

**CODE OF ORDINANCES
VILLAGE OF
MILFORD, MICHIGAN**

Published in 1996 by Order of the Village Council

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Milford, Michigan, Code of Ordinances
CODE OF ORDINANCES VILLAGE OF MILFORD, MICHIGAN

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PREFACE

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

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

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

Chapter and Section Numbering System

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

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

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

Indexes

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

Looseleaf Supplements

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

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

Acknowledgments

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

The publisher is most grateful to Deborah Frazer, Village Clerk, and Thomas J. Connelly and Michael L. Bosnic, Village Attorneys, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the village readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the village's affairs.

Copyright

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

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ADOPTING ORDINANCE

ORDINANCE NO. 231

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE VILLAGE OF MILFORD; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION

THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

THE VILLAGE OF MILFORD ORDAINS:

Section 1. The Code entitled "Code of Ordinances, Village of Milford," published by Municipal Code Corporation, consisting of Chapters 1 to 94, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before September 28, 1995, and not included in the Code or recognized and continued in force by reference therein are repealed.

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

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

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

Section 6. Ordinances adopted after September 28, 1995, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 7 This ordinance shall become effective upon adoption.

Passed and Adopted by the Village of Milford Council this 16th day of September, 1996.

R. Roy Danley, President

Deborah S. Frazer, Clerk

SUPPLEMENT HISTORY TABLE

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

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

Ord. No.	Date Adopted	Include/Omit	Supp. No.
231-147	1- 3-11	Include	15

Milford, Michigan, Code of Ordinances
SUPPLEMENT HISTORY TABLE

231-148	12-13-10	Include	15
231-149	1-18-11	Include	15
231-150	2-22-11	Include	15
231-151	10- 3-11	Include	15
231-152	10- 3-11	Include	15
231-153	2-21-12	Include	16
231-154	4- 2-12	Include	16
231-155	6- 4-12	Include	16
231-156	6-18-12	Include	16
231-157	6-18-12	Include	16
231-158	8- 6-12	Include	16
231-159	9-17-12	Include	16
231-160	9-17-12	Include	16
231-161	9-17-12	Include	16
231-162	9-17-12	Include	16
231-163	9-17-12	Include	16
231-164	2- 4-13	Include	16
231-165	5-20-13	Include	16
231-166	5-20-13	Include	16
231-167	6- 3-13	Include	16
231-168	6- 3-13	Include	16
231-169	6- 3-13	Include	16
231-170	8-19-13	Include	16
231-171	9-16-13	Include	16
231-172	9-16-13	Include	16
231-173	9-16-13	Include	16
231-174	9-16-13	Include	16
231-175	12- 2-13	Include	16
231-176	12- 2-13	Include	16
231-177	4- 7-14	Include	17
231-178	5- 5-14	Include	17
231-179	7-21-14	Include	17
231-180	7-21-14	Include	17
231-181	8- 4-14	Include	17
231-182	9-15-14	Include	17
231-183	10- 6-14	Include	17
231-184	10- 6-14	Include	17
231-185	10- 6-14	Include	17
231-189	11- 3-14	Include	17
231-190	3-16-15	Include	17
231-191	5- 4-15	Include	17
231-192	5- 4-15	Include	17
231-193	5- 4-15	Include	17
231-194	5- 4-15	Include	17
231-195	7- 6-15	Omit	18

Milford, Michigan, Code of Ordinances
SUPPLEMENT HISTORY TABLE

231-196	8-17-15	Include	18
231-197	8- 3-15	Omit	18
231-198	9-21-15	Include	18
231-199	11- 2-15	Omit	18
231-200	7-18-16	Include	18
231-201	8-15-16	Include	18
231-202	8-15-16	Include	18
231-203	10- 3-16	Include	19
231-204	11-21-16	Include	19
231-205	2-21-17	Include	19
231-206	5-15-17	Include	19
231-207	6-19-17	Include	19
Charter Amend.	8- 7-12	Include	20
231-208	11- 6-17	Include	20
231-209	3- 5-18	Include	20
231-210	2-20-18	Include	20
231-211	2-20-18	Include	20
231-212	3- 5-18	Include	20
231-213	6-18-18	Include	20
231-214	6-18-18	Include	20
231-215	6-18-18	Include	20
231-216	7- 2-18	Omit	20
231-217	9- 4-18	Include	21
231-218	8-20-18	Include	21
231-219	8-20-18	Include	21
Charter Amend.	11- 6-18	Include	21
231-225	12-17-18	Include	21
231-226	2- 4-19	Include	21
231-227	2- 4-19	Include	21
231-228	2-19-19	Include	21
231-229	4- 1-19	Include	21
231-230	6-17-19	Include	22
231-231	5-20-19	Include	22
231-234	1- 6-20	Include	22
231-235	3- 2-20	Include	22
231-236	12-21-20	Include	23
231-237	3- 1-21	Include	23
231-238	3- 1-21	Include	23
231-239	6-21-21	Include	23
231-240	1- 3-22	Omit	23

PART I CHARTER¹

PREAMBLE

To the end that the people of the Village of Milford may enjoy to the fullest extent the advantages and benefits of local self-government as authorized by the constitution of the State of Michigan, and invoking the blessings of Almighty God, now and forever, they hereby revise and amend the existing Charter by establishing this Home Rule Charter.

CHAPTER 1. BOUNDARIES AND SUBDIVISIONS OF THE VILLAGE

Sec. 1.1. Boundaries.

The Village shall embrace the territory constituting the Village of Milford on the effective date of this Charter, together with such annexations thereto and less any detachments therefrom that may be made from time to time. Upon annexation or detachment of territory, the boundaries shall be deemed thereby to be changed without amendment of this section. The Clerk shall maintain and keep available in his office for public inspection an official description of the current boundaries of the Village.

State law reference(s)—Changing village boundaries, MCL 74.6.

CHAPTER 2. GENERAL MUNICIPAL POWERS

Sec. 2.1. Powers of the Village.

All powers, privileges, and immunities, not inconsistent with the provisions of this Charter, possessed by the Village of Milford by virtue of its incorporation as such and enumerated in Act No. 3 of the Public Acts of Michigan of 1895 (MCL 61.1 et seq.), the former Charter of the Village which is hereby superseded, are hereby expressly retained by the Village and shall constitute a part of the police power of the Village even though not expressly enumerated herein. Further, unless otherwise provided or limited in this Charter, the Village of Milford and its officers shall be vested with any and all powers, privileges and immunities, expressed and implied, which villages and their officers are, or hereafter may be, permitted to exercise or to provide for in their charters under the constitution and laws of the State of Michigan, and of the United States of America, including all the powers, privileges, and immunities which villages are permitted to or may provide in their charters by the Michigan Home

¹Editor's note(s)—Printed herein is the Charter, as adopted by the Village of Milford on Oct. 20, 1958, and effective on Oct. 20, 1958. Amendments to the Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

Rule Act for villages, being Act No. 278 of the Public Acts of Michigan of 1909 (MCL 78.1 et seq.), as amended, as fully and completely as though those powers, privileges, and immunities were specifically enumerated in and provided for in this Charter, and in no case shall any enumeration of particular powers, privileges, or immunities in this Charter be held to be exclusive, it being the intent of the Charter Commission in framing this Charter, and of the people of the Village in adopting it, to include all such powers, privileges, and immunities within the scope of the powers, privileges, and immunities granted to the Village of Milford by the provisions of this Charter.

The Village and its officers shall have the power to exercise all municipal powers in the management and control of municipal property and in the administration of the municipal government, whether such powers be expressly enumerated or not; to do any act to advance the interests of the Village, the good government and prosperity of the municipality and its inhabitants, and through its regularly constituted authority, to pass and enforce all laws, ordinances, and resolutions relating to its municipal concerns, subject to the constitution and general laws of the State and the provisions of this Charter.

Sec. 2.2. Exercise of powers.

Where no procedure is set forth in this Charter for the exercise of any power granted to or possessed by the Village and its officers, resort may be had to any procedure set forth in any statute of the State of Michigan which was passed for the government of villages or townships, or in any other statute of the State of Michigan. If alternate procedures are to be found in different statutes, then the Council shall select that procedure which it deems to be most expeditious and to the best advantage of the Village and its inhabitants. Where no procedure for the exercise of any power of the Village is set forth, either in this Charter or in any statute of the State of Michigan, the Council may prescribe by ordinance a reasonable procedure for the exercise thereof.

Sec. 2.3. Division of powers of government.

All of the powers of municipal government possessed by the Village are hereby divided into two (2) general divisions, i.e., legislative or policy forming and administrative. No person or body belonging to or being a part of one (1) such division shall exercise powers imposed by this Charter upon or properly belonging to another. It shall be the duty of every officer of the Village to preserve the two (2) divisions of the Village government distinct and separate.

CHAPTER 3. GOVERNMENTAL ORGANIZATION

Sec. 3.1. Village legislative body.

