuana infused products shall be contained within an enclosed, secure area. The establishment shall be open to any representative of the village to inspect and examine all premises of the establishment. A security plan shall be submitted to the village for review.

(7) *Road frontage and access.* All vehicular access for marihuana establishments located in the SBD District shall be directly from M-36/Main Street.

(8) *Separation distances.* The following separation distances from sensitive land uses shall apply to properties where the proposed marihuana establishment is to be located. Distance measurements shall be made between the closest property lines of the sensitive land use to the improved portion of the proposed land use.

(a) At least 1000 feet from a pre-existing public or private school, including preschools.

(b) At least 500 feet from a religious institution, licensed day-care facility, public parks, and trails.

(9) *Enclosure and screening.* All uses shall be completely enclosed within a building and comply with §§152.385 et seq. for landscaping and screening.



(10) *Environmental performance.* No activities or uses shall result in the emission of glare, noise, vibration, odor, dust, pollution or any other negative impact, as regulated by § 152.370 et seq. an odor control plan shall be submitted to the village for review.

(11) *Water supply and sanitary sewerage facilities.* Waste disposal and water supply and disposal for the facility shall not produce contamination or create other hazards that may negatively impact the structure and/or surrounding properties and/or sanitary sewer system.

(12) *Off-street parking and loading.* The requirements for off-street parking and loading shall comply with the provisions of § 152.280 et. seq.

(13) *Signs.* Signs may not depict or reference marihuana or marihuana-related paraphernalia and shall comply with the provisions of § 152.300 et seq.

(14) All other site development standards related to lot area, minimum lot width, yards and setbacks, lot coverage, and structure height shall comply with the zoning district in which the marihuana establishment is located.

(Ord. 37, passed 8-28-2005; Ord. 88, passed 7-13-2009; Ord. 91, passed 10-12-2009; Ord. 104, passed 5-9-2011; Ord. 134, passed 11-14-2016; Ord. 153, passed 12-14-2020; Ord. 154, passed 1-11-2021) Penalty, see § 152.999

## GENERAL PROVISIONS

### § 152.260 PURPOSE.

The purpose of this subchapter is to provide for those regulations that generally apply to all uses regardless of zoning district.

(Ord. 37, passed 8-28-2005)

### § 152.261 ROADS AND ACCESS.

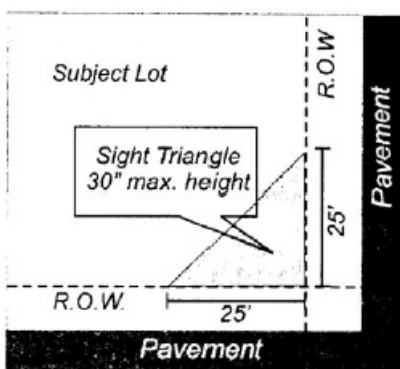
(A) *Access to a public road.* Any lot or parcel created after the effective date of this chapter shall have vehicular access to a public road, either directly or via a village approved private road.

(B) *Compliance required.* Lot frontage, vehicular access and curb cuts shall comply with applicable state and county road agency standards and the Village of Pinckney Technical Standards which supersede this chapter.

(C) *Curb cuts.* In the absence of other state, county or village regulation, the Village Technical Standards shall apply.

(D) *Street trees for landscaping adjacent to roads.* All uses requiring site plan review in accordance with §§152.385et seq. shall comply with the following: all lots shall be landscaped along the right-of- way of any road frontage.

(E) *Visibility at road intersections.* No fence, wall, sign, structure, hedge or other visual obstruction more than 30 inches in height from the finished road grade shall be permitted within the triangular area formed at the intersection of any road right-of-way lines by drawing a straight line between the road right-of-way lines at a distance along each line of 25 feet from their point of intersection. Street trees within a sight triangle shall have all branches trimmed to provide clear vision for a vertical height of nine feet above the road grade.



(Ord. 37, passed 8-28-2005; Ord. 154, passed 1-11-2021) Penalty, see §152.999

### § 152.262 SUPPLEMENTARY USE REGULATIONS.

(A) *Lot depth to width ratio.* Lot depth shall not exceed four times the lot width.

(B) *Accessory structures.* No accessory structure shall be erected or altered unless it is subservient to an existing principal building on the same lot.

(C) *Residential floor area.*

(1) *Single-family dwellings.* Each dwelling unit shall have at least 950 square feet of habitable floor area on the ground

floor, exclusive of any attached garage. Dwelling units of more than one story may have a minimum of 720 square feet of habitable floor area on the ground floor, exclusive of any attached garage.

(2) *Two-family and multiple-family dwellings.* Each dwelling unit shall have the following minimum floor area:

<b>Building</b>	<b>Square Feet</b>
Efficiency	500
1 bedroom units	600
2 bedroom units	800
3 bedroom units	1,000
Each additional bedroom	110

(D) *Temporary structures.* Temporary structures for uses associated with construction shall be removed within 30 days of completion or abandonment of work.

(E) *Relocating structures.* No structure larger than 120 square feet shall be moved on a lot or from one lot to another unless the structure is made to conform to all the provisions of this chapter. It shall be the responsibility of the person(s) requesting a land use permit and county building permit for the relocation to show that the structure will fully conform to all applicable codes and ordinances. 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, 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.

(F) *Essential public services.* Essential public services shall be permitted as authorized and regulated by law and other ordinances, it being the intention hereof to exempt the essential services from the application of this chapter.

(G) *Water supply and sanitary sewerage facilities.* After the effective date of this chapter, no structure shall be erected, altered or moved upon a lot and used in whole or in part for a residential, commercial or industrial purpose unless it shall be provided with a safe, sanitary and potable water supply and with a safe and effective means of collection, treatment and disposal of human waste and domestic, commercial and industrial waste. All the installations and facilities shall conform to the minimum requirements of the Livingston County Health Department and village ordinances and technical standards.

(H) *Swimming pools.*

(1) No swimming pool shall be constructed without a land use permit. Application for a land use permit shall include a plot plan showing the location of the swimming pool and any proposed decks, bathhouses and/or cabanas. The site plan shall also show the location, height and type of all existing and proposed fences or walls and access gates.

(2) Private swimming pools shall be permitted only in the rear yard. Setbacks from side lot lines and rear lot lines shall comply with the zoning district in which the pool will be located. No swimming pool shall be located within an easement.

(3) For the protection of the general public, swimming pool enclosure, gating and access control and overhead clearance shall comply with State of Michigan Construction Code and the International Swimming Pool and Spa Code requirements, as implemented by the Livingston County building official.

(4) On-ground and above-ground pools greater than 30 inches in height up to 48 inches must have a code approved barrier around them and meet the requirements of the Livingston County Building Department.

(5) All other on-ground and above-ground pools which are 48 inches or greater in height have alternative methods for complying with the barrier requirements as implemented by the Livingston County Building Department.

(I) *Garage, yard, rummage and estate sales.* Garage, yard, rummage and estate sales shall be considered temporary accessory uses provided the following conditions are met:

- (1) The sales activity shall not exceed four consecutive days;
- (2) No more than two sales events shall be held at the same location within a 12-month period;
- (3) The sales activity shall not create a traffic hazard or nuisance to neighboring properties;
- (4) No sales activity shall be conducted within a sidewalk or road right-of-way; and
- (5) Advertising signs shall comply with the requirements of §152.302(E)(5).

(J) *Keeping of animals.*

(1) No more than four dogs or cats six months of age or older shall be kept or housed in or at one dwelling unit, unless permitted as a commercial kennel.

(2) Livestock and poultry raising and similar uses shall not take place within the village limits unless permitted by § 90.01.

(K) *Adult foster care family homes.* State-licensed adult foster care family homes shall not be excluded by zoning from

the benefits of normal residential surroundings, shall be considered a residential use of property for the purposes of zoning, shall be a permitted use in all residential districts, including those zoned for single-family dwellings and shall not be subject to special land use permit standards, or other standards or procedures different from those required for other dwellings in the same district.

(1) At least 45 days before licensing an adult foster care family home within the Village of Pinckney, the state-licensing agency shall notify the Village Council.

(2) Upon notice by the state, the village shall notify property owners within a 1,500-foot radius of the lot upon which the facility is proposed. The cost of the required public notice shall be born by the licensee.

(3) The state shall not license a proposed adult foster care family home if another state licensed adult foster care family home exists within a 1,500-foot radius of the lot upon which the facility is proposed.

(L) *Outdoor storage and community blight.*

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

**ABANDONED VEHICLE.** Any vehicle which has remained on private property for a period of 48 continuous hours or more, without the consent of the owner or occupant of the property or a period of 48 continuous hours or more after the consent of the owner or occupant of the property has been revoked.

**BLIGHTED STRUCTURE.** Any dwelling unit, accessory structure, building or any other structure or part of a structure which, because of fire, wind or other natural or technological disaster, or physical deterioration, is no longer habitable or useful for the purpose for which it may have been intended.

**BUILDING MATERIALS.** Lumber, brick, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws or any other materials used in constructing any structure.

**CONSTRUCTION EQUIPMENT.** Forklifts, backhoes, graders, trenchers, loaders, excavating, compacting, paving and pipe laying equipment, dozers, hoists, temporary trailers, temporary toilets or any other equipment used in constructing infrastructure or structures.

**JUNK.** Parts of machines or vehicles, broken and unusable furniture, stoves, refrigerators or other appliances, remnants of wood, metal or any other cast-off material of any kind whether or not the same could be put to any reasonable use.

**JUNK VEHICLE.** Any motor vehicle or recreational vehicle that is not fully licensed for use by the State of Michigan for more than 30 consecutive days and/or is inoperable for more than 30 consecutive days whether licensed or not except operative vehicles that are kept as the stock in trade of a regularly licensed and established vehicle dealership.

**PERSON.** All natural persons, firms, co-partnerships, corporations and all associations of natural persons, incorporated or unincorporated, whether acting by their self or by a servant, agent or employee. All persons who violate any of the provisions of this chapter, whether as owner, occupant, lessee, agent, servant or employee shall, except as herein otherwise provided, be equally liable as principals.

**TRASH and RUBBISH.** Any and all forms of debris not otherwise classified herein.

(2) *Storage.* It is hereby determined that the storage or accumulation of trash, junk, junk vehicles, abandoned vehicles, building materials, construction equipment and the maintenance of blighted structures upon any private property within the Village of Pinckney tends to result in blighted and deteriorated neighborhoods, the spread of vermin and disease, the increase in nuisance complaints and therefore is contrary to the public health, safety and general welfare of the community.

(3) *Unlawful storage.* It shall be unlawful for any person to store, or to permit the storage or accumulation of trash, rubbish, junk, junk vehicles or abandoned vehicles on any private property in the village except within a completely enclosed building or upon the premises of a legally operating, licensed or approved junk dealer, junk buyer, dealer in used auto parts, dealer in second-hand goods or junk, or operator of an vehicle repair service and/or automobile wrecker business.

(4) *Unlawful maintenance.* It shall be unlawful for any person to keep or maintain any vacant or blighted structure, unless the same is kept securely locked, the windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by unauthorized persons or unless the structure is in the course of construction in accordance with a valid building permit issued by the county for the Village of Pinckney and unless the construction is completed with one year.

(5) *Accumulation of building materials and construction equipment.* It shall be unlawful for any person to store or permit the storage or accumulation of building materials or construction equipment on any private property, except in a completely enclosed building or except where the building materials and/or construction equipment are part of the stock in trade or business located on the property, or except when the materials are being used in the construction of a structure on the property in accordance with a valid building permit issued by Livingston County for the Village of Pinckney.

(6) *Unlawful storage of commercial purposes.* It shall be unlawful for any person to store any item, material or substance used for commercial purposes on a lot in the R1, R2, R3, R4 or ROB District, except in a completely enclosed building and when the materials are being lawfully used in conjunction with an approved home occupation or otherwise permitted use.

(7) *Unlawful storage of vehicles.* It shall be unlawful for any person to store more than a combined total of three licensed or unlicensed, operable recreational vehicles outdoors on a lot in a residential district, 24 hours per day for more than 30 consecutive days.

(8) *Inspection.* If upon inspection, the Building Inspector, Zoning Administrator, any village police officer, Fire Inspector, health officer, elected official or County Health Department shall find that any property within the village is being used in violation of the above sections of this chapter, the owner and/or occupant shall be notified of the violation which may be given by certified letter to the owner as he or she appears on the tax rolls of the village or by service upon the occupant personally by any official of the Village of Pinckney or the Livingston County Health Department.

(9) *Appeals.* The owner and/or occupant may appeal to the Village Council for a public hearing, which shall be held at the next regular Council meeting providing he or she files a request in writing with the Village Clerk within ten days of the receipt of the notice above specified. Following the hearing, the decision of the Village Council as to the violation shall be final.

(10) *Costs eliminated.* If the owner and/or occupant of the premises shall not cause the material in violation of this chapter, as described above, to be eliminated or removed within ten days after notice or within ten days after the decision of the Village Council is rendered in case of an appeal, the Village President shall direct some person or persons to remove and/or eliminate the same at the cost and expense of the owner and/or occupant of the premises. After causing the materials to be eliminated or removed, the Village President may obtain a judgment against the owner and/or occupant in the amount of the total expense incurred by the village which shall be a lien upon the property and the same may be collected in any manner authorized by statute and, if not paid, may be placed on the Tax Roll and collected the same as other taxes.

(M) *Screening dumpsters.*

(1) *Design.* Outside dumpsters serving a multiple-family residential or commercial use shall be:

(a) Located on concrete pads of sufficient size and construction to prevent containers from leaking directly onto the ground and to fully support the containers without cracking;

(b) Completely surrounded with a fence or wall and gate at least six feet in height, so as not to be visible from adjacent lots or roads; and

(c) The design and materials of the surrounding fence or wall and gate shall be compatible with the architectural style of the buildings on the site, as determined by the Planning Commission. Acceptable materials may include treated wood, brick and vinyl.

(2) *Landscaping.* The Planning Commission, at its discretion, may require planting around dumpsters if deemed necessary due to the proximity of public and/or conflicting uses.

(3) *Location.* Dumpsters shall be consolidated to minimize the number of collection sites. Dumpsters and enclosures shall be located:

(a) Away from public view insofar as possible, and on that side which is opposite or the maximum distance possible from adjacent residential uses; and

(b) So that they do not cause excessive nuisance or offense to the occupants of nearby buildings.

(4) *Maintenance.* Dumpsters, enclosures and the immediately surrounding area shall be continuously maintained to be fully functioning, aesthetically pleasing and free of litter and debris.

(N) *Conditional re-zoning of land.* It is recognized that there are certain instances where it would be in the best interest of the village, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be offered by property owners as part of a request for a re-zoning. It is the intent of this section to provide a process consistent with the provisions of § 405 of the Michigan Zoning Enabling Act (Public Act 110 of 2006) as amended by which an owner seeking a re-zoning may voluntarily propose conditions regarding the use and/or development of land as part of the re-zoning request. Therefore, as an alternative to a re-zoning amendment as described in § 152.460, the Village of Pinckney may allow conditional re-zoning to help ensure the proper use of land and natural resources and to allow for a more flexible approach to the re-zoning process in accordance with the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended. If a property owner submits an offer for conditional re-zoning as provided within this section, then the procedure for the proposed conditional re-zoning of land shall follow the standards and procedures as noted below.

(1) *Procedure.* The amendment procedure for a conditional re-zoning shall follow the same procedure as a traditional re-zoning amendment pursuant to § 152.460, except as modified by this section.

(2) *Application and offer of conditions.* An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a re-zoning is requested. This offer may be made either at the time the application for re-zoning is filed or may be made at a later time during the re-zoning process. In addition to the procedures as noted in § 152.460, the following procedures, standards and requirements apply to all proposed conditional re-zoning requests:

(a) A conditional re-zoning request must be voluntarily offered by the owner of land within the village. All offers must be made in writing and must provide the specific conditions to be considered by the village as part of the re-zoning request. The offer may be made either at the time the application for re-zoning is filed or may be made at a later time during the re-zoning process. All offers shall be in the form of a written agreement approved by the village and property owner,

incorporating the conditional re-zoning site plan when required below and setting forth any conditions and terms mutually agreed upon by the parties relative to the land for which the conditional re-zoning is sought.

(b) Conditional re-zoning shall not allow a use or activity that would not otherwise be allowed in the proposed zoning district.

(c) Conditional re-zoning shall not alter any of the various zoning requirements for the use(s) in question, i.e. parking, landscaping, lot area, lot width, building height, setbacks, lot area coverage and the like. Conditional re-zonings shall not grant zoning variances of any kind. Any zoning variance must follow the provisions of §§ 152.440*et seq.*

(d) The owner's offer of conditions shall bear a reasonable and rational relationship to the property and the surrounding area for which re-zoning is requested.

(e) Conditional re-zoning shall not grant, nor be considered as a grant of special land use approval. The process for review and approval of special land uses must follow the provisions of §§ 152.240*et seq.*

(f) All conditions offered by a land owner in relation to a re-zoning request must have a direct relationship to the re-zoning itself. The provisions to allow conditional re-zoning shall not be construed to allow re-zoning by exaction.

(g) In addition to the informational requirements provided for in §152.460, the applicant may be required by the village to provide a conditional re-zoning site plan prepared by a licensed professional allowed to prepare the plans under this chapter that may show the location, size, height or other measures for and/or of buildings, structures, improvements and features on, and in some cases adjacent to the property that is the subject of the conditional re-zoning of land. The details to be offered for inclusion in the conditional re-zoning site plan shall be determined by the applicant, subject to approval of the village. A conditional re-zoning site plan shall not replace the requirement under this chapter for site plan review and approval, or subdivision or site condominium approval, as the case may be.

(h) The offer of conditions may be amended during the process of re-zoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. If the amendment occurs subsequent to the Planning Commission's public hearing on the original re-zoning request, then the re-zoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

(i) An owner may withdraw all or part of his or her offer of conditions any time prior to final re-zoning action of the Village Council provided that, if the withdrawal occurs subsequent to the Planning Commission's public hearing on the original re-zoning request, then the re-zoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

(3) *Planning Commission review.* The Planning Commission, after public hearing and consideration of the factors for re-zoning set forth in § 152.461, may recommend approval, approval with recommended changes or denial of the re-zoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

(4) *Village Council review.* After receipt of the Planning Commission's recommendation, the Village Council shall deliberate upon the requested re-zoning and may approve or deny the conditional re-zoning request. The Village Council deliberation shall include, but not be limited to, a consideration of the factors for re-zoning set forth in § 152.461. Should the Village Council consider amendments to the proposed conditional re-zoning advisable and is such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the Village Council shall, in accordance with § 401 of the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended, refer the amendments to the Planning Commission for a report thereon within a time specified by the Village Council and proceed thereafter in accordance with the statute to deny or approve the conditional re-zoning with or without amendments.

(5) *Approval.*

(a) If the Village Council finds the re-zoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of this chapter adopted by the Village Council to accomplish the requested re-zoning.

(b) The Statement of Conditions shall:

1. Be in a form recordable with the Livingston County Register of Deeds and in a manner acceptable to the Village Council;

2. Contain a legal description of the land to which it pertains;

3. Contain a statement acknowledging that the statement of conditions runs with the land and is binding upon successor owners of the land;

4. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any documents are incorporated by reference, the reference shall specify the date of the document and where the document may be examined;

5. Contain a statement acknowledging that the Statement of Conditions shall be recorded by the village with the Livingston County Register of Deeds; and

6. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.

(c) Upon the re-zoning taking effect, the zoning map shall be amended to reflect the new zoning classification along with a designation that the land was re-zoned with a Statement of Conditions. The Village Clerk shall maintain a listing of all lands re-zoned with a Statement of Conditions.

(d) The approved Statement of Conditions shall be filed by the village with the Livingston County Register of Deeds. The Village Council shall have the authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the village or to any subsequent owner of the land.

(e) Upon the re-zoning taking effect, the use of the land so re-zoned shall conform thereafter to all of the requirements regulating the use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

(6) *Compliance with conditions.*

(a) Any person who establishes a development or commences a use upon land that has been re-zoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

(b) No permit or approval shall be granted under this chapter for any use or development that is contrary to an applicable Statement of Conditions.

(7) *Time period for establishing development or use.* Unless another time period is specified in the ordinance re-zoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the re-zoning took effect and thereafter proceed diligently to completion. This time limitation may, upon written request, be extended by the Village Council if:

(a) It is demonstrated to the Village Council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion; and

(b) The Village Council finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

(8) *Reversion of zoning.* If approved development and/or use of the re-zoned land does not occur within the time frame specified under division (7) above, then the land shall revert to its former zoning classification as set forth in §405 of the Michigan Zoning Enabling Act (Public Act 110 of 2006) as amended. The reversion process shall be initiated by the Village Council requesting that the Planning Commission proceed with consideration of re-zoning of the land to its former zoning classification. The procedure for considering and making this reversionary re-zoning shall thereafter be the same as applies to all other rezoning requests.

(9) *Subsequent re-zoning of land.* When land that is re-zoned with a Statement of Conditions is thereafter re-zoned to a different zoning classification, or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to division (8) above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Village Clerk shall record with the Livingston County Register of Deeds a notice that the Statement of Conditions is no longer in effect.

(10) *Amendment of conditions.*

(a) During the time period for commencement of an approved development or use specified pursuant to division (7) above or during any extension thereof granted by the Village Council, the village shall not add to or alter the conditions in the Statement of Conditions.

(b) The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original re-zoning and Statement of Conditions.

(11) *Village right to re-zone.* Nothing in the Statement of Conditions nor in the provisions of this section shall be deemed to prohibit the village from re-zoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any re-zoning shall be conducted in compliance with this chapter and the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended.

(12) *Failure to offer conditions.* The village shall not require an owner to offer conditions as a requirement for re-zoning. The lack of an offer of conditions shall not affect an owner's rights under this chapter.

(Ord. 37, passed 8-28-2005; Ord. 82, passed 5-12-2008; Ord. 154, passed 1-11-2021) Penalty, see § 152.999

**§ 152.263 SUPPLEMENTARY YARD REGULATIONS.**

(A) *Building setback.* In cases where less than the full, required road right-of-way width has been deeded or dedicated,



the building setback on any lot abutting thereon shall be measured from the required right-of-way line.

(B) *Permitted yard encroachment.*

(1) Enclosed porches shall be considered an integral part of the building to which they are attached and shall be subject to the same yard, setback and dimensional requirements.

(2) Unenclosed porches may project into any yard, provided:

- (a) The height shall not exceed one story, measured from grade to the highest point; and
- (b) The porch shall not be closer than five feet to any lot line.

(3) Decks, patios and terraces shall be exempt from yard requirements, provided:

- (a) The area is unroofed and without walls or other forms of solid continuous enclosure that connect to the principal building;
- (b) No portion shall be within the front yard;
- (c) No portion shall be closer than five feet to any side lot line or rear lot line; and
- (d) The highest finished elevation is not more than three feet above the average grade.

(4) Signs may encroach into yards but no sign or portion thereof, shall be closer than five feet to any lot line or road right-of-way.

(5) Structural elements such as cornices, sills, chimneys and gutters may project into any required yard up to a maximum of two and one-half feet.

(6) Fire escapes, outside stairways and balconies, if of open construction, may project into any required yard up to a maximum of five feet.

(C) *Walls and fences.*

(1) *Height.* Unless otherwise provided for in this chapter, walls and fences shall comply with the following:

- (a) Wall and fence height shall be measured from the average grade to the highest point not including posts;
- (b) The maximum height of a wall or fence within a front yard shall be three and one-half feet;
- (c) The maximum height of a wall or fence within a side yard or rear yard shall be six feet; and
- (d) Walls and fences on corner lots shall comply with the vision clearance requirements of §152.261(E).

(2) *Setbacks.* Fences and walls shall be permitted on any lot line except:

- (a) As required for landscaped buffer areas per §152.329(D); and
- (b) Fences and walls along a lot line that abuts a road right-of-way shall be setback at least five feet from the road right-of-way and landscaped on the road side.

(3) *Landscaped buffer area fences.* Landscaped buffer area fences shall be in compliance with §152.329.

(Ord. 37, passed 8-28-2005; Ord. 124, passed 5-12-2014) Penalty, see §152.999

**§ 152.264 SUPPLEMENTARY HEIGHT REGULATIONS.**

(A) No building or other structure shall be erected or altered to a height greater than the maximum allowed in the district in which it is located, except as permitted in divisions (B)(1) and (2) below.

(B) No ground shall be filled that will have the effect of exceeding the maximum allowed height. (See §152.267 for definitions of building height and structure height).

(1) Ornamental and mechanical appurtenances may be added to rooftops, such as: steeples, belfries, cupolas, domes, chimneys, elevator and stairwell penthouses and ventilation systems provided:

- (a) The appurtenance shall not exceed 25% of the total roof area; and
- (b) The structure shall be setback from lot lines an additional one foot for each foot above the permitted height.

(2) Principal buildings in a commercial district, provided:

- (a) The total building height shall not exceed 125% of the permitted height; and
- (b) The building shall be setback from lot lines an additional one foot for each foot above the permitted height.

(Ord. 37, passed 8-28-2005) Penalty, see §152.999

**§ 152.265 SIDEWALKS.**

(A) Any residential subdivision, site condominium, multiple-family residential development, residential open space development, shopping center or commercial or industrial planned development shall provide and maintain sidewalks in compliance with the Village of Pinckney Technical Standards, §§ 152.100*et seq.* and §§ 92.55*et seq.*

(B) The following standards shall also apply:

(1) *Sidewalks.* Sidewalks shall be required by the Planning Commission on one or both sides of the road in consideration of factors such as the density of development, age characteristics of the expected residents, and expected traffic volumes along the street, proximity to other sidewalk systems and proximity to schools, public parks and public institutions. They must be built in accordance with the Village Technical Standards.

(a) The Planning Commission may eliminate the sidewalk requirement for special situations and where another type of pedestrian trail system will be provided by the developer.

(b) Public walkways may be required in the middle of any block over 1,350 feet in length to obtain satisfactory pedestrian circulation within the subdivision, to provide access to parks or common open space, to provide links with an adjacent subdivision or to provide access to an activity center. Where the walkways are required, an easement at least ten-foot wide shall be provided.

(c) Required sidewalks may be installed along the road frontage of a residential lot following construction of the dwelling unit. Where an approved subdivision plat or site plan contains sidewalks, a certificate of occupancy shall not be issued until the required sidewalk is installed along the road frontage of that individual lot.

(2) *Construction standards.* The following construction standards apply to pedestrian facilities within a residential project:

(a) The Planning Commission may permit six-foot wide stone or wood chip paths or wooded boardwalks in common open space areas or areas with sensitive environmental features instead of paved sidewalks. The unpaved path shall provide direct access to all lots where the Planning Commission waives the requirement for paved sidewalks;

(b) Sidewalks and bike paths shall be located within the road right-of-way, or another dedicated easement where grade or other factors prevent placement within the road right-of-way; and

(c) Crosswalk pavement markings and signs may be required.

((Ord. 37, passed 8-28-2005; Ord. 139, passed 9-11-2017; Ord. 154, passed 1-11-2021)

#### **§ 152.266 CONDOMINIUM DEVELOPMENTS.**

All site condominiums shall fully comply with the State of Michigan Condominium Act, Public Act 59 of 1978, being M.C.L.A. §§ 559.101 through 559.272, as amended. Concurrent with notice to the village required pursuant to § 71 of the Condominium Act (M.C.L.A. § 559.171) a person, firm or corporation intending to develop a condominium project shall provide the following information:

(A) *Application information.*

(1) The name, address and telephone number of the following:

(a) All persons, firms or corporations having an ownership interest in the property. For the purposes of this section, **OWNERSHIP INTEREST** shall mean the titled owner(s) and land contract holder(s);

(b) All engineers, attorneys, architects or registered land surveyors associated with the project; and

(c) The developer or proprietor of the condominium project.

(2) The legal description and tax identification number(s) of the subject lot(s).

(3) The total gross site area (acreage to be dedicated as public right-of-way shall be noted).

(4) A detailed description of all proposed land uses.

(5) The approximate number of condominium units to be developed.

(6) Building elevation and floor plans where applicable.

(7) A description of the proposed water system.

(8) A description of proposed wastewater treatment system.

(9) The location of floodplains, when appropriate.

(10) 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 § 66 of the Condominium Act (M.C.L.A. § 559.166) and §§ 152.385 *et seq.*

(11) A storm water management plan, including all conduits, swales, county drains, detention basins and other related facilities.

(12) Unrecorded, draft copies of the master deed bylaws and other restrictive covenants.

(B) *Compliance required.* All the requirements of Administrative Rules 401 (R559.401) and 402 (R559.402) promulgated by the Condominium Act shall be met.

(C) *Roads.*

(1) All building sites shall have direct access to a public or private road right-of-way. All roads shall be constructed to standards approved by the Village Council.

(2) *Street layout.* Street layout shall provide for the continuation of existing major road collector streets in surrounding areas, or conform to a plan for neighborhood development approved by the Planning Commission.

(3) *Future connections.* Certain proposed streets, as designated by the Planning Commission shall be extended to the boundary line of the parcel to provide future connection with adjoining land.

(4) *Private streets.* Private streets and roads shall generally be prohibited. If private streets or roads are approved, sufficient area shall be left undeveloped along the private street or road to allow for possible future right-of-way dedication per Livingston County Road Commission Standards.

(D) *Street trees.* Trees shall be provided along both sides of all streets, public or private, and shall be uniformly spaced to create a tree lined street at the minimum rate of one tree per lot or at a maximum distance of 50 feet on center within a ten-foot planting strip immediately adjacent to the road right-of-way. Street trees shall not interfere with any overhead or underground utility lines. Consideration should be given to the mature size and height of the tree when evaluating placement and species selection.

(E) *Street lighting.* Streetlights shall be provided in all residential developments. They shall have underground wiring. Light standards shall meet the minimum specifications of the electric utility company serving that area of the proposed development.

(F) *Amendments or changes in project.* Amendments or changes in a condominium project, as described in § 67 of the Condominium Act (M.C.L.A. § 559.167), shall conform to all design standards for the zoning district where the project is located, shall be approved by the village and this requirement shall be made part of the bylaws and recorded as part of the master deed.

(G) *Delineation of condominium units.* All individual condominium units shall conform to the design standards for minimum lot width, lot area, yard and setback requirements. The units shall be approved by the Village Council, and those requirements shall be made part of the bylaws and recorded as part of the master deed.

(H) *Monumentation required.* All condominium projects that consist in whole or in part of condominium units that are building sites, manufactured home sites or common open space or recreational sites, shall be marked with monuments as provided herein. 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, 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 side lines 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 solid 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 practicable, in accordance with the final grade;

(6) All building areas shall be monumented in the field by iron or steel bars or pipes at least 18 inches long and one-half inch in diameter or other markers approved by the Village Council; and

(7) The Village Council may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one year, on the condition that the proprietor deposits with the Village Clerk cash or a certified check or irrevocable bank letter of credit running to the Village of Pinckney, whichever the proprietor selects, in an amount not less than \$25 per monument and not less than \$500 in total. The 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. 37, passed 8-28-2005; Ord. 146, passed - -2020; Ord. 154, passed 1-11-2021)

## **§ 152.267 DEFINITIONS.**

(A) *Construction of language.* For the purposes of this chapter, 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, 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, co-partnership, corporation, company, association, club, joint venture, estate, trust or any other group or combination acting as a unit, and the individuals consisting of the 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 words **SHALL, IS** or **ARE** are always mandatory, not directory; and
- (8) Any word or term not defined herein shall be used with a meaning of common or standard utilization.

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

**ACCESSORY STRUCTURE.** An attached or detached structure on the same lot as the principal building and used exclusively for an accessory use.

**ACCESSORY USE.** A use customarily incidental and subordinate to the principal use, and located on the same lot as the principal building. Residential accessory uses include common open space and residential recreation centers.

**ADULT CABARET.** An establishment where sexually explicit materials or entertainment is presented, displayed, permitted or provided to patrons, excluding minors by reason of age pursuant to state or local law.

**ADULT FOSTER CARE FACILITY.** An establishment that provides foster care to adults, including adults who are aged, mentally ill, developmentally disabled or physically disabled who require supervision and care on an on-going basis, but who do not require continuous nursing care. An **ADULT FOSTER CARE FACILITY** is further defined and regulated by the state Adult Foster Care Facility Licensing Act, Public Act 218 of 1979, being M.C.L.A. §§ 400.701 through 400.737, as amended. An **ADULT FOSTER CARE FACILITY** does not include a facility licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions or substance abuse rehabilitation facilities, a home for the aged or a nursing home as defined herein. See also definition of **FOSTER CARE**.

**ADULT FOSTER CARE CONGREGATE FACILITY.** An adult foster care facility with the approved capacity to receive and provide foster care for more than 20 adults.

**ADULT FOSTER CARE FAMILY HOME.** A private residence with the approved capacity to receive and provide foster care for six or fewer adults. The adult foster care family home licensee shall be a member of the household and an occupant of the residence.

**ADULT FOSTER CARE LARGE GROUP HOME.** An adult foster care facility with the approved capacity to receive and provide foster care for at least 13 but not more than 20 adults.

**ADULT FOSTER CARE SMALL GROUP HOME.** An adult foster care facility with the approved capacity to receive and provide foster care for 12 or fewer adults.

#### **ADULT USE MARIHUANA ESTABLISHMENTS.**

**MARIHUANA ESTABLISHMENT.** A marihuana grower facility, marihuana microbusiness, marihuana processor facility, marihuana retailer, marihuana safety compliance facility, marihuana secure transporter facility, or any other type of marihuana-related business licensed by the Marihuana Regulatory Agency.

**MARIHUANA GROWER.** A person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments (Class A , maximum of 100 plants; Class B, maximum of 500 plants; Class C, maximum of 2000 plants).

**MARIHUANA-INFUSED PRODUCT.** A topical formulation, tincture, beverage, edible substance, or similar product containing marihuana and other ingredients and that is intended for human consumption.

**MARIHUANA MICROBUSINESS.** A person licensed to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.

**MARIHUANA PROCESSOR.** A person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.

**MARIHUANA RETAILER.** A person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.

**MARIHUANA SECURE TRANSPORTER.** A person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

**MARIHUANA SAFETY COMPLIANCE FACILITY.** A person licensed to test marihuana, including certification for potency and the presence of contaminants.

**ALLEY.** A public or private right-of-way that is permanently reserved as a secondary means of access to an abutting property and is not intended for primary traffic circulation.

**AMENITIES.** A feature of real property that enhances its attractiveness and increases the occupant's or user's satisfaction, although the feature is not essential to the property's use. **AMENITIES** include a desirable location near water or scenic views, swimming pools, tennis courts, community buildings, common open space and other recreational facilities.

**ARTIFICIAL POND.** A still body of water that is smaller than a lake and larger than a pool and is not naturally occurring. This definition does not include storm water detention or retention ponds, small ornamental garden pools or swimming pools, as defined herein.

**ASSISTED LIVING.** See **ADULT FOSTER CARE, NURSING HOME** or **HOME FOR THE ELDERLY**. A comparison of these three uses is provided below:

Table 2-1

*Types Of Assisted Living Facilities*

<i>Land Use</i>	<i>Age Limitation</i>	<i>Nursing Care Provided</i>
Adult foster care	None	No
Home for the elderly	60+ years	No
Nursing home	None	Yes

**ATTIC.** The space between the underside of the roof and the uppermost ceiling of a building. For the purposes of this chapter, an attic shall be unheated and unfinished. An attic shall not be counted as a story for height measurement or be counted in floor area measurement.

**AUDITORIUM.** A large, fully enclosed space within a nonresidential building that is used for the gathering of an audience.

**BASEMENT.** An underground story having at least one-half of its height below the average level of the adjoining grade. A basement shall not be counted as a story for height measurement, or be counted in floor area measurement.

**BED AND BREAKFAST INN.** A subordinate use within a single-family dwelling, in which:

- (a) The innkeeper owns and resides in the dwelling;
- (b) No more than eight guest rooms are rented to travelers for overnight lodging; and
- (c) One meal or more is provided to overnight guests only in return for payment. The use is distinguished from a rooming house, hotel or motel as defined herein.

**BERM.** An earthen ridge, usually artificial, designed to provide visual interest, obstruct views, reduce noise and screen roads and incompatible land uses. Berms shall be fully protected from erosion with sod, seed or another form of vegetative ground cover.

**BLOCK.** An area of land bounded by roads or by a combination of roads and public parks, cemeteries, railroad rights-of-way, waterways or another barrier to the continuity of development.

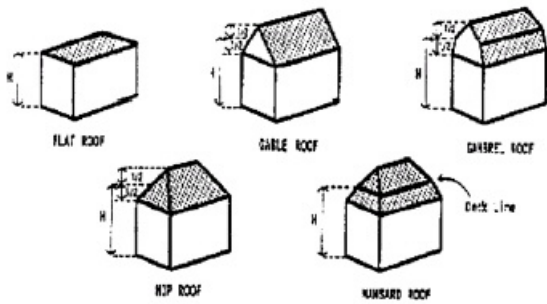
**BREAST HEIGHT.** The vertical height on the main stem of a tree at four and one-half feet above grade.

**BUILDING.** A structure, either temporary or permanent with a roof supported by columns or walls and used or built for the shelter or accommodation of persons, animals or property of any kind. This shall include tents or awnings that are situated on a lot and so used.

**BUILDING FRONTAGE.** That portion of a building that is parallel to, or nearly parallel to, a public or approved private road.

**BUILDING HEIGHT.** The vertical distance measured from the average elevation of the grade at the front of the building to the highest point of a flat or slanted roof, to the deck line of a mansard roof and to the mean height level between eaves and ridge of a gabled, hip or gambrel roof.

**Figure 2-1  
BUILDING HEIGHT**



**BUILDING LINE.** A line formed by the face of a building and extending to the lot lines. For purposes of this chapter, a minimum building line is the same as the front setback line.

**BUSINESS OFFICE.** See **OFFICE.**

**BUSINESS SUPPORT SERVICE.** A commercial establishment engaged in providing one or more services to other businesses. Typical uses include: business consulting, employment services, stenographic, secretarial and other clerical services, mailing, copying and printing, security, telephone message services and the sale, rental or repair of computers and other office equipment. Does not include parcel delivery service as defined herein.

**CAR WASH.** A structure, premises or portion thereof, used for washing and cleaning of vehicles.

**AUTOMATIC CAR WASH.** A car wash using automated equipment, such as a conveyor belt, operated by one or more attendants.

**SELF SERVICE CAR WASH.** A car wash using customer-operated equipment activated by a coin, token, card or similar means.

**CERTIFICATE OF OCCUPANCY.** A **CERTIFICATE OF OCCUPANCY** is a permit that allows a building to be occupied after its construction or improvement. It certifies that the construction conforms to the building code and is satisfactory for occupancy.

**CHILD DAY CARE.** A child care center, family day care home or group day care home, as defined and regulated by the State of Michigan Child Care Organizations Act, Public Act 116 of 1973, being M.C.L.A. §§ 722.111 through 722.128, as amended.

**CHILD CARE CENTER.** A facility other than a private residence, licensed by the State of Michigan to care for one or more children, for periods of less than 24 hours a day.

**FAMILY DAY CARE HOME.** A private residence, licensed by the State of Michigan to care for one but fewer than seven children, for periods of less than 24 hours a day.

**GROUP DAY CARE HOME.** A private residence licensed by the State of Michigan to care for more than six but not more than 12 children, less than 24 hours a day.

**COMMERCIAL.** A use that is a privately owned business, having to do with commerce or trade and concerned with making a profit.

**COMMERCIAL DISTRICT.** See **DISTRICT.**

**COMMERCIAL GARAGE.** Any garage other than a private garage or community garage available to the public, and which is used for the storage, repair, rental, greasing, washing, sales, service adjusting or equipping of automobiles or other motor vehicles.

**COMMERCIAL INDOOR RECREATION.** A fully enclosed building primarily used for commercial recreation including, but not limited to, bowling alleys, archery ranges, golf domes and ranges, tennis facilities, billiard halls and ice or roller skating rinks. For zoning purposes, **INDOOR COMMERCIAL RECREATION** does not include:

- (a) Indoor firearms target practice ranges; or
- (b) Pool tables, video games or other coin or token operated amusement devices that are strictly accessory uses to restaurants, taverns or nightclubs.

**COMMERCIAL KENNEL.** Any structure, lot or premise where three or more dogs or cats, six months of age or older, are kept for commercial purposes, including boarding, breeding or sale or the rendering of services for profit.

**COMMERCIAL OUTDOOR DISPLAY.** The use of an outdoor area for the display, sale or rental of merchandise, including building and landscaping materials, vehicles, recreational equipment, manufactured homes and farm equipment.



**COMMERCIAL OUTDOOR RECREATION.** Commercial recreation facilities within an open, partially enclosed or screened area. Typical uses include driving ranges, private and miniature golf courses, swimming pools, tennis courts, racquetball courts, ball parks, batting cages, sports arenas, racing tracks and amusement and water parks.

**COMMON OPEN SPACE.** The entire area within the boundaries of a subdivision, residential open space development or planned development permanently set aside and designed for collective use by the property owners, residents and guests of the development.

(a) Common open space shall be recognizable and usable and may include residential recreation centers, open squares and greens, neighborhood gardens and parks, pedestrian and bicycle trails, play fields, playgrounds and wildlife habitat areas.

(b) Common open space shall not include space devoted to required sidewalks, landscaped buffer areas, yards, setbacks, roads, driveways, rights-of-way, off-street parking, parking lot islands, roadside swales, retention or detention ponds, regulated wetlands or floodplains and/or utility easements.

(c) The boundaries of common open space shall be treated as lot lines in determining lot area, yards and setbacks.

(d) Common open space shall be developed, used and maintained in perpetuity in accordance with restrictive deeds, easements, covenants, conditions or restrictions that shall be recorded with the subject lot(s).

**CONDOMINIUM.** Any development undertaken under the provisions of the Michigan Condominium Act, Public Act 59 of 1978, being M.C.L.A. §§ 559.101 through 559.272, as amended and/or the Administrative Rules promulgated therein. The following other definitions shall also apply:

**BUILDING ENVELOPE.** The principal building intended for a building site, together with any accessory structures.

**BUILDING SITE.** 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 chapter.

**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 59 of 1978, being M.C.L.A. §§ 559.101 through 559.272, as amended and the Administrative Rules promulgated therein.

**CONDOMINIUM SUBDIVISION PLAN.** A document that shall be an exhibit to the master deed of the condominium project. Contents shall conform with Act 59, the Condominium Act, its promulgated rules and the provisions in this chapter.

**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.

**GENERAL COMMON ELEMENTS.** The common elements other than the limited common elements.

**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.

**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.

**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.

**SITE CONDOMINIUM PROJECT.** A condominium project with a condominium subdivision plan, planned and regulated as a subdivision. The subdivision shall be equivalent to a subdivision as used in this chapter and in the Village of Pinckney Subdivision Ordinance. The subdivision may consist entirely of single-family detached condominium units.

**CONFERENCE CENTER.** A year-round facility with staff and equipment dedicated to providing an environment that will support and facilitate meetings. Dedicated meeting rooms are separate from living, kitchen, dining and leisure areas.

**CONSTRUCTION.** Any work or operations necessary or incidental to the erection, alteration, demolition, installation, assembling or equipping of structures and/or essential public services. The term **CONSTRUCTION** shall include land clearing, grading, excavating and filling and shall also mean the finished product of any such work or operations.

**CONTRACTOR'S ESTABLISHMENT.** A structure or premises used for construction activities, including offices and storage of equipment and materials.

**CONVENIENCE STORE.** A retail store selling a relatively limited selection of small items such as prepackaged food products, beverages, general household items, tobacco products and newspapers and magazines. A convenience store does not include gasoline sales (see instead **VEHICLE SERVICE STATION**).

**CORNER LOT.** See **LOT**.

**COURT.** An outdoor open space, other than a yard, enclosed wholly or partly by buildings or circumscribed by a single building.

**CUL-DE-SAC.** A road with only one outlet and sufficient space at the closed end to provide a vehicle turning area.

**DECK.** A wooden floor usually adjoining a building, which does not have walls or roof. A wooden alternative to a concrete or masonry patio.

**DENSITY.** The number of dwelling units per acre of land.

**DEPARTMENT STORE.** A retail store with at least 5,000 square feet of floor area, wherein a wide variety of merchandise and services are displayed in separate departments.

**DETENTION POND.** Temporarily stores water before discharging into a surface-water body. Primarily used to reduce flood peaks.

**DEVELOPMENT.** The arranging and construction of land for human use, including the subdivision of land, the provision of facilities for transportation, utilities, communication and other essential public services and the placement and erection of structures.

**DISCONTINUANCE.** The failure to pursue customary operations.

**DISTRICT.** A zoning district within the Village of Pinckney as established and set forth in this chapter:

- (a) Commercial districts are: CBD, SBD and RTO;
- (b) Nonresidential districts are: PL, CBD, SBD and RTO; and
- (c) Residential districts are: R1, R2, R3, R4 and ROB.

**DRIVE-THROUGH FACILITY.** Any use that involves the delivery of a product or service directly to customers inside a vehicle, typically through a window or other appurtenance to a building.

**DUMP.** An area, either public or private, utilized for the deposit of collected materials of very low or non-existent value. Generally regarded as the terminal deposit for unwanted matter, but not including organic garbage.

**DWELLING, MULTIPLE-FAMILY.** A building designed exclusively for permanent occupancy by three or more families living independently of each other in three or more separate dwelling units.

**DWELLING, SINGLE-FAMILY.** A detached building designed exclusively for permanent occupancy by one family and containing one dwelling unit.

**DWELLING, TWO-FAMILY.** A building designed exclusively for permanent occupancy by two families living independently of each other in two separate dwelling units.

**DWELLING UNIT.** A building, or portion thereof, designed exclusively for permanent occupancy by one family, including cooking and sanitary facilities.

**ELEMENTARY, MIDDLE OR HIGH SCHOOL.** See **SCHOOL.**

**ESSENTIAL PUBLIC SERVICES.** The erection, construction, alteration or maintenance by a public utility of the various underground, surface or overhead transmission, collection, distribution or disposal systems that are necessary for the preservation of the public health, safety or general welfare, such as gas, electricity, communications, steam, fire protection, water and sewage systems. Essential public services shall include all poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and other similar equipment or accessories reasonably necessary for the furnishing of adequate service by a public utility, but it shall not be deemed to include public utility facilities or public buildings.

**EXPANSION.** An increase in size, volume, density, intensity, quantity or scope including, but not limited to, an increase in:

- (a) The floor area of an existing structure;
- (b) The lot area occupied by a specific use; or
- (c) The intensity of use.

**EXCAVATION.** Any breaking of ground except for agriculture or common and routine landscaping.

**FAMILY.** A group of two or more people related by birth, marriage or adoption and residing together in the same dwelling unit.

**FAMILY DAY CARE HOME.** See **CHILD DAY CARE.**

**FARMERS MARKET.** An establishment or premises where local farmers sell agricultural products from covered or open-air areas designated for individual retailers.

**FENCE.** A vertical and linear structure used to mark a boundary or to define and enclose a specific area for the purpose of protection, privacy or confinement.

**FILL.** The deposit of material onto the ground, to raise the surface of the land to a desired level, except for agriculture or common and routine landscaping.

**FINANCIAL INSTITUTION.** A place of business primarily engaged in the provision of financial services, such as

exchanging and lending money and guaranteeing loans. Typical uses include banks and trust companies, lending and financing institutions, holding companies, stock and bond brokers, security and commodity exchanges, savings and loan associations, credit agencies and credit unions.

**FLAG LOT.** See **LOT.**

**FLOOR AREA.** The sum of the horizontal area of all the floors of a structure, measured from the exterior faces of the exterior walls, or from the centerline of walls separating two structures or dwelling units. **FLOOR AREA** does not include:

- (a) Attics, elevator shafts or vent shafts;
- (b) Floor space used for mechanical equipment;
- (c) Open and/or unenclosed porches;
- (d) Off-street parking or loading spaces (i.e. garages or enclosed delivery bays);
- (e) Basements or floors below the ground floor, except when used or intended to be used by customers, patrons or clients, or for retail sales or commercial offices; and
- (f) For the purpose of computing off-street parking for those uses not enclosed within a building, the area used for the sale or display of merchandise and/or the area used to serve customers or patrons shall be included in the total floor area.

**FOSTER CARE.** The provision of 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.

**FRONT LOT LINE.** See **LOT LINE.**

**FRONT SETBACK LINE.** See **SETBACK.**

**FUNERAL HOME.** A building, or portion thereof, used for human funeral services. The building may contain space and facilities for:

- (a) Embalming and the performance of other services used in preparation of the dead for burial;
- (b) The performance of autopsies and other surgical procedures;
- (c) The storage of caskets, funeral urns and other related funeral supplies; and
- (d) The storage of funeral vehicles, but shall not include facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted.

**GARAGE.** An accessory structure for the storage of motor vehicles.

**GROSS SITE AREA.** The total horizontal area of land within the perimeter boundaries of a site.

**GROUND FLOOR.** That floor of a building with an elevation nearest to grade and direct access to grade, but not including any portion of a basement. In the case of a building built into a hillside or with a split level, all occupiable floors less than one story above or below grade with direct access to grade, but not including any portion of a basement.

**GROUND FLOOR AREA.** The floor area of the ground floor of a building.

**GRADE.** The height of the ground on which something (i.e. a structure) stands.

**GROUP DAY CARE HOME.** See **CHILD DAY CARE.**

**HAZARDOUS MATERIAL.** A substance or combination of substances that, because of quantity, concentration or physical, chemical or infectious characteristics, may either:

- (a) Cause or significantly contribute to an increase in mortality or an increase in serious, irreversible or incapacitating illness; or
- (b) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed.

**HAZARDOUS WASTE.** Hazardous materials that no longer have practical use, such as substances that have been discarded, spilled or contaminated or that are being stored temporarily prior to proper disposal.

**HEALTH CLUB.** A structure or open space used as an athletic or health club, gymnasium or weight control establishment, and providing facilities the activities as swimming pools, saunas, tennis, racquetball or basketball courts, running tracks or exercise and fitness rooms or areas.

**HIGHER EDUCATION INSTITUTION.** See **SCHOOL.**

**HOME FOR THE ELDERLY.** A residential facility, licensed by the State of Michigan, that provides room, board, supervision, assistance and personal care to unrelated, non-transient individuals 60 years of age or older. **HOMES FOR THE AGED** are further defined and regulated by the State of Michigan Public Health Code, Public Act 368 of 1978, being M.C.L.A. §§ 333.1101 *et seq.*, as amended and do not include **NURSING HOMES** or **ADULT FOSTER CARE FACILITIES**, as defined herein.

**HOME OCCUPATION.** A commercial occupation, business or service customarily engaged in by residents in their dwelling unit, in compliance with §§ 152.240 *et seq.*

**HOSPITAL.** A building or group of buildings having rooms for lodging patients overnight, and used for providing in-patient medical or surgical treatment of sick or injured persons. A hospital may include related facilities, such as central service facilities, laboratories, pharmacies, outpatient departments and staff offices, provided the facilities are incidental and subordinate to the main use and are an integral part of the hospital operation.

**HOTEL.** A building designed for occupancy as a 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.

**IMPROVEMENT.** Those features and actions associated with a development project that are considered necessary by the body or official granting zoning approval to protect natural resources or the public health, safety and welfare, including but not limited to: roads, lighting, utilities, sidewalks, screening, drainage and/or structures. Improvement does not include the entire development project that is the subject of zoning approval.

**INDOOR SELF-STORAGE FACILITY.** A building or group of buildings in an area surrounded by a fence or wall with controlled access that contains individual, self-contained rental units for the storage of personal and household goods. Also commonly known as a mini-warehouse or mini-storage facility. Does not include retail, wholesale or industrial warehouses or activities.

**INDUSTRY.** Extraction, production, processing, testing, cleaning, repair, storage or distribution of commodities.

**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 and/or pedestrian traffic generated;
- (b) Noise, odor, light and/or air pollution generated;
- (c) Potential for litter or debris;
- (d) Type and storage of materials connected with the use;
- (e) Total residential dwelling units and density;
- (f) Total lot coverage; and
- (g) Height of structures, including building height.

**INTERIOR LOT.** See **LOT**.

**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:

- (a) The sale of used vehicles in operable condition; and
- (b) The sale of salvaged materials incidental to manufacturing operations.

**LANDSCAPE NURSERY.** A structure and/or premises primarily used for the storage and retail sale of live trees, shrubs or plants and products used for gardening and landscaping. For the purpose of this chapter, plant nursery does not include uses limited to the temporary sale of vegetables, fruits or Christmas trees.

**LANDSCAPED BUFFER AREA.** A defined area within a lot or site, which is covered with trees, shrubs, fences, walls or berms or a combination thereof, designed to provide visual screening and/or noise reduction along public rights-of-way and in between incompatible land uses.

**LAUNDROMAT.** A commercial business that provides washing, drying and/or ironing machines or dry cleaning machines for hire to be used by customers on the premises.

**LEGAL NONCONFORMING USE.** A structure or land use lawfully existing at the time of enactment of this chapter, or amendment thereto, which does not conform to the regulations of the zoning district in which it is situated.

**LIGHT MANUFACTURING.** Manufacturing uses that include fabricating, processing, testing, assembling, packaging and manufacture of products from previously prepared materials, but not including uses involving primary production of food, wood, metal, petroleum or chemical products from raw materials. The operations shall not deal in large volumes of product handling, storage and distribution; nor shall the operations include on-site milling, forging or heavy grinding of parts or similar manufacturing operations.

**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.

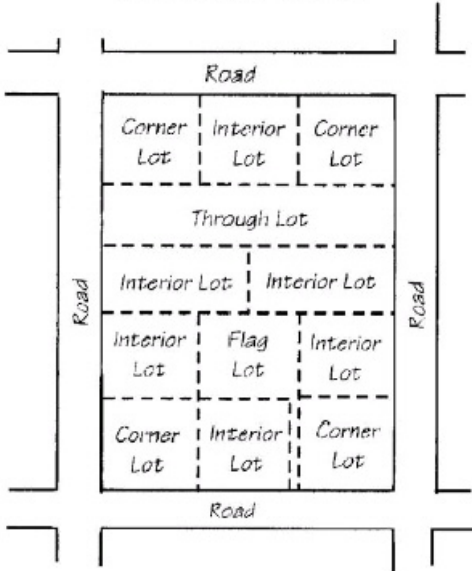
**LOADING AREA.** A facility used and/or designed for receiving cargo from or discharging cargo into a vehicle (including

trucks over 8,000 pounds).

**LOT.** An area of land described by metes and bounds on a recorded deed or shown on a recorded plat. Lots shall:

- (a) Be of at least sufficient size, excluding any portion of a road or right-of-way to meet minimum standards for use, coverage, lot area and yards as required herein; and
- (b) Have frontage on, or a permanent means of vehicle access to, a public or village approved private road.

**Figure 2-2  
TYPES OF LOTS**



**CORNER LOT.** A lot with two intersecting lot lines abutting a road along their entire length. A lot abutting a curved road shall be considered a corner lot if the tangents of the curve, at the two points where the lot lines intersect the street line, form an interior angle of not more than 135 degrees.

**FLAG LOT.** A lot possessing less than the required road frontage, served by a village approved private access easement.

**INTERIOR LOT.** A lot with frontage on one road only.

**THROUGH LOT.** A lot with frontage on two roads that do not intersect, as distinguished from a corner lot.

**LOT AREA.** The total horizontal area within the lot lines of a lot, excluding area within a public right-of-way.

**LOT COVERAGE.** That part or percent of the gross site area occupied by buildings, including accessory structures.

**LOT DEPTH.** The horizontal distance between the front lot line and rear lot line, measured along the median between the side lot lines.

**LOT LINES.** The boundary lines of a lot, further defined as follows:

(a) *Front lot line.*

1. In the case of an interior lot, that line separating the lot from the road right-of-way.
2. In the case of a corner lot or through lot, that line separating the lot from the right-of-way of the road that is providing primary vehicle access, as designated on the plat, site plan and/or land use permit application.
3. In the case of a flag lot, that lot line closest and relatively parallel to the road or private access easement providing vehicle access.

(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, lying farthest from the front lot line and wholly within the lot.

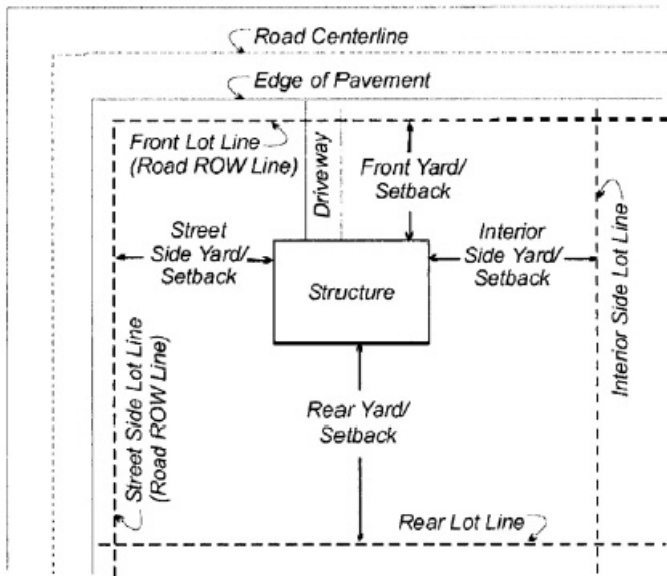
(c) *Side lot line.* Any lot line other than the front lot line or rear lot line. On a corner lot, the side lot line separating a lot from a road is a street side lot line. A side lot line separating a lot from another lot is an interior side lot line.

**LOT OF RECORD.** A lot that is described in metes and bounds on a deed or shown on a subdivision plat recorded with the County Register of Deeds at the time of adoption of this chapter.

**LOT WIDTH.** The horizontal distance between the side lot lines, measured at the two points where the side lot lines

intersect the street line upon which the lot principally fronts. For cul-de-sac lots and flag lots, the lot width may be measured at the two points where the side lot lines intersect the front setback line.

**Figure 2-3**  
**LOT LINES, YARDS & SETBACKS**



**MANUFACTURED HOME.** A structure transportable in one or more sections which is built on a chassis and designed to be used as a single-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. Does not include **RECREATIONAL VEHICLES**.

**MANUFACTURED HOME PARK.** A lot, parcel or tract of land under the control of a person upon which three or more manufactured 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 therefore, together with any buildings, structures, enclosures, street equipment or facility used or intended for use incident to the occupancy of a manufactured home and which is not intended for use as a recreational vehicle park.

**MEDICAL OR DENTAL CLINIC.** A building or portion thereof designed for and used by two or more physicians, surgeons, dentists, psychiatrists, physiotherapists, optometrists or similar practitioners, or a combination of persons in these professions, but not including facilities for major surgery or for lodging of patients overnight. A clinic may incorporate customary laboratories and pharmacies incidental or necessary to its operation or to the service of its patients.

**MEDICAL OR DENTAL OFFICE.** See **OFFICE**.

**MIXED USE.** The intermingling of land uses or activities within a single site, such as residential and commercial uses.

**MOTEL.** A commercial business comprised of a series of attached, semi-detached or detached rental units for the overnight accommodation of transient guests, each unit containing a bedroom, bathroom and closet space and with each unit having its own entrance from the parking area.

**NET SITE AREA.** The total land area within a site after the following have been deducted from the gross site area:

- (a) Road rights-of-way;
- (b) Other access, utility and facility easements;
- (c) Other easements preventing development of the ground area within their boundaries except those setting aside common open space in a residential open space development; and
- (d) Areas that are unbuildable due to environmental constraints such as steep slopes and MDEQ regulated wetlands.

**NIGHTCLUB.** An establishment properly licensed to serve alcohol and where live entertainment is provided including, but not limited to dance, comedy, theater or music performances. Does not include an adult cabaret, as defined herein.

**NONCONFORMING LOT.** A lot that does not conform to the dimensional requirements of the zoning district in which it is located, but which was a legally established lot of record prior to the effective date of this chapter or its amendment.

**NONCONFORMING STRUCTURE.** A structure that does not meet the yard, setback, lot coverage, height or other dimensional requirements of the zoning district in which it is located, but which was legally established prior to the effective date of this chapter or its amendment.



**NONCONFORMING USE.** Any use of a lot or structure that is not allowed within the zoning district in which it is located, but which was legally established prior to the effective date of this chapter or its amendment.

**NONPROFIT ORGANIZATION OFFICE.** See **OFFICE.**

**NURSING HOME.** A home, whether operated for profit or not, for the care of the aged, infirm or physically disabled, wherein two or more persons are provided shelter, food and medical treatment as prescribed by a physician. **NURSING HOMES** are further defined and regulated by the Public Health Code (Public Act 368 of 1978, being M.C.L.A. §§ 333.1101 *et seq.*, as amended). A **NURSING HOME** does not include a **HOME FOR THE AGED** or **ADULT FOSTER CARE FACILITY**, as defined herein.

**OFF-STREET PARKING.** A defined area that is not in a road right-of-way, designed and used for the temporary parking of licensed (registered) and operable vehicles.

**OFFICE.** A room, suite of rooms or building in which are located desks, chairs, tables, couches, bookcases (accounting, filing, recording, communication and/or stenographic) equipment for current use in the office business and personnel engaged in executive, administrative, professional, political, informative, research and/or clerical duties.

**BUSINESS OFFICE.** Offices of corporate, administrative, auditing, accounting and clerical occupations, real estate, insurance and travel agents and similar occupations.

**MEDICAL OR DENTAL OFFICE.** An office designed for and used by one physician, surgeon, dentist, psychiatrist, physiotherapist, optometrist or similar practitioner that does not include facilities for major surgery or for lodging patients overnight. Does not include medical or dental clinics or hospitals as defined herein.

**PROFESSIONAL OFFICE.** Offices of attorneys-at-law, land surveyors, architects, engineers, certified public accountants, publishers and similar professionals.

**NON-PROFIT ORGANIZATION OFFICE.** Offices of tax exempt non-profit organizations, such as professional membership organizations, labor unions, civic, social and fraternal associations and political, religious and philanthropic organizations. Does not include a public building or religious institution as defined herein.

**OFFICE DISTRICT.** See **DISTRICT.**

**OPAQUE.** Impervious to sight. This shall 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.

**ORDINARY HIGH WATER MARK.** The line on the shore of a surface water body established by the regularly occurring fluctuations of water, and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris or other appropriate means that consider the characteristics of the surrounding area.

**OUTBUILDING.** A structure, not a residence, larger than 200 square feet, taller than ten feet, but less than 21 feet in height.