All legislative or policy forming powers of the Village shall be vested in, exercised, and determined by a Council of seven (7) members, one (1) of whom shall serve as President. In all cases where the word "Council" is used in this Charter, the same shall mean and shall be synonymous with the terms "Commission," "common council," "board of aldermen," "governing body," or "legislative body," or any other synonymous term, as the same may be used in any State or Federal law in referring to legislative or governing bodies of villages.

State law reference(s)—Village council, MCL 65.1.

Sec. 3.2. Terms of office.

At each regular Village election there shall be elected by and from the Village at large two (2) Councilmen, each to serve for a term of three (3) years.

At regular Village elections on alternate years a President shall be elected by and from the Village at large and shall hold office for two (2) years.

The term of office of each Councilman shall commence on and date from the Monday next following the date of the regular Village election at which they are elected.

State law reference(s)—Term of office, MCL 62.4.

Sec. 3.3. Judge of qualifications of members.

The Council shall be the judge of the eligibility and qualification of its own members, subject only to review by the courts.

Sec. 3.4. Remuneration of members of the Council.

The President and each Councilman shall receive as remuneration for his service to the Village the sum of Seven Dollars and Fifty Cents (\$7.50) per meeting of the Council actually attended by him, but not to exceed in total Three Hundred Seventy-Five Dollars (\$375) per year. Such salaries shall be payable monthly, and shall constitute the only salary or remuneration which may be paid for services performed by the President or any Councilman for the discharge of any official duty for or on behalf of the Village during their term of office. Upon authorization of the Council, [reimbursement of] reasonable expense may be allowed when actually incurred on behalf of the Village.

State law reference(s)—Compensation, MCL 64.21.

Sec. 3.5. Selection of President Pro Tem.

The Council shall, at its first regular meeting following each regular Village election, elect one (1) of its members to serve as President Pro Tem. The President Pro Tem shall perform the duties of the President when, on account of absence from the Village, disability, or otherwise, the President is temporarily unable to perform the duties of his office, and in case of vacancy in the office of President, until such vacancy is filled by the Council. The President Pro Tem shall preside over the meetings of the Council at the call of the President. In the event of a vacancy occurring in the office of President or President Pro Tem, the Council shall appoint one of its elected members to fill such vacancy.

State law reference(s)—President pro tem, MCL 65.3.

Sec. 3.6. Duties of President.

- (a) Insofar as required by law, and for all ceremonial purposes, the President shall be recognized as the executive head of the Village. He shall have an equal voice and vote in the proceedings of the Council, but shall have no veto power.
- (b) He [the President] shall be a conservator of the peace, and may exercise within the Village the powers conferred upon sheriffs to suppress disorder, and shall have the power to command the assistance of all able-bodied citizens to aid in the enforcement of the ordinances of the Village, and to suppress riot and disorderly conduct.
- (c) He [the President] shall authenticate by his signature such instruments as the Council, this Charter, or the laws of the State of Michigan or of the United States shall require.

State law reference(s)—Duties of village president, MCL 64.1 et seq.

Sec. 3.7. Village Manager.

All administrative powers, duties, and functions of the Village shall be vested in the Village Manager, except as otherwise provided in this Charter. He shall be elected by the Council on the basis of training and ability in work which would qualify him for the position of Village Manager, and shall hold office at the pleasure of the Council. He need not be a resident of the Village at the time of his appointment but shall, unless excused by the Council, become a resident of the Village within one hundred and twenty (120) days after his appointment and so remain throughout his tenure of office. The Village Manager may, with the approval of the Council, designate an administrative officer or employee of the Village to perform the duties of the Village Manager during his temporary absence or incapacity. The Council shall designate a qualified person to perform the duties of the Village Manager during a vacancy in the office. No person acting as Village Manager in a temporary capacity, whether during the absence or disability of the Village Manager or during a vacancy in that office, shall make any change in the administrative officers of the Village without the consent of the Council. No person who holds or has held any elective Village office shall be eligible for appointment as Village Manager or acting Village Manager, nor shall any person perform the duties of the Village Manager during a vacancy in that office, until two (2) years have elapsed following the expiration of the term for which he was elected.

Sec. 3.8. Functions of the Village Manager.

The Village Manager shall be the chief administrative officer of the Village government. He shall carry out the policies formulated by the Council. He is charged with the responsibility of supervision and management of all of the services of the Village and with responsibility for the enforcement of the ordinances of the Village, this Charter, and applicable laws of the State. He shall make the reports to the Council required by this Charter, and such others as may be required of him by ordinance or by resolution of the Council and, in addition thereto, any which he may deem advisable. He shall prepare the budget of the Village for consideration by the Council, as in the Charter provided, and upon the adoption thereof by the Council; he shall administer the budget so adopted and keep the Council at all times informed as to the financial affairs of the Village. He shall have the right to take part in the discussion of all matters coming before the Council, but shall have no vote. In addition to the duties prescribed by this Charter, he shall perform such other duties as may be required of him by ordinance or by resolution of the Council.

State law reference(s)—Village manager, MCL 65.8.

Sec. 3.9. Other administrative officers.

In addition to the Village Manager, and subordinate to him in the performance of the duties of their several offices, except the Clerk and Village Attorney insofar as their duties as Clerk of and Attorney for the Council are concerned, the administrative officers of the Village shall be the Clerk, the Treasurer, the Assessor, the Village Attorney, the Police Chief, the Fire Chief, the Health Officer, and other officers included in the administrative plan approved by the Council. The Council may, by resolution, upon recommendation of the Village Manager, combine any administrative offices in any manner which is not inconsistent with the provisions of State law. No combination of administrative offices one with another shall abolish the office of Village Manager or diminish any of the duties or responsibilities of that office as set forth in this Charter.

State law reference(s)—Duties of clerk, MCL 64.5 et seq.; duties of treasurer, MCL 64.9 et seq.; duties of assessor, MCL 64.20.

Sec. 3.10. Appointment of administrative officers and employees of the Village.

All administrative officers of the Village, except the Village Manager, Clerk, Treasurer, and the Village Attorney, shall be appointed or selected by the Village Manager and shall serve at the pleasure of the Village Manager, who shall set their salaries in accordance with budget appropriations.

The Village Manager, Clerk, and Treasurer shall hold office by virtue of election by the Council, which body shall also set their salaries. They shall hold office at the pleasure of the Council. The Village Attorney shall hold office by appointment by the Village Council and shall serve at the pleasure of the Council who [sic] will also set his salary.

Sec. 3.11. Appointment of other officers, heads of departments, and employees.

The Village Manager shall appoint such other officers, heads of departments, and employees as may be required by ordinance or resolution of the Council. Every election or appointment of an administrative officer shall be for an indefinite term. Each officer or department head may name a deputy, subject to the approval of the Village Manager.

Sec. 3.12. Duties of administrative officers.

All administrative officers of the Village shall perform such duties as are provided for such officers by State law, this Charter, the Village ordinances, and the administrative directives of the Village Manager. Unless the Council shall otherwise provide by ordinance, specifying another officer of the Village, the Clerk shall be the chief accountant and auditor of the Village and he, or such other officer as shall be so designated by the Council shall, subject to the direction of the Village Manager, maintain a system of municipal accounts. Each Village officer shall exercise and possess all of the powers, privileges, and immunities granted to Village and Township officers exercising the same duties for villages and townships generally under the general laws of the State.

Sec. 3.13. Village officers and employees benefits.

The Council may provide by ordinance for a merit system of personnel management for employees in the service of the Village, and shall provide for the pensioning of its appointive officers and employees any recognized standard plan of group life, hospital, health, or accident insurance.

CHAPTER 4. ELECTION AND APPOINTMENTS

Sec. 4.1. Eligibility for office in Village.

No person shall be elected or appointed to any office who is in default to the Village. The election or appointment of any such defaulter shall be void. No person shall be eligible to any elective office of the Village, other than that of Village Manager, unless he shall be at least twenty-five (25) years of age, an elector in and the owner of property assessed for Village taxes in his name, or shall be the lawful husband or wife of such a person and, in the case of elective officers, shall have been a resident of the Village for at least two (2) years immediately prior to the date of his election to any such office.

Editor's note(s)—Requirement that an elected officer be a property owner is a denial of equal protection under the 14th Amendment of the U.S. Constitution. See *Turner v. Touche*, 396 U.S. 346(1969). A two-year residency requirement for city office was held violative of equal protection by *Green v. McKean*, 335 F. Supp., 630 (E.D.

Mich. 1971), affirmed by 468 F.2d 883 (6th Cir. 1972). A one-year residency requirement was upheld by *Joseph v. City of Birmingham*, 510 F. Supp. 1319 (E.D. Mich. 1981).

Sec. 4.2. Nepotism.