**PARCEL.** A continuous area of land that has not been divided or subdivided according to the provisions of the Land Division Act, Public Act 288 of 1967, as amended, M.C.L.A. §§ 560.101 *et seq.*

**PARCEL DELIVERY SERVICE.** A private commercial establishment that provides the delivery of letters and packages, including retail sale of stamps and packaging materials, distribution, storage and transfer of packages and fleet storage and maintenance.

**PARKING.** The temporary storage of registered, licensed and operative motor vehicles.

**PARKING SPACE.** An off-street space exclusive of necessary driveways, aisles or maneuvering areas suitable to accommodate one motor vehicle and having direct unobstructed access to a road or alley.

**PATIO.** A concrete, brick or masonry floor usually adjoining a building, which is not elevated above the ground surface and does not have walls or a roof.

**PERMITTED USE.** A principal use and/or accessory use for which the zoning district in which it is located has been established. Does not include a special land use as defined, herein.

**PERSONAL SERVICE.** An establishment primarily engaged in providing frequent or recurring services of a personal nature. Typical uses include barber and beauty shops, custom tailoring shops, minor repair shops (i.e., shoes, watches and small appliances) and similar personal services. Does not include laundromats, dry cleaners or personal improvement schools.

**PERSONAL IMPROVEMENT SCHOOL.** A commercial establishment primarily engaged in conducting personal improvement classes of a nonprofessional nature. Typical uses include art and music schools, driving and computer instruction, dance studios, hobby instruction and martial arts training. Does not include personal services, elementary, middle or high schools, vocational schools or institutes of higher education.

**PLANNING COMMISSION.** The Village of Pinckney Planning Commission.

**PLANNED DEVELOPMENT.** A unified development of land under single ownership or control, that includes one or more principal buildings where the requirements of a given zoning district may be modified by approval of an overall development plan. A planned development may be developed in a single operation or phased series of stages and may include common open space, structures, roads, circulation ways, utilities and other site features and improvements.

**PLAY FIELD.** An area of open space used for active recreation such as baseball, football and soccer fields, tennis and basketball courts and ice rinks.

**PLAYGROUND.** An area of open space used for children's recreation and designed to accommodate recreational equipment such as play structures, swings, slides and monkey bars.

**PLOT PLAN.** A site plan containing the information required in §152.389(D)(1) through (D)(15), submitted for review and approval by the Zoning Administrator as part of a land use permit, in accordance with § 152.386.

**PORCH.** A structure attached to the exterior of a building often forming a covered entrance with steps and a separate roof.

**ENCLOSED PORCH.** A porch that is enclosed on all four sides, usually with screens and/or windows.

**UNENCLOSED PORCH.** A porch that is open on one or more sides.

**PRINCIPAL BUILDING.** The building occupied by or designed for the principal use.

**PRINCIPAL USE.** The predominant use to which the premises are devoted.

**PRIVATE CLUB.** Buildings and facilities owned or operated by a corporation, association or person for a common social, educational or recreational purpose, but not primarily to render a service that is normally carried on as a commercial business. A private club is usually characterized by certain membership qualifications, payment of fees and dues, regular meetings and a constitution and bylaws.

**PRODUCE STAND.** A booth, stall or other partially enclosed structure where seasonal produce is sold to the general public.

**PROFESSIONAL OFFICE.** See **OFFICE.**

**PROPERTY.** Real estate.

**PUBLIC BUILDING.** Publicly owned and operated buildings, such as government offices, post offices, police stations, fire stations, libraries, museums, indoor public recreation facilities. Does not include public utility facilities or elementary, middle and high schools.

**PUBLIC PARK.** Any lot or tract of land owned and operated by a public agency and used for outdoor active or passive recreation, including open space, plazas, playgrounds and play fields. Does not include public swimming pools, golf courses or indoor recreation facilities. (The latter is included in the definition of **PUBLIC BUILDING**, above.)

**PUBLIC UTILITY.** A private company regulated by the state public service commission, Municipal Department or Commission, with an exclusive franchise for providing an essential public service, for example, electrical, gas, steam, communication, transportation, sewer or water service.

**PUBLIC UTILITY FACILITY.** Public utility buildings, telephone exchange buildings, electrical transformer stations and substations and gas regulator stations, water supply and sewage disposal plants, water and gas tanks, railroad transfer and storage tracks and railroad rights-of-way. This use does not include freight terminals or commercial radio, television and other transmitting or relay stations.

**RECREATIONAL EQUIPMENT.** One or more of the following stored on a site for the purpose of commercial outdoor display: tents, campers, boats, personal watercraft, floats, surfboards and rafts, off-road vehicles, trailers and recreational vehicles.

**RECREATIONAL VEHICLE.** A motor driven vehicle used for recreational travel purposes, including:

(a) Boats, jet-skis, snowmobiles and other motorized off-road vehicles; and

(b) Temporary dwellings such as motor homes, buses, fifth wheels, trailers and truck caps. For the purpose of this definition, **TEMPORARY DWELLING** shall mean designed to sleep and cook in on a temporary, short-term basis.

**RELIGIOUS INSTITUTION.** A building, or group of buildings, controlled by a tax-exempt religious organization wherein people regularly assemble for religious worship, meetings, instruction and related activities. A religious institution does not include a chapel within a funeral home as defined herein.

**RESIDENCE.** A dwelling unit that is used for human habitation other than on a transient basis.

**RESIDENTIAL DISTRICT.** See **DISTRICT.**

**RESIDENTIAL OPEN SPACE DEVELOPMENT.** One or more lots developed as a single entity with residential uses clustered on no more than 70% of the net site area with the remaining net site area permanently dedicated as common open space.

**RESIDENTIAL RECREATION CENTER.** A privately owned recreational facility for use by the owners, residents and

guests of a particular residential development, religious institution, private school or private club, including both indoor and outdoor facilities such as club houses, gyms, swimming pools, tennis courts, play fields and playgrounds.

**RESTAURANT.** Any use that includes the sale of food and/or beverages to customers in a ready-to-consume state. The method of operation may be characteristic of a carry-out restaurant, drive-in restaurant, fast food restaurant, standard restaurant or tavern or combination thereof, as defined below:

**RESTAURANT, CARRY-OUT.** A restaurant without a drive-through window, whose principal business is the sale of prepared food in disposable packaging for consumption off the premises.

**RESTAURANT, DRIVE-IN.** A restaurant whose principal business is the sale of prepared food for consumption in a vehicle on the premises and outside of an enclosed building.

**RESTAURANT, FAST FOOD.** A restaurant whose principal business is the sale of prepared food in disposable packaging for consumption off the premises, or on the premises within an enclosed building. Orders are taken at a drive-through window or walk-up counter and payment is made prior to consumption.

**RESTAURANT, STANDARD.** A restaurant whose principal business is the delivery of prepared food to customers seated at tables or in a cafeteria line, and its subsequent consumption by customers at tables within a completely enclosed building or designated outdoor seating area. Food and beverages are usually served in or on non-disposable tableware. Carry-out orders are provided only on an incidental basis. Drive-through service is not provided and food is not served to customers within in a vehicle. This definition includes **BANQUET FACILITIES**.

**RETAIL FOOD STORE.** A store or market that sells primarily groceries, baked goods, produce, dairy products, meats and similar food products in small quantities directly to the consumer for consumption off the premises. Does not include **RESTAURANTS**.

**RETAIL STORE.** A store that sells small quantities of merchandise directly to the consumer, including stores selling clothing, jewelry, antiques, furniture, hardware, electronics, gifts, books, records, flowers, household goods, office and art supplies and similar items.

**RETENTION POND.** A stormwater management practice that captures stormwater runoff and does not discharge directly to a surface water body. The water is "discharged" by infiltration or evaporation.

**RIGHT-OF-WAY.** A permanent easement established for the passage of persons or vehicles, or for the location of utilities, delineated by legally established lines or boundaries.

**ROAD.** A public or private right-of-way that accommodates vehicular traffic and provides vehicular access to abutting properties, including thoroughfares, avenues, highways, boulevards, courts, lanes and drives, but not including alleys or driveways to buildings.

**ARTERIAL ROAD.** A road designed primarily to accommodate high volume, through traffic between cities, villages and other major traffic generators. On-street parking is seldom allowed and driveway connections are severely restricted. Examples include Main Street (M-36), Pearl Street (D-19) and Dexter-Pinckney Road.

**COLLECTOR ROAD.** A road designed primarily to provide direct access between local roads and arterial roads. Examples include Hamburg, Unadilla, Putnam and Howell Streets and Mower and Patterson Lake Roads.

**LOCAL ROAD.** A road designed primarily to provide direct access to adjacent property. Local roads rarely serve through traffic. On-street parking is often allowed and there are relatively few restrictions on driveway connections.

**ROAD FRONTAGE.** The legal line of demarcation between a lot or parcel and a road right-of-way or easement.

**ROOF LINE.** The top edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.

**ROOM.** For the purpose of determining minimum lot area and maximum density in a multiple-family district, a living room, dining room, bedroom, den, library, studio, sunroom or other room equal to at least 80 square feet in area. A room shall not include the area in a kitchen, bathroom, utility room, corridor, hallway, closet, attic or basement.

**ROOMING HOUSE.** A building containing at least three and no more than ten rooms without cooking facilities, which are rented as sleeping and living quarters, and where meals may or may not be furnished to renters. Rooms with private cooking facilities shall be considered separate dwelling units. Does not include a **BED AND BREAKFAST INN, HOTEL** or **MOTEL** as defined herein.

**SCHOOL.** A public or private institution funded, chartered or recognized by the State of Michigan and providing instruction to students pursuant to state law concerning compulsory education.

**ELEMENTARY, MIDDLE OR HIGH SCHOOL.** Any building or group of buildings or premises approved by the State of Michigan for public or private elementary or secondary instruction.

**HIGHER EDUCATION INSTITUTION.** A public or private college, university or other institution of higher education accredited by the State of Michigan and offering undergraduate or graduate degrees.

**SETBACK.** The minimum required horizontal distance between a structure and the adjoining lot lines and street line(s).

**FRONT SETBACK LINE.** The minimum required horizontal distance between any structure and the front lot line.

**SHED.** A structure smaller than 200 square foot and less than ten feet in height.

**SHOPPING CENTER.** A group of three or more retail stores on a site developed in accordance with an overall planned development, designed, built and managed as a single, integrated project with common off-street parking areas provided on the site.

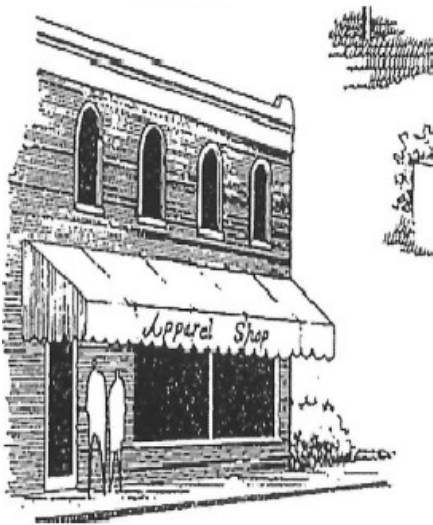
**SIDE.** That edge of a lot not designated as front or rear.

**SIGN.** Any object, device, display or structure, or part thereof, situated outdoors or indoors, that is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location or otherwise convey information in written or pictorial form. **SIGNS** are further defined as follows:

**BANNER SIGN.** Any sign for advertising purposes, composed of fabric, plastic, or other non-rigid material without enclosing framework.

**BILLBOARD.** A sign regulated as a billboard by the Highway Advertising Act of 1972, as amended.

**CANOPY SIGN.** A sign displayed and affixed flat on the surface of a canopy and does not extend vertically or horizontally beyond the limits of the canopy.



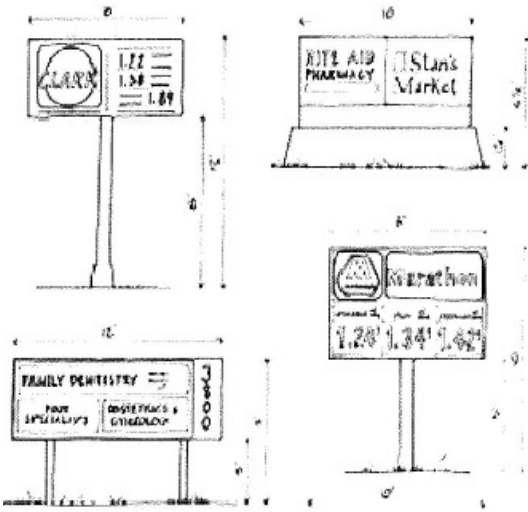
**CHANGEABLE MESSAGE SIGN.** A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the structural integrity of the sign. A sign on which the only copy that changes is an electronic or mechanical indication of time, temperature shall be considered a "time, temperature" portion of a sign and not a changeable copy sign for purposes of this chapter.

**DIGITAL/ELECTRONIC SIGN.** A sign that uses changing lights or other electronic media to form a sign message wherein the sequence of messages and the rate of change is electronically programmed and can be modified by an electronic process.

**DIRECTIONAL SIGN.** A sign directing and guiding vehicular or pedestrian traffic or parking but bearing no advertising matter.

**FREE STANDING SIGN.** A sign not attached to any building, and self-supported by poles, pylons, braces or other structural supports mounted in the ground.

**GROUND SIGN.** A sign supported by one or more upright brace or braces of reasonable size necessary to support such sign, permanently mounted in or upon the ground and in no way attached to a building structure.



**IDENTIFICATION SIGN.** A sign that only conveys the name of a person or business, or the address or name of a building, or a combination thereof, in order to identify the location of uses on the premises and not to advertise.

**MARQUEE SIGN.** A sign attached to or erected on a marquee, canopy or awning which projects from and is supported by a building.

**MENUBOARD.** A freestanding sign for restaurant establishments to display their menu items and prices in compliance with § 152.305(C) of this chapter.

**MURAL.** A design or representation painted or drawn on the wall of a building, which does not advertise an establishment, product, service, or activity.

**OFF-SITE DIRECTIONAL SIGN.** A sign that guides and directs traffic to a specified destination on another site in the most direct manner possible.

**PLACARD.** A sign not exceeding two square feet in area, which provides notices of a public nature, such as "No Trespassing," "No Hunting," "Closed," or "Open."

**POLITICAL SIGN.** A temporary sign used in connection with an official local government, school district, county, state, or federal election or referendum.

**PORTABLE SIGN.** Any sign not permanently attached to the ground or a building.

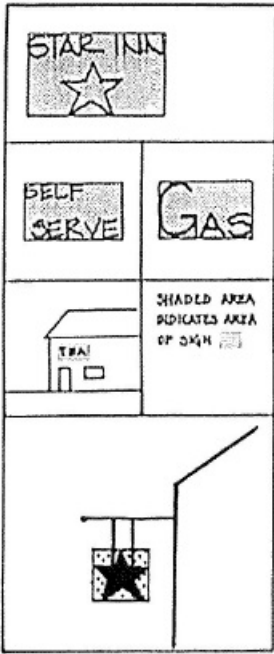
**PROJECTING SIGN.** A sign which is supported by a wall, roof, or building and which projects from the building at some angle greater than 20° degrees thereto.

**READER BOARD.** A portion of a sign on which text is periodically changed manually by removing and inserting prefabricated letters and numbers.

**ROOF SIGN.** A sign attached to or supported by the roof of a building, which extends above the immediately adjacent roof line of the building, or a sign that is wholly or partially above the roof line of a building.



**SIGN MESSAGE AREA.** A sign message area is the area, computed in square feet, within which the letters, figures, numbers, or symbols are contained. The area is determined by measuring the height of the extreme perimeters of all letters, figures, numbers, or symbols, by the width of the same. The area of all changeable copy signs shall be determined by measuring the total area within which the copy can be altered.



**SIGN STRUCTURE.** That part of the sign which structurally supports the sign message area whether integrated into the message area through the use of the same materials or through the use of complementing but different materials.

**SIGN SURFACE.** That part of the sign upon, against, or through which the message is displayed or illustrated.

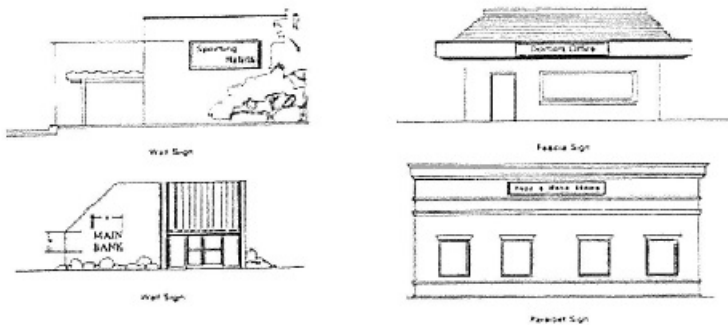
**SPECIAL EVENT SIGN.** Temporary signs containing public messages concerning special events sponsored by governmental agencies or non-profit organizations, such as fairs, festivals, art and craft shows, and charitable events.

**SUSPENDED SIGN.** A sign that is suspended or hung from the underside of an eave, porch roof, or awning.

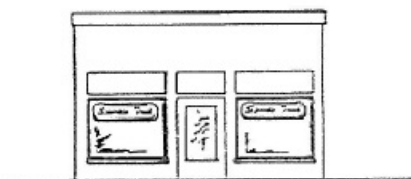
**TEMPORARY SIGN.** A single or double surface painted or poster panel type sign or some variation thereof, which is temporary in nature, easily movable, and not permanently attached to the ground or a building.



**WALL SIGN.** Any sign that shall be affixed parallel to the wall or printed or painted on the wall of any building; provided, however, said wall sign shall not project above the top of the wall or beyond the end of the building. For the purpose of this chapter, any sign display surface that is affixed flat against the sloping surface of a mansard roof shall be considered a wall sign.



**WINDOW SIGN.** A sign installed inside a window and intended to be viewed from the outside.



**SITE.** Any lot, parcel or tract of land, or combination of contiguous lots, parcels or tracts of land that are under one ownership or more than one ownership, where development is part of a single unified project and site plan.

**SITE PLAN.** The documents and drawings specified herein as being necessary to ensure that a proposed land use is in

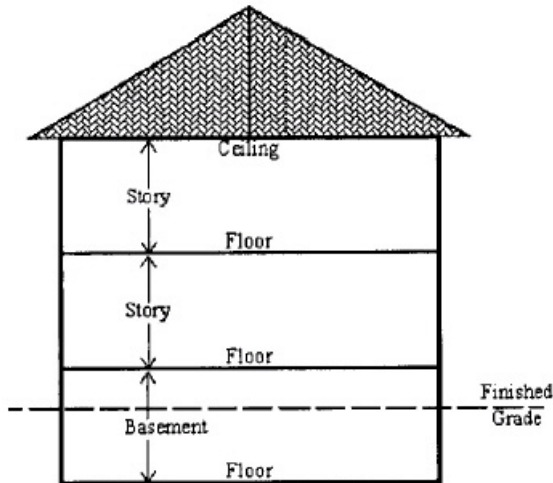


compliance with this chapter.

**SPECIAL LAND USE.** A use that is permitted in a district only after it is reviewed and approved by the Village Planning Commission.

**STORY.** That part of a building between the surface of a floor and the surface of the next floor above it, or if there is no floor above it, then the space between the surface of the floor and the roof. The term **STORY** does not include an attic or basement (see Figure 2-3 below).

**Figure 2-3  
STORY DEFINITION**



**STORY, HALF.** An uppermost story lying under a sloping roof with a minimum floor area of 200 square feet and clear height of at least seven feet six inches. For the purpose of this chapter, the floor area is only that area having at least four feet clear height between floor and ceiling.

**STREET.** For the purposes of this chapter, a **STREET** shall be the same as a **ROAD**.

**STREET LINE.** The dividing line between a lot and road right-of-way.

**STRUCTURAL ALTERATION.** Any change in the supporting structure of a building such as bearing walls, columns, girders or beams, or any substantial changes in the roof and/or exterior walls.

**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.

**STRUCTURE HEIGHT.** For all structures other than buildings, **STRUCTURE HEIGHT** shall mean the vertical distance measured from the highest point of the structure to the lowest point of the average finished grade immediately below and adjacent to the structure. (See separate definition of **BUILDING HEIGHT**)

**SUPERMARKET.** A conventional retail grocery store selling a wide variety of meat, dairy, produce and other food products and some household merchandise. May include a pharmacy as an accessory use. Does not include warehouse clubs.

**SWIMMING POOL.** Any structure intended for swimming or recreational bathing that contains water of 24 inches deep. This includes in-ground, above-ground, and on-ground swimming pools, hot tubs and spas located on a lot as a n accessory use to a residential or recreational use.

**TAVERN.** An establishment operated primarily for the dispensing of alcoholic beverages. Live entertainment and the sale of prepared food to customers may be incidental and subordinate uses. If the alcoholic beverage service area is incidental and subordinate to a larger theater or restaurant, represents less than 50% of the gross leasable area (GLA), the **TAVERN** shall be defined as that part of the structure so designated on an approved site plan. The remainder of the structure shall be considered the theater or restaurant under these regulations.

**THEATER.** An enclosed building used principally for presenting motion pictures or live performances including, but not limited to, dance, comic, theatrical or musical performances with or without the consumption of food or beverages on the premises. Does not include an adult cabaret as defined herein.

**TRACT.** Two or more contiguous lots or parcels in the same ownership.

**USE.** For the purposes of this chapter, **USE** means:

(a) The purpose for which land or structures 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.

**VARIANCE.** A modification in the literal provisions of this chapter granted by the Zoning 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.

**VEHICLE.** A passenger automobile, motorcycle, motor home, van or truck with a gross vehicle weight of less than 8,000 pounds and defined as a motor vehicle by the Motor Vehicle Code.

**VEHICLE CIRCULATION AREA.** Space provided within a lot or site for vehicle maneuvering including drives, aisles and traffic lanes but excluding parking spaces, sidewalks and public rights-of-way.

**VEHICLE DEALERSHIP.** A structure or premises used primarily for the sale of new and/or used vehicles, including incidental storage, maintenance and servicing.

**VEHICLE REPAIR SERVICE.** A structure or premises used primarily for the repair of vehicles, noncommercial trucks, motorcycles and recreational vehicles, including the sale, installation and servicing of equipment and parts. Typical uses include both major vehicle repair and minor vehicle repair.

**MAJOR VEHICLE REPAIR.** Vehicle repair, rebuilding or reconditioning such as work on the engine block, head and internal parts, engine replacement, work on the transmission case and internal parts, transmission replacement, work on torque converters or drive trains, collision service including body frame or fender repair, painting, steam cleaning and similar activities.

**MINOR VEHICLE REPAIR.** Vehicle service and repair such as engine tune-up, lubrication, alternator, battery, radiator, belt, hose, tire, muffler and exhaust system repair or replacement, rust proofing and wheel balancing and alignment. Does not include any use specified in the definition of **MAJOR VEHICLE REPAIR**.

**VEHICLE SERVICE STATION.** Any structure or premises used for the retail sale of vehicle fuels, oils and accessories (such as tires, batteries, brakes and shock absorbers). May include the retail sale of small convenience goods such as newspapers, magazines, tobacco products and prepackaged food and beverages. May also include minor vehicle repair conducted entirely within a completely enclosed building as an incidental accessory use, but shall not include **MAJOR VEHICLE REPAIR**.

**VEHICLE WASH.** See **CAR WASH**.

**VETERINARY CLINIC.** A place for the medical care, diagnosis and treatment of sick or injured animals, including those in need of surgery. A veterinary clinic may include customary pens or cages, which are permitted only within the wall of the clinic structure.

**VOCATIONAL SCHOOL.** An establishment, for profit or not, offering regularly scheduled instruction in technical, commercial or trade skills including, but not limited to business, office, real estate, building and construction trades, electronics, computer programming and technology, automotive and aircraft mechanics and similar types of instruction.

**WALL.** A vertical and linear structure used to mark a boundary, or to define and enclose a specific area for the purpose of protection, privacy or confinement. A wall is generally distinguished from a fence by the solidity of construction, being usually made from solid brick or concrete. This definition does not include retaining walls constructed for the purpose of holding back and supporting a mass of earth.

**WAREHOUSE.** A building wherein goods, merchandise and materials are stored for subsequent sale, distribution or use off-site.

**WHOLESALE AND WAREHOUSING, LIMITED.** The small-scale storage and sale of goods to other businesses for resale, excluding indoor self-storage facilities, major distribution centers, motor freight terminals, moving and storage firms and similar high volume, high-turnover facilities. Limited wholesale and warehousing facilities shall be under 50,000 square feet in area and operate only during normal business hours.

**WIRELESS TELECOMMUNICATIONS FACILITY.** An unmanned structure consisting of antennas, antenna support structures or other equipment used to provide wireless services as set forth in § 704 of the Telecommunications Act of 1996.

**YARD.** A space on the same lot with a structure, open to the sky, unoccupied and unobstructed, except for specifically permitted uses or encroachments. The measurement of a yard shall be the horizontal distance between a lot line and structure. (See Figure 2-2)

**FRONT YARD.** A yard extending across the full lot width, from the front lot line to the nearest part of the principal building or structure.

**INTERIOR SIDE YARD.** A side yard separating a lot from another lot.

**REAR YARD.** A yard extending across the full lot width from the rear lot line to the nearest part of the principal building or structure.

**SIDE YARD.** A yard extending from the front yard to the rear yard between the side lot line and the nearest part of the principal building or structure.

**STREET SIDE YARD.** A side yard separating a lot from a road.

(Ord. 37, passed 8-28-2005; Ord. 82, passed 5-12-2008; Ord. 98, passed 3-28-2011; Am. Ord. 107, passed 12-12-2011; Ord. 153, passed 12-14-2020; Ord. 154, passed 1-11-2021)

#### **§ 152.268 TRANSIENT AND SEASONAL SALES.**

The sale of seasonal items, examples of which are Christmas trees, flowers and plants, pumpkins, and fruit and beverages, by persons other than the owner or occupant of the premises, shall be permitted on properties located in the Central Business District (CBD), Secondary Business District (SBD), or Public Lands District (PL) that have frontage on Main Street (M-36). Farmers market and other uses related to special events are permitted on public property as approved by the Village Council. Such uses will be subject to the following standards and conditions:

(A) Transient or seasonal sales may be located within any required setback as long as a five foot pedestrian access is maintained, but shall not be located within any public road right-of-way or sidewalk.

(B) Transient or seasonal sales shall not occupy or obstruct the use of any fire lane, required off-street parking or landscape area required to meet requirements of this zoning code, or create a traffic or safety hazard.

(C) Transient or seasonal sales shall be conducted in a manner so as not to create a public nuisance to neighboring properties. Adequate on-site parking together with proper ingress and egress to the site shall be provided.

(D) Transient and seasonal sales shall be allowed only upon a zoning compliance permit issued by the Village Zoning Administrator. To secure a permit, an application for a permit shall be submitted which shall include the following:

- (1) Name, address and phone number of the merchant who will conduct the transient and/or seasonal sale;
- (2) Written approval for such sales by the legal owner of the property affected;
- (3) A plot plan depicting the layout of the area where sales will be conducted, as necessary to determine compliance with this section;
- (4) Health department approval, where applicable;
- (5) A permit fee as established by the Village Council;
- (6) Permit may be revoked by the village if the use becomes a nuisance or fails to comply with the provisions of this section.

(E) Signage for transient or seasonal sales shall be limited to one portable non-illuminated free standing sign with a maximum size of nine square feet per side and a height limitation of four feet six inches.

(F) The permit issued under this section for transient and/or seasonal sales shall be valid for a maximum period of five days from the date of issuance or a period determined by the Village Zoning Administrator. At the end of the permit period, any and all temporary structures shall be removed.

(Ord. 118, passed 6-10-2013)

### **OFF-STREET PARKING AND LOADING**

#### **§ 152.280 PURPOSE.**

(A) The purpose of this subchapter is to establish standards for off-street parking and loading that result in safe, adequate and efficient vehicle parking and delivery throughout the village.

(B) It is recognized that, due to the specific site conditions and requirements of any given development, inflexible application of these standards may result in development with too much or too little parking or loading space.

(C) Too much parking will result in wasted space, community blight and increased storm water runoff, flooding and water pollution.

(D) Too little parking may lead to traffic congestion or unauthorized parking on adjacent streets or property.

(E) Flexibility and the efficient use of land is encouraged by allowing shared off-street parking for multiple uses on the same lot and on separate lots located near each other.

(Ord. 37, passed 8-28-2005)

#### **§ 152.281 GENERAL REQUIREMENTS.**

(A) *Compliance required.*

(1) Off-street parking, loading and stacking facilities shall comply with the requirements of the Village of Pinckney Technical Standards, Michigan Construction Code and applicable road agencies.

(2) Off-street parking, vehicle loading and stacking facilities in compliance with this subchapter shall be provided in all districts whenever:

- (a) A new use or building is established; and

(b) An existing use or building is expanded or changed.

(3) Off-street parking and loading areas shall be landscaped in compliance with §152.331.

(B) *Central Business District.* To allow for design flexibility, the Planning Commission may waive or modify the requirements of this subchapter for off-street parking or loading in the Central Business District (CBD), upon finding that all of the following criteria are met:

(1) Due to one or more unique characteristics of the property, such as its size, shape, topography, location, existing structures or surroundings, the strict application of off-street parking and loading requirements in this subchapter will deprive the property owner of its reasonable use, as enjoyed by other property owners in the CBD;

(2) The modification will not create a traffic hazard or any other unsafe, undesirable condition. The applicant may be required to submit a traffic study and/or other documented evidence of compliance with this criterion; and

(3) The modification will be consistent with the purposes of the CBD and this subchapter and will provide adequate parking for the proposed use(s).

(C) *Zoning.* Any lot used for off-street parking, vehicle loading or stacking shall be zoned to allow the principal use(s) being served.

(D) *Setbacks.* Off-street parking, loading and stacking spaces shall be setback from street lines and lot lines as required for structures in the zoning district in which the spaces are located.

(E) *Signs.* Signs shall comply with §§ 152.300*et seq.*

(F) *Landscaping.* Landscaping and screening shall comply with §§ 152.325*et seq.*

(G) *Lighting.* Lighting shall comply with § 152.371(B).

(Ord. 37, passed 8-28-2005; Ord. 139, passed 9-11-2017; Ord. 154, passed 1-11-2021)

#### **§ 152.282 OFF-STREET PARKING.**

(A) *Use.* Off-street parking shall be used only for the short-term storage of licensed and operable vehicles. Off-street parking shall not be used for the sale, servicing, repair, dismantling or long-term storage of any vehicle, equipment or material. For the purposes of this requirement, **SHORT-TERM** shall mean fewer than 24 consecutive hours and **LONG-TERM** shall mean 24 or more consecutive hours.

(B) *Location.*

(1) Required off-street parking shall be located on the same lot or within 300 feet of the use(s) being served.

(2) Off-street parking spaces that serve a multiple-family dwelling or a commercial use shall be located in the rear yard or in a side yard to the maximum extent practicable.

(3) Off-street parking spaces shall be at least five feet from any principal building.

(C) *Ownership.* If off-street parking spaces are not under the same ownership as the principal use(s) being served, evidence of the right to use the off-street parking spaces shall be submitted with the application for site plan approval. This evidence shall be in the form of a property easement, long-term lease or other legally binding agreement between the owner of record and joint users. The agreement shall clearly establish rights of use and responsibility for ongoing maintenance and shall be recorded with the Livingston County Register of Deeds before issuance of a land use permit. The agreement shall require written notification by the lessee to the village at least 14 days prior to the amendment or termination of the agreement.