Except and unless relatives by blood or marriage of any Councilman, or the Village Manager, within the second degree of consanguinity of affinity, are bona fide appointive officers or employees of the Village at the time of the election of such officers or appointment of such Village Manager, such relatives shall be disqualified from holding any appointive office or from being employed by the Village during the term for which such Councilman was elected, or during the tenure of office of such Village Manager. If the status of relationship between any employee of the Village and any officer of the Village changes to a relationship prohibited thereby after one (1) year following the employment of such person or election or appointment of such officers, the provisions of this section shall not apply.

Sec. 4.3. Vacancies in offices.

Every Village office shall become vacant upon the happening of any of the following events before the expiration of the term of such office:

- (a) For any reason specified by State law as grounds for creating a vacancy;
- (b) If the officer of the Village shall absent himself continuously from the Village for more than sixty (60) days without permission of the Council;
- (c) In the case of the President and other members of the Council, where such officers shall miss four (4) consecutive regular meetings of the Council, or twenty-five (25) per cent of such meetings in any fiscal year of the Village, unless such absences shall in each case be excused by the Council and the reason therefor entered in the proceedings of the Council;
- (d) If the officer shall be convicted of any act constituting misconduct in office under the provisions of this Charter.

State law reference(s)—Vacancies in office, MCL 62.10.

Sec. 4.4. Resignations.

Resignations of all elected officers shall be made in writing and filed with the Clerk and shall be presented to the Council at its next regular meeting following receipt thereof by the Clerk. No such resignation shall be accepted by the Council at the same meeting at which it is received, unless by the unanimous vote of all members of the Council. Resignations of appointed officers shall be made in writing to the Village Manager, and shall be acted upon by him.

Sec. 4.5. Filling vacancies.

If a vacancy occurs in any elective office, except that of Village Manager, the Council shall, within thirty (30) days after such vacancy occurs, elect a person who possesses the qualifications required of holders of the office in which the vacancy exists to fill such vacancy. If the vacancy shall be in the office of Councilman, any person so elected shall hold office until the Monday next following the next Village election, at which election the vacancy shall be filled for the balance of the term of the person whose office is so filled. In the event of a vacancy in the office of Village Manager, the Council shall fill such vacancy within ninety (90) days after such vacancy occurs.

If a vacancy occurs in any appointive office, the Village Manager shall, within thirty (30) days thereafter, appoint a qualified person to fill such vacancy in the manner required for making the original appointment.

Sec. 4.6. Term of office cannot be shortened or extended.

Except by procedures provided in this Charter, the terms of the officials of the Village elected for a definite term shall not be shortened. The terms of officers of the Village may not be extended beyond the period for which any such officer was elected except that an elected officer of the Village shall, after his term has expired, continue to hold office until his successor is elected and has qualified.

Sec. 4.7. Oath and bond of officers.

Every officer, elected or appointed, before entering upon the duties of his office, shall take the oath of office prescribed by Section 2 of Article XVI of the Constitution of the State and shall file the same with the Clerk, together with any bond which he may be required by this Charter or by the Council to give. The oath and bond of the Clerk shall be filed with and kept by the Treasurer. In case of failure to comply with the provision of this section within ten (10) days from the date of his election or appointment, such officer shall be deemed to have declined the office and such office shall thereupon become vacant unless the Council shall, by resolution, extend the time in which such officer may qualify as above set forth.

Editor's note(s)—Oath of public officers requirement now appears in Mich. Const. 1963, Art. XI, § 1.

Sec. 4.8. Surety bonds.

Except as otherwise provided in this Charter, the Council may require any officer or employee to give a bond, to be approved by the Council, conditioned upon the faithful and proper performance of the duties of his office or employment, in such sum as the Council shall determine. All such officers or employees receiving, disbursing, or responsible for the Village funds shall be bonded. The regulations or removal of any bonded officer or employee shall not, nor shall the appointment of another to the office or employment exonerate such officer or employee, or his sureties from any liability incurred by him or them. All official bonds shall be corporate surety bonds and the premiums thereon shall be paid by the Village, except as otherwise provided in this Charter. No bond required by this section shall be renewed upon its expiration or in the event of the reappointment of any officer or employee to a position for which a bond is required, but a new bond shall be furnished. No bond shall be issued for a term exceeding two (2) years.

CHAPTER 5. VILLAGE ELECTIONS

Sec. 5.1. Election procedure.

The general election laws of the State shall apply to and control, as near as may be, all procedures relating to registration for and the conduct of Village elections, except as such general laws relate to political parties or partisan procedure, or require more than one (1) publication of notice, and except as otherwise provided by this Charter.

State law reference(s)—Elections, MCL 63.1 et seq.

Sec. 5.2. Qualifications of electors.

Each person who has the constitutional qualifications at the next ensuing regular or special Village election shall be entitled to register as an elector of the Village of Milford in the voting district in which he resides.

Sec. 5.3. Primary election.

A non-partisan Village primary election shall be held on the second Monday in February for the holding of general Spring primary elections. If, upon the expiration of the time for filing nomination petitions for the officers of the Village with respect to which elections are to be held at the next regular Village election, it appears that petitions have been filed for no more than twice the number of candidates for each such office, then no primary election shall be held and the Clerk shall publish notice of such fact. It is the intent of this section that if a primary is required for any office, it shall be held for all offices which are to be filled at the next regular Village election. The candidates for nomination for each Village office to be filled at the next Village election, in number equal to twice the number of persons to be elected to such Village office, receiving the highest number of votes at any such Village primary election shall be declared the nominees for election to the respective offices for which they are candidates for election and their names, and the names of persons filing petitions, or in whose behalf petitions have been filed, in cases where no primary election was held, shall be certified to the election commission to be placed upon the ballot for the next subsequent regular Village election. No person whose name is not printed on the primary election ballot, but whose name is written on or appears on the ballot on a sticker pasted thereon at such election, except such stickers as have been placed thereon by the election commission as provided by law, shall be nominated for election to any office, unless he shall receive at least twenty-five votes nominating him for such office.

(Amend. eff. 3-11-84)

Sec. 5.4. Regular Village election.

A nonpartisan regular Village election shall be held on the second Monday in March in each year.

Sec. 5.5. Special elections.

Special Village elections shall be held when called by resolution of the Council at least thirty (30) days in advance of such election, or when required by this Charter or the general laws of the State. Any resolution calling a special election shall set forth the purpose of such election. No more than two (2) special Village elections shall be held in any one calendar year, unless so permitted by State law.

State law reference(s)—Special elections, MCL 63.2.

Sec. 5.6. Election precincts.

The Council shall, by ordinance, establish convenient election precincts which shall comply with the provisions of State law.

State law reference(s)—Division of village into precincts, MCL 63.13.

Sec. 5.7. Election commission.

An election commission is hereby created, consisting of the members of the Council. The President shall be Chairman. The commission shall have charge of all activities and duties required of election commissions in Villages by State law and this Charter, relating to the conduct of elections in the Village. The compensation of election personnel shall be determined in advance by the Council. In any case where election procedure is in doubt, the election commission shall prescribe the procedure to be followed.

Sec. 5.8. Notice of election.

Notice of the time and place of holding any Village election and of the officers to be nominated or elected and the questions to be voted upon shall be given by the Clerk by publication at least once in some legal newspaper published and of general circulation in the Village and, if deemed advisable by the Council, by posting in two (2) or more conspicuous places in the Village not less than ten (10) days prior to such election.

Sec. 5.9. Voting hours.

The polls of all elections shall be opened and closed at the time prescribed by law for the opening and closing of polls at State elections.

Sec. 5.10. Nomination petitions.

Persons desiring to qualify as candidates for nomination for any elective office under this Charter shall file a petition therefor with the Clerk signed by not less than twenty-five (25) nor more than fifty (50) registered electors of the Village not later than 12:00 Noon on the fourth Saturday prior to the date of the regular Village primary election. Official blank petitions in substantially the same form as required by State law for State and County officers, except for references to party, shall be prepared and furnished by the Clerk. Before the Clerk shall furnish any nomination petition to any person, he shall enter thereon in ink the name of the person desiring to become a candidate for office in the Village, or the person in whose behalf the petition is to be circulated, and the name of the office for which he is a candidate. Nomination petitions for the purpose of filling a vacancy shall so state in connection with the name of the office for which the petition is to be circulated. The Clerk shall publish notice of the last day and time for filing nomination petitions at least one (1) week before, and not more than three (3) weeks before that date. No person shall sign his name to a greater number of petitions for any one office than there will be persons elected to said office. Where any name appears on more petitions than there are candidates to be elected to said office, such name shall not be counted upon any petition for that office.

Sec. 5.11. Approval of petitions.