(D) *Dimensions.*

(1) Individual parking spaces shall be a minimum of nine feet in width and 20 feet in length. Where a parking space is against an edge, the vehicle overhang may be credited as two feet, if abutting landscaping or abutting sidewalk is at least seven feet wide.

(2) Traffic aisles within parking lots shall be a minimum width of 22 feet.

(E) *Calculation.* **FLOOR AREA** is defined in § 152.283. For the purpose of calculating off-street parking spaces, the following rules shall apply:

(1) *Mixed and shared uses.* The total number of off-street parking spaces shall be the sum of the required spaces for each individual use computed separately.

(2) *Students and employees.* The Planning Commission shall determine the number of employees and students based upon the largest possible number of employees working on any single shift, the maximum student enrollment permitted by the State of Michigan or the maximum building capacity.

(3) *Fractions.* Fractions of less than one-half shall be disregarded and fractions of one-half or more shall be counted as one space.

(4) *Barrier free parking.* Barrier free parking facilities shall be provided and designed in compliance with the Americans

with Disabilities Act (ADA) and Construction Code requirements. ADA required spaces may be excluded from the minimum number of spaces required per § 152.283.

(F) *Maximum.* The number of off-street parking spaces provided to serve a use shall not exceed the number of spaces required in § 152.283, except the Planning Commission may allow an increase of up to 50% at its discretion.

(G) *Reduced minimum.* The Planning Commission may reduce the number of off-street parking spaces required in § 152.283 by up to 25%, based upon a parking analysis submitted by the applicant.

(1) The parking analysis shall clearly demonstrate that fewer spaces will result in a better design and more efficient use of land, or will otherwise achieve an established goal within the Village Master Plan.

(2) Consideration shall be given to peak use, availability of car pool and off-site parking, public transportation, pedestrian and bicycle access and preservation of natural resources and community character.

(3) The parking analysis shall contain, at a minimum:

(a) Plans showing the location of all relevant uses and structures and the location of roads, off-street parking, public transit and bicycle and pedestrian facilities; and

(b) A schedule showing the maximum number of vehicles to be accommodated during peak hours of operation. This schedule shall be based on the *Institute of Transportation Engineers Trip Generation Manual*, 6th Edition.

(H) *Surface.* Surfacing shall comply with the Village Technical Standards.

(I) *Wheel guards.* Boundary or perimeter areas shall be provided with wheel or bumper guards or continuous curbing located so that no part of parked vehicles will extend beyond the lot line or into any access aisle, maneuvering, setback, pedestrian or landscaped area.

(J) *Access.* All parking areas containing three or more parking spaces shall be located and designed so that vehicles can enter and exit the parking area without backing onto a public right-of-way.

(Ord. 37, passed 8-28-2005; Ord. 139, passed 9-11-2017; Ord. 154, passed 1-11-2021)

**§ 152.283 MINIMUM OFF-STREET PARKING SPACES.**

(A) The minimum number of off-street parking spaces shall be as required in this section.

(B) For uses not specifically mentioned in this section, the number of required parking spaces shall comply with that of a similar use as determined by the Planning Commission.

<i>Land Use</i>	<i>Minimum Number Parking Spaces</i>
<b>Residential</b>	
<i>Land Use</i>	<i>Minimum Number Parking Spaces</i>
<b>Residential</b>	
Single-family dwelling	2 per dwelling unit
Two or multiple-family dwelling	1.5 per dwelling unit
Manufactured home park	2 per dwelling unit
Rooming house	1 per bedroom
<b>Institutional</b>	
Home for the elderly	1 per dwelling unit
Nursing home and hospital	1 per employee + 1 per 4 beds
Child care center	1 per employee + 1 per 10 licensed child care slots
Elementary or middle school	1 per employee + 1 per 25 students
High school, trade school or higher education institution	1 per employee + 1 per 10 students
Public building (including museum, library and post office)	1 per 500 square foot floor area
Place of assembly (including religious institution, funeral home, theater, auditorium, indoor or outdoor arena and private club)	1 per 4 auditorium seats or 1 per 8 feet of bench or 1 per 50 square feet of assembly area without fixed seats
<b>Commercial</b>	
Office, all types	1 per 300 square feet floor area

Personal service	1 per 300 square feet floor area
Restaurant, all types	1 per 75 square feet floor area
Retail store (including retail food store)	1 per 300 square feet floor area supermarket and department store
Convenience store	1 per 200 square feet floor area
Automobile service station	1 per 200 square feet floor area
Automobile repair service	1 per 500 square feet floor area
Automobile dealership	1 per 350 square feet floor area
Bulk retail (including building, garden supplies)	1 per 600 square feet floor area
Wholesale trade and warehousing	1 per 600 square feet floor area
Hotel, motel and bed and breakfast inn	1 per bedroom

(Ord. 37, passed 8-28-2005)

**§ 152.284 OFF-STREET LOADING.**

(A) *Compliance required.* Off-street loading facilities shall be required on the same lot as any use that involves the regular loading or unloading of commercial vehicles.

(B) *Use.* Vehicle loading facilities shall not be used for the sale, servicing, repair, dismantling or storage of any vehicle, equipment or material and shall not be counted as an off-street parking space.

(C) *Location.* Off-street loading facilities shall not be located in the front yard.

(D) *Dimensions.* Each loading space shall be at least ten feet in width and 30 feet in length, with 14 feet of height clearance.

(E) *Minimum loading space.* **FLOOR AREA** is defined in § 152.267. The minimum number of off-street loading spaces shall be as follows:

<b>Building Floor Area</b>	<b>Minimum Number Loading Spaces</b>
Up to 2,000 square feet	None
2,000 to 20,000 square feet	1 space
20,000 to 100,000 square feet	1 space + 1 space for each 20,000 square feet in excess of 20,000 square feet
100,000 to 500,000 square feet	5 spaces + 1 space for each 40,000 square feet in excess of 100,000 square feet
100,000 to 500,000 square feet	15 spaces + 1 space for each 80,000 square feet in excess of 500,000 square feet

(F) *Waiver.* The Planning Commission may reduce the number of off-street loading spaces required in division (E) above upon finding that fewer spaces will not result in traffic congestion, a safety hazard, a public nuisance or undue encroachment upon neighboring property.

(G) *Surface.* Loading dock approaches shall be paved and have an asphalt or concrete base so as to provide a permanent, durable and dustless surface.

(H) *Access.* Vehicle loading and unloading facilities shall be located and designed so that vehicles can enter and exit without backing onto a public right-of-way.

(Ord. 37, passed 8-28-2005)

**§ 152.285 DRIVE-THROUGH FACILITIES.**

(A) *Compliance required.* All uses that provide drive-through facilities for serving customers within their automobiles shall provide adequate off-street stacking space within a defined drive-through lane.

(B) *Dimensions.* Each drive-through lane and stacking space shall be at least ten feet in width. Each stacking space shall be 20 feet in length.

(C) *Minimum stacking spaces.* The minimum number of stacking spaces in each drive-through lane shall be as follows. Stacking spaces shall be in addition to the space at the service window.



<i>Land Use</i>	<i>Stacking Spaces Per Service Lane</i>
Bank, pharmacy, dry cleaner or similar use	4
Fast food restaurant	6
Self service car wash	3 at entry + 1 at exit
Automatic car wash	6 at entry + 2 at exit

(D) *Design standards.*

(1) Clear identification and delineation between the drive-through and parking areas shall be provided. Drive-through facilities shall be designed in a manner that protects pedestrian and vehicular safety.

(2) All drive-through facilities shall provide a bypass lane that allows vehicles to pass those waiting to be served and exit the premises.

(3) No vehicle stacking areas shall cross any maneuvering lane, drive, sidewalk or public right-of-way.

(Ord. 37, passed 8-28-2005; Ord. 154, passed 1-11-2021) Penalty, see §152.999

## SIGNS

### § 152.300 PURPOSE.

(A) The purpose of this subchapter is to regulate the location, size, construction, and manner of display of signs and outdoor advertising in order to minimize their harmful effects on the public health, safety, and welfare. While this subchapter recognizes that signs and outdoor advertising are necessary to promote commerce and public information, failure to regulate them may lead to poor identification of individual businesses, deterioration and blight of the business and residential areas of the village, conflicts between different types of land use, and reduction in traffic safety to pedestrians and motorists.

(B) To achieve its intended purpose, this subchapter has the following objectives:

(1) To prevent the placement of signs in a manner that will conceal or obscure signs or adjacent businesses;

(2) To keep the number of signs and sign messages at the level reasonably necessary to identify a business and its products;

(3) To keep signs within a reasonable scale with respect to the buildings they identify;

(4) To reduce visual distraction and obstructions to motorists traveling along, entering, or leaving streets;

(5) To promote a quality manner of display which enhances the character of the village;

(6) To prevent the proliferation of temporary signs which might promote visual blight.

(7) To eliminate the potential for any adverse affects on the neighboring properties.

(Ord. 37, passed 8-28-2005; Am. Ord. 107, passed 12-12-2011)

### § 152.301 PERMITS.

(A) It shall be unlawful to display, erect, relocate, or alter any sign without obtaining a sign permit, except where otherwise noted within this subchapter.

(B) A permit fee shall be paid in accordance with the schedule adopted by the Village Council.

(C) A permit shall be issued by the Zoning Administrator only if the proposed sign meets all requirements of this subchapter, provided if an alteration of an existing sign is limited to the information communicated on the sign without increasing its size, structural modification of the sign shall not be required.

(D) When a sign permit has been issued by the village, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms or conditions of said permit without prior approval of the Zoning Administrator. A written record of such approval shall be entered upon the original permit application and maintained in the files of the village.

(E) The application for a sign permit shall be made by the owner or tenant of the property on which the sign is to be located, or his authorized agent, or a sign contractor. Such applications shall be made in writing on forms furnished by the village and shall be signed by the applicant.

(F) The application for a sign permit shall be accompanied by the following plans and other information:

(1) The name, address, and telephone number of the owner or persons entitled to possession of the sign and of the sign contractor or erector.

(2) The location by street address of the proposed sign structure.

(3) A plot plan showing the full dimensions of the sign, proposed copy and graphics, and the location of the sign in

relationship to all lot lines, structures, easements, rights-of-way, and the edge of road and parking lot pavement.

(4) Elevation and detail drawings showing colors and materials to be used, and clearly demonstrating compliance with all of the standards in this subchapter.

(5) Any sign that uses electricity shall require an electrical permit from the county building department, regardless of size.

(G) *Expiration.* Sign permits shall become null and void if the work for which the permit was issued is not completed within six months of the date of issue.

(H) *Maintenance.* No permit shall be required for the routine repair, servicing, cleaning, or repainting of an existing sign message. This shall include changing the lettering on an existing sign, provided that the advertised use is permitted in the applicable zoning district, and the size, location, and illumination of the sign is not altered.

(Ord. 37, passed 8-28-2005; Am. Ord. 82, passed 5-12-2008; Am. Ord. 107, passed 12-12-2011) Penalty, see §152.999

### **§ 152.302 PERMITTED SIGNS IN ALL DISTRICTS.**

The following signs are permitted in all districts without a sign permit, provided no sign shall be located within a public right-of-way, except as noted, or located in a manner that distracts or obstructs the vision or movement of motorists or pedestrians.

(A) *Name and address signs.* Nameplates containing only a resident's name and address, and not exceeding two square feet in size.

(B) *Directional signs.* On-premise directional signs which indicate the direction of pedestrian or vehicular traffic flow on private property. Directional signs shall not exceed two square feet in size and six feet in height, shall contain no advertising, and may be illuminated.

(C) *Ingress and egress signs.* One sign is permitted at each point of ingress and one sign is permitted at each point of egress. The signs shall not exceed two square feet in area and two feet in height, and shall be setback at least five feet from the road right-of-way.

(D) *Street numbers.* Street numbers.

(E) *Placards.* No hunting, no fishing, no trespassing signs unless less than two square feet in area and spaced no less than 100 feet apart.

(F) *History signs.* Historical markers.

(G) *Interior signs.* Signs in the interior of a building, with the exception of window signs.

(H) *Public interest signs.* Signs of a non-commercial nature and in the public interest, erected by, or on the order of, a public officer in the performance of his or her public duty, including but not limited to directional signs, regulatory signs, and information signs.

(I) *Structural information signs.* Names of buildings, dates of erection, monument citations, commemorative tablets, and the like, when carved into stone, concrete, or similar material or made of other permanent type construction and made an integral part of the structure.

(J) *Political signs.* Political signs shall be permitted on all lots regardless of zoning, provided that such sign is located and placed with the permission of the owner or lawful occupant of the lot or parcel where such sign is located, and provided that such sign does not violate any other provision of this subchapter. No more than one sign may be erected on a lot within the village for each candidate and/or ballot proposal, and all such signs shall be removed within five days following the election. The signs shall not exceed 16 square feet in area and four feet in height.

(Ord. 37, passed 8-28-2005; Am. Ord. 72, passed 4-4-2006; Am. Ord. 75, passed 11-13-2006; Am. 82, passed 5-12-2008; Am. Ord. 107, passed 12-12-2011) Penalty, see § 152.999

### **§ 152.303 PROHIBITED SIGNS.**

The following signs are prohibited in all districts, unless otherwise provided for in this subchapter:

(A) Any sign constructed, maintained, or altered in a manner not in compliance with this subchapter;

(B) Billboards;

(C) Roof signs;

(D) Beacons, strings of lights, pennants, spinners, or streamers used for commercial purposes;

(E) Signs containing flashing, intermittent, or moving lights, digital/ electronic signs, signs with moving or revolving parts, or reflecting parts which may distract drivers. This prohibition does not extend to those signs that give the time or temperature, provided that no other animated messages are displayed. Digital/electronic signs may be considered for the display of gas prices at automobile filling stations and on menuboards located inside of the Secondary Business District but only through the special land use process;

(F) Signs which imitate traffic signals, traffic direction signs, or similar traffic control devices, and signs which make use of words including but not limited to "Stop," "Look," "Danger," or any other words, phrases, symbols, or characters in such a manner as to interfere with, mislead, or confuse traffic;

(G) Any sign that, by reason of the location, shape, color, or movement, may obstruct the view of or be confused with any official traffic sign, signal, or control device;

(H) Signs affixed to trees, rocks, shrubs, or similar natural features, except signs denoting a site of historic significance;

(I) Signs other than those erected by a public agency which are located within or overhang the public right-of-way or on public property, unless otherwise specified herein;

(J) Temporary signs mounted upon trucks, vans, or other wheeled devices, except for political signs. Signs permanently painted on, or, otherwise permanently displayed upon a vehicle, licensed and operating on the public streets and highways, identifying the owner's occupation or livelihood, shall be permitted;

(K) Any sign or sign structure which constitutes a hazard to public health and safety due to inadequate maintenance;

(L) Any sign affixed to a light standard that is utilized for commercial advertising purposes;

(M) Any sign unlawfully installed, erected, or maintained.

(Ord. 37, passed 8-28-2005; Am. Ord. 75, passed 11-13-2006; Am. Ord. 107, passed 12-12-2011) Penalty, see §152.999

### **§ 152.304 GENERAL STANDARDS.**

#### *(A) Location.*

(1) All signs must advertise a business or service on the premises upon which the sign is located and to which the sign is accessory, unless otherwise specified herein.

(2) No sign, or portion thereof, shall be closer than four feet to any electric light pole, street lamp, or other public utility pole or standard.

(3) No sign, or portion thereof, shall be closer than 13 feet to any electrical conductor without proof of approval by the public utility company.

(4) No sign shall obstruct any opening required for building ventilation.

(5) No sign shall impede free entry or exit through any door, window, or fire escape.

(6) No sign shall be located in, project into, or overhang a public road right-of-way without the approval of the controlling government agency and the Village Council.

(7) No sign shall in any way obstruct vehicular or pedestrian traffic, or the view in any direction at a road intersection. The applicant shall submit proof of compliance with this standard from the applicable road agencies.

#### *(B) Illumination.*

(1) No sign shall be illuminated by other than electrical means.

(2) The light from illuminated signs shall be directed and shielded in a manner that will not interfere with vehicular traffic or the enjoyment and use of adjacent properties.

(3) No sign may be erected which flashes, rotates, has moving parts or messages generated by discrete lighting elements; such illuminated lights shall be in accordance with § 152.303(E).

(4) Internal illumination shall be permitted under the following circumstances:

(a) Individual back-lit letters which are silhouetted against softly illuminated walls.

(b) Individual letters with translucent faces, containing soft lighting elements inside each letter.

(5) Metal-faced box signs with cut-out letters and soft-glow fluorescent tubes.

(6) Only indirectly illuminated signs shall be allowed in any residential district.

(7) Internally-illuminated plastic signs with dark-colored detachable letters shall be strictly prohibited in all districts.

(8) Gas-filled light types (fluorescent) shall be allowed for indirect illumination and when placed in such a manner that the tubes are not exposed to view from any point along the roadway or sidewalk.

(9) Rear-illuminated (backlit) awnings are prohibited.

#### *(C) Safety.*

(1) All signs shall be erected and maintained in compliance with all applicable building code, and other applicable ordinances governing construction within the village. In the event of conflict between this section and other laws, the most restrictive shall govern.

(2) All signs shall be so placed as to not interfere with the visibility or effectiveness of any official traffic sign or signal; driver vision at any access point or intersection; or pedestrian movement on any public sidewalk.

(3) No sign shall be erected, relocated, or maintained so as to obstruct fire fighting or prevent free access to any door, window, or fire escape.

(Ord. 37, passed 8-28-2005; Am. Ord. 95, passed 6-28-2010; Am. Ord. 107, passed 12-12-2011) Penalty, see §152.999

#### **§ 152.305 MISCELLANEOUS PERMITTED SIGNS.**

(A) *Signs for outdoor sales of automobiles or vehicles.* No advertising signs may be placed on-site other than the permitted maximum wall and/or ground signs as per this subchapter. The prohibited signs include banners, flags, and digital/electronic signs.

(B) *Signs for automobile filling stations, automobile repair garages, automobile service stations, automobile washes, and automobile dealerships.*

(1) No advertising signs may be placed on-site other than the permitted maximum wall and/or ground signs as per this article. The prohibited signs include banners and flags.

(2) Changeable message signs or digital/ electronic signs for the display of gas prices may be permitted under the following circumstances:

(a) The Planning Commission may consider a digital/electronic changeable message sign for automobile filling stations as a special land use in the Secondary Business District (SBD).

(b) In review of the special land use, the Commission shall consider the following standards:

1. The changeable message area shall be exclusively for the display of gas prices.

2. The sign message and background shall each be a single contrasting color.

3. The foot-candles shall comply with the requirements of §152.371(B).

4. The size of the changeable sign message area shall not exceed 50% of the total sign surface area.

5. The placement of the sign on the lot shall not be detrimental to environmental aesthetics by creating visual clutter or obstructing views of significant architectural or natural features;

6. The message change shall not be less than one minute per message, except in a combined time and temperature sign where the change cycle shall be not less than 30 seconds;

7. The changeable message area shall have no more than two lines and no more than 18 characters per line, exclusive of a combined time and temperature indication.

8. The placement of the sign on the lot shall not impair the traffic safety of motorists or pedestrians. Compliance with this standard shall be verified by all applicable road authorities including:

a. Department of Transportation for signs visible from M 36;

b. County Road Commission for signs visible from D 19 or Dexter-Pinckney Road;

c. Village Department of Public Works Director, Village Engineer, or Qualified Village Agent for signs visible from all other village roads.

(C) *Menuboard signs for drive-in and drive-through businesses.*

(1) The Planning Commission, in its sole discretion, may approve up to two menuboards upon determination that it is integral to the nature of the business.

(2) Each menuboard shall not exceed seven feet in height.

(3) One menuboard (in stacking lane) shall not exceed 16 square feet and the other (at the speaker) shall not exceed 32 square feet in area.

(4) The area of the menuboard is exclusive of the structure's framing.

(5) All menuboards shall be single sided.

(6) No menuboard may be located within the required front yard and between 20 and 40 feet from any parcel perimeter.

(7) Only up to four square feet of the menuboard shall include digital/electronic signage.

(8) The Planning Commission may consider a modified sign area, subject to the following:

(a) Only one of the menuboards may be increased in area.

(b) The menuboard is completely screened from the roadway.

(c) Under no circumstances shall the menuboard exceed 48 square feet in area.

(D) *Off-premise directional signs.* Off-premise directional signs directing vehicular traffic to a church, governmental building, public parks and recreational facilities, public hospitals, or educational institutions may be permitted in all districts subject to the review of the Planning Commission and the following standards:

(1) No more than two signs per use shall be permitted.

(2) The size of an off-premise directional sign shall not exceed two square feet in size.

(3) The height of an off-premise directional sign shall be no less than three feet nor exceed six feet. However, variations in height may be granted by the Planning Commission to accommodate vehicular visibility to avoid obstruction to visibility.

(4) Illumination shall not be permitted.

(5) Permission of the property owner where the proposed sign is to be located must be provided.

(E) *Historic markers.*

(1) If a structure within the village has been designated as a state historical site or listed in the National Register of Historic Places, then a marker designating that fact, obtained from the appropriate state or federal agency, shall be permitted in addition to any other sign or signs which may lawfully be placed on the structure or the property on which the structure is located.

(2) Anyone wishing to place a historic marker on a structure or property shall complete and file a sign permit application with the Zoning Administrator. No fee shall be charged for a historic marker application. The Zoning Administrator shall review and approve all such applications but always reserves the right to send the request to the Planning Commission for their consideration.

(F) *Interior window signs.*

(1) Window sign means any sign, excluding the posting of hours of operation and/or street and building address, which is painted or mounted onto a window pane, or which is hung directly inside the window with the purpose or effect of identifying any premises from the sidewalk or street.

(2) Window signs shall not exceed more than 30% percent of each window area in which they are displayed.

(3) Non-temporary signs hung inside windows shall be made of clear materials, including but not limited to transparent plastic, with lettering painted or attached to them, with all hours of operation, credit card and address signs being exempt.

(4) Window signs do not require sign permits, nor count in the calculation of total building signage permitted.

(5) Permanent and/or illuminated window signs require a permit and application.

(G) *Mural signs.* When a mural or graphic includes identification of an establishment or specific services, goods or products, or a representation of the types of services, goods, or products provided on the site, the mural area will count towards the total permitted wall sign area. Murals are subject to special land approval and the following standards:

(1) No mural may be placed on any building or structure that includes nonconforming signs.

(2) Only one wall, facade, or surface of a building or structure may be used for a mural.

(3) A wall, facade, or surface that is used for a mural pertaining to the business on which it is located shall be counted as one sign. A mural will count towards the total wall signage allowed for the business; however, the Planning Commission in its sole discretion may permit murals of larger size. Larger murals shall be permitted when determined to demonstrate at least one of the following:

(a) Accentuates the historic features of the building.

(b) Masks an unattractive building facade.

(c) Creates an aesthetically pleasing amenity.

(d) Superior in aesthetics to an attached wall sign.

(4) The owner of record of the building or structure on which the proposed mural is to be placed shall, in writing, consent to the placement of said mural on the property, and shall agree to restore the wall, facade, or surface upon which the mural is placed to its prior existing condition if and at such time the mural is not maintained by the applicant. The permit application shall include a statement detailing the applicant's plans for the maintenance of the mural.

(5) In the review of the special land use, the Planning Commission shall grant approval only if the following criteria are met:

(a) The placing of the proposed mural at the location selected by the applicant would not constitute a significant traffic safety hazard.

(b) Neither the mural, nor the placement of the mural, would endanger the public health, safety, or general welfare.

(c) Neither the mural, nor the placement of the mural, would be injurious to the use and enjoyment of other property in the immediate vicinity of the proposed location.

(H) *Identification sign.* The area of an identification sign shall not exceed two feet by three feet; and height shall not be more than four feet above grade.

(Ord. 107, passed 12-12-2011; Ord. 154, passed 1-11-2021) Penalty, see §152.999

**§ 152.306 PERMITTED GROUND SIGNS.**

(A) *General requirements.*

(1) *Frontage on two public roads.* Two ground signs shall be permitted per premise which has frontage on two public roads. One sign shall not exceed the area requirements set forth herein. The second sign shall not exceed 50% percent of the area requirements set forth herein.

(2) *Setback.* A ground sign shall have a setback of five feet from a public road right-of-way and a setback distance equal to the height of the sign from all other property boundaries.

(3) *Height.* The height of a ground sign shall be computed as the vertical distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of:

(a) Existing grade prior to construction; or

(b) The newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purposes of locating the sign.

(4) *Area.* Area of the sign shall include the total area within any circle, triangle, rectangle, or other geometric shape enclosing the extreme limits of writing, representation, emblem, or any similar figure, together with any frame or other material forming an integral part of the display or used to differentiate such sign from the background against which it is placed, and is further calculated as follows:

(a) *Single face sign:* One square foot per one linear foot of road frontage, total not to exceed the total maximum area per side as listed in § 152.308 Table 2 below.

(b) *Multi-faced signs:* One square foot per one linear foot of road frontage, total not to exceed the total area maximum as listed in § 152.308 Table 2 below.

(B) *Multiple tenants.* One ground sign stating the name of a business center and major tenants therein may be erected for a shopping center, office park, industrial park, or other integrated group of stores, commercial buildings, office buildings, or industrial buildings in the CBD, SBD, and RTO Districts. The sign area shall not exceed 50 square feet in total area. Such signs may be up to eight feet in height. If the lot fronts on two or more collector or arterial streets, one such sign may be permitted for each frontage.

(C) *Specific requirements.* Ground signs shall be permitted by district in accordance with the following requirements.

<b>District</b>	<b>Height</b>	<b>Single Faced Per Side (max)</b>	<b>Total Max Area Sign; Two or more faced</b>
CBD and SBD	8 feet	25 square feet	50 square feet.
ROB and O	5 feet	18 square feet	36 square feet
RTO and PL	8 feet	16 square feet	32 square feet
R1, R2, R3, R4	4 feet	6 square feet	12 square feet

(D) *Signs requiring special land use approval.* The Planning Commission may consider a sign that is greater than the maximum height and area requirements or less than the minimum setback requirements as a special land use. In review of a special land use, the Planning Commission shall consider the standards set forth in § 152.240 and the following:

(1) The standards set forth in §§152.304 and 152.301;

(2) The size, shape, and topography of the property;

(3) The relationship of the sign to neighboring properties and signs;

(4) The relationship to and visibility from the public street where the property is located.

(Ord. 107, passed 12-12-2011) Penalty, see §152.999

**§ 152.307 RESERVED.**

**§ 152.308 PERMITTED WALL SIGNS.**



(A) *General requirements.*

(1) No wall sign shall be erected to extend above the top of the wall to which it is attached, nor extend beyond the ends of the wall to which it is attached. Signs erected on the vertical portion of the mansard roof are considered to be wall signs.

(2) All wall signs shall be safely and securely attached to the building by means of metal anchors, bolts, or expansion screws, and in accordance with the Building Code. In no case shall any wall sign be secured with wire, straps of wood, or nails.

(3) For buildings with distinct and separate uses, separate wall signs shall be permitted for each such use. However, the total allowable square footage shall not exceed the maximum allowable square footage specified for each district.

(4) If a building faces two separate roads, one wall sign may be permitted facing each road, and the total allowable square footage of all wall signs shall not exceed the maximum allowable square footage specified for each district in Table 2 below.

(B) *Specific requirements.* Wall signs shall be permitted by the district in accordance with the following requirements.

<b>TABLE 2 WALL SIGNS PERMITTED BY DISTRICT</b>		
<b>District</b>	<b>Maximum Height</b>	<b>Sign Message Area (max.)</b>
CBD and SBD Districts	6 feet	1 foot for each lineal foot of building frontage not to exceed a total of 100 square feet

<b>TABLE 2 WALL SIGNS PERMITTED BY DISTRICT</b>		
<b>District</b>	<b>Maximum Height</b>	<b>Sign Message Area (max.)</b>
ROB and O District	4 feet	1 square foot for each lineal foot of building frontage not to exceed a total of 40 square feet
RTO and PL Districts	4 feet	1 square foot for each lineal foot of building frontage not to exceed a total of 50 square feet
R-1, R-2, R-3 and R-4 Districts	4 feet	1/2 square foot for each lineal foot of building frontage not to exceed a total of 20 square feet

(C) *Wall signs requiring special land use approval.* The Planning Commission may consider a sign that is greater than the maximum area requirement as a special land use. In review of a special land use, the Planning Commission shall consider the standards set forth in § 152.240 and the following:

- (1) The standards set forth in §§ 152.304 and 152.301;
- (2) The size, shape, and topography of the property;
- (3) The relationship of the sign to neighboring properties and signs; and
- (4) The relationship to and visibility from the public street where the property is located.

(Ord. 37, passed 8-28-2005; Ord. 75, passed 11-13-2006; Ord. 95, passed 6-28-2010; Am. Ord. 107, passed 12-12-2011) Penalty, see § 152.999

**§ 152.309 PERMITTED PROJECTING OR SUSPENDED SIGNS.**

(1) Projecting and suspended signs shall be permitted in CBD, Central Business Districts.

(2) The surface area of the projecting or suspended sign shall not exceed six square feet on each side or a total of 12 square feet. The total square feet of signage (both sides) shall be subtracted from the total allowable wall signage square footage for the district.

(3) The bottom of the projecting or suspended sign shall be a minimum of eight feet above the surface of the sidewalk or ground area, or otherwise be located so as not to interfere with pedestrian traffic.

(Ord. 37, passed 8-28-2005; Am. Ord. 107, passed 12-12-2011) Penalty, see §152.999

**§ 152.310 PERMITTED TEMPORARY SIGNS.**

The following temporary signs shall be permitted in accordance with the regulations herein.

(A) *Garage sales, rummage sales, estate sales, and similar activities.* One non-illuminated sign used for advertising a

garage sale, rummage sale, estate sale, or similar activity is permitted on private property only, for a period not to exceed seven consecutive days with four of these days being the days of the actual sales event.

(1) Each sign shall be no more than six square feet in area and four feet tall.

(2) Each sign shall have the date the sign was erected or placed and the sign owner's name and address written on the back of the sign in black ink and capital letters. The Zoning Administrator shall immediately remove any sign lacking this information.

(3) Up to three additional non-illuminated off-premises signs may be erected provided they are not erected on utility poles and they comply with the time frame provisions of division (A) of this section above.

(B) *Permitted real estate signs (on-site).*

(1) For all residential projects involving the sale of individual lots and/or dwelling units, one non-illuminated freestanding sign shall be permitted per each entrance to the project advertising the sale of such lots and/or dwelling units (including weekend open house signs). Such signs shall not exceed 32 square feet in area and a height of 12 feet.

(2) All residential projects involving the rental or leasing of dwelling units, one non-illuminated freestanding sign shall be permitted per each entrance to the project advertising the rental or leasing of such units (including weekend open house signs). Such signs shall not exceed 32 square feet in area and a height of 12 feet.

(3) All signs advertising the rental, lease, or sale of a property or dwelling unit shall be removed within 48 hours after the property is no longer available for rent or lease, closing on the sale, or completion of construction work.

(4) All weekend open house signs may be posted no more than 24 hours before the open house and shall be removed within four hours following the open house.

(5) All signs located within the right-of-way shall require a county permit.

(6) All permitted real estate signs shall otherwise comply with all other standards for freestanding signs set forth in this subchapter.

(C) *Permitted weekend open house real estate signs (off-site).*

(1) For a residential dwelling within an established neighborhood in the village, no more than two freestanding signs shall be permitted.

(2) For a new development in the village with multiple dwellings being listed for sale, no more than three freestanding signs shall be permitted. However, additional freestanding signs may be permitted by the Zoning Administrator when circumstances exist that are unique to the property and not self-created. Approval for the additional signs shall be for up to six months at which time another permit would have to be sought.

(3) Such signs shall not exceed an area of six square feet and a height of four feet.

(4) All signs located within the right-of-way shall require a county permit.

(5) All such signs may be posted no more than 24 hours before the open house and shall be removed within four hours following the open house.

(6) All permitted weekend open house real estate signs shall otherwise comply with all other standards for freestanding signs set forth in this subchapter.

(D) *Portable signs.* Portable sidewalk signs are only permitted within the CBD, Central Business District. Portable signs are permitted for ground floor commercial uses to identify the store/business, indicate that it is open, its hours of operation, to show restaurant menus and daily specials, to advertise sales and special deals or service. Additionally, the following provisions shall apply:

(1) No more than one portable sidewalk sign shall be permitted per business that is located on the ground floor.

(2) The sign shall be removed when weather conditions create potentially hazardous conditions.

(3) The maximum area of a portable sidewalk sign is six square feet per side with no dimension greater than four feet (not counted towards total sign area), with a maximum of two faces per sign.

(4) The sign shall be located directly in front of the building it represents. The sign shall also be located on the building side of the sidewalk in such a manner that it is not in the pedestrian clear path of travel area.

(5) The sign shall not unreasonably interfere with the view, access to, or use of adjacent properties.

(6) The sign should be of durable materials that complement the materials of the building such as overlay plywood painted with enamel paint, stainless or other weather resistant steel, laminate plastic, slate chalkboard, or marker board. The lettering may be permanent or temporary.

(7) Paper signs, wind-activated items (such as balloons, windsocks, and pinwheels), and non-rigid changeable areas shall not be used as or attached to a sign.

(8) The sign shall have no sharp edges or corners. All surfaces shall be smooth and be free of protruding tacks, nails,

and wires. All parts, portions, and materials of a sign shall be kept in good repair. The display surface shall be kept clean, neatly painted, and free from rust, corrosion, and graffiti. No glass, breakable materials, or attached illumination shall be allowed.

- (9) No sign shall be permitted referring to off-premise locations.
- (10) The primary colors of such signs shall be compatible with the colors of the buildings within the area.
- (11) Sidewalk signs shall be removed daily at the close of business hours.
- (12) Sidewalk signs within the road right-of-way shall require approval by the applicable agency.

(E) *Promotional banners.*

(1) In all districts, the Zoning Administrator may allow a new business, as part of its start-up phase, to use a one-time only temporary sign for up to a 45-day period. All temporary signs permitted under this provision shall otherwise comply with all requirements pertaining to height and area for the zoning district in which the sign is located.

(2) Permission to display a promotional banner or sign for civic or charitable activity across M 36 must be authorized by the Zoning Administrator and Village Council. Appropriate conditions can be placed on the granting of the permit, including but not limited to duration, size, location, etc. Requests for placement location must be made in writing to the Zoning Administrator two weeks prior to placement of the sign.

(3) Exceptions can be made upon request for location of special event signage in the right-of-way at the intersection of Dexter Road and Main Street (M-36). Requests for placement at this location must be made in writing to the Zoning Administrator two weeks prior to placement of the sign. Signs placed in the right-of-way without permission will be removed.

(4) Temporary promotional banners shall not be located in a public right-of-way, must be affixed to the principal building of the business, and shall be located and designed to avoid interference with or distraction to vehicular and pedestrian traffic.

(5) All promotional banners which are not properly maintained shall be removed at the order of the Zoning Administrator.

(6) All other promotional banners (that is, streamers, flags, etc.) are strictly prohibited.

(F) *Farmers market signs.* Two A-frame or sandwich board signs not to exceed 12 square feet per sign may be displayed on the site during the day(s) of the event.

(Ord. 107, passed 12-12-2011) Penalty, see §152.999

### **§ 152.311 ABANDONED SIGNS.**

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

#### **ABANDONED SIGN.**

- (a) Any sign that does not display a well-maintained message for 14 consecutive days;
- (b) Any sign the owner of which cannot be located at the owner's last address as reflected in the records of the Department; or
- (c) Any sign no longer fully supported by the structure designed to support the sign, for a consecutive 30-day period.

(B) *Illegal abandoned signs.* Any sign abandoned for 14 days shall become illegal. The Zoning Administrator shall determine whether a sign is abandoned. The sign owner shall be notified of its illegal status and shall have 30 days from the date of notice to bring the sign into compliance with this chapter or remove it. After this period, the village may remove the sign at the owner's expense.

(Ord. 37, passed 8-28-2005; Am. Ord. 107, passed 12-12-2011) Penalty, see §152.999

### **§ 152.312 NONCONFORMING SIGNS.**

Nonconforming signs shall comply with § 152.419(E). The Zoning Administrator may immediately remove any sign that may threaten public safety.

(Ord. 37, passed 8-28-2005; Am. Ord. 107, passed 12-12-2011) Penalty, see §152.999

## **LANDSCAPING AND SCREENING**

### **§ 152.325 PURPOSE.**

The purpose of this subchapter is to: enhance the appearance and value of the community, buffer conflicting land uses, minimize noise, air, light, soil and water pollution, divide large expanses of pavement, define and shade pedestrian and parking areas and encourage the preservation of natural vegetation and existing trees.

(Ord. 37, passed 8-28-2005)

## § 152.326 APPLICATION.

No final site plan required by §§ 152.385 *et seq.* shall be approved unless it complies with all of the landscaping and screening standards set forth herein.

(Ord. 37, passed 8-28-2005)

## § 152.327 LANDSCAPE PLANS.

(A) A separate, detailed landscape plan shall be submitted with any final site plan required by §§152.385*et seq.*

(B) For the purposes of this subchapter, breast height shall be measured vertically along the main stem and shall be four and one-half feet above grade.

(C) The landscape plan shall be drawn at a scale in accordance with site plan general application standards found in § 152.388. The plans shall include, but not necessarily be limited to, the following items:

(1) Location and description of existing trees to be preserved, relocated or removed, including species and diameter at breast height. Trees to be preserved shall be clearly labeled "to remain" and tree protection measures shall be shown on the landscape plan;

(2) Location and description of trees and shrubs to be planted, including common name, species (deciduous or evergreen), root type (shallow or deep), height, diameter at breast height and size of root ball and/or container;

(3) Location and description of ground cover and method of planting (sod, plugs, sprigs or seeds);

(4) Location, dimensions and description of landscaped buffer areas, berms and landscape parking islands;

(5) The location and dimensions of walls, fences and outdoor dumpster enclosures including typical elevation and vertical sections showing height and materials;

(6) The location and dimensions of common open spaces and recreational areas, proposed improvements and maintenance provisions for the areas;

(7) Construction details to resolve specific site conditions, such as drainage, culverts, soil erosion control measures, walls and/or tree wells;

(8) Details in either text or drawing form to ensure proper installation and establishment of plant materials as prescribed by the American Nurseryman Standards; and

(9) Detailed description of the ongoing landscape maintenance program.

(Ord. 37, passed 8-28-2005; Ord. 154, passed 1-11-2021)

## § 152.328 GENERAL LANDSCAPE STANDARDS.

(A) *Existing vegetation.*

(1) Existing vegetation shall not be removed or disturbed until the Village of Pinckney has approved the required landscape plan, final site plan and land use permit.

(2) Existing, healthy, native vegetation shall be preserved to the maximum degree practical, especially trees eight inches or more in diameter at breast height.

(3) Planting requirements may be waived if the existing vegetation to be retained on the site meets or exceeds the standards set forth in this subchapter.

(B) *Quality.* Plant materials shall be of generally acceptable varieties and species, free from insects and diseases, hardy to southeast Michigan and shall conform to the current minimum standards of the American Association of Nurserymen.

(C) *Composition.*

(1) Plantings shall be clustered and staggered rather than situated in straight rows for interest and variety unless the placement is an integral part of a design element, such as an alley of trees.

(2) A mixture of plant materials is recommended as a protective measure against insect and disease infestation. However, a limited mix of hardy species is recommended rather than a large number of different species to produce a more cohesive and orderly design.

(D) *Ground cover.* All landscaped areas that do not contain trees, shrubs or planting beds shall be covered with living ground cover (including grass) and/or organic mulch. Stone or aggregate shall not be accepted as a ground cover. Ground cover shall be planted in sufficient quantity to present a finished appearance within one growing season and shall not exceed 18 inches in height at maturity.

(E) *Berms.*

(1) *Height.* Berms shall be at least two and one-half feet in height and no more than five feet in height, as measured on the side of the proposed berm having the highest finished grade.

(2) *Side slopes.* Side slopes shall be no steeper than one vertical foot for every three horizontal feet, and shall be designed and planted to prevent erosion. Side slopes shall be planted with naturalized groupings as required for landscape buffers herein.

(3) *Shape.* Berms shall be constructed with a rounded surface at least two feet in width at the highest point and extending the length of the berm. In general, the shape of berms shall appear to be as natural as possible.

(F) *Visibility at road intersections.* All plant materials and structural landscape elements within a vision clearance area shall comply with § 152.261(E).

(G) *Curb stops.* A curb or wheelstop may be required along interior parking lot landscape islands, perimeter landscape strips and landscapes adjacent to road rights-of-way to prevent vehicles from damaging plants and structural landscape elements.

(H) *Dumpsters.* Dumpsters shall be located and screened in accordance with §152.262(M).

(I) *Inspection.* It shall be the property owner or developer's responsibility to request a landscape inspection by the Zoning Administrator within ten to 14 months after land use permit approval, to assure full compliance with the approved site plan.

(Ord. 37, passed 8-28-2005)

### **§ 152.329 LANDSCAPED BUFFER AREAS.**

(A) *Application.* On any site in a multiple-family residential or commercial use, a landscaped buffer area in compliance with this subchapter shall be provided as follows. A landscaped buffer area at least six feet in width shall be provided along all lot lines that abut a residential district or use.

(B) *Design standards.*

(1) The landscaped buffer area shall provide a visual screen that is at least six feet high and 80% opaque along its entire length. Compliance with this standard shall be determined based upon reasonably anticipated growth within three years of planting.

(2) At least 50% of the trees within the buffer area shall be evergreen.

(3) The landscaped buffer area shall be planted with one of the following:

(a) Existing vegetation in conformance with division (B)(1) above;

(b) Existing vegetation augmented with evergreen plantings;

(c) A solid hedge of evergreen trees and/or shrubs; and

(d) Naturalized groupings of plant materials, which contain a mixture of trees and shrubs.

(C) *Additional screening.* The Planning Commission may determine that additional screening is required to effectively buffer more intense or conflicting land uses. To achieve this objective the Planning Commission may, at its discretion, also require the following. A berm, wall and/or fence, in addition to the trees and shrubs required above.

(D) *Walls and fences.*

(1) *Landscaped buffer walls and fences.* Landscaped buffer walls and fences shall be:

(a) Located further from the lot line than the required landscaping, which shall be planted between the wall or fence and lot line;

(b) At least three feet in height but no more than six feet in height;

(c) Constructed of brick, stone, redwood, cedar, or No. 1 pressure-treated wood, vinyl or other materials approved by the Planning Commission or Zoning Administrator, but chain link fences shall not be permitted for screening purposes; and

(d) Otherwise in compliance with § 152.263(C).

(2) *Ornamental fences.* Fences of an ornamental nature shall be a maximum of 36 inches, provided that adequate vision clearance is provided, as required in § 152.261(E). Ornamental fences shall be constructed of a design including post and rail, picket, or other types, as approved by the Planning Commission or Zoning Administrator and materials including redwood, cedar, or No.1 pressure-treated wood, vinyl, iron, steel, brick, stone, or other materials approved by the Planning Commission or Zoning Administrator. The fences shall be in compliance with § 152.263(C).

(Ord. 37, passed 8-28-2005; Ord. 124, passed 5-12-2014) Penalty, see §152.999

### **§ 152.330 FOUNDATION PLANTINGS.**

Foundation plantings shall be provided along all sides of buildings that face a public right-of-way or a parking lot used by the public.

(A) Planting areas shall extend at least six feet from the face of the building and contain a mixture of trees and shrubs.

(B) The Planning Commission may reduce or waive this requirement upon finding that full compliance is impractical due to the use, location of delivery areas and/or site layout.

(Ord. 37, passed 8-28-2005)

### **§ 152.331 LANDSCAPING ADJACENT TO ROADS.**

All non-residential developments shall include one tree and five shrubs per 30 lineal feet or road frontage. Trees are not required to be evenly spaced and may be clustered. The required landscaping adjacent to public and private roadways shall be located on private property within a planting strip a minimum of ten feet adjacent to the road right-of-way.

(Ord. 154, passed 1-11-2021)

### **§ 152.332 LANDSCAPING OFF-STREET PARKING LOTS.**

(A) *Interior parking lot landscaping.* Separate landscaped islands shall be provided within off-street parking lots, so as to break up the broad expanse of pavement, provide shade and guide vehicular and

pedestrian circulation and beautify the village. Unless modified in accordance with §152.334, off-street parking lots with 50 or more individual parking spaces shall comply with the following:

(1) There shall be at least one tree planted within the interior of the parking lot for every eight parking spaces, or fraction thereof;

(2) Landscaped islands shall be:

- (a) At least 150 feet in area, as measured from the outside curb edge;
- (b) Planted with at least one large deciduous tree;
- (c) Located so that no single parking space is more than 45 feet from a landscaped island; and
- (d) Completely surrounded with at least a four-inch concrete or bituminous curb.

(3) A minimum distance of three feet from the backside of the curb and the proposed landscape plantings shall be provided.

(B) *Perimeter parking lot landscaping.* Landscaped buffer areas shall surround the perimeter of off-street parking areas in compliance with § 152.329.

(Ord. 37, passed 8-28-2005; Ord. 154, passed 1-11-2021)

### **§ 152.333 TREE AND SHRUB STANDARDS.**

(A) *Large evergreen trees.* Shall be at least six feet in height. Permitted trees include:

- (1) Spruce;
- (2) Fir;
- (3) Hemlock; and
- (4) Pine.

(B) *Large deciduous canopy trees.* Shall be at least two and one-half inches in diameter at breast height. Permitted trees include:

- (1) Oak;
- (2) Maple;
- (3) Beech;
- (4) Linden;
- (5) Birch;
- (6) Honey Locust (seedless, thornless);
- (7) Sycamore; and
- (8) Ginko (male only).

(C) *Small deciduous ornamental trees.* Shall be at least one and three-quarter inches in diameter at breast height. Permitted trees include:

- (1) Dogwood;
- (2) Cherry;



- (3) Pear;
- (4) Hawthorn;
- (5) Redbud;
- (6) Magnolia;
- (7) Crabapple;
- (8) Serviceberry; and
- (9) Hornbeam.

(D) *Narrow evergreen trees.* Shall be at least three and one-half feet in height. Permitted trees include:

- (1) Red Cedar;
- (2) Hinoki Cypress;
- (3) Juniper; and
- (4) Arborvitae.

(E) *Shrubs.* Shall be at least two feet in height at the time of planting and at least three feet in height within three years. Permitted shrubs include:

- (1) Yew;
- (2) Spruce;
- (3) Juniper;
- (4) Mugo Pine;
- (5) Euonymous;
- (6) Boxwood;
- (7) Honeysuckle;
- (8) Lilac;
- (9) Sumac;
- (10) Syracantha;
- (11) Cotoneaster;
- (12) Flowering Quince;
- (13) Viburnum;
- (14) Spirea;
- (15) Privet; and
- (16) Potentilla.

(F) *Plant substitutions.* The Zoning Administrator may approve revisions to proposed plant species due to lack of availability or seasonal planting problems, provided the alternative plantings fully meet the purpose and provisions of this subchapter.

(G) *Prohibited plant materials.* The following trees are not permitted as new plantings for required landscaping: Box Elder, Poplar, Willow, Tree of Heaven, Ash and Catalpa. Furthermore, the Planning Commission reserves the right to exclude other species when their use would not contribute to the goals of the Zoning Ordinance.

(Ord. 37, passed 8-28-2005; Ord. 154, passed 1-11-2021)

#### **§ 152.334 INSTALLATION AND MAINTENANCE.**

(A) *Performance guarantee.* To insure full compliance with this subchapter and completion of landscape improvements, the Planning Commission or Village Council may require that a performance guarantee be deposited with the Village Clerk, in accordance with § 152.026.

(1) The amount of the performance guarantee shall be 125% of the estimated cost of the improvements for which the guarantee is required. The Zoning Administrator shall determine the estimated cost of the improvements based upon a written estimate provided by the applicant from a reputable local nursery.

(2) A maintenance bond for an amount not less than 10% of the total performance guarantee may be required for a period of at least one year after installation of landscape materials to insure proper maintenance and replacement, if

necessary. This condition may also be met with a cash deposit of 10% of the total performance guarantee. This amount shall be released to the applicant upon certification by the Zoning Administrator that all landscape materials are being maintained in good condition.

(B) *Installation.* Plant installation shall comply with the standards in the most recent edition of the *American Standard for Nursery Stock* (ANSI Z60.1), published by the American Nursery and Landscape Association.

(C) *Maintenance.* The property owner shall maintain all landscaping in a healthy condition, free from refuse and debris. All landscaped areas shall be irrigated with a readily available and acceptable water supply. Underground sprinkler systems shall be installed, used and maintained to insure the proper irrigation of all plant materials on the site.

(Ord. 37, passed 8-28-2005; Ord. 154, passed 1-11-2021)

#### **§ 152.335 WAIVERS AND MODIFICATIONS.**

(A) To allow for design flexibility, the Planning Commission may waive or modify the requirements of this subchapter at the time of preliminary site plan review, upon finding that the following criteria are met:

(1) The modification will be consistent with the purpose of this subchapter and will result in an equally effective or superior landscape design;

(2) Due to one or more unique characteristics of the property, such as its size, shape, topography, location, existing buildings or surroundings, the strict application of this subchapter will deprive the property owner of its reasonable use, as enjoyed by other property owners in the same zoning district;

(3) Strict application of this subchapter will result in a loss of existing parking spaces required by §§152.280 *et seq.*, where the parking does not abut a residential district or use; and

(4) Existing vegetation, landscaping and structures are located in such a way that the addition of the required landscaping would be detrimental to plant health or otherwise create undesirable conditions.

(B) In granting an adjustment, the Planning Commission may attach the conditions of approval, as it may deem reasonable.

(Ord. 37, passed 8-28-2005; Ord. 154, passed 1-11-2021)

#### **§ 152.336 NONCONFORMING SITES.**

Landscape elements that are shown on site plans approved prior to the effective date of this chapter may be maintained in accordance with §§ 152.415 *et seq.*

(Ord. 37, passed 8-28-2005; Ord. 154, passed 1-11-2021)

### **RESIDENTIAL OPEN SPACE DEVELOPMENT**

#### **§ 152.350 PURPOSE.**

It is the purpose of this subchapter to allow flexibility in residential lot size, site design and housing type, in order to encourage a more creative and efficient use of land than conventionally allowed within Low Density Residential (R1), Medium Density Residential (R2) and High Density Residential (R3) Districts, and to achieve the following objectives:

- (A) Preserve village character, natural resources and open space;
- (B) Create usable, recognizable common conservation and recreation areas;
- (C) Provide a diversity of high quality housing types;
- (D) Develop land and infrastructure efficiently and economically;
- (E) Provide interconnected roads of an appropriate scale; and
- (F) Provide interconnected pedestrian and bicycling facilities.

(Ord. 37, passed 8-28-2005)

#### **§ 152.351 GENERAL REQUIREMENTS.**

(A) *Special land use permit required.* A residential open space development shall require a special land use permit from the Village of Pinckney.

(1) The special land use permit shall be processed in compliance with §152.241(B).

(2) The special land use permit shall set forth all conditions of approval and include an approved preliminary site plan in compliance with the following:

- (a) The specific standards within this subchapter;
- (b) The general standards within §§ 152.240 *et seq.*; and

(c) The Village of Pinckney Subdivision Regulations or the site condominium requirements of §152.266.

(B) *Application submittal.* An application for a residential open space development shall include all of the information required for a special land use permit in § 152.241(A) including a preliminary site plan. The application shall also include a parallel plan showing how the site would be conventionally developed based upon the existing zoning, without a special land use permit (see § 152.353(A)).

(C) *Unified control.* The residential open space development shall be under single ownership or control, such that there is a single person or entity having proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of single ownership or control in the form of draft or recorded agreements, contracts, covenants and/or deed restrictions that indicate the development will be completed in its entirety as proposed.

(D) *Common open space guarantee.* The property owner shall guarantee, to the satisfaction of the Planning Commission, that all common open space shall be provided, used and maintained in the manner approved by the village. Documents shall be submitted that bind all successors and future owners in fee title to common open space commitments made as part of the approved special land use permit.

(E) *Recording of action.* The applicant shall record an affidavit with the Register of Deeds containing the full legal description of the project site, specifying the date of final approval by the Village Council and declaring that all improvements will be carried out in accordance with the approved site plan. In addition, all deed restrictions and easements shall be duly filed with the County Register of Deeds and copies of recorded documents shall be submitted to the village.

(F) *Land use permit.* Following final site plan approval, including proof of compliance with division (D) above, and final approval of engineering plans by the applicable village, county and state agencies, a land use permit for the development may be issued by the Zoning Administrator. It shall be the responsibility of the applicant to obtain all other necessary development permits.

(G) *Initiation of construction.* If construction has not commenced within 24 months of final approval, all village approvals shall become null and void. The applicant may apply in writing to the Planning Commission for an extension, not to exceed 12 months. A maximum of two extensions may be allowed.

(H) *Phased development.* Final approvals may be granted on each phase of a multi-phased development, if each phase contains the necessary components to ensure protection of natural resources and the health, safety and welfare of the residents and users of the residential open space development and the residents of the surrounding area.

(I) *Continuing adherence to plan.* Any property owner who fails to maintain an approved site plan shall be deemed in violation of this chapter and shall be subject to the penalties established in §§ 152.020et seq.

(J) *Performance guarantee.* The Village Council or Qualified Village Agent may require that a performance guarantee, in accordance with § 152.026, be deposited with the village to insure the completion of improvements.

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

#### **COMMON OPEN SPACE.**

(a) A usable and recognizable portion of a development site that is permanently protected from any use other than the following:

1. Public conservation or recreation; and
2. Common private conservation or recreation.

(b) **COMMON OPEN SPACE** shall not include:

1. Required front, side or rear yards on individual residential lots;
2. State regulated wetlands;
3. Storm water management facilities including floodways, county drainage easements and detention and retention ponds; and
4. Road or utility easements.

**RESIDENTIAL OPEN SPACE DEVELOPMENT.** One or more lots developed as a single entity with residential uses clustered on no more than 70% of the net site area with the remaining 30% permanently set aside as common open space.

(L) *Review Process.* The application for a residential open space development shall require review and approval of both the applicable special use application and site plan application and in some cases may also require a rezoning request for some or all of the property involved. At the request of the applicant, or at the direction of the Planning Commission or the Village Council, these applications may be considered concurrently. Review of the proposed residential open space development plan by the Planning Commission and Village Council shall require the procedures for both site plan and special use reviews and shall be acted on as follows:

(1) *Planning Commission action.* The review of the final residential open space development plan shall be noticed for public hearing in the same manner as a rezoning before the Planning Commission, and otherwise acted upon by the

Planning Commission, as provided by law.

(a) *Approval.* Upon finding that the final plan meets the criteria and standards set forth in the Village Zoning Ordinance, including this residential open space development chapter and those in §§ 152.242 and 152.388, the Planning Commission may recommend approval of the plans, with or without conditions.

(b) *Tabling.* Upon finding that the final plan does not meet the criteria and standards set forth in Village Zoning Ordinance, including this residential open space development chapter and those in §§ 152.242, and 152.388, but could meet such criteria if revised, the Planning Commission may table action until a revised final plan is resubmitted.

(c) *Denial.*

1. Upon finding that the final plan does not meet the criteria and standards set forth in Village Zoning Ordinance, including this residential open space development chapter and those in §§ 152.242, and 152.388, the Planning Commission shall deny the final plans.

2. The Planning Commission shall, to the extent it deems appropriate, submit detailed recommendations relative to the project, including, without limitation, recommendations with respect to matters on which the Village Council must exercise discretion.

(2) *Village Council action.* The final plan shall be noticed for public hearing as a rezoning before the Village Council, and otherwise acted upon by the Village Council, as provided by law.

(a) Upon receiving a recommendation from the Planning Commission, the Village Council shall review the final plan. Taking into consideration the recommendations of the Planning Commission and the criteria and standards set forth herein, the Village Council shall approve, approve with conditions, table or deny the final plan.

(b) Within a reasonable time following the hearing, the Village Council, or its designee, shall prepare a report stating the Village Council's conclusions, its decision, the basis for its decision, and any conditions imposed on an affirmative decision.

(c) Prior to approval of a final plan, the Village Council may require all standards and conditions of approval to be incorporated in a development agreement. The agreement shall be approved by the Village Attorney, and the Village Council, and signed by both the village and the applicant.

(Ord. 37, passed 8-28-2005; Ord. 139, passed 9-11-2017; Ord. 154, passed 1-11-2021)

#### **§ 152.352 PERMITTED USES.**

The following uses may be permitted through the special land use permit approval process, at the discretion of the Planning Commission:

- (A) Any permitted use or special land use listed in the district in which the development is located;
- (B) Two-family dwellings and multiple-family dwellings;
- (C) Common open space in compliance with the provisions of this subchapter; and
- (D) Accessory structures.

(Ord. 37, passed 8-28-2005)

#### **§ 152.353 DENSITY.**

(A) *Base density.* The number of dwelling units shall not exceed the number allowed in the residential district in which the development will be located, except as provided for by division (B) below. To establish the number of dwelling units allowed, the applicant shall submit a conventional plan in conformance with the following:

- (1) The applicable residential district;
- (2) All other provisions of this chapter; and

(3) Other applicable federal, state, county and village regulations including, but not limited to, those governing roads, water supply, sewage treatment, wetlands and floodplains. Detailed engineering is not required. The Planning Commission shall review the submitted conventional plan and, based on this plan, determine the number of dwelling units allowable for the proposed residential open space development.

(B) *Density bonus.* The Planning Commission may recommend and the Village Council may approve a density bonus of up to 150% of the base density allowed under division (A) above. The total number of dwelling units may be increased by 10% for any five of the following:

- (1) Permanent protection of more than 30% of the net site area as common open space;
- (2) Significant preservation of natural resources including vegetation, shorelines, unregulated wetlands and steep slopes;
- (3) Dedication of usable common open space to a public or non-profit entity;

- (4) Significant reduction of impervious surface cover, including road length;
- (5) Interconnection of roads, pedestrian or bicycling paths and/or common open space/recreational areas;
- (6) Preservation of rural character along public road frontage; and
- (7) Superior architectural and/or site design, including diversity or originality in lot layout and individual building design.

(Ord. 37, passed 8-28-2005)

#### **§ 152.354 SITE DEVELOPMENT STANDARDS.**

(A) *Base Zoning District.* Unless specifically waived or modified by the Village Council, all requirements of this chapter and the zoning district in which the site is located shall remain in effect, except for lot area, lot coverage and yard regulations.

(B) *Design flexibility.* To encourage flexibility and creativity consistent with the common open space community concept, the Village Council may grant specific departures from the requirements of this chapter for lot area, lot coverage and yards as part of the special land use approval process. Any modification shall be approved through a finding by the Village Council that the deviation will result in a higher quality of development than would be possible based on the conventional standards. Regulatory modifications are not subject to appeal or to variance approval by the Zoning Board of Appeals (see §§ 152.442(B), 152.444 and 152.445).

(C) *Landscaped buffer area.* The outside boundary of the development site shall be surrounded by a landscaped buffer area in compliance with § 152.329.

(D) *Access.*

(1) All vehicular access to the site shall be directly from an arterial road or collector road.

(2) Dedicated pedestrian and bicycle pathways shall be provided along each interior road and throughout the site. These pathways, which may include sidewalks, shall connect to adjacent sites to the maximum degree possible.

(E) *Internal roads.* Construction of private roads as a means of providing interior circulation is encouraged. Private roads within a residential open space development are exempted from the design requirements of the Village Technical Standards, if all of the following findings are made by the Planning Commission:

(1) The roads are adequate for emergency vehicle access, as verified in writing by the Putnam Township Fire Marshal and Pinckney Police Department;

(2) A deed restriction is placed on the project site that perpetually vests free simple of the land area in the parties adjoining the road and prohibits future transfer to the public; and

(3) An acceptable maintenance plan is provided, including a means of guaranteeing maintenance assessments from the affected property owners.

(F) *Common open space.*

(1) A minimum of 30% of the net site area shall be maintained as dedicated common open space held in collective ownership.

(2) The total area of dedicated common open space shall be equal to or exceed the total lot area by which all individual residential lots are reduced below the district standard.

(3) Common open space areas shall be located on the same site as the residential open space development and shall be readily accessible by all residents of the development.

(4) Common open space areas shall be of adequate size and configuration to accommodate the intended use, and shall not include narrow or irregular pieces of land (for example, remnants from the layout of lots, roads and parking areas).

(5) The dedicated common open space shall forever remain common open space, subject only to uses approved by the village and shown on the approved site plan. Further division of common open space or its use for other than approved recreation, conservation or agricultural purposes shall be strictly prohibited.

(6) The dedicated common open space shall be set aside by the developer through an irrevocable conveyance that is found acceptable to the Planning Commission, such as:

(a) Recorded deed restrictions;

(b) Covenants that run perpetually with the land; or

(c) A conservation easement established per the State of Michigan Conservation and Historic Preservation Easement Subpart Part 21, Natural Resources and Environmental Protection Act, Public Act 451 of 1994, being M.C.L.A. §§ 324.11501 *et seq.*, as amended (M.C.L.A. §§ 324.2140 *et seq.*)

(7) The conveyance shall assure that the common open space will be protected from all forms of development, except as shown on the approved site plan and shall never be changed to another use. Furthermore, the conveyance shall:

- (a) Indicate the allowable use(s) of the dedicated common open space;
- (b) Require the dedicated common open space to be adequately maintained by parties with an ownership interest in the common open space;
- (c) Provide detailed standards for scheduled maintenance of the common open space; and
- (d) Provide for maintenance to be undertaken by the Village of Pinckney in the event that the dedicated common open space is inadequately maintained, or is determined by the village to be a public nuisance, with a means of assessing all related costs upon the property owners.

(8) Any structure(s) accessory to an approved recreation, conservation or agricultural use may be erected within the dedicated common open space, subject to the approval of the Planning Commission. The accessory structures shall not exceed, in aggregate, 10% of the required common open space.

(9) National Recreation and Park Association Standards, standards established by a sports governing body or standards obtained from another credible source shall be used to determine the exact spatial and dimensional requirements needed for a specific type of recreation area or facility.

(10) The developer shall be required to improve recreation areas so that they are usable for the intended activity, including necessary facilities and equipment. The proposed improvements, including facilities and equipment, shall be acceptable to the village.