The Clerk shall accept for filing only nomination petitions on official blanks, furnished by him, containing the required number of signatures for candidates having those qualifications required for elective Village officers by this Charter. When petitions are filed by persons other than the person whose name appears thereon as a candidate, they may be accepted for filing only when accompanied by the written consent of the person in whose behalf the petition or petitions were circulated. The Clerk shall, within five (5) days after the final day and hour for receiving nomination petitions, determine the sufficiency of the signatures on each petition filed, and if he finds any petition does not contain the required number of legal signatures of registered electors, he shall immediately notify the candidate in writing of the insufficiency of his petition. Each petition which is found by the Clerk to contain the required number of signatures of registered electors shall be marked "In Order," with the date thereof, and he shall so notify the candidate whose name appears thereon, in writing.

Sec. 5.12. Public inspection of petitions.

All nomination petitions shall be open to public inspection in the office of the Clerk beginning five (5) days after the final filing date for such petitions.

Sec. 5.13. Form of ballots.

The form of the ballot used in any Village election shall conform as nearly as may be to that prescribed by the general laws of the State for nonpartisan elections. The names of candidates for nomination or of qualified nominees, as the case may be, for each office shall be listed in a single column and shall be rotated on the ballots. In all other respects the printing and numbering of ballots shall conform to the general laws of the State, relating to elections. If voting machines are used, State election laws shall apply.

Sec. 5.14. Canvass of votes.

The Council shall be the board of canvassers to canvass the votes cast at all elections under this Charter. The Council shall meet on the first Thursday after each Village election and publicly canvass the returns of such election, and shall determine the vote upon all questions and propositions, and declare whether the same have been adopted or rejected and what persons have been nominated or elected at such election. The person, or persons, where more than one are to be nominated for or elected to the same office, who shall receive the greatest number of votes shall be declared to be nominated or elected, as the case may be.

Sec. 5.15. Recount.

A recount of the votes cast at any Village election for any office, or upon any proposition, may be had in accordance with the general election laws of the State.

Sec. 5.16. Recall.

Any elective official may be removed from office by the electors of the Village in the manner provided by the general laws of the State. A vacancy created by the recall of any elective official shall be filled in the manner prescribed by law.

Sec. 5.17. Tie vote.

If, at any Village election, there shall be no choice between candidates by reason of two (2) or more persons having received an equal number of votes, then the Council shall name a date for the appearance of such person[s] for the purpose of determining the election of such candidate by lot as provided by State law. Should any person or persons fail or refuse to appear, in person or by representative, to determine the result of any tie election at the time and place named by the Council, such determination shall be made by lot in his or their absence and under the supervision of the Council. Such determination shall, in any event, be final.

CHAPTER 6. FUNCTIONS OF THE COUNCIL

Sec. 6.1. Public health and safety.

Through the established departments and agencies of the Village government, together with any such departments or agencies as may be created under authority of this Charter, the Council shall provide for the public peace and health and for the safety of persons and property.

Sec. 6.2. Police department.

The Council shall maintain, within the administrative division of the Village, a Village police force which shall be under the direction of the Village Manager, to enforce all laws and ordinances which are in force in the Village and to preserve peace and good order in the Village.

Sec. 6.3. Fire department.

The Council shall have power to enact such ordinances and to establish and enforce such regulations as it shall deem necessary to guard against the occurrence of fires in the Village and to protect the property and persons of the inhabitants of the Village against damage and accident resulting therefrom. For this purpose the Council may establish, organize and maintain, within the administrative division of the Village, a fire department, which shall be under the direction of the Village Manager; provided, however, that until otherwise provided by ordinance passed by a five-sevenths (5/7) vote of the Council, the fire department of the Village shall be and remain as now organized and the Village Manager shall be limited in his appointment of the Fire Chief to nominations made by the members of the fire department.

Sec. 6.4. Health.

The Council, together with the Village Manager, shall constitute the Board of Health of the Village. The Board of Health shall adopt rules and regulations for their [its] own government and it and its officers and agents shall possess all powers, privileges, and immunities granted to boards of health by State law. The Board of Health shall have supervision of all matters relating to the sanitary condition of the Village and preservation of the life and health of its inhabitants. The President shall be Chairman of the Board of Health and the Health Officer shall be its secretary and executive officer.

Sec. 6.5. Meetings of the Council.

- (a) The Council shall provide by resolution for the time and place of its regular meetings and shall hold at least two (2) regular meetings each month. If any time set for the holding of a regular meeting of the Council shall be a holiday, then such regular meeting shall be held on the next secular day which is not a holiday.
- (b) Special meetings of the Council shall be called by the Clerk on the written request of the President or of any two (2) members of the Council, on at least twenty-four (24) hours written notice to each member of the Council, designating the time, place, and purpose of any meeting and served personally or left at his usual place of residence by the Clerk or someone designated by him. Notwithstanding the foregoing requirements for the calling of special meetings, any special meeting of the Council at which all members of the Council are present or have, in writing, waived the requirement that notice be given at least twenty-four (24) hours prior to the time specified for the holding of such meeting and at which a quorum of the Council is present, shall be a legal meeting.
- (c) No business shall be transacted at any special meeting of the Council unless the same has been stated in the notice of such meeting. However, if all the members of the Council are present at any special meeting of the Council, then any business which might lawfully come before a regular meeting of the Council may be transacted at such special meeting.
- (d) All regular and special meetings of the Council shall be open to the public and the rules of order of the Council shall provide that citizens shall have a reasonable opportunity to be heard.
- (e) Four (4) members of the Council shall be a quorum for the transaction of business at all meetings of the Council, but, in the absence of a quorum, the President or any two (2) members may adjourn any regular or special meeting to a later date.

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- (f) Except that there shall be no standing committees of the Council, the Council shall determine its own rules and order of business and shall keep a journal of all of its proceedings in the English language which shall be signed by the President and the Clerk. The vote upon the passage of all ordinances, and upon the adoption of all resolutions shall be taken by "Yes" and "No" votes and entered upon the record, except that where the vote is unanimous, it shall only be necessary to so state. Each member of the Council who shall be recorded as present shall vote on all questions decided by the Council unless excused by the unanimous consent of the other members present. Any citizen or taxpayer of the Village shall have access to the minutes and records of all regular and special meetings of the Council at all reasonable times.
 - (g) The Council may, by vote of not less than two (2) of its members, compel the attendance of its members and other officers of the Village at its regular and special meetings and enforce orderly conduct therein; and any member of the Council or other officer of the Village who refuses to attend such meetings or conduct himself in an orderly manner thereat shall be deemed guilty of misconduct in office. The Chief of Police shall serve as Sergeant-at-Arms of the Council in the enforcement of the provisions of this section.

Sec. 6.6. Intergovernmental contracts.

The Village may join with any governmental unit or agency, or with any number or combination thereof, by contract or otherwise as may be permitted by law to perform jointly, or by one or more, for or on behalf of the other or others, any power or duty which is permitted to be so performed by law or which is possessed or imposed upon each such governmental unit or agency.

Sec. 6.7. Licenses.

The Council shall, by ordinance, prescribe the terms and conditions upon which licenses may be granted, suspended, or revoked; and may require and exact payment of such reasonable sums for any licenses as it may deem proper. The persons receiving the licenses shall, before the issuing thereof, execute a bond to the Village, when required by any ordinance, in sum and with such securities as prescribed by such ordinance, conditioned for the faithful observance of the Charter of the Village, and the ordinance under which the license is granted.

Sec. 6.8. Streets and alleys.

Except insofar as limited by State law and the provisions of this Charter, the Council shall have power to establish and vacate and use, and to control and regulate the use of its streets, alleys, bridges, and public places (whether such public places be located within or without the limits of the Village) and the space above and beneath them. Such power shall include, but not be limited to, the proper policing and supervision thereof; to the licensing and regulation, or the prohibition of the placing of signs, awnings, awning posts, and other things which are of such nature as to impede or make dangerous the use of sidewalks or streets, upon or over the sidewalks or streets of the Village; and the licensing and regulation of the construction and use of openings in the sidewalks or streets, and of all vaults, structures, and excavations under the same.

Sec. 6.9. Rights as to property.

The Council shall have the power to acquire for the Village by purchase, gift, land contract purchase, condemnation, lease, construction or otherwise, either within or without the County of Oakland, property of every type and nature which may be required for or incidental to the present or future exercise of the purpose, powers, and duties of the Village government established by this Charter and may build thereon, and on any other property owned or leased by the Village, such buildings or structures as may be necessary to carry out the purposes for which such land is owned or leased.

Sec. 6.10. Investigations.

The Council, or any person or committee authorized by it for the purpose, shall have power to inquire into the conduct of any department, office, or officer of the Village and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence. Failure on the part of any officer of the Village to obey such subpoena or to produce books, papers, or other evidence as ordered under the provisions of this section shall constitute misconduct in office. If such failure shall be on the part of any employee of the Village, the same shall constitute a misdemeanor.

Sec. 6.11. Powers of Council.