(G) *Water and sewage.* The development shall be served by public or community water and sewage treatment facilities, constructed and maintained in accordance with all applicable state and county statutes and ordinances.

(Ord. 37, passed 8-28-2005; Ord. 139, passed 9-11-2017) Penalty, see §152.999

## **ENVIRONMENTAL PERFORMANCE STANDARDS**

### **§ 152.370 PURPOSE.**

It is the purpose of this subchapter to preserve the environmental health, safety and welfare of the Village of Pinckney, its residents and business owners. No land use otherwise allowed by this chapter shall be permitted within any district that does not conform to the following minimum environmental standards.

(Ord. 37, passed 8-28-2005) Penalty, see § 152.999

### **§ 152.371 ENVIRONMENTAL PERFORMANCE STANDARDS.**

(A) *Compliance required.* All land uses shall comply with the environmental performance standards established herein unless any federal, state, county or village law, ordinance or regulation establishes a more restrictive standard, in which event the more restrictive standard shall apply.

(B) *Glare and exterior lighting.* For the purposes of this section, public streetlights shall be considered an essential public service, as defined in § 152.267.

(1) Exterior lighting shall be located and maintained to prevent the reflection or glare of light in a manner that creates a visual nuisance or safety hazard.

(2) All outdoor lighting shall be fully shielded and directed away from, and no light source shall be visible from, adjacent properties, roads and public rights-of-way.

(3) Reasonable lighting for safety and security purposes shall be encouraged, subject to the limitations set forth herein.

(4) Lighting shall not exceed one-half foot candles at a residential lot line or one foot candles at a nonresidential lot line.

(5) Light intensity shall not exceed ten foot candles in any given area on the site. The Planning Commission, at its discretion, may allow for an increased level of lighting if it can be demonstrated that the lighting is necessary for safety and security purposes.

(6) Pole mounted light fixtures shall not exceed 20 feet in height. On portions of a site adjacent to a residential district or use, light fixtures shall not exceed 15 feet in height.

(7) The design and/or screening of the development shall insure that glare from vehicle headlights shall not be directed towards any adjacent property, particularly residential property.

(8) No glare from any activity (such as arc welding or acetylene torch cutting) shall be visible from any point beyond the property upon which the use is being conducted.

(9) Reflective materials on building facades and/or rooftops shall not create a nuisance or safety hazard.

(10) Any site plan review required by §§ 152.385*et seq.* shall also include submittal of the following:

(a) A lighting plan showing light fixture locations and types;

(b) Lighting equipment specifications, including construction drawings and data sheets; and



(c) A photometric plan showing horizontal light levels in a point-by-point format with contour lines.

(C) *Noise.*

(1) Noise levels as recorded at the lot line shall not exceed 60 decibels between the hours of 6:00 a.m. and 9:00 p.m. and shall not exceed 45 decibels between the hours of 9:00 p.m. and 6:00 a.m.

(2) Objectionable sounds of an intermittent nature or sounds characterized by high frequencies, even if falling below the aforementioned decibel readings, shall be so controlled so as not to become a nuisance to adjacent uses. This shall particularly apply to commercial activities adjacent to a residential district or use.

(3) These limits shall not apply to noise resulting from public safety signals or warning devices.

(D) *Vibration.* No activity or use shall create ground-transmitted vibrations that are recurring and perceptible at any property line.

(E) *Airborne emissions.*

(1) *Air pollution.* It shall be unlawful for any person, firm or corporation to permit the emission of any smoke, dust or other air contaminant in violation of applicable air quality standards adopted by the Federal Clean Air Act and the Michigan Department of Environmental Quality.

(2) *Odors.* Any condition or activity resulting in the emission of a noxious odor that is perceptible at any point along the property line shall be prohibited.

(3) *Gases.* Any condition or activity resulting in the emission of a gas that is explosive, injurious to people or destructive to property is prohibited.

(F) *Electromagnetic interference.* Any interference with normal radio, telephone or television reception across property lines shall be prohibited.

(G) *Material use, storage and disposal.*

(1) It shall be unlawful to pollute or otherwise impair the air, water, soil or any other natural resource within the Village of Pinckney as a result of the following activities:

(a) The use, storage and/or disposal of a hazardous substance; and

(b) The storage and/or disposal of solid, liquid, gaseous and/or sanitary waste.

(2) Any person, firm, corporation or other legal entity engaged in any of the above activities shall comply with all applicable federal, state and village regulations, including obtaining all necessary permits and/or licenses.

(3) No solid waste shall be stored or disposed of in such a manner as to create a nuisance, visual eye-sore or safety or environmental hazard.

(4) No operation that produces hazardous waste shall commence without prior notice to the Zoning Administrator. Notice shall be provided at least three weeks before the operation is commenced.

(H) *Nonresidential uses involving hazardous and polluting materials.* Nonresidential sites at which hazardous substances and polluting materials are stored, used or generated shall be designed to prevent spills and discharges to the air, surface of the ground, lakes, streams, rivers or wetlands. Hazardous substances and polluting materials as used in this section shall mean hazardous chemicals as defined by the Michigan Department of Community Health and the Michigan Department of Labor and Economic Growth, flammable and combustible liquids as defined by the Michigan State Police Fire Marshal Division, critical materials, polluting materials and hazardous waste as defined by the Michigan Department of Environmental Quality, hazardous substances as defined by the United States Environmental Protection Agency and hazardous materials as defined by the United States Department of Transportation.

(1) Secondary containment for above ground areas where hazardous substances and polluting materials are stored or used shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.

(2) General purpose floor drains shall be allowed only if they are authorized to be connected to a public sewer system, an on-site holding tank or a system authorized through a state groundwater discharge permit. Proof of authorization must be provided to the Village before a general purpose floor drain is installed.

(3) State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges shall be allowed without required permits and approvals.

(4) File with the local Fire Department a floor plan describing, in full detail, the location and identification of hazardous or polluting substances within the first three months of the commencement of business. The floor plan shall be updated with the local Fire Department on a yearly basis.

(Ord. 37, passed 8-28-2005; Ord. 154, passed 1-11-2021) Penalty, see § 152.999

## **§ 152.385 PURPOSE.**

The purpose of this subchapter is to regulate the physical layout of land uses, structures and improvements, in order to specifically address potential development impacts on a site and surrounding property, including impacts on: natural resources, pedestrian and vehicular traffic, infrastructure and services, adjacent lots, the local economy, the social and cultural environment, public health, safety and welfare and the character of future development.

(Ord. 37, passed 8-28-2005)

## **§ 152.386 PLOT PLAN APPROVAL.**

(A) *Administrative authority.* The Zoning Administrator shall:

(1) Have the authority to approve a plot plan for the following:

(a) Any change in the use of an existing lot or structure to another permitted use that does not require site plan approval under § 152.387. The use change will be subject to all other applicable zoning provisions, such as parking and landscaping;

(b) Any construction or alteration of a structure that does not require site plan approval under §152.387, including a single-family dwelling, addition to a single family dwelling, or customary accessory structure, located on a single-family residential lot; and

(c) Provision of additional parking, loading/unloading spaces, and landscape improvements as required by ordinance;

(2) Notify the Planning Commission at the next available, regularly scheduled Planning Commission meeting of all plot plans that have been approved by the Zoning Administrator. When referred by the Zoning Administrator, the Planning Commission may determine that a plot plan must be reviewed as a regular site plan in accordance with the requirements of this chapter. The Zoning Administrator may also refer a plot plan eligible for administrative recommendation to Village Council; and

(3) Be authorized to employ the Village Planner, Engineer or other experts to assist in the review of the plot plan submitted under this section.

(B) *Application information.* All applications for plot plan review shall include the following:

(1) A village application form for a land use permit;

(2) The established fee as determined by the Village Fee Schedule; and

(3) A plot plan including the information required for a preliminary site plan in §152.389 (D) (1) through (15). The applicant shall submit one copy of the plot plan on either a 24-inch by 36-inch sheet, an 11-inch by 17-inch sheet, or an 8 ½ -inch by 11-inch sheet as determined by the Zoning Administrator unless referred to the Planning Commission or Village Council by the Zoning Administrator, in which case the applicant shall submit seven copies and an electronic copy.

(C) *Review process.*

(1) A complete plot plan and land use permit application shall be submitted to the Zoning Administrator prior to any site preparation (including clearing and grading) or construction and prior to application for a building permit from the building official.

(2) The Zoning Administrator shall review the plot plan application for completeness and verify its compliance with the provisions of this chapter.

(3) The site shall be staked showing the property corners (prior to commencement of work).

(4) The site shall be staked for all structures to be constructed (prior to commencement of work).

(5) Upon approval, the Zoning Administrator shall issue a land use permit authorizing the commencement of work. (See also § 152.023)

(Ord. 37, passed 8-28-2005; Ord. 91, passed 10-12-2009; Ord. 154, passed 1-11-2021)

## **§ 152.387 SITE PLAN APPROVAL.**

(A) Site plan review (preliminary and final site plans) by the Planning Commission shall be required for the following:

(1) Site plan review and approval is required for existing uses or structures where an alteration to the existing use or structure would result in any of the following conditions:

(a) Relocation of a structure, an increase of the floor area of at least 10% or 500 square feet, whichever is less, or a reduction in floor area;

(b) A use or structure is on a lot abutting a residential district or use;

(c) A requirement of a variance from the provisions of this chapter;

(d) Resurfacing of an off-street parking lot where construction activities would alter drainage properties, or the addition or replacement of the base or sub-grade; and

(e) Any change in use, or a development that could affect compliance with the standards set forth in this chapter.

(2) Site condominium projects; and

(3) Any use requiring a special land use permit.

(B) Preliminary site plans shall be approved by the Planning Commission.

(C) Upon approval of a preliminary site plan by the Planning Commission, the applicant may submit a final site plan in accordance with the requirements of this chapter. Final site plans shall be approved by the Planning Commission, except in the case of a final site plan for a residential open space development, condominium project, or other planned development for which Village Council shall approve or deny, following a review and recommendation by the Planning Commission.

(Ord. 37, passed 8-28-2005; Ord. 91, passed 10-12-2009; Ord. 139, passed 9-11-2017; Ord. 154, passed 1-11-2021)

#### **§ 152.388 GENERAL APPLICATION STANDARDS.**

(A) *Compliance required.* No grading, filling, removal of trees or other vegetation, or construction of improvements shall commence for any development that requires site plan approval until the final site plan and land use permit have been approved by the village.

(B) *Application information.* All applications for site plan review shall include the following:

(1) *Fee.* The required application and escrow fees, as established by the Village Council in the Village Fee Schedule. No part of the application fee shall be refundable.

(2) *Application form.* Three completed copies of the village application form, which shall be signed by the property owner(s) and contain the following information:

(a) The name, address and telephone number of the applicant(s) and property owners(s);

(b) If the applicant is not the property owner(s), a notarized statement signed by the property owner(s) that the applicant is acting on the owner's behalf; and

(c) The legal description, tax identification number and address of the property.

(3) *Site plan.* A site plan in compliance with §152.389 (preliminary) or § 152.391 (final), as applicable and conforming to Village Technical Standards.

(a) The applicant shall submit four individually folded copies of the site plan on 24-inch by 36-inch sheets and one digital copy. See Village Zoning Administrator for format details.

(b) The site plan shall be drawn to scale of not less than one inch = 20 feet for property under three acres and not more than one inch = 50 feet for sites three acres or more.

(c) Upon acceptance of the above referenced site plan, as complete for review by the Zoning Administrator, Village Planner, Village Engineer, Department of Public Works and Fire Marshal, the applicant shall submit at least ten additional copies of the site plan on 24-inch by 36-inch sheets.

(4) *Proposed waivers.* The preliminary and final site plan shall clearly indicate any proposed reductions in off-street parking, loading and/or landscaping standards, to be modified by the Planning Commission during site plan review.

(5) *Additional information for final site plan review.* Other items required for final site plan review are as follows:

(a) An impact assessment report as required by §152.392, below, including a completed environmental permit checklist and hazardous substances reporting form, if applicable, supplied by the Zoning Administrator.

1. The Zoning Administrator or Planning Commission may waive or modify the impact assessment report requirements, or accept an impact assessment report previously submitted relative to the site and proposed development, at its discretion;

(b) Copies of any deed restrictions, easements, protective covenants, master deed or association bylaws affecting the site; and

(c) Proof that the final site plan has been submitted for review to all other agencies that regulate the proposed development including, but not limited to: the County Road Commission, Health Department, Building Department and Drain Commissioner and the Michigan Department of Transportation and Department of Environmental Quality.

(C) *Submission.* A complete application must be submitted to the Zoning Administrator at least 14 business days prior to the Planning Commission meeting at which the proposal will first be considered.

(D) *Application flexibility.* If deemed unnecessary to determine site plan compliance with the provisions of this chapter, the Zoning Administrator and Planning Commission may waive the submittal of information required in the following (sections):

- (1) Section 152.388 (B) (general site plan);
- (2) Section 152.389 (D) (preliminary site plan);
- (3) Section 152.391 (final site plan); and
- (4) Section 152.392 (Impact Assessment Report).

(E) *Concurrent preliminary and final site plan review.* If requested by the petitioner, preliminary and final site plan review may be conducted concurrently.

(Ord. 37, passed 8-28-2005; Ord. 72, passed 4-24-2006; Ord. 82, passed 5-12-2008; Ord. 139, passed 9-11-2017; Ord. 154, passed 1-11-2021)

#### **§ 152.389 PRELIMINARY SITE PLAN APPLICATION.**

(A) *Purpose.* The purpose of preliminary site plan review is to confirm general compliance with the Zoning Ordinance, conformance with Village Technical Standards, and suggest changes, if necessary, prior to final site plan review.

(B) *Pre-planning meeting.* For all development other than an individual single family home, the proprietor and/or his/her authorized agent may at his/her own discretion request a planning meeting with village representatives to discuss project details prior to submittal of a preliminary site plan. The proprietor or his/her authorized agent assumes all costs associated with meeting attendees in accordance with the fee schedule.

(C) *Preliminary site plan application and submittal.* Preliminary site plan application and submittal shall be made in accordance with the general application standards in § 152.388.

(D) *Preliminary site plan.* Preliminary site plans shall contain the following information:

- (1) Name, address and phone number of applicant(s) and property owner(s);
- (2) Scale, north arrow, date of original drawing and date of each revision;
- (3) Address, parcel identification number(s), legal description(s), and zoning district(s) of the site;
- (4) Gross site area in acres and square feet;
- (5) Location and length of all lot and/or property lines. All lot and/or property lines are to be shown in dimension including building setback lines (front, rear and side) and existing easements. A copy of title commitment or policy must be included;
- (6) Significant natural features such as steep slopes, existing trees, floodplains, wetlands, lakes, ponds, rivers or creeks including ordinary high water mark(s);
- (7) Location and dimensions of the following, both existing and proposed (clearly labeled existing or proposed):
  - (a) Structures;
  - (b) Sidewalks, curb cuts, driveways, parking areas and off-street parking spaces;
  - (c) Landscaping, greenbelts, separation berms, fences and walls;
  - (d) Signs;
  - (e) On-site wells and septic systems or public water and sewer hookups, as applicable;
  - (f) Outdoor waste, material and/or equipment storage areas;
  - (g) Dry wells;
  - (h) Open space recreation areas;
  - (i) Exterior lighting;
  - (j) Loading/unloading areas; and
  - (k) Curbing.
- (8) Location and dimensions of all roads providing access and/or adjacent to the site (clearly labeled with the road name);
- (9) Statistical data which shall include:
  - (a) The number of structures;
  - (b) The number of sub-units per structure;
  - (c) The size of each unit;
  - (d) The total area involved;

- (e) Percentage of lot coverage.
  - (10) Principal building height;
  - (11) Existing grades and any topographical alterations or changes in natural terrain including drainage patterns shall also be shown;
  - (12) The vehicular and pedestrian circulation features within and adjacent to the development site;
  - (13) A topographic survey shall be signed and sealed by a Land Surveyor registered in the State of Michigan and be prepared in the State Plane Coordinate System using NAVD 88 as the vertical datum. Topographic survey shall extend 250 feet beyond the property lines locating all features. Soil boring locations shall be collected using survey grade equipment calibrated to the State Plane Coordinate System and shown on the survey. Elevations shall be provided by a Land Surveyor registered in the State of Michigan and be depicted on the soil boring logs. The soil boring logs shall show both the depth and the elevation of soil strata and groundwater.
  - (14) An area wide plan showing the following:
    - (a) The property lines of all adjacent parcels and other affected parcels;
    - (b) The location and height of all structures within 250 feet of the property boundary lines of the property being developed;
    - (c) Existing sanitary sewers, storm sewers, water mains, watercourse centerlines, and natural features;
    - (d) Proposed utilities and their connection to existing utilities in plain view and clearly labeled, including rim elevations, invert elevations, pipe sizes, pipe directions and pipe lengths between structures;
    - (e) Enough information regarding existing and proposed sanitary sewer must be supplied to show that the proposed sanitary sewer would adequately service the required area. The sanitary sewer service area shall be determined by the Village Engineer or Qualified Village Agent;
    - (f) Outline of proposed detention and/or retention basins and proposed outflow location;
    - (g) Zoning, parcel identification numbers, and owner's name of each parcel for all properties shown on the plan;
    - (h) Existing contours and off-site drainage area delineations;
  - (15) *Wetland compliance.* Verify wetland compliance, if applicable, with the Village of Pinckney Wetland Ordinance.
- (E) *Additional information for special use permits.* 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 will constitute a change in the project and may require a complete renewal of the site plan process. The Village Zoning Administrator shall determine whether or not a change requires renewal of the site plan process.

(Ord. 37, passed 8-28-2005; Ord. 154, passed 1-11-2021)

#### **§ 152.390 PRELIMINARY SITE PLAN REVIEW.**

(A) *Review for completeness.*

- (1) The Zoning Administrator shall review the preliminary site plan application and determine if the application is complete and all of the necessary information has been provided in accordance with § 152.388 General Application.
- (2) *Preliminary site plan revisions.* Any revisions that are required during the preliminary site plan review process will require the following: Preliminary site plan revisions submittal.
  - (a) Four 24" x 36" hard copy revised preliminary design drawings and one electronic copy in pdf format.
  - (b) Revised plans shall include and address all comments from the Village Planner and other Qualified Village Agent reviews.
  - (c) Payment of the plan review fees pursuant to the Village Fee Schedule.

(B) *Distribution.* Upon receipt of a complete application, the Zoning Administrator shall transmit the site plan and all accompanying materials to the Planning Commission and any other required parties prior to its next regular meeting. Transmittals shall not be made until all required information is submitted and the necessary fees have been paid in full. The Zoning Administrator shall also schedule consideration of the site plan as an item on the agenda at the next regular meeting of the Planning Commission.

(C) *Planning Commission action.* At the first regular meeting at which a preliminary site plan is considered, the Planning Commission shall review the application and relevant issues. The Planning Commission shall then approve, approve with conditions or deny the preliminary site plan. The basis for the decision and any approval conditions shall be specified in the resolution and the meeting minutes and communicated to the applicant in writing. If no action is taken because more information is required from the applicant, the Planning Commission shall table the agenda item to a date certain, which shall be specified in the meeting minutes.



(D) *Special land uses.* In accordance with § 152.387, the Planning Commission shall approve, approve with conditions or deny a preliminary site plan submitted for a special land use permit after the required public hearing is conducted.

(E) *Effect of approval.* Approval of a preliminary site plan by the Planning Commission or Village Council, as the case may be, shall indicate its general acceptance of the proposed use, layout of buildings, roads and drives, off-street parking areas, other facilities and the overall character of the proposed development. Upon approval of a preliminary site plan, the applicant may submit a final site plan to the village in accordance with the requirements of § 152.391.

(F) *Expiration of approval.* Approval of a preliminary site plan shall be valid for one calendar year and shall then expire and be of no effect unless an application for final site plan approval is submitted to the Zoning Administrator within that time period. The applicant may extend preliminary site plan approval for one additional year upon written request to the Zoning Administrator and approval by the Planning Commission prior to the original expiration date. The Planning Commission may grant further extensions of preliminary site plan approval in accordance with the procedures noted herein upon a showing of good cause.

(Ord. 37, passed 8-28-2005; Ord. 83, passed 10-27-2008; Ord. 91, passed 10-12-2009; Ord. 139, passed 9-11-2017; Ord. 154, passed 1-11-2021)

#### **§ 152.391 FINAL SITE PLAN APPLICATION.**

(A) *Purpose.* The purpose of final site plan review is to confirm compliance with all items and provisions of this chapter and conformance with Village Technical Standards. An impact assessment report may also be required (see § 152.392) at the discretion of the Planning Commission and/or Village Council.

(B) *Final site plan application and submittal.* Final site plan application and submittal shall be made in accordance with the general application standards in § 152.388, and:

(1) Final site plans shall be prepared by one of the following professionals registered in the state of Michigan: architect, civil engineer, landscape architect, or land surveyor and each set of the plans shall be signed and sealed by the engineer who has supervised the work.

(2) Final engineering drawings for all site improvements such as water and utility lines, sanitary sewer and storm sewer systems, roads, drives and parking lots, retention ponds and other ponds or lakes, and retaining walls shall be approved by the Village Engineer.

(C) *Final site plan.* Final site plans shall contain the following information:

(1) General information:

- (a) Name, address, phone number and seal of the professional registered in the State of Michigan responsible for preparing the plan;
- (b) Scale, north arrow, date the plan was prepared and the date of each revision;
- (c) Address, parcel identification number(s), legal description(s), and zoning district(s) of the site;
- (d) Gross site area and net site area in acres and square feet;
- (e) The location and length of all lot lines. Lot line dimensions and angles or bearings shall be based upon a boundary survey prepared by a Land Surveyor registered in the State of Michigan and shall correlate with the legal description;
- (f) The relationship of the site to all surrounding lots within 250 feet, including land uses, zoning districts, lot lines, roads, driveways, easements, structures and natural features;
- (g) General description of deed restrictions, if any;
- (h) Detailed development phases;
- (i) Notation of performance guarantees to be provided including amounts, types and terms; and
- (j) Notation of any variances that have been or must be secured.
- (k) All plans shall include a location map showing the surrounding area.
- (l) The cover sheet shall have an index of all sheets and the individual sheets shall have proper matching lines or other key to provide reasonable continuity and orientation.
- (m) The drawings shall contain sufficient detail to properly show the proposed information and the methods of construction.

(2) *Natural features.*

(a) Pre-development topography with contour lines at a minimum of one-foot intervals, and ground elevations of all existing buildings, drives and/or off-street parking lots;

(b) The direction of pre-development drainage flow, and the location of existing drainage courses, including lakes, ponds, rivers and streams and all elevations;



(c) Soil characteristics of the site, to at least the level of detail provided by the USDA Soil Conservation Service, Soil Survey of Livingston County, Michigan; and

(d) Existing natural features such as trees, wooded areas, wetlands, streams, rivers, ponds, lakes and floodplains including clear indication of natural features to remain and to be removed:

1. Trees measuring at least eight inches in diameter at breast height shall be clearly labeled. Groups of trees not proposed for removal may be shown by an approximate outline of the total canopy;

2. Wetland areas shall be delineated by a professional hydrologist, geologist, biologist, landscape architect or engineer trained in wetland delineation; and

3. The ordinary high water mark of a stream, river, lake or pond shall be verified by a Land Surveyor registered in the State of Michigan or any professional trained in wetland delineation listed above.

4. The property owner is responsible for clearly marking wetlands and ordinary high water marks on the ground by flagging or other means.

(3) *Grading plan.* A grading plan shall be provided in compliance with the Village Technical Standards.

(a) A grading plan showing finished contours at one-foot intervals, correlated with existing contours so as to clearly indicate cut and fill required.

(b) Location, dimensions and materials of retaining walls, fill materials, typical vertical sections and restoration of adjacent properties, where applicable.

(c) All finished contours must be connected to existing contour lines at or before the property lines.

(d) The areas to be left undisturbed during construction shall be so indicated on the site plan and shall be identified on the ground by use of snow fencing or silt fencing so as to be obvious to construction personnel.

(4) *Landscape plan.* A landscape plan shall be provided in compliance with §152.327.

(5) *Structures.* The location, area, height in feet and stories and use of all structures on the site, as well as:

(a) Setbacks from lot lines, existing and proposed public and private easements and rights-of-way, wetlands and waterways;

(b) Typical layout, elevation and floor area for each type of building;

(c) Distances between structures;

(d) Total percentage of lot coverage;

(e) Elevation drawings that illustrate building design, size, height, facade, windows and doors, construction materials and foundation plantings;

(f) For residential development, density calculations, number and types of dwelling units and floor area per dwelling unit;

(g) For nonresidential development, the number of offices and employees and typical floor plans and elevations; and

(h) The location, height and construction materials of all fences and walls, including elevation drawings.

(6) *Roads and access.* The location and dimensions of: curb cuts, public and private roads, drives, alleys, access easements, bicycle paths and sidewalks adjacent to and/or serving the development including the following as applicable:

(a) Centerline, right-of-way width and right-of-way expansion;

(b) Surface material and width;

(c) Acceleration, deceleration and passing lanes;

(d) Surface elevations and grades of entries and exits;

(e) Distance of curb cuts from intersections, angle of intersections and vision clearance area;

(f) Curve radii;

(g) Road names;

(h) A description of expected traffic volumes based upon national reference documents, such as the most recent volume of the Institute of Transportation Engineers Trip Generation Manual; and

(i) Proof of approval by the Village Engineer or Qualified Village Agent, Livingston County Road Commission and/or Michigan Department of Transportation, as applicable.

(7) *Parking.* The location and dimensions of vehicle parking lots, individual parking spaces and loading areas adjacent to and/or serving the development including:

(a) Total number of parking spaces listed in statistical data and shown on the site plan. If existing parking spaces will serve the proposed use, spaces must be clearly labeled "existing" and "proposed";

(b) Angle of parking spaces;

(c) Clearly marked handicap accessible parking spaces;

(d) Surface material;

(e) Landscaped islands, if any; and

(f) Loading spaces.

(8) *Utilities*. Existing and proposed essential public services and utilities including:

(a) *On-site wells, septic tanks and drain fields*. If on-site water and sewer facilities are to be used, a letter of approval of same, or a copy of the permit from the Livingston County Health Department shall be submitted prior to final site plan approval.

(b) *Connections to public sewer and water supply*. For sites served by sanitary sewer, calculations for pre- and post-development flows are required. Expected sewage rates shall be as provided in § 52.29. This should include sanitary pump stations if applicable. Connections to the water main shall be included.

(c) *Stormwater drainage facilities*. Storm water drainage facilities including roadside swales, retention and detention ponds clearly indicating side slopes, culverts, catch basins, size calculations, post-development drainage flow patterns and points of discharge. All storm sewer, detention, and retention basin design criteria shall be in accordance with the Livingston County Drain Commissioner's "Procedures and Design Criteria for Stormwater Management Systems and Soil Erosion and Sedimentation Control Programs" latest revisions thereof. A letter of approval of the proposed drainage system from the Livingston County Drain Commissioner shall be submitted prior to final site plan approval. A maintenance agreement for entire stormwater system must be included.

(d) *Water, sanitary, storm utility details*. The following shall be shown on sanitary sewer, storm sewer and water main plans and profiles drawings as applicable:

1. Length of run, class and size of all proposed utilities, slope of all sanitary sewer and storm sewer pipe between manholes.
2. Top of casting elevations of all manholes, inlets, and/or catch basins etc. shall be shown in both plan and profile.
3. Porous backfill, special bedding and tunnel sections where applicable.
4. Invert elevations for all sanitary and storm sewer lines, for both existing and proposed sewers, shall be shown in both plan and profile.
5. Adjacent existing or proposed utilities plotted where parallel.
6. Other utilities crossing under or over proposed sewers or water mains.
7. Existing ground profile and proposed finished grade profile, including stationing, over all storm sewer, sanitary sewer, water mains, and finished grade of all proposed hydrants and valves.
8. Construction method (including but not limited to open cut, bore and jack, and directional drill).

(e) *Hookups*. Utility hookups (i.e. gas and electric).

(f) *Surface equipment*. Location of hydrants, electrical and telephone boxes, poles, towers and other surface equipment, communications towers, above ground and underground storage tanks.

(g) Drywell and/or utilization of no salt generation softeners.

(9) *Soil erosion control*. All work within the village requiring soil erosion and sedimentation control shall comply with the Livingston County "Procedures and Design Criteria for Stormwater Management Systems and Soil Erosion and Sedimentation Control Programs", latest revision.

(10) *Signs*. The location, height, area, illumination and content of all signs.

(11) *Lighting*. The location and specifications of exterior lighting fixtures and a photometric lighting plan.

(12) *Waste storage*. The size, location and description of any interior or exterior areas for storing, using, loading or unloading hazardous or polluting materials. A listing of types and quantities of hazardous and polluting materials that will be used or stored on-site.

(13) *Proposed easements*.

(D) Impact assessment report if required.

(E) The proprietor or his/her authorized agent shall prepare all applicable regulatory permit applications and secure signatures from the village as necessary prior to forwarding on the appropriate agencies. The typical required permits are as follows:

(1) *Watermains*. In addition to approval by the Village Engineer or Qualified Village Agent, watermains require the approval of the MDEQ and issuance of a construction permit by this state agency. The proprietor or his/her authorized agent shall secure a permit from MDEQ with plans signed and sealed by a civil engineer registered in the State of Michigan responsible for preparation of the plans. In addition, a tabulation of watermains by streets and easements which include their size, location, type, and length shall be prepared by the proprietor or his/her authorized agent. A minimum of 14 copies of the computations shall be submitted to the village with the final site plan submittal.

(2) *Sanitary sewers*. In addition to approval by the Village Engineer or Qualified Village Agent, sanitary sewer plans require the approval of the MDEQ and issuance of a construction permit by this state agency. The proprietor or his/her agent shall secure a permit from MDEQ with plans signed and sealed by a civil engineer registered in the State of Michigan responsible for the preparation of said plans. In addition, a tabulation of sanitary sewers by streets and easements which includes their size, location, type and length along with design flow computations for the proposed sewers and a tabulation of the capacities of the proposed sewers and the existing outfall sewer shall be submitted by the proprietor or his/her authorized agent. Fourteen copies of the computations shall be submitted to the village with the final site plan submittal.

(3) *Road plans, storm sewers, retention basins and/or detention basins, paving, grading and soil erosion control and drywell plans*. In addition to approval by the Village Engineer or Qualified Village Agent the above plans may require approval from Livingston County and/or MDOT. The proprietor or his/her authorized agent shall secure required permits on plans sealed by a civil engineer registered in the State of Michigan responsible for the preparation of said plans. In addition, all related design computations (traffic, volumes, storm flows, etc.) for the proposed plans and a tabulation of the capacities, if applicable, shall be submitted by the proprietor or his/her authorized agent.

(Ord. 37, passed 8-28-2005; Ord. 72, passed 4-24-2006; Ord. 82, passed 5-12-2008; Ord. 98, passed 3-28-2011; Ord. 139, passed 9-11-2017; Ord. 154, passed 1-11-2021)

### **§ 152.392 IMPACT ASSESSMENT REPORT.**

(A) At the discretion of the Planning Commission, an Impact Assessment Report may be required to be prepared at the applicant's expense and submitted with the application for final site plan review.

(B) The Impact Assessment Report shall contain a combination of text, graphics and approval letters from regulatory agencies sufficient to demonstrate compliance with the criteria below:

(1) *Zoning*. The final site plan shall conform to the purpose and standards of the zoning district in which it is located.

(2) *Surrounding uses*. The proposed use and site design shall not be injurious to the surrounding neighborhood or impede the normal and orderly development or use of surrounding property. The site plan shall be harmonious, efficient and coordinated in relation to topography, size and type of land use and the character and improvement of adjacent properties.

(3) *Phasing*. Every individual development phase shall be designed to function independently in a safe, convenient and efficient manner without being dependent upon subsequent development phases and/or improvements.

(4) *Natural features*. The development shall protect natural features to the maximum extent possible including woodlands, wetlands, lakes, ponds, rivers, streams, wildlife habitat, steep slopes and groundwater recharge areas. The development shall preserve and incorporate the features into the site design. No grading, excavation, fill, clearing of topsoil, clearing of trees or other disturbance of the natural environment shall occur outside of those areas approved for the placement of physical improvements. Topography; the development shall conform to existing topography to the degree possible. The amount of cutting and filling shall be minimized and shall not destroy the character of the subject property or adversely affect surrounding properties.

(5) *Soils*. The soil and subsoil conditions shall be suitable for excavation and on-site septic systems, if any. Soils and slopes not suitable for development will be protected. The proposed development will not cause soil erosion or sedimentation problems. Adequate measures will be taken to control soil erosion and sedimentation during grading and construction operations and until permanent ground cover is established. These measures shall be based on the latest standards published by the County Drain Commissioner and/or USDA Soil Conservation Service.

(6) *Drainage*. The final drainage plan shall conform to the natural drainage pattern as much as possible. The development shall not substantially reduce the existing storm water infiltration or storage capacity, thereby increasing the frequency or volume of flooding at other locations. The drainage design shall not perceptively increase the pollution, volume or intensity of runoff onto adjacent properties or receiving waterways.

(7) *Environmental performance*. The proposed development shall not result in pollution, noise, odor, light, dust, dirt, smoke or other external effects that adversely affect neighboring properties. Development that includes the use and/or storage of hazardous or polluting materials shall be designed to prevent spills and discharge of polluting materials to the ground or nearby water bodies. A completed Environmental Checklist and Hazardous Substances Reporting Form, supplied by the village, may be required.

(8) *Public services, facilities and utilities*. Adequate services and utilities shall be available or provided, located and constructed with sufficient capacity and durability to properly service the development. The expected number of residents, employees, visitors and/or patrons shall not strain public schools, police and fire protection, water supplies, sanitary sewer facilities and/or other public facilities and services beyond existing and planned capacity. Electric, telephone and cable distribution lines shall be underground and conform to the current Standard Rules and Regulations of the Michigan Public Service Commission.

(9) *Structures.* The layout, size, bulk, height and architectural design of all structures shall be harmonious in relationship to other structures on the site and in the general vicinity. The layout and design of structures shall enhance the ease and efficiency of use, and the architectural and visual character of the village. Signs; the size, location, design and illumination of signs shall be harmonious with natural features, uses, structures and signs on surrounding property and traffic safety. Signs shall be located and designed to avoid creating distraction or visual clutter.

(10) *Traffic.* Traffic within the site, as well as to and from the site, shall not create a safety hazard or place demands upon roads in excess of existing or planned capacity. The site plan shall provide for the proper expansion of public roads serving the site, where necessary, at the developer's expense. The relationship between roads, sidewalks, service drives, driveways, parking spaces and loading areas shall be convenient, safe and designed to complement the arrangement of existing and planned roads, alleys, drives, parking areas and pedestrian and bicycle pathways. All structures shall be fully accessible to emergency vehicles.

(a) *Pedestrian and bicycle traffic.* There shall be a pedestrian circulation system that is separate from the vehicular circulation system. Safe and adequate pedestrian and bicycle access shall be provided between major activity areas, employment and service centers, schools, parks and residential areas. Sidewalks shall be provided unless determined by the Planning Commission to be unnecessary because pedestrian circulation is otherwise provided for.

(b) *Parking.* The layout of parking and loading areas shall not adversely affect the flow of traffic within the site or to and from the adjacent roads and properties.

(c) *Traffic impact study.* A detailed traffic impact study shall be required for any site over two acres or for any project expected to generate 100 or more vehicle trips on adjacent roads during the peak hour of traffic. The traffic study shall include the following:

1. Description of existing daily and peak hour traffic on the adjacent roads (based on current Livingston County Road Commission data or a similar source) and a description of any sight distance limitations along the site's right-of-way frontage;
2. Forecasted trip generation of the proposed use for the a.m. and p.m. peak hour and average daily traffic generated (based on the current *Institute of Transportation Engineers Trip Generation Manual*);
3. Description of impact on special transportation modes, including school buses, trucks and bicycles;
4. Projected 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;
5. 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 road intersections where the expected traffic will comprise at least 5% of the existing intersection capacity and/or for roadway sections and intersections experiencing congestion or a relatively high accident rate, as determined by the village staff, Livingston County Road Commission or Michigan Department of Transportation;
6. Analysis of any mitigation measures warranted by the anticipated traffic impacts. Where appropriate, documentation shall be provided from the appropriate road agency regarding time schedule for improvements and method of funding; and
7. A map illustrating the location and design of proposed access, including any sight distance limitations, dimensions from adjacent driveways and intersections within 250 feet, and other data to demonstrate that the driveway(s) will provide safe and efficient traffic operation.

(11) *Landscaping and screening.* The pre-development landscape shall be preserved in its natural state to the degree possible by minimizing clearing and grading. Post development grade changes shall be in keeping with the general appearance of neighboring developed areas. Plant materials shall be used to enhance the appearance of the site, to screen unsightly, noisy or other harsh elements and to provide visual relief from large monotonous features such as parking lots and building facades. Plant species that are hardy and native to Michigan shall be used to the maximum degree possible. Screening; waste and material storage, mechanical, service, parking and loading areas, utility structures and similar features shall be located, buffered and/or screened so as to be unobtrusive and not create a nuisance, negative visual impression or health or safety hazard on the subject property or neighboring properties. Trash containers shall be enclosed on all sides by a structure aesthetically compatible with the development and surrounding property.

(12) *Additional information.* The Planning Commission may require the submittal of other data deemed reasonably necessary for adequate review, such as an independent traffic study, market analysis, environmental inventory and assessment, demand on public facilities and services, impact on historic or cultural resources, displacement of people or other uses as a result of the proposed development, effect on the village tax base and adjacent property values.

(Ord. 37, passed 8-28-2005; Ord. 139, passed 9-11-2017; Ord. 154, passed 1-11-2021)

#### **§ 152.393 FINAL SITE PLAN REVIEW.**

(A) (1) *Review for completeness.* The Zoning Administrator shall review the final site plan application and determine if the application is complete and all of the necessary information has been provided in accordance with § 152.388 General Application. This shall also include waiver, zoning changes and/or ZBA requests, if any.

(2) *Final site plan revisions submittal.* Any revisions that are required during the final site plan review process will require the following:

- (a) Four 24"x 36" hard copy revised site plan design drawings and one electronic copy in pdf format.
- (b) Revised plan shall include and address all comments from the Village Engineer or Qualified Village Agent reviews.
- (c) Revised plans shall also address comments of all other applicable regulatory agencies.
- (d) Payment of associated fees pursuant to the Village Fee Schedule.

(B) *Distribution.*

(1) Upon receipt of a complete application, the Zoning Administrator shall transmit the site plan and all accompanying materials to the Village Planner, Village Engineer, DPW, Fire Marshal and the Planning Commission prior to its next regular meeting. Transmittals shall not be made until all required information is submitted and the necessary fees have been paid in full. The Zoning Administrator shall also schedule consideration of the site plan as an item on the agenda at the next regular meeting of the Planning Commission.

(2) Applicant must provide proof that plans were submitted to all other agencies that regulate the proposed development including, but not limited to: County Road Commission, Health Department, Building Department, Drain Commissioner, Michigan Department of Transportation and Department of Environmental Quality.

(C) *Reports from Village Planner and Village Engineer.* The Village Planner and Village Engineer shall review the application to determine compliance with the Zoning Ordinance and Village of Pinckney Technical Standards and submit a written report addressing all issues that must be resolved to the Planning Commission.

(D) *Planning Commission action.* At the first regular meeting at which a final site plan is considered, the Planning Commission shall review the issues identified in the preliminary site plan review, if any, and reports prepared by the Village Planner and Engineer, as well as any other relevant issues. The Planning Commission shall approve, approve with conditions or deny the final site plan. The basis for the approval and any approval conditions shall be specified in the resolution and the meeting minutes, and provided in writing to the Village Council and the applicant. If no action is taken because more information is required from the applicant, the Planning Commission shall table the agenda item to a date certain, which shall be specified in the meeting minutes.

(1) *Denial.* If a final site plan is denied, written notice thereof, together with the reason, shall be sent to the applicant.

(2) *Approval with conditions.* If a final site plan is approved with conditions, the applicant shall submit four copies of the revised site plan with the date of revision and/or other necessary proof of compliance with the conditions to the Zoning Administrator.

(3) *Approval.* If a final site plan is approved, the Zoning Administrator shall issue a land use permit to the applicant.

(E) *Effect of approval.* Approval of a final site plan by the Planning Commission shall indicate that the proposal is in compliance with the Village Zoning Ordinance and any conditions imposed thereunder.

(F) *Final plan distribution.* After the Planning Commission has taken final action on a site plan and all necessary steps have been completed, the Zoning Administrator shall mark three copies of the plans approved or denied, as appropriate, with the date that action was taken. One marked copy shall be returned to the applicant and the other two copies shall be kept on file in the Village Hall. Copies of the village stamped plans shall be the only plans used during construction.

(G) *Expiration of approval.* Approval of a final site plan shall be valid for one calendar year, and shall then expire and be of no effect unless a building permit, when required, is applied for and granted within that time period. Approval shall expire and be of no effect 545 days following date of approval by the Planning Commission, unless construction has begun and is being diligently pursued in accordance with the approved site plan. The applicant may extend final site plan approval for one additional year upon written request to the Zoning Administrator and approval by the Planning Commission, prior to the original expiration date. The Planning Commission may grant further extensions of final site plan approval in accordance with the procedures noted herein upon a showing of good cause.

(H) *Revocation of approval.* Final site plan approval shall be revoked if construction of the development is not in conformance with the approved plans. The Zoning Administrator shall give the applicant written notice of intention to revoke the land use permit at least ten business days prior to review of the proposed revocation by the Planning Commission. After conclusion of the review, the Planning Commission may revoke its approval of the development if it determines that a violation in fact exists and has not been remedied prior to the hearing. Enforcement proceedings shall also apply per §§ 152.022(B) and 152.999.

(I) *Appeals.* The decision of the Planning Commission with regard to the site plan may be appealed to the Zoning Board of Appeals, upon written request by the property owner or proprietor. In the absence of an appeal being filed with the village within 20 business days after the Planning Commission renders a decision, the decision shall become and remain final.

(Ord. 37, passed 8-28-2005; Ord. 83, passed 10-27-2008; Ord. 91, passed 10-12-2009; Ord. 139, passed 9-11-2017; Ord. 154, passed 1-11-2021)

**§ 152.394 AMENDMENT TO APPROVED PLOT PLAN OR SITE PLAN.**



(A) *Approval of plans.* Approved plot plans and site plans shall become part of the record of approval, and subsequent actions relating to the authorized activity shall be consistent with the approved plot plan or site plan, unless a change conforming to this chapter receives the mutual agreement of the landowner and village approval authority.

(B) *Request.* A property owner or the owner's designated agent may request a change in an approved site plan. A change in an approved site plan that 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.

(C) *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 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 difficulties, site conditions, state or federal projects and installations and statutory revisions.

(D) *Finding.* The Zoning Administrator, upon finding the request reasonable and valid, shall notify the applicant in writing whether the proposed change is major or minor. If the change is deemed major, the applicant shall pay an appropriate fee determined by the Council and the plan amendment process shall follow the procedures and conditions required for original site plan submittal and review. Any major amendment to an approved site plan must be approved by the Planning Commission.

(E) *Major changes.* Changes considered major (i.e., those for which an amendment is required) include one or more of the following:

(1) A change in the original concept, character or use of the development deemed by the Zoning Administrator to have a potentially negative impact on natural features or surrounding properties;

(2) Any change to a condition of approval imposed by the Planning Commission or Village Council uses shall comply with § 152.282(E)(1);

(3) A change in the type, or increase in the number of dwelling units;

(4) An increase in nonresidential floor area of at least 10% or 500 square feet, whichever is less;

(5) A change in a structure location of more than 20 feet;

(6) A change in the character, layout, alignment or function of any access drive or interior road;

(7) An increase or loss of five or more off-street parking or loading spaces;

(8) A change in the provision of water, sewage disposal and/or treatment, electricity or other essential public service;

(9) A reduction in the amount of land area set aside for common open space or the relocation of the area(s);

(10) Changes in the final governing agreements, provisions, covenants, master deeds or bylaws; and

(11) Any other change deemed a major change by the Zoning Administrator or Planning Commission.

(F) *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 Zoning Administrator may approve the change and it shall be considered approved by the Planning Commission. If a change is approved, the Zoning Administrator shall notify in writing the Planning Commission, Village Council and other applicable departments. As minor changes on the site plan drawings are approved by the Zoning Administrator, each shall be signed and dated by the applicant or developer and the owner(s) of the subject property and the Zoning Administrator, prior to changes being effective. Minor changes shall be defined as any change not defined as a major change under division (E) above, and shall include but not be limited to the following:

(1) A decrease in nonresidential floor area or the number of dwelling units;

(2) The replacement of plant material in the landscape plan with a comparable type and size of planting; and

(3) Changes required by another village, county, state or federal regulatory agency that do not result in a major change.

(G) *Zoning.* Amended site plans shall conform to all regulations of the zoning district in which the project is proposed.

(Ord. 37, passed 8-28-2005; Ord. 139, passed 9-11-2017)

#### **§ 152.395 MODIFICATION DURING CONSTRUCTION.**

All structures and improvements shall conform to the approved site plan including engineering drawings approved by the Village Engineer. If the applicant makes any changes to the development in relation to the approved site plan, the applicant must cease and desist construction. It shall be the responsibility of the applicant to notify the Village, 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. 37, passed 8-28-2005; Ord. 139, passed 9-11-2017)

#### **§ 152.396 CONSTRUCTION OBSERVATION AND INSPECTIONS.**



(A) *Inspections.* The Zoning Administrator, Village Engineer and County Building Official shall be responsible for inspecting structures and improvements for conformance with the approved site plan. All building construction, site and sub-grade improvements such as utilities, sub-base installations for drives and parking lots and similar improvements shall be inspected and approved by the County Building Department and Health Department, in coordination with the Zoning Administrator, who shall obtain inspection assistance from the Village Engineer, Fire Chief and/or professional consultants where appropriate.

(B) *Construction observation and other fees.*

(1) *Livingston County fees.* In addition to the fees required by the village, the Livingston County Building Department and Drain Commissioner's Office are responsible for collection of fees associated with construction and building review. This includes footings, compaction, insulation, backfill, rough, wallboard, soil erosion and sediment control, tap fees and final approvals.

(2) *Water and sewer capital connection charges.* Water and sewer capital connection charges are to be paid prior to issuance of a land use permit at the rate set by the fee schedule.

(3) *Construction observation fees (escrow account).* The proprietor shall be responsible for construction observation fees as set forth in the fee schedule. This includes establishing an escrow account as required.

(a) The proprietor shall be responsible for all costs associated with inspection, construction engineering, and construction administration for the project.

(b) The proprietor shall also be responsible for construction observation fees for the Village Engineer or Qualified Village Agent to insure its conformance with the site plan approval and the village's standards.

(c) The proprietor's engineer must provide a construction cost estimate to the Village Engineer or Qualified Village Agent for approval. The construction cost estimate shall be related to only sanitary sewer, water, road, sidewalk, parking, curbing and storm system improvements. Once the cost estimate is approved, the construction observation escrow account shall be initially based on the construction cost estimate and the contractor's schedule as per this § 152.396 and in § 152.025.

(d) The proprietor or his/her authorized agent shall deposit with the Village Clerk and/or Treasurer at least five days prior to the pre-construction meeting the required construction observation fee deposit based on the approved construction cost estimate and computed in accordance with the fee schedule.

1. The fee shall cover the cost of construction observation and/or any administrative engineering time incurred by the Village Engineer or Qualified Village Agent in association with the project.

2. All monies not used from the deposit shall be returned to the proprietor at project completion.

3. The extent of inspection and field engineering required will be determined by the Village Engineer or Qualified Village Agent.

4. The base escrow amounts are derived from typical construction activities that demonstrate efficient construction activities, no major changes in design during construction, and no need for re-inspection.

(4) Inspection fees will be invoiced monthly against the inspection deposit based upon the established hourly rate for the Village Engineer or Qualified Village Agent. The proprietor will be notified in the event the deposit has been depleted and additional funds are required. Prompt attention to re-establishing this deposit will avoid project stop work orders. Review of material testing reports, "as-built" record drawings, and data input of constructed utilities into the village GIS system shall also be invoiced against the inspection account. The account balance upon completion of the project and acceptance of the record plans will be returned to the proprietor.

(5) Testing, as required by the Village Technical Standards, shall be provided by the proprietor and conform to the following:

(a) The testing firm must be qualified and approved by the Village Engineer or Qualified Village Agent.

(b) The proprietor will pay the qualified/certified-testing firm directly.

(Ord. 37, passed 8-28-2005; Ord. 154, passed 1-11-2021)

#### **§ 152.397 AS-BUILT DRAWINGS.**

(A) The applicant shall provide as-built drawings of all utilities and all appurtenances that were installed on a site for which a final site plan was approved, and as provided for in the Village Technical Standards. The drawings shall be submitted to and approved by the Village Engineer prior to the release of any performance guarantee or part thereof covering the installation.

(B) The as-built drawings shall show, but shall not be limited to, such information as the exact size, type and location of pipes, location and size of manholes and catch basins, location and size of valves, fire hydrants, tees and crosses, depth and slopes of retention basins and location and type of other utility installations. The drawings shall show plan and profile views of all sanitary and storm sewer lines and plan views of all water lines.

(C) The as-built drawings shall show all work as actually installed and as field verified by a professional engineer or a

representative thereof. The drawings shall be identified as as-built drawings in the title block of each drawing and shall be signed and dated by the owner of the development or the owner's legal representative and shall bear the seal of a professional engineer.

(Ord. 37, passed 8-28-2005; Ord. 154, passed 1-11-2021)

## **NONCONFORMING LOTS, USES AND STRUCTURES**

### **§ 152.415 PURPOSE.**

The purpose of this subchapter is to regulate existing lots, uses and structures that were lawful before this chapter was adopted, but which have become nonconforming under the terms of this chapter and its amendments. It is the intent of this chapter to permit the legally established non-conformities to remain until they are discontinued or removed, but not to encourage their continuance and to bring them into conformity as circumstances allow without unreasonably interfering with established property rights.

(Ord. 37, passed 8-28-2005)

### **§ 152.416 GENERAL PROVISIONS.**

(A) It shall be the responsibility of the owner of a nonconforming lot, use or structure to prove to the Zoning Administrator that the lot, use or structure was lawfully established, existed on the effective date of adoption or amendment of this chapter and has existed continuously.

(B) Nonconforming uses and structures are hereby declared to be incompatible with the uses and structures permitted within the various zoning districts. Nonconforming uses and structures shall not be enlarged, expanded, extended or increased, except as provided for herein and shall not be used as grounds for adding other uses and/or structures that are prohibited.

(C) Nonconforming uses shall comply with current Zoning Ordinance requirements (such as landscaping, screening, parking, environmental performance and general standards) to the maximum extent possible.

(Ord. 37, passed 8-28-2005)

### **§ 152.417 NONCONFORMING LOTS.**

A legal nonconforming lot, as defined herein, which does not meet the minimum standards of the zoning district in which it is located for lot area or lot width may be developed, provided that the use, access, height, yard, setback, landscaped buffer, off-street parking and other requirements of the district are met and, provided further, that the lot meets all of the current requirements of the Livingston County Health Department.

(Ord. 37, passed 8-28-2005)

### **§ 152.418 NONCONFORMING USES.**

Any lawful nonconforming use may be continued, subject to the following provisions:

(A) *Expansion.* A nonconforming use shall not be expanded, enlarged, extended or increased, so as to occupy a greater area of land or more floor area within a structure than was occupied by the use on the effective date of this chapter or its amendment.

(B) *Relocation.* A nonconforming use shall not be moved, in whole or in part, to any other structure, or to any other portion of the lot or site upon which it was located on the effective date of this chapter or its amendment.

(C) *Discontinuance.* If a nonconforming use is discontinued, it shall not thereafter be reestablished, and any subsequent use of the land shall comply with the allowable uses in the district in which it is located. A nonconforming use shall be considered discontinued if the customary use ceases for any reason for a period of 12 months or more.

(D) *Change of use.* A nonconforming use shall not be changed to any other use except to a use permitted in the district in which the subject property is located.

(E) *Accessory structures.* New accessory structures associated with a nonconforming use shall be reviewed and approved by the Planning Commission at a regular public meeting.

(Ord. 37, passed 8-28-2005) Penalty, see § 152.999

### **§ 152.419 NONCONFORMING STRUCTURES.**

Any lawful nonconforming structure may be continued subject to the following provisions:

(A) *Alteration.* A nonconforming structure may not be enlarged or altered in any way that increases its nonconformity, except porches, decks, patios, fire escapes and similar minor appurtenances may be attached to existing structures.

(B) *Relocation.* If a nonconforming structure is moved, in whole or in part, any distance for any reason it shall thereafter conform to the regulations of the district in which it is located after it is moved.

(C) *Maintenance.* Nothing in this chapter shall prohibit the repair or routine maintenance of a lawful nonconforming structure to correct deterioration, obsolescence, depreciation and/or wear.

(D) *Replacement.* A nonconforming structure that has been partially destroyed may be rebuilt provided:

- (1) The building footprint and height of the replacement structure do not increase the level of nonconformity;
- (2) The cost of restoration does not exceed the state equalized value of the structure at the time of damage; and
- (3) The reconstruction is completed within one year of the time of damage.

(E) *Signs.* Every permanent sign that lawfully existed at the time of the enactment of this chapter, but which does not conform to a height, size, area, location or other requirement of this chapter, is hereby deemed to be legally nonconforming. This status shall not be granted to any temporary sign.

(1) Nonconforming signs may not be altered, enlarged or replaced; however, nonconforming signs may be reduced in size and/or maintained and repaired so as to continue the useful life of the sign.

(2) The copy of the sign may not be amended or changed, unless specifically designed to be changed periodically as in reader board signs, without bringing the use into compliance with the requirements of this chapter.

(3) Any nonconforming sign destroyed by fire or other casualty loss shall not be restored or rebuilt.

(4) Any sign advertising a business that is no longer conducted for a period of one year or more shall be removed by the owner of the building, structure or lot upon which the sign is located within 30 days of receipt of written notice by the Zoning Administrator.

(5) A sign accessory to a nonconforming use may be erected in the village in accordance with the current sign requirements of §§ 152.300*et seq.*

(Ord. 37, passed 8-28-2005)

#### **§ 152.420 CHANGE OF TENANCY OR OWNERSHIP.**

There may be a change of tenancy, ownership or management of a nonconforming use and/or nonconforming structure, provided that there is no change in the use and/or structure.

(Ord. 37, passed 8-28-2005)

#### **§ 152.421 SPECIAL LAND USES.**

Any use for which a special land use permit is required, as provided in this chapter, shall not be deemed a nonconforming use but shall, without further action, be deemed a conforming use in the district.

(Ord. 37, passed 8-28-2005)

#### **§ 152.422 PURCHASE OR CONDEMNATION.**

In order to eliminate nonconforming uses and nonconforming structures that constitute a nuisance or are detrimental to the public health, safety and/or welfare, the village may acquire private property by purchase, condemnation or otherwise for the purpose of discontinuing the use and/or removing the structure.

(Ord. 37, passed 8-28-2005)

#### **§ 152.423 PRIOR CONSTRUCTION APPROVAL.**

(A) Nothing in this subchapter shall prohibit the completion of construction and use of a nonconforming structure for which, prior to the effective date of adoption or amendment of this chapter, a building permit was obtained and actual construction was lawfully commenced on the site. Further, actual construction must have commenced within three months after the issuance of the permit and must thereafter be diligently carried on to completion according to the approved plans, without any period of suspension or abandonment of work in excess of three months, and the entire structure shall have been completed according to the approved plans within two years after the issuance of the building permit.

(B) For the purposes of this section, the commencement of actual construction means work of a substantial nature by way of site preparation. The actual use must be apparent and manifested by a tangible change in the land, as opposed to merely intended or contemplated work by the property owner. In this regard, preliminary operations, such as the ordering of plans, surveying, grading, clearing of trees and debris and the removal of old structures are insufficient. The test in each case is not how much money may have been spent in reliance upon prior zoning regulations but, whether there has been any tangible change in the land itself by excavation and construction, such as placing of construction materials in permanent position and fastened in a permanent manner.

(Ord. 37, passed 8-28-2005)

## **ZONING BOARD OF APPEALS**

#### **§ 152.440 AUTHORITY.**

There is hereby established a Zoning Board of Appeals, the membership, powers and duties of which are prescribed in Act 110 of the Public Acts of 2006, being M.C.L.A. §§ 125.3101 *et seq.*, as amended. The Board shall have the power to interpret, vary and determine the application of the Zoning Ordinance so that the purposes and intent of the chapter are met and substantial justice is maintained.

(Ord. 37, passed 8-28-2005)

#### **§ 152.441 MEMBERSHIP, REMOVAL, TERMS.**

(A) The Village Council shall act as the Zoning Board of Appeals in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended (M.C.L.A. §§ 125.3101 *et seq.*).

(B) The Village President shall serve as the Chairperson of the Zoning Board of Appeals and the President Pro Tem shall serve as the Zoning Board of Appeal's Vice-Chairperson.

(Ord. 37, passed 8-28-2005; Ord. 87 ZBA, passed 3-23-2009)

#### **§ 152.442 POWERS AND DUTIES.**

The Zoning Board of Appeals, in addition to the general powers and duties conferred upon it by Public Act 110 of 2006, being M.C.L.A. §§ 125.3101 *et seq.*, as amended, in specific cases and subject to appropriate conditions and safeguards, shall have the following duties:

(A) *Appeals.* The Zoning Board of Appeals shall hear and decide questions that arise in the administration of the Zoning Ordinance. The Zoning Board of Appeals shall hear and decide appeals from and review any administrative order, requirement, decision or determination made by the Zoning Administrator or other official or body duly charged with the enforcement of the Zoning Ordinance. This shall include appeals of decisions related to a site plan or special land use, but excluding for a residential open space development, condominium project, or other planned development.

(B) *Variances.* The Zoning Board of Appeals shall hear and decide requests for variances from the requirements of this chapter where there is practical difficulty or unnecessary hardship imposed on the applicant in carrying out the strict letter of this chapter, in accordance with § 152.444. The Zoning Board of Appeals may grant non-use variances relating to the construction, structural changes or alteration of buildings or structures related to dimensional requirements of the Zoning Ordinance or to any other non-use-related standard in the Zoning Ordinance. The Zoning Board of Appeals may grant variances from uses of land subject to a vote of two-thirds of the members of the Zoning Board of Appeals to approve a use variance.

(C) *Interpretation and other duties.* The Zoning Board of Appeals shall also have the power to act on any other matters where this chapter provides for administrative review, interpretation, variance or exception, including the following.

(1) *Land uses.* Interpretation of permitted uses and special land uses in a zoning district, to determine if a specific use is included within a more general land use category. In making this determination, the Zoning Board of Appeals shall consider the following:

(a) The similarity and compatibility of the use in question to those uses listed in the zoning district;

(b) The conformance of the use in question to the stated goals of the district, the larger Zoning Ordinance and the Village Master Plan; and

(c) Whether or not the use in question is specifically listed in any other zoning district.

(2) *Zoning map.* The Zoning Board of Appeals shall hear and decide questions regarding the interpretation of the village zoning map.

(3) *Records.* The Zoning Board of Appeals shall keep a record of all decisions interpreting this chapter, including zoning map and land use interpretations listed above. The Zoning Ordinance shall be amended to incorporate these decisions as appropriate.

(D) *Limitations.* The Zoning Board of Appeals, notwithstanding any terms herein to the contrary, shall not have the power to change the zoning district classification of any property, to review a proposed zoning or re-zoning of any property, review decisions related to approval or denial of a for a residential open space development, condominium project, or other planned development, to make any change in the terms or intent of this chapter, prohibit a use that is permitted in this chapter or determine the validity of this chapter. The ZBA shall not have the power to reverse or modify the Village Council decision to approve or deny a for a residential open space development, condominium project, or other planned development; to grant variances to any a for a residential open space development, condominium project, or other planned development standards or as to any conditions established by the Village Council in its approval for a residential open space development, condominium project, or other planned development; or any conditional re-zoning under § 152.262(N).

(Ord. 37, passed 8-28-2005; Ord. 87 ZBA, passed 3-23-2009; Ord. 139, passed 9-11-2017)

#### **§ 152.443 PROCEDURES.**

(A) *Application.* Any request for action by the Zoning Board of Appeals shall be submitted in writing to the Zoning Administrator on a standard village form. The applications shall be accompanied by the necessary review fee and all relevant plans, studies and other information, which shall be made a part of the public record.

(B) *Appeals.* An appeal may be taken by a person aggrieved, or by an officer, department, board or bureau of the village.

(1) An appeal of a determination by the Zoning Administrator or other duly authorized enforcing agent or body shall be made within 30 days of the date of permit approval or denial.

(2) The Zoning Administrator shall transmit to the Zoning Board of Appeals all documents, or direct copies thereof, constituting the record from which the appealed action was taken.

(3) An appeal stays all proceedings, and thereupon all changes in the status quo of the property concerned shall constitute a violation of this chapter; except that the Zoning Administrator may certify to the Zoning Board of Appeals, after the notice of the appeal has been filed, that for reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property. If such a certification is filed, the proceedings shall only be stayed by a restraining order, which may be granted by the Zoning Board of Appeals or on application to the Circuit Court when due cause can be shown.

(4) If an appeal or variance request to the Zoning Board of Appeals involves a lot, structure or a use for which site plan approval is required by this Code, the applicant or appellant shall first apply for preliminary site plan approval as set forth in § 152.389 herein. The Planning Commission shall review the site plan and shall determine the layout and other features required to obtain approval of the site plan. The Planning Commission shall then transmit a copy of the site plan and the Commission's findings thereon to the Zoning Board of Appeals. The Board shall, upon deciding on the appeal or variance request, return the plan and its decision to the Planning Commission for Commission action on the site plan.

(C) *Meetings.* All meetings of the Zoning Board of Appeals shall be open to the public and shall fully comply with the Open Meetings Act, Public Act 267 of 1976, being M.C.L.A. §§ 15.261 through 15.275, as amended. Meetings shall be held at the call of the Chairperson and at the other times as the Zoning Board of Appeals shall specify in its rules and procedures. The Zoning Board of Appeals shall not conduct business unless a majority of the Zoning Board of Appeals is present. The business of the Zoning Board of Appeals shall be conducted in accordance with its adopted by-laws. The Village Attorney shall act as legal counsel for the Zoning Board of Appeals and shall be present at all meetings upon request of the Zoning Board of Appeals.