- (a) Except for the purpose of inquiry, and in case of emergency during the temporary absence or disability of the Village Manager, the Council and its members shall deal with the administrative service solely through the Village Manager and neither the Council nor any member thereof shall give orders to any subordinate of the Village Manager, either publicly or privately; neither shall any member of the Council direct or request: (1) except for the election of those administrative officers required to be elected by the Council, the appointment of any person to, or the removal of, any person from any employment or office for which the Village Manager is responsible; or (2) except at public meetings and in cases of letting of contracts, the purchase of any specific materials, supplies or equipment. It is not the intention of this provision to prevent frank discussion of the business of the Village between the Village Manager and the Council or any member of the Council at any time but to prevent the personal favoritism or prejudice of any member of the Council from hampering the administration of the Village government as set forth in this Charter. Any violations of this provision shall constitute misconduct in office.
- (b) The Council shall not have the power to make any contract with or give any official position to any person who is in default to the Village.
- (c) The Council shall not have the power to engage in any business enterprise requiring an investment of money unless approved by a majority vote of the electors of the Village voting thereon.
- (d) Except as otherwise provided in this Charter, no ordinance or resolution shall be adopted or passed, amended or repealed, except by affirmative vote of at least four (4) members of the Council.
- (e) The Council shall have the power to adopt, continue, amend or repeal any and all Village ordinances now or hereafter existing.

Sec. 6.12. Prohibited interests in Village business.

No member of the Council, nor any officer of the Village, unless approved by the unanimous vote of the remaining members of the Council shall be interested, directly or indirectly, in any contract made or service to be performed, for or on behalf of the Village. The approval herein required shall, in each instance, be spread upon the records of the Council and published in full when the minutes of the meeting at which such approval was given are published. Any violations of this provision shall constitute misconduct in office.

CHAPTER 7. VILLAGE LEGISLATION

Sec. 7.1. Ordinance enactment.

All legislation of the Village of Milford shall be by ordinance or by resolution. The word "resolution" as used in this Charter shall be the official action of the Council in the form of a motion, and such action shall be limited to matters required or permitted to be done by resolution by this Charter or by State or Federal law and to matters

pertaining to the internal affairs or concerns of the Village government. All other acts of the Council, and all acts carrying a penalty for the violation thereof, shall be by ordinance. Each ordinance shall be identified by a number and a short title. Each proposed ordinance shall be introduced in written or printed form. The style of all ordinances passed by the Council shall be, "The Village of Milford Ordains:". Except in the case of ordinances which are declared by the Council to be emergency ordinances, no ordinance shall be finally passed by the Council at the same meeting at which it is introduced. No ordinance shall be revised, altered or amended by reference to its title only, but the section or sections of the ordinance revised, altered or amended shall be reenacted and published at length, and all ordinances, when enacted shall be immediately recorded by the Clerk in a book called "The Ordinance Book," and it shall be the duty of the President and Clerk to authenticate such record by their official signatures thereon.

Sec. 7.2. Penalties.

The Council shall provide in each ordinance for the punishment of those who violate its provisions. No punishment for the violation of any Village ordinance or for the commission by any officer of the Village of any act declared by this Charter to constitute misconduct in office shall exceed a fine of Five Hundred (\$500) Dollars or imprisonment for ninety (90) days, or both in the discretion of the court, except that any officer of the Village found guilty of any act declared by this Charter to constitute misconduct in office shall, in addition to such fine or imprisonment, or both, forfeit his office.

Sec. 7.3. Publication of ordinances.

Each ordinance passed by the Council shall be published at least once within fifteen (15) days after its adoption by the Council. All ordinances of the Village shall become effective immediately upon the publication thereof, unless a date upon which an ordinance shall become effective, which is subsequent to the date of the publication thereof, is specifically provided in the ordinance itself. The publication of any ordinance in full after its final passage as a part of the published proceedings of the Council shall constitute publication of such ordinance as required herein.

Sec. 7.4. Technical codes.

The Council may adopt any provision of State law or any Plumbing Code, Electrical Code, or Building Code which has been promulgated by the State of Michigan or by any department, board, or other agency thereof, or by any organization or association which is organized and conducted for the purpose of developing any such code or codes by reference thereto in an adopting ordinance and without publishing any such code in full, provided that said code shall be published with the adopting ordinance and that printed copies thereof are kept in the office of the Clerk, available for inspection by and distribution at cost to the public at all times; provided further, that the publication shall contain a notice to the effect that a complete copy of said code is available for public use and inspection at the office of the Clerk. Any amendment to or revision of such adopted code or detailed technical ordinance may be published in the same manner.

Sec. 7.5. Franchise and contracts.

Every ordinance or resolution granting any franchise or right to occupy or use the streets, highways, bridges, or public places in the Village for any purpose shall be complete in the form in which it is finally passed, and remain on file with the Clerk for public inspection for at least one (1) week before the final passage or adoption thereof. The Village shall not have power to grant any exclusive right or privilege under the government of the Village.

Sec. 7.6. Compilation.

- (a) Copies of all ordinances enacted and amendments to the Village Charter adopted after the effective date of this Charter shall be available at the office of the Clerk.
- (b) Within two (2) years after the adoption of this Charter and at least once in every ten (10) years the Council shall direct and complete the compilation or codification and the publication of the Charter and of all ordinances of the Village then in force, in loose-leaf or pamphlet form, and may provide for a reasonable charge for copies thereof. No further publication of any such compilation or codification shall be required for the validity thereof. In case the compilation or codification of the ordinances of the Village shall have been maintained current and up-to-date during any ten (10) year period, no recompilation or recodification of the ordinances of the Village shall be required during or at the end of such period.

The copies of ordinances and of any compilation, code, or codes referred to in this Charter may be certified by the Clerk and, when so certified, shall be competent evidence in all courts and legally established tribunals as to the matters contained therein.

Sec. 7.7. Initiative and referendum.

An ordinance may be initiated by petition, or a referendum on an ordinance enacted by the Council may be had, by a petition, as hereinafter provided.

Sec. 7.8. Petitions.

An initiatory or a referendary petition shall be signed by not less than fifteen (15) per cent of the registered electors of the Village who have signed said petition within six (6) months before the date of filing the petition with the Clerk. Before being circulated for signatures all such petitions may be approved as to form by the Clerk. No such petition need be on one paper, but may be the aggregate of two (2) or more petition papers. Each signer of a petition shall sign his name in ink or indelible pencil, and shall place thereon, after his name, the date and his place of residence by street and number, or by other customary designation. To each petition paper there shall be attached a sworn affidavit by the circulator thereof, stating the number of signers thereto and that each signature is of the person whose name it purports to be, and that it was made in the presence of the affiant. Such petition shall be filed with the Clerk who shall, within ten (10) days, canvass the signatures thereon to determine the sufficiency thereof. If found to contain an insufficient number of signatures of registered electors of the Village, or to be improper as to form or compliance with the provisions of this section, the Clerk shall notify forthwith the person filing such petition, and ten (10) days from such notification shall be allowed for the filing of supplemental petition papers. When found sufficient and proper, the Clerk shall present the petition to the Council at its next regular meeting.

Sec. 7.9. Council procedures.

Upon receiving an initiatory or referendary petition from the Clerk the Council shall, within thirty (30) days, either:

- (a) If it be an initiatory petition, adopt the ordinance as submitted in the petition or determine to submit the proposal to the electors of the Village; or
- (b) If it be a referendary petition, repeal the ordinance to which the petition refers or determine to submit the proposal to the electors of the Village.

Sec. 7.10. Submission to electors.

Should the Council decide to submit the proposal to the electors, it shall be submitted at the next election held in the Village for any other purpose or, in the discretion of the Council, at a special election. The result shall be determined by a majority vote of the electors voting thereon, except in cases where otherwise required by the constitution or laws of the State of Michigan.

Sec. 7.11. Ordinance suspended.

The certification by the Clerk of the sufficiency of a referendary petition within thirty (30) days after the passage of the ordinance to which such petition refers shall automatically suspend the operation of the ordinance in question pending repeal by the Council or final determination by the electors as the case may be. An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed by the Council for a period of two (2) years after the date of the election at which it was adopted. Should two (2) or more ordinances adopted at the same election have conflicting provisions, the one receiving the highest vote shall prevail as to those provisions.

CHAPTER 8. GENERAL FINANCE

Sec. 8.1. Fiscal year.

The fiscal year of the Village shall begin on the first day of July and end on the 30th day of June of the following year. Such year shall constitute the budget year of the Village government.

Sec. 8.2. Budget procedure.

On or before the first Monday in March, each Village officer shall submit to the Village Manager an itemized estimate of the expenditures for the next fiscal year for the department or activities under his control. The Village Manager shall prepare a complete itemized budget proposal for the next fiscal year and shall submit it to the Council at its first meeting in April.

Sec. 8.3. Budget document.

The budget document shall present a complete financial plan for the ensuing fiscal year. It shall include at least the following information:

- (a) Detailed estimates of all proposed expenditures for each department and office of the Village showing the expenditures for corresponding items for the current and last preceding fiscal year, with reasons for increases and decreases recommended, as compared with appropriations for the current year;
- (b) Statements of the bonded and other indebtedness of the Village, showing the debt redemption and interest requirements, the debt authorized and unissued, and the condition of sinking funds, if any;
- (c) Detailed estimates of all anticipated income of the Village from sources other than taxes and borrowing, with a comparative statement of the amounts received by the Village from each of the same or similar sources for the last preceding and current fiscal year;
- (d) A statement of the estimated balance or deficit, as the case may be, for the end of the current fiscal year;

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- (e) An estimate of the amount of money to be raised from current and delinquent taxes and the amount to be raised from bond issues which, together with income from other sources, will be necessary to meet the proposed expenditures and commitments of the Village government during the ensuing year;
 - (f) Such other supporting schedules as the Council may deem necessary.

Sec. 8.4. Budget hearing.

A copy of the budget proposal shall be on file and available to the public in the office of the Clerk during office hours in the office of the Clerk for a period of not less than one (1) week prior to the adoption of the budget by the Council. Notice of the requirement that the budget proposal is so required [is] to be published by the Clerk in a legal newspaper having a bona fide list of paying subscribers not less than fifteen (15) days prior to the adoption of the budget by the Council: provided, however, that failure to give such notice shall not invalidate the adoption of any budget.

Sec. 8.5. Adoption of budget; tax limit.

Not later than the second Monday in May the Council shall, by resolution, adopt the budget for the next fiscal year and shall, in such resolution, make an appropriation of the money needed for municipal purposes during the ensuing year of the Village and provide for a levy of the amount necessary to be raised by taxes upon real and personal property for municipal purposes, which levy shall not exceed four tenths (0.4) per cent on each dollar of the taxable value of all real and personal property subject to taxation in the Village. The levy so provided shall be known and referred to as the Charter tax rate of the Village of Milford and shall be subject to all provisions of the State law and the Michigan Constitution pertaining thereto. The Charter tax rate shall be increased by twenty-nine hundredths (.29) per cent on each dollar of the taxable value of all real and personal property subject to taxation in the Village for the years 2019 through 2032, for the purpose of defraying the costs of major and local road maintenance.

(Amend. of 3-9-98; Amend. of 5-21-12; Amend. of 11-6-18)

Sec. 8.6. Transfer of appropriations.

After the budget has been adopted, no money shall be drawn from the treasury of the Village nor shall any obligation for the expenditure of money be incurred, except pursuant to the budget appropriations. The Council may transfer any unencumbered appropriation balance, or any portion thereof, from one department, fund, or agency to another. The balance in any appropriation which has not been encumbered at the end of the fiscal year shall revert to the general fund and be reappropriated during the next fiscal year.

Sec. 8.7. Budget control.

At the beginning of each quarterly period during the fiscal year, and more often if required by the Council, the Village Manager shall submit to the Council data showing the relation between the estimated and actual income and expenses to date; and if it shall appear that the income is less than anticipated, the Council may reduce appropriations, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within the cash income.

Sec. 8.8. Depository.

The Council shall designate the depository or depositories for Village funds, and shall provide for the regular deposit of all Village moneys. The Council shall provide for such security for Village deposits as is authorized or permitted by the general laws of the State, except that personal surety bonds shall not be deemed proper security.

Sec. 8.9. Independent audit.

An independent audit shall be made of all accounts of the Village government at least annually and more frequently if deemed necessary by the Council. Such audit shall be made by public accountants experienced in municipal accountings. The results of such audit shall be made public in such manner as the Council may determine.

CHAPTER 9. TAXATION

Sec. 9.1. Power to tax and secure revenue.

In order to carry out the purposes, powers, and duties of the Village government established by this Charter, the Village may assess, levy, and collect taxes, rents, tolls, and excise or specific taxes.

Sec. 9.2. Subjects of taxation.

The subjects of ad valorem taxation for municipal purposes shall be the same as for State, County, and school purposes under the general law. Except as otherwise provided by this Charter, Village taxes shall be levied, collected, and returned in the manner provided by State law.

Sec. 9.3. Assessment.

Unless otherwise provided by law, the thirty-first day of December in each year, beginning with the year 1958, shall be the assessment day for both real and personal property of the Village.

Sec. 9.4. Time for making assessment rolls.

The Assessor shall make and complete an assessment roll of the Village in the manner and form provided in the general tax law of the State, not later than the last Monday in April of each year, on which date he shall file such roll with the Clerk for public inspection during the normal office hours of the Clerk until the date of the convening of the Board of Review, on which date the Clerk shall turn such assessment roll over to the Board of Review.

Sec. 9.5. Board of Review.

The Board of Review shall be appointed by the Council and shall be comprised by three (3) persons having qualifications required by this Charter for officers of the Village, who are tax payers to the Village, and have been residents of the Village for not less than three (3) years. In the first instance, the full Board shall be appointed, one (1) to serve for a term of one (1) year, one (1) to serve for a term of two (2) years, and one (1) to serve for a term of three (3) years. Thereafter, the Council shall, annually in the month of April, appoint one (1) member of the Board to serve for a full term of three (3) years. The Council shall set the compensation of the Board of Review.

Sec. 9.6. Meetings of Board of Review.

The Board of Review shall convene on the first and second Mondays in March of each year at such place as shall be designated by the Council and shall continue in session from day to day for the purpose of considering and correcting the roll for three (3) days. The Board shall remain in session during such hours as the Council may

designate, and on the third day shall remain in session until 8 o'clock p.m. for the purpose of hearing the public, and as long thereafter as may be required for the completion of its duties.

Sec. 9.7. Organization and functions of the Board of Review.

On the first day of its meeting in each year, the Board of Review shall elect one of its members Chairman. The Assessor shall be Secretary of the Board and shall attend its meetings with the privilege of participating therein, but without the right to vote upon any decision of the Board. It shall be the duty of the Assessor to keep a permanent record of all proceedings, and to enter therein all resolutions and decisions of the Board. Such record shall be filed with the Clerk within thirty (30) days after the adjournment of the Board. A majority of the members of the Board shall constitute a quorum.

The members of said Board shall take the constitutional oath of office which shall be filed with the Clerk. For the purpose of reviewing and correcting assessment the Board of Review shall have the same powers and perform like duties in all respects as are by the general tax law conferred upon and required of boards of review in townships, in reviewing assessments in townships for Township, State and County taxes. It shall hear the complaints of all persons considering themselves aggrieved by assessments, and if it shall appear that any person or property has been wrongfully assessed, or omitted from the roll, the Board shall correct the roll in such manner as it shall deem just. In all cases, the assessment roll shall be reviewed according to the facts existing on the assessment day and no change of the status of any property after said day shall be considered by the Board in making its decisions. Except as otherwise provided by State law, no person other than the Board of Review shall make or authorize any change upon or additions or corrections to the assessment roll.

Sec. 9.8. Endorsement of roll; validity.

After the Board shall complete its review of the assessment roll, and on or before the fourth Monday in May in each year, a majority of its members shall endorse and sign a statement to the effect that the same is the assessment roll of the Village for the year in which it has been prepared. The omission of such endorsement shall not affect the validity of such roll. Upon the completion of said roll and from and after midnight following the last day of the meeting of the Board of Review, the same shall be the assessment roll of the Village for Village taxes on real and personal property that may be authorized by law and under the provisions of this Charter and shall be conclusively presumed by all courts and tribunals to be valid and shall not be set aside except for causes set forth in the general laws of the State.

Sec. 9.9. Clerk to certify tax levy.

Within three (3) days after the Council has adopted the budget for the ensuing year, the Clerk shall certify to the Assessor the total amount which the Council determines shall be raised by general tax; all amounts of special assessments which the Council requires to be assessed or reassessed upon any property or against any person; and all other amounts which the Council may determine shall be charged, assessed, or reassessed against any person or property.

Sec. 9.10. Village tax roll.

After the last day for the meeting of the Board of Review, the Assessor shall, upon receiving the certification of the several amounts to be raised, as provided in the preceding section, proceed forthwith to spread upon the assessment roll the several amounts determined by the Council to be charged, assessed, or reassessed against persons or property; and shall also proceed to spread the amounts of the general Village tax according to and in proportion to the several valuations set forth in said assessment roll. For the purpose of avoiding fractions in computation, the Assessor may add to the amount of the several taxes to be raised not more than one (1) per cent; said excess shall belong to the Village.

Sec. 9.11. Tax roll certified for collection.

After extending the taxes aforesaid and not later than the 15th day of June in each year, the Assessor shall certify said tax roll, and the President shall annex his warrant thereto, directing and requiring the Treasurer to collect from the several persons named in said roll the several sums mentioned therein opposite their respective names as a tax or assessment, and granting to him, for the purpose of collecting the taxes, assessments, and charges on such roll, all the power and immunities possessed by Township Treasurers for the collection of taxes under the general laws of the State.