(D) *Public notice.* The Zoning Board of Appeals shall fix a reasonable time for a public hearing of an appeal or variance and shall notify the applicant of the time and place of the hearing. Notice of the public hearing shall be given in accordance with the provisions of § 152.022. Upon the hearing, a party may appear in person, by agent or by attorney.

(E) *Minutes.* Minutes of all proceedings shall be recorded, which shall be filed in the office of the Clerk of the Village Council. 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.

(F) *Action.* A concurring vote of the majority of the Zoning Board of Appeals shall be necessary to reverse an order, requirement, decision or determination of the Zoning Administrator or other administrative official or body, to decide in favor of an applicant on any matter upon which the Zoning Board of Appeals is required to pass under this chapter, or to grant a variance from the Zoning Ordinance, except a concurring vote of two-thirds of the Zoning Board of Appeals shall be required to grant a use variance as provided for under § 152.444. A member of the Village Council who is also a member of the Planning Commission shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Planning Commission or Village Council. However, the member may consider and vote on other unrelated matters involving the same property, including any variance requests which are solely within the Zoning Board of Appeals jurisdiction.

(G) *Decision.* The Zoning Board of Appeals shall return a decision upon each case within 60 days of application, unless additional time is agreed to by the applicant.

(1) The Zoning Board of Appeals may impose reasonable conditions upon an affirmative decision. The conditions may include those necessary to prevent negative impacts on public infrastructure, natural resources, adjacent properties, social and economic well-being and public health, safety and welfare.

(2) A decision of the Zoning Board of Appeals shall not become final until ten days from the date of the decision. Any appeal from a decision of the Zoning Board of Appeals to the circuit court shall be filed within 30 days after the Zoning Board of Appeals issues its decision in writing signed by the Chairperson, or within 21 days after the Zoning Board of Appeals approves the minutes of its decision.

(3) If no decision is made regarding an appeal at the advertised public hearing, disposition of the case must be set to a certain date at that time, and this date must be clearly stated in the meeting minutes. If no certain date is set and duly noted in the public record, notice of the next meeting at which the case will be considered shall be provided as required under division (D) above.

(Ord. 37, passed 8-28-2005; Ord. 87 ZBA, passed 3-23-2009; Ord. 139, passed 9-11-2017)

## **§ 152.444 VARIANCES.**

(A) Where owing to special conditions, a literal enforcement of the provisions of the Zoning Ordinance would involve practical difficulties or cause unnecessary hardship within the meaning of this chapter, the Zoning Board of Appeals shall have the power upon appeal in specific cases to authorize such variation or modification of the provisions of the Zoning Ordinance with such conditions and safeguards as it may determine as may be in harmony with the spirit of this chapter and so that public safety and welfare be secured and substantial justice done.



(B) No such variance or modification of the provisions of the Zoning Ordinance shall be granted unless it appears that all of the following facts and conditions exist:

(1) The alleged practical difficulties, hardships or both, are exceptional and peculiar to the subject property or intended use of the property, that do not apply generally to other properties or class of uses in the same district;

(2) Failure to grant the variance will deprive the property owner of his or her reasonable use as enjoyed by other property owners in the same district and vicinity. This shall include substantially more than mere inconvenience and/or inability to attain a higher financial return;

(3) Allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this chapter, the individual hardships that will be suffered by failure to grant the variance and the rights of others whose property would be affected by approval of the variance;

(4) The variance will be consistent with the purpose and intent of this chapter, will not adversely affect the purpose or objectives of the master plan of the village, will not be contrary to the public interest, will not injure the public or private rights of others and will not diminish the value of surrounding properties;

(5) The conditions and circumstances on which the variance request is based have not been self-created by the applicant or predecessors in title; and

(6) The variance will not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and the same zoning district, and shall be the minimum variance that will make possible a reasonable use of the land or structure.

(Ord. 37, passed 8-28-2005; Ord. 87 ZBA, passed 3-23-2009)

#### **§ 152.445 RULES FOR GRANTING VARIANCES.**

The following rules shall be applied in the granting of variances.

(A) In granting a variance, the Zoning Board of Appeals shall specify, in writing, to the applicant the conditions of approval that will, in its judgment, ensure the purpose and intent of this chapter are met. The breach of any conditions shall automatically invalidate the permit granted.

(B) The Zoning Board of Appeals may, upon review and public hearing, and unless good cause can be shown, declare a variance null and void if construction authorized by the variance has not commenced within one year after the date of approval and been pursued diligently to completion.

(C) No application for a variance that has been denied wholly or in part by the Zoning Board of Appeals shall be resubmitted for a period of one year from the date of last denial, except on the grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Zoning Board of Appeals to be valid.

(D) In authorizing any variance, the Zoning Board of Appeals may require that a performance bond be furnished to insure compliance with the requirements, specifications and conditions imposed (see § 152.026).

(Ord. 37, passed 8-28-2005; Ord. 87 ZBA, passed 3-23-2009)

### **AMENDMENT**

#### **§ 152.460 AMENDMENT PROCEDURE.**

The Village Council may, from time to time on its own motion, on recommendation of the Planning Commission or on petition, after public notice, hearing and report by the Planning Commission as provided by law, amend, supplement or change the boundaries or regulations herein, or subsequently established herein, pursuant to the authority and procedure established in Public Act 110 of 2006, being M.C.L.A. §§ 125.3101 *et seq.*, as amended.

(A) Before the Village Council shall adopt any amendment to this chapter or the maps adopted hereunder, the Planning Commission shall hold at least one public hearing.

(B) Not less than 15-days' notice of the time and place of the public hearing shall first be published in a paper of general circulation in the village. Not less than 15-days' notice of the time and place of the public hearing shall first be given by mail to each public utility company and to each railroad company owning or operating any public utility or railroad within the affected area that registers its name and mailing address with the Village Clerk for the purpose of receiving the notice. An affidavit of mailing shall be maintained. A hearing shall be granted to an interested person at the time and place specified in the notice.

(C) If an individual property, or several adjacent properties are proposed for re-zoning, notice of the proposed re-zoning and hearing shall be given by mail to the owners of the property in question and to all persons to whom real property is assessed and to the occupants of all structures within 300 feet of the boundary of the property in question, at least 15 days before the hearing.

(D) A summary of the comments submitted at the public hearing shall be transmitted with the report of the Planning Commission to the Village Council. The Village Council may hold additional public hearings if it considers it necessary. After receipt of the Planning Commission's report, the Village Council may adopt the proposed amendment, with or without



modification or refer the proposed amendment again to the Planning Commission for further consideration.

(E) Upon presentation of a protest petition meeting the requirements hereinafter set forth, an amendment to the Zoning Ordinance that is the object of the petition shall be passed only by a two-thirds vote of the Village Council. The protest petition shall be presented to the Village Council before final legislative action on the amendment and shall be signed by one of the following:

(1) The owners of at least 20% of the area of land included in the proposed change; and

(2) The owners of at least 20% 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. Publicly owned land shall be excluded in calculating this 20% land area requirement.

(F) Following adoption of this Zoning Ordinance and subsequent amendments by the Village Council, one notice of adoption shall be published in a newspaper of general circulation in the village within 15 days after adoption. The notice of adoption shall contain the following information:

(1) In the case of a newly adopted Zoning Ordinance, the following statement: "A zoning ordinance regulating the development and use of land has been adopted by the Village Council of the Village of Pinckney;"

(2) In the case of an amendment to an existing Zoning Ordinance, either a summary of the regulatory effect of the amendment, including the geographic area affected or the text of the amendment;

(3) The effective date of the ordinance; and

(4) The place and time where a copy of the ordinance may be purchased or inspected.

(Ord. 37, passed 8-28-2005)

#### **§ 152.461 MAP AMENDMENT CRITERIA.**

In considering any petition for an amendment to the official zoning map, the Planning Commission and Village Council shall consider the following criteria in making its findings, recommendations and decision:

(A) Consistency with the goals, policies and future land use map of the Village of Pinckney Comprehensive Plan, including any subarea or corridor studies. If conditions have significantly changed since the Comprehensive Plan was adopted, the consistency with recent development trends in the area;

(B) Compatibility of the site's physical, geological, hydrological and other environmental features with the host of uses permitted in the proposed zoning district;

(C) The ability of the site to be reasonably developed with one of the uses permitted under the current zoning;

(D) The compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature or use, traffic impacts, aesthetics, infrastructure and potential influence on property values and local economy;

(E) The capacity of village infrastructure and services to accommodate the uses permitted in the requested district without compromising public health, safety or welfare;

(F) The apparent demand for the types of uses permitted in the requested zoning district in the village in relation to the amount of land in the village currently zoned to accommodate the demand;

(G) Where a re-zoning is reasonable given the above criteria, a determination the requested zoning district is more appropriate than another district or amending the list of permitted or special land uses within a district; and

(H) The request has not previously been submitted within the past one year, unless conditions have changed or new information has been provided.

(Ord. 37, passed 8-28-2005)

#### **§ 152.999 PENALTY.**

(A) Any structure erected, altered, razed or converted or any land use carried out in violation of this Zoning Ordinance is hereby declared to be a nuisance per se.

(B) Any owner and/or agent in charge of a structure or land use that violates any provision of this chapter is responsible for a municipal civil infraction set forth in Chapter 131 of this code, subject to payment of a civil fine as specified in village's Municipal Civil Infraction Ordinance, plus costs and other sanctions for each infraction. Repeat offenses shall be subject to increased fines. Each act of violation and every day upon which the violation occurs shall constitute a separate offense.

(C) The owner or occupant of any structure or premises, or part thereof, where any condition in violation of this chapter shall exist, and any person who has assisted knowingly in the commission of the violation shall each be guilty of a separate offense and upon conviction thereof shall be liable for the fines set forth in this section.

(D) Any person, firm or corporation found guilty of violating a provision of this chapter shall become liable to the village for any expense, loss or damage incurred by the village as a result of the violation including, but not limited to, actual attorney,

filing and witness fees.

(E) Nothing herein contained shall prevent the Village of Pinckney from taking the other lawful action as is necessary to prevent or remedy any violation.

(F) The penalties provided for herein are cumulative and in addition to any other remedies provided by law.

(Ord. 37, passed 8-28-2005; Ord. 117, passed 3-11-2013)

## CHAPTER 153: DDA DEVELOPMENT PLAN

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Section

153.01 DDA Development Plan; adopted by reference

### § 153.01 DDA DEVELOPMENT PLAN; ADOPTED BY REFERENCE.

The Village of Pinckney's DDA Development Plan is hereby adopted by reference and incorporated herein as if set out in full.

(Ord. 63, passed 4-26-2004)

## CHAPTER 154: UNSAFE BUILDINGS

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Section

154.01 Prohibited

154.02 Definition

154.03 Notice; contents; hearing officer; filing of notice with officer; service

154.04 Hearing; testimony; decision; order; nonappearance or noncompliance; review; order to show cause; costs

154.05 Judicial review

154.99 Penalty

### § 154.01 PROHIBITED.

Pursuant to the authority granted in Public Act 61 of 1969, being M.C.L.A. §§ 125.53~~8~~*et seq.*, as amended, it is unlawful for any owner or agent thereof to keep or maintain any dwelling or part thereof which is a dangerous building as defined in § 154.02

(Ord. 101, passed 4-11-2011) Penalty, see §152.999

### § 154.02 DEFINITION.

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

**DANGEROUS BUILDING.** Any building or structure which has any of the following defects or is in any of the following conditions.

(1) Whenever any door, aisle, passageway, stairway or other means of exit does not conform to the approved fire code of the village wherein the property lies, it shall be considered that such dwelling does not meet the requirements of this subchapter.

(2) Whenever any portion has been damaged by fire, wind, flood, or by any other cause in such a manner that the structural strength or stability is appreciably less than it was before such catastrophe and is less than the minimum requirements of any building code of the village wherein the building is located for a new building or similar structure, purpose or location.

(3) Whenever any portion or member or appurtenance is likely to fall or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

(4) Whenever any portion has settled to such an extent that walls or other structural portions have materially less resistance to winds than is required in the case of new construction by the building code of the village where the building is located.

(5) Whenever the building or structure or any part, because of dilapidation, deterioration, decay, faulty construction, or because of the removal or movement of some portion of the ground necessary for the purpose of supporting such building or portion thereof, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning is likely to fall or give way.

(6) Whenever for any reason whatsoever the building or structure or any portion is manifestly unsafe for the purpose for which it is used.

(7) Whenever the building or structure has been so damaged by fire, wind or flood, or has become so dilapidated or deteriorated, as to become an attractive nuisance to children who might play therein to their danger, or as to afford a harbor for vagrants, criminals or immoral persons, or as to enable persons to resort thereto for the purpose of committing a nuisance or unlawful or immoral acts.

(8) Whenever a building or structure used or intended to be used for dwelling purposes, because of dilapidation, decay, damage or faulty construction or arrangement or otherwise, is insanitary or unfit for human habitation or is in a condition that is likely to cause sickness or disease when so determined by the health officer or is likely to work injury to the health, safety or general welfare of those living within.

(9) Whenever any building becomes vacant, dilapidated and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

(Ord. 101, passed 4-11-2011)

#### **§ 154.03 NOTICE; CONTENTS; HEARING OFFICER; FILING OF NOTICE WITH OFFICER; SERVICE.**

(A) Notwithstanding any other provision of this subchapter, when the whole or any part of any building or structure is found to be in a dangerous or unsafe condition, the Building Department shall issue a notice of the dangerous and unsafe condition.

(1) Such notice shall be directed to each owner of or party in interest in the building in whose name the property appears on the last local tax assessment records.

(2) The notice shall specify the time and place of a hearing on the condition of the building or structure, at which time and place the person to whom the notice is directed shall have the opportunity to show cause why the building or structure should not be ordered to be demolished or otherwise made safe.

(B) The Hearing Officer shall be appointed by the Village President to serve at their pleasure. The Livingston County Building Department shall file a copy of the notice of the dangerous and unsafe condition with the Hearing Officer.

(C) All notices provided for in this subchapter shall be in writing and shall be served upon the person to whom they are directed personally, or in lieu of personal service may be mailed by certified mail, return receipt requested, addressed to such owner or party in interest at the address shown on the tax records, at least ten days before the date of the hearing described in the notice. If any person to whom a notice is directed is not personally served, in addition to mailing the notice, a copy thereof shall be posted upon a conspicuous part of the building or structure.

(Ord. 101, passed 4-11-2011)

#### **§ 154.04 HEARING; TESTIMONY; DECISION; ORDER; NONAPPEARANCE OR NONCOMPLIANCE; REVIEW; ORDER TO SHOW CAUSE; COSTS.**

(A) The Hearing Officer shall take testimony of the Building Department, the owner of the property and any interested party. The Hearing Officer shall render his or her decision either closing the proceedings or ordering the building to be demolished or otherwise made safe.

(B) If it is determined by the Hearing Officer that the building or structure should be demolished or otherwise made safe, he or she shall so order, fixing a time in the order for the owner, agent or lessee to comply therewith.

(C) If the owner, agent or lessee fails to appear or neglects or refuses to comply with the order, the Hearing Officer shall file a report of his or her findings and copy of his or her order with the Village Council and request that the necessary action be taken to demolish or otherwise make safe the building or structure. A copy of the findings and order of the Hearing Officer shall be served on the owner, agent or lessee in the manner prescribed in § 154.03.

(D) The village Council shall fix a date for hearing, reviewing the findings and order of the Hearing Officer and shall give notice to the owner, agent or lessee in the manner prescribed in § 154.03 of the time and place of the hearing. At the hearing the owner, agent or lessee shall be given the opportunity to show cause why the building should not be demolished or otherwise made safe and the Village Council shall either approve, disapprove or modify the order for the demolition or making safe of the building or structure.

(E) The cost of the demolition or making the building safe shall be a lien against the real property and shall be reported to the assessing officer of the village who shall assess the cost against the property on which the building or structure is located.

(F) The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified of the amount of cost assessed under this section by first class mail at the address shown on such records. If he or she fails to pay such costs within 30 days after mailing by the assessor of the notice of the amount thereof, the assessor

shall add such costs to the next tax roll of the village and such costs shall be collected in the same manner in all respects as provided by law for the collection of taxes by the village.

(Ord. 101, passed 4-11-2011)

#### **§ 154.05 JUDICIAL REVIEW.**

An owner aggrieved by any final decision or order of the Village Council under §154.04 may appeal the decision or order to the circuit court by filing a petition for an order of superintending control within 20 days from the date of such decision or order.

(Ord. 101, passed 4-11-2011)

#### **§ 154.99 PENALTY.**

Any person, firm, owner, corporation, landlord, tenant or individual who violates any provision of this chapter is deemed responsible for committing a municipal civil infraction. The imposition of a penalty for any violation of this chapter shall not excuse the violation nor shall the violation be permitted to continue. Every day upon which such violation occurs shall be deemed to constitute a separate offense.

(Ord. 101, passed 4-11-2011)

## **CHAPTER 155: REGISTRATION OF RESIDENTIAL RENTAL DWELLING UNITS**

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### Section

- 155.001 Definitions
- 155.002 Initial registration of residential rental dwelling units
- 155.003 Registration information to be contained in registration form
- 155.004 Issuance of certificate of registration
- 155.005 Follow-up registration
- 155.006 Changes in registration information
- 155.007 Fees; late fees
- 155.008 Maintenance of records
- 155.009 Penalty for failure to comply

#### **§ 155.001 DEFINITIONS.**

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

**LOCAL AGENT.** An individual or company representing the owner. The local agent is responsible for the operation of the owner's residential rental dwelling unit(s) located within the Village of Pinckney.

**OWNER.** The individual(s), company, corporation, governmental or private agency, or any other entity listed on the recorded deed, or the purchaser under a recorded land contract, and shown as the owner of real property containing one or more residential rental dwelling unit(s).

**RESIDENTIAL RENTAL DWELLING UNIT.** A distinct individual living quarters within a building intended for occupancy by a person or persons other than the owner and the family of the owner, and for which rent or a remunerations of any kind is paid to the owner. Single-family residences, condominiums, duplex, apartments and rooming houses, may all contain and be classified as **RESIDENTIAL RENTAL DWELLING UNITS**.

(Ord. 110, passed 6-25-2012)

#### **§ 155.002 INITIAL REGISTRATION OF RESIDENTIAL RENTAL DWELLING UNITS.**

(A) Within 30 days of the effective date of this chapter, the village shall publish in a newspaper of general circulation, a notice summarizing the registration requirements of this section. The village shall also mail a copy of said notice by first class mail to the owner of record of each property listed in the assessment rolls of the village on the effective date of this chapter as residential property which does not qualify for a 100% homestead property tax exemption.

(B) Within 90 days after the effective date of this chapter, the owner of every building containing a residential rental dwelling unit within the village shall register each such building with the Office of the Clerk by filing a registration form provided by the village. If the owner owns more than one building containing one or more residential dwelling unit, a separate registration form shall be filed for each separate building.

(Ord. 110, passed 6-25-2012)

**§ 155.003 REGISTRATION INFORMATION TO BE CONTAINED IN REGISTRATION FORM.**

The following information shall be provided on the registration form by the owner:

- (A) Owner's name, home address, day and evening telephone numbers and fax numbers and email address;
- (B) Local agent's name, home address, day and evening telephone numbers and fax numbers and email address;
- (C) Address of the building owned (fee simple or land contract) by the owner containing one or more residential rental dwelling unit(s) including multi-unit buildings in which the owner resides;
- (D) The number of identifying address of each residential rental dwelling unit in a building containing more than one dwelling unit;
- (E) Signature of owner attesting to the truthfulness of the information provided. If the owner is a company, corporation, governmental or private agency, or any other entity, only a duly authorized officer or administrator may sign the registration form.

(Ord. 110, passed 6-25-2012)

**§ 155.004 ISSUANCE OF CERTIFICATE OF REGISTRATION.**

(A) The village shall examine each registration form for completeness and, if complete, shall issue a certificate of registration for each residential rental dwelling unit in the building identified in the registration form. The certificate of registration shall be mailed to the owner by the Clerk's Office or their designee. If the registration form is incomplete, the village will make not more than two attempts to contact the owner (by telephone, mail or in person) to have the property complete the registration form.

(B) Failure of the owner to file a complete registration form with the village within the time limits prescribed in this chapter shall constitute a violation of this chapter.

(Ord. 110, passed 6-25-2012)

**§ 155.005 FOLLOW-UP REGISTRATION.**

After the initial 90 day registration period set forth in §155.002(B) of this chapter, residential rental dwelling units shall be registered as follows:

(A) Newly constructed residential dwelling buildings or units shall be registered prior to the issuance of a final certificate of occupancy.

(B) A residential rental dwelling/building/units sold, transferred or conveyed shall be registered by the new owner within 30 days of the date of the deed, land contract, or other instrument of conveyance. At that time, the units shall be removed from the previous owner's registration.

(C) Any non-rental residential dwelling unit converted to a residential rental dwelling unit shall be registered prior to the date it is occupied for rental purposes.

(Ord. 110, passed 6-25-2012)

**§ 155.006 CHANGES IN REGISTRATION INFORMATION.**

If any information on a registration form changes after issuance of a certificate of registration, it shall be the responsibility of the owner or the owner's local agent to notify the village within ten days of the date of the change and to provide correct or updated information in writing within said ten day period.

(Ord. 110, passed 6-25-2012)

**§ 155.007 FEES; LATE FEES.**

There shall be no fee for the registration, re-registration, or updating of registration information within the allotted time periods. If a residential rental dwelling unit is not registered within the allotted time periods specified herein, then a late fee of \$50 per rental dwelling unit shall be paid by the owner. The late registration fee, however, shall not become effective until 90 days after the effective date of this chapter.

(Ord. 110, passed 6-25-2012)

**§ 155.008 MAINTENANCE OF RECORDS.**

The Clerk's Office shall be responsible for maintaining and updating all residential rental dwelling unit registration forms and certificates of registration, and for providing a semi-annual report to the Village Zoning Administrator, Director of Public Works, and the Police Chief of the number of residential rental dwelling units in the village. The semi-annual report shall also identify the residential rental dwelling units by the type (single family, duplex, multi-unit, apartment houses, rooming houses, etc.) and the number and type of units added to or deleted from the registration roster since the last semi-annual report.

(Ord. 110, passed 6-25-2012)

**§ 155.009 PENALTY FOR FAILURE TO COMPLY.**

A person who violates any provision of this chapter is responsible for a municipal civil infraction and shall be subject to payment of a civil fine as specified in § 131.57, plus costs and other sanctions for each infraction. Repeat offenses shall be subject to increased fines as provided by Chapter 131 herein. Each day that such violation continues shall constitute a separate violation. 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.

(Ord. 110, passed 6-25-2012)

## TABLE OF SPECIAL ORDINANCES

Table

- I. CABLE TELEVISION
- II. FRANCHISE
- III. TAXATION
- IV. ZONING

### TABLE I: CABLE TELEVISION

<i>Ord./Res. No</i>	<i>Date Passed</i>	<i>Description</i>
30	10-25-1999	Granting a consent to the transfer of control

### TABLE II: FRANCHISE

<i>Ord./Res. No</i>	<i>Date Passed</i>	<i>Description</i>
30	--	Granting a non-exclusive franchise to Com-Star Cable Television Inc.
42	8-12-1991	Granting a franchise to Detroit Edison Company
45	10-21-1993	Consumers Power Company Gas Franchise Ordinance
53	5-8-2000	Granting a limited non-exclusive revocable electrical franchise to Nordic Electric L.L.C.
--	4-9-2001	Amends Ord. 53

### TABLE III: TAXATION

<i>Ord./Res. No</i>	<i>Date Passed</i>	<i>Description</i>
Res. --	--	Board approving Tax Increment Plan
54	4-26-2004	Tax Increment Financing Plan

### TABLE IV: ZONING



<i>Ord./Res. No</i>	<i>Date Passed</i>	<i>Description</i>
74	9-25-2006	Amending the zoning map
81	4-28-2008	Amending the zoning map; rezoning from high density residential district (R-3) to multiple family residential district (R-4)
85	2-23-2009	Amending the zoning map; rezoning property commonly known as 224 and 250 East Main Street, is rezoned from Central Business District, CBD (north half of site) and High Density Residential, R3 (south half of site) to Secondary Business District, SBD
123	4-14-2014	Amending the zoning map; rezoning property commonly known as 644 S. Howell Street from Low Density Residential (R-1) to Multiple Family Residential (R-4)
127	12-14-2015	Amending the zoning map; rezoning properties commonly known as 550 and 551 E. Hamburg from Secondary Business (SBD) to Multiple Family Residential (R-4), and rezoning property commonly known as Stuart Street, north of Hamburg Street, from Secondary Business District (SBD) to Public Land (PL).
128	12-14-2015	Amending the zoning map; rezoning property commonly known as 475 Webster/450 N. Howell from Secondary Business (SBD) to Multiple Family Residential (R-4).
133	11-14-2016	Amending the zoning map; rezoning property located on Dexter Pinckney Road from High Density Residential District (R3) to Secondary Business District (SBD).
136	5-8-2017	Amending the zoning map; rezoning property located south of M-36 and north of Mill Pond, commonly known as 935 West Main Street from Public Lands Office (PL) to High Density Residential District (R3).
141	2-12-2018	Amending the zoning map; rezoning property located on Dexter-Pinckney Road identified as Taxation Parcel No. 4714-26-100-016 from High Density Residential District (R3) to Office District (O).
148	8-10-2020	Amending the zoning map; rezoning property located on 120 Livingston Street identified as Taxation Parcel No. 4714-23-303-022 from High Density Residential District (R3) to Central Business District (CBD).
156	2-8-2021	Amending the zoning map; rezoning property commonly known as 935 W. Main from High Density Residential District (R3) to Research- Technology- Office District (RTO).

## PARALLEL REFERENCES

References To Michigan Compiled Laws Annotated

References to Resolutions

References to Ordinances

## REFERENCES TO MICHIGAN COMPILED LAWS ANNOTATED

<i>M.C.L.A. Cite</i>	<i>Code Section</i>
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<b>M.C.L.A. Cite</b>	<b>Code Section</b>
15.231–15.246	114.20; 114.73
15.261 <i>et seq.</i>	152.022
15.261–15.275	152.443
24	72.02
24.201–24.328	70.15
28.451 <i>et seq.</i>	91.03
28.601 <i>et seq.</i>	31.03
61.1–75.12	30.02; 30.16; 30.35; 51.03; 52.20
62.5	30.01
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125.581 <i>et seq.</i>	152.001
125.1501 <i>et seq.</i>	151.45
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125.3801-125.3885	31.46
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## REFERENCES TO RESOLUTIONS

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-	--	TSO III

## REFERENCES TO ORDINANCES

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<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
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30	--	TSO II
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9	6-15-1967	72.02; 72.99
13	5-1-1969	90.01; 90.99
16	2-4-1971	72.03; 72.99
19	9-2-1971	31.45
23	11-13-1974	50.01–50.07
26	8-11-1980	111.30–111.33; 111.99
27	12-14-1981	132.001–132.003; 132.020–132.047; 132.065–132.074; 132.090–132.099; 132.115–132.120; 132.140–132.144; 132.160–132.162 132.180–132.182; 132.195–132.196; 132.999
28	10-11-1982	111.01–111.16; 111.99

–	5-9-1983	31.45
31	11-11-1985	150.01-150.03; 150.99
32	4-14-1986	32.01–32.22
–	2-13-1989	72.02
35	7-17-1989	30.35-30.41
34	7-24-1989	151.01–151.03; 151.20–151.32; 151.99
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45	10-21-1993	TSO II
46	11-8-1993	112.01–112.04; 112.20–112.35
47	11-8-1993	31.45
51	2-12-1996	113.01
52	11-9-1998	30.15-30.19
30	10-25-1999	TSO I
53	5-8-2000	TSO II
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65	2-14-2002	30.01
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60	2-24-2003	114.01–114.03; 114.20–114.22; 114.35–114.37; 114.50–114.53; 114.70–114.75; 114.99
54	4-26-2004	TSO III
63	4-26-2004	153.01
37	8-28-2005	152.001–152.005; 152.020–152.026; 152.040–152.045; 152.060–152.063; 152.080–152.083; 152.100–152.103; 152.120–152.123; 152.140–152.143; 152.160–152.163; 152.180–152.183; 152.200–152.203; 152.220–152.223; 152.240–152.243; 152.260–152.267; 152.280–152.285; 152.300–152.304; 152.308; 152.311; 152.312; 152.325–152.330; 152.332–152.335; 152.350–152.354; 152.370–152.371; 152.385–152.397; 152.415–152.423; 152.440–152.445; 152.460–152.461; 152.999
67	10-10-2005	31.01–31.10
68	10-24-2005	52.01–52.03; 52.20–52.35; 52.37; 52.99
69	10-24-2005	51.01–51.12; 51.99
70	1-23-2006	91.01; 91.99
72	4-24-2006	152.302; 152.388; 152.391
73	7-10-2006	94.01–94.12; 94.99
74	9-25-2006	TSO IV
75	11-13-2006	152.302; 152.303; 152.308
76	1-1-2007	31.45
77	2-12-2007	92.64

78	6-25-2007	93.01–93.09; 93.99
79	2-25-2008	51.06; 51.07; 51.10
80	4-14-2008	30.55
81	4-28-2008	TSO IV
82	5-12-2008	152.023; 152.044; 152.063; 152.083; 152.103; 152.123; 152.143; 152.262; 152.267; 152.301; 152.302; 152.388; 152.391
83	10-27-2008	152.241; 152.390; 152.393
84	1-26-2009	Adopting Ordinance
86	2-9-2009	31.32
85	2-23-2009	TSO IV
87 ZBA	3-23-2009	152.001; 152.022; 152.440–152.445
88	7-13-2009	152.161–152.163; 152.243
89	7-27-2009	91.02
90	9-9-2009	95.01–95.08; 95.99
91	10-12-2009	152.240; 152.241; 152.243; 152.386; 152.387; 152.390; 152.393
92	10-26-2009	92.63; 92.64
93	2-8-2010	31.46
94	5-10-2010	51.11, 52.35, 52.99
95	6-28-2010	152.304; 152.308
98	3-28-2011	152.040; 152.044; 152.045; 152.210–152.213; 152.267; 152.391
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103	4-11-2011	51.11; 52.35
104	5-9-2011	152.243
105	6-13-2011	151.45–151.47
106	6-13-2011	Adopting Ordinance
107	12-12-2011	152.267; 152.300–152.312
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118	6-10-2013	152.221; 152.268
119	6-24-2013	91.03; 96.04
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122	10-14-2013	Adopting Ordinance
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124	5-12-2014	152.263 , 152.329
125	2-23-2015	92.62, 92.63, 92.99
126	9-14-2015	91.03
127	12-14-2015	TSO IV
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131	8-8-2016	70.07, 70.18, 71.99, 131.57
132	8-8-2016	110.13, 110.99
133	11-14-2016	TSO IV
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135	4-10-2017	95.02
136	5-8-2017	TSO IV
137	5-22-2017	52.35
138	7-10-2017	51.10
139	9-11-2017	152.032, 152.162, 152.163, 152.213, 152.240, 152.241, 152.242, 152.265, 152.281, 152.282, 152.351, 152.354, 152.387, 152.388, 152.390, 152.391, 152.392, 152.393, 152.394, 152.395, 152.442, 152.443
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143	2-12-2018	50.05
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