Sec. 9.12. Taxes lien on property.

The Village taxes thus assessed shall become at once a debt due to the Village from the persons to whom they are assessed, and the amounts assessed on any interest in real property shall, on the first day of July, become a lien upon such real property, and the lien for such amounts and for all interest and other charges thereon shall continue until payment thereof. All personal taxes shall also be a first lien, prior, superior, and paramount upon all personal property of the persons so assessed from and after the first day of July in each year and shall so remain until paid, which said tax liens shall take precedence over all other claims, encumbrances and liens upon said personal property whatsoever, whether created by chattel mortgage, execution, levy, judgment, or otherwise, and whether arising before or after the assessment of said personal taxes, and no transfer of personal property assessed for taxes thereon shall operate to divest or destroy such lien except where such personal property is actually sold in the regular course of retail trade.

Sec. 9.13. Taxes due; notification.

The Treasurer shall not be required to call upon the persons named in the Village tax roll, nor to make personal demand for the payment of taxes, but he shall give notice to the tax payers of the Village, by publication in a newspaper printed and published in the Village at least once, which publication of notice shall be made at least ten (10) days prior to the first day of July in each year, of the time when said taxes will be due for collection, or shall give such notice of the time when said taxes will be due for collection by first class mail addressed to the owners of the property upon which taxes are assessed according to the names of such owners and their addresses as indicated on the tax roll, which notice shall be deemed sufficient for the payment of all taxes on said tax roll. Failure on the part of the Treasurer to give said notice shall not invalidate the taxes on said tax roll nor release the person or property assessed from any penalty or interest provided in this chapter in case of nonpayment of the same.

Sec. 9.14. Collection of Village taxes.

Village taxes shall be due and payable on the first day of July of each year. To all taxes paid after August 31, there shall be added a four (4) per cent penalty, and to all taxes paid after said date, there shall also be added interest at the rate of one-half ($\frac{1}{2}$) of one (1) per cent for each month or fraction of a month intervening between said date and the date of payment, or the first day of March of the next succeeding calendar year, whichever date shall first occur. The added penalties and interest herein provided shall belong to the Village and shall constitute a charge and shall be a lien against the property to which the taxes themselves apply, collectible in the same manner as the taxes to which they are added.

Sec. 9.15. Delinquent tax roll to County Treasurer.

If the Treasurer has been unable to collect any of the Village taxes on said roll on real property before the first day of March following the date when said roll was received by him, it shall be his duty to return all such

unpaid taxes on real property to the County Treasurer in the same manner and with like effect as returns by the Township Treasurers of Township, school, and County taxes. Such returns shall be made upon a delinquent tax roll to be prepared by the Treasurer and shall include all the additional charges and fees hereinbefore provided, which charges shall, in such return, be added to the amount assessed in said tax roll against each description. The taxes thus returned shall be collected in the same manner as other taxes returned to the County Treasurer are collected under the provisions of the general laws of the State and shall be and remain a lien upon the lands against which they are assessed, until paid.

Sec. 9.16. Protection of Village lien.

The Village shall have power, insofar as the exercise thereof shall not conflict with or contravene the provisions of any general law of the State, to acquire by purchase any premises within the Village at any tax or other public sale, or by direct purchase from the State of Michigan or the fee owner, when such purchase is necessary to protect the lien of the Village for taxes or special assessments, or both, on said premises and may hold, lease, or sell the same solely for the purpose of securing therefrom the amount of such taxes or special assessments, or both, together with any incidental expenses incurred in connection with the exercise of this power. Any such procedure exercised by the Village in the protection of its tax lien shall be deemed to be for a public purpose.

CHAPTER 10. MUNICIPAL BORROWING POWER

Sec. 10.1. General power to borrow.

Subject to the applicable provisions of State law and this Charter, the Council, by proper ordinance or resolution, may authorize the borrowing of money for any purpose within the scope of the powers vested in the Village and the issuance of bonds of the Village or other evidence of indebtedness therefor, and may pledge the full faith, credit, and resources of the Village for the payment of the obligation created thereby: Provided, that the net bonded indebtedness incurred for all public purposes shall not at any time exceed ten (10) per centum of the assessed value of all real and personal property in the Village. The Village shall also have power to issue special assessment, mortgage, revenue, or other types of bonds, beyond the debt limits fixed by law for the issuance of bonds or other evidence of indebtedness which are a general obligation of the Village, in the manner and for the purpose permitted by the Charter, the Constitution, and the general laws of the State of Michigan, including Act No. 278 of the Public Acts of Michigan of 1909 (MCL 78.1 et seq.), as amended, under which the Village is incorporated. Bonds issued in anticipation of the payment of special assessments may be an obligation of the special assessment district or may be both an obligation of the special assessment district and a general obligation of the Village. All collections on special assessment rolls shall be set apart in a special fund and shall be used only for the purpose or purposes for which they were levied and for the payment of the principal and interest of any bonds issued in anticipation of the payment of such special assessments. If there be any deficiency in the special assessment fund to meet the payment of any such principal and interest, monies shall be advanced from the general funds of the Village to meet such deficiency and shall be replaced in such general fund when the special assessment fund shall be sufficient therefor. No bond of the Village shall bear interest at a rate to exceed six (6) per cent per annum.

Sec. 10.2. Unissued bonds.

No unissued bonds of the Village shall be issued or sold to secure funds for any purpose other than that for which they were specifically authorized, and if any such bonds are not issued or sold within three (3) years after authorization, such authorization shall, as to such bond, be null and void.

CHAPTER 11. PUBLIC IMPROVEMENTS, CONTRACTS

Sec. 11.1. Village may perform public work.

The Council shall have power to do any public work or make any public improvement by the employment of the necessary labor and the purchase of the necessary supplies and materials with separate accounting as to each improvement so made, or to do such work by contract duly let after competitive bidding. Where competitive bids are secured, the Village, or any Village department qualified to do the work, may enter a bid on an equal footing with other bidders. The Council shall also have the power to do any public work or make any public improvement under any legally constituted plan under which the labor is furnished by any other governmental unit, department, or agency of the United States or State of Michigan, or which is wholly or in part financed by them or either of them.

Sec. 11.2. Purchasing and contractual procedure.

Before making any purchase or contract for supplies, materials, equipment, or contractual services, opportunity shall be given for competition, under such rules and regulations, and with such exceptions, as the Council may by ordinance prescribe. All expenditures for supplies, materials, equipment, or contractual services involving more than One Thousand (\$1000) Dollars shall be made on written contract, and such contract shall be awarded to the lowest responsible bidder after such public notice and competition as may be prescribed by ordinance: Provided, however, that the Council shall have the power to reject all bids and advertise again. The Council shall provide, by ordinance, for the ordinary purchasing procedure to be followed in purchasing Village supplies.

Sec. 11.3. Nuisances and hazards.

When any lot, building, or structure within the Village, because of accumulation of refuse or debris, the uncontrolled growing of weeds, or age or dilapidation, or because of any other condition or happening, becomes, in the opinion of the Council, a public hazard or nuisance which is dangerous to the health or safety of the inhabitants of the Village or of those of them residing or habitually going near such lot, building, or structure, the Council may, after investigation, give notice to the owner of the land upon which such hazard or nuisance exists, or to the owner of the building or structure itself, specifying the nature of the nuisance promptly and within a time to be specified by the Council which shall be commensurate with the nature of the nuisance. If, at the expiration of the time limit in said notice, said owner has not complied with the requirements thereof, or in any case where the owner of the land or of the building or structure itself is not known, the Council may order such hazard or nuisance abated by the proper department or agency of the Village which is qualified to do the work required and the cost of such abatement assessed against the lot, premises, or description of real property upon which such hazard or nuisance was located. Procedure to be followed to make this section fully effective shall be established by ordinance.

Sec. 11.4. General powers relative to special assessments.

The Council shall have the power to determine the necessity of any local or public improvement, and to determine that the whole or any part of the expense shall be defrayed by special assessment upon the property especially benefited: Provided, that such expense shall, in each case, be substantially in accordance with and in proportion to such benefits derived by such property.

Sec. 11.5. Cost of acquired property added.

Whenever any property is acquired by condemnation, or otherwise, for the purpose of any public improvement, the cost thereof, and of the proceedings required to acquire such property, may be added to the cost of such improvement.

Sec. 11.6. Sidewalks, curbs and gutters.

The Council may prescribe that sidewalks, except crosswalks, shall be built by the owners of lands within the Village which abut upon such sidewalks in the manner and within the time prescribed by ordinance; provided, that in case of failure of any such owner to comply with the provisions of such ordinance, the Village may build or cause to be built such sidewalk and assess the cost thereof against such owner and against the land improved thereby, in the manner prescribed by the Council by ordinance.

Sec. 11.7. Additional assessments; refunds.

When any special assessment roll shall prove insufficient to meet the costs of the improvement for which it was made, the Council may make an additional pro rata assessment, but the total amount assessed shall not exceed the value of benefits received by any lot or parcel of land. Should the assessment prove larger than necessary to five (5) per cent or less, the Council may place the excess in the Village Treasury. If more than five (5) per cent, the excess shall be refunded pro rata according to assessments. In either case, the Council may provide by resolution that the amount of any such excess may be allowed as a credit on the last installment where such installment still remains unpaid at the time the final cost of the improvement is determined.

Sec. 11.8. Procedure to be fixed by ordinance.

The Council shall prescribe, by general ordinance, a complete special assessment procedure concerning the initiation of projects, plans and specifications, estimates of costs, notice and hearings, the making and confirming of the assessment rolls and the correction of errors therein, the financing of improvements made by special assessment procedures, the collection of special assessments, and any other matters concerning the making of such improvements.

State law reference(s)—Ordinance setting forth procedure for special assessments, MCL 68.32.

Sec. 11.9. Contested assessments.

Except and unless notice is given to the Council in writing of an intention to contest or enjoin the collection of any special assessment for the construction of any pavement, sewer, or other public improvement, the construction of any sidewalk, or the removal or abatement of any public hazard or nuisance, within thirty (30) days after the date of the meeting of the Council at which it is finally determined to proceed with the making of the improvement in question, which notice shall state the grounds on which the proceedings are to be contested, no suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of such special assessment; and, regardless of whether or not any public improvement is completed in any special assessment district, no owner of real property located in such district shall be entitled to commence any suit or action for the purpose of contesting or enjoining the collection of any such special assessment after he has received a benefit from the substantial completion of that portion of such public improvement for which he is assessed.

CHAPTER 12. UTILITY SERVICES

Sec. 12.1. Existing franchises remain in effect.

All franchises granted by the Village of Milford when this Charter shall become effective, shall remain in full force and effect in accordance with their respective terms and conditions.

Sec. 12.2. Granting of public utility franchises.

Public utility franchises and the renewals and extensions thereof or amendments thereto shall be granted by ordinance only. No exclusive franchise shall ever be granted. No franchise shall be granted for a period longer than thirty (30) years.

Each franchise shall include a provision requiring the franchise to take effect within one (1) year after the adoption of the ordinance granting it, except in the case of grants to take effect at the end of any franchise existing as of the date of the adoption of this Charter or that may hereafter be granted.

An irrevocable franchise and any extension or amendment of such franchise shall not be granted by the Village unless it has first received the affirmative vote of at least three-fifths ($\frac{3}{5}$) of the electors voting thereon at a regular or special Village election.

An irrevocable franchise ordinance may be approved by the Council for referral to the electorate, only after a public hearing has been held thereon and after the grantee named therein has filed with the Clerk his unconditional acceptance of all the terms expressed in such franchise.

No special election for such purpose may be ordered by the Council, unless the estimated expense of holding such election has first been paid to the Treasurer by the grantee.

Every ordinance granting a franchise license or right to occupy or use the streets, alleys, bridges or other public places within the Village shall remain on file with the Clerk for public inspection in its final form for at least thirty (30) days before the final adoption thereof by the Council, or the approval thereof for referral to the electorate.

Sec. 12.3. Conditions of public utility franchise.

The Village may, with respect to any public utility franchise granted after the effective date of this Charter, whether such franchise may contain any of the following provisions or otherwise, have the power to:

- (a) Revoke the same for violation of any of its provisions, for the misuse or nonuse thereof, for failure to comply with any provision thereof, or any regulation imposed under authority of this section; or
- (b) Require of any utility which may not be subject to regulation by any administrative agency of the State, proper and adequate extension of plant, service and maintenance thereof, at the highest practicable standard of efficiency. The facilities and service of any utility subject to the jurisdiction and control of any regulation by the Michigan Public Service Commission, shall be in accordance with the rules and regulations of the Michigan Public Service Commission or its successor;
- (c) Any franchise granted to a public utility which is not subject to the jurisdiction of any regulation by the Michigan Public Service Commission, shall make provisions for fixing and adjusting the rates and charges to be made by such grantee from and after the effective date of the franchise;
- (d) Require to a degree regarded as practical, the continuous and uninterrupted service to the public;
- (e) Impose other valid regulations determined by the Council to be required for the health, safety, welfare and convenience of the public;

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- (f) Require the public utility to permit joint use of its property and appurtenances located in the streets, alleys, bridges and public places by the Village and other utilities, insofar as such joint use may be reasonably practicable, and upon payment of reasonable rental thereof, and in the absence of agreement, upon application by the public utility, provide for the arbitration of the terms and conditions of such joint use and the compensation to be paid therefor;
 - (g) Require the public utility to pay the actual cost of the maintenance or improvement of any street, alley, bridge or other public place that has become necessary by reason of any use thereof by such utility, and to protect and save the Village harmless from all damages arising from such use;
 - (h) Require the public utility to file with the Clerk copies of any annual report made by such utility to the Michigan Public Service Commission.

Sec. 12.4. Revocable permits.

Temporary permits to public utilities, revocable at any time at the will of the Council may be granted by the Council by resolution on such terms and conditions as the Council shall determine, provided however, that no such permit shall be construed to be a franchise or amendments to any franchise.

Sec. 12.5. Sale or assignment of franchise.

The grantee of a franchise may not sell, assign, sublet, or allow another to use the same, unless the Council gives its consent. Nothing in this section shall limit the right of the grantee of any public utility franchise to mortgage its property or franchise, nor shall restrict the rights of the purchaser, upon foreclosure sale, to operate the same, except that such mortgagee or purchaser shall be subject to the terms of the franchise and provisions of this chapter.

Sec. 12.6. General powers respecting municipal utilities.

The Village shall possess and hereby reserves to itself all the powers granted to villages by the constitution and general laws of the State of Michigan to acquire, construct, own, operate, improve, enlarge, extend, repair and maintain either within or without its corporate limits, public utilities for supplying water, light, heat, power, gas, and sewage treatment, and garbage facilities, or any of them to the Village and its inhabitants; and also to sell and deliver water, light, heat, power, gas, and other public utilities and services without its corporate limits to an amount not to exceed the limitations set by State law and constitution. The Council shall have the power to fix, from time to time, such just and equitable rates as may be deemed advisable for supplying the inhabitants of the Village and others with water, with electricity for light, heat, and power and with such other utility services as the Village may provide.

Sec. 12.7. Utility charges; collection.

The Council shall provide, by ordinance, for the collection of all public utility charges made by the Village and for such purpose shall have all the powers granted to villages by Act No. 178 of the Public Acts of Michigan of 1939 (MCL 123.161 et seq.), as amended. When any person or persons, or any firm or corporation, shall fail or refuse to pay to the Village any sums due on utility bills, the utility service or services upon which such delinquency exists may be shut off or discontinued and suit may be instituted by the Village for the collection of the same in any court of competent jurisdiction.

Sec. 12.8. Disposal of plants [and equipment].

Except for purposes permitted by law, the Village shall not sell, exchange, lease, or in any way alienate or dispose of the property, easements, income or other equipment, privilege or asset belonging to and appertaining to any utility which it may acquire, unless and except the proposition for such purpose shall first have been submitted, at an election held for the purpose in the manner provided in this Charter, to the qualified electors of the Village and be approved by them by a three-fifths (¾) majority vote of the electors voting thereon. All contracts, negotiations, licenses, grants, leases or other forms of transfer in violation of this provision shall be void and of no effect as against the Village. The provisions of this section shall not, however, apply to the sale or exchange of any articles of equipment of any village-owned utility as are worn out or useless, or which could, with advantage to the service, be replaced by new and improved machinery or equipment.

CHAPTER 13. MISCELLANEOUS

Sec. 13.1. Notice to Village of claim for injuries.

The Village shall not be liable in damages sustained by any person, either to his person or property, by reason of the negligence of the Village, its officers, or employees, nor by reason of any defective highway, street, bridge, sidewalk, crosswalk or culvert, or by reason of any obstruction, ice, snow or other encumbrance upon such street, sidewalk, crosswalk or public highway, situated in the Village, unless such person shall serve or cause to be served, within sixty (60) days after such injury shall have occurred, a notice in writing, upon the Clerk, which notice shall set forth substantially the time and place of such injury, the nature of the defect, the manner in which it occurred, and the extent of such injury as far as the same has become known, the names and addresses of the witnesses known at the time by claimant, and a statement that the person receiving such injury intends to hold the Village liable for such damages as may have been sustained by him. No person shall bring any action against the Village for any damages to person or property arising out of any obstruction, ice, snow, or other encumbrance upon such street, sidewalk, crosswalk or public highway, situated in the Village, unless he shall also present to the Clerk his claim in writing and under oath, setting forth particularly the nature and extent of such injury and the amount of damages claimed by reason thereof, which claims shall be presented to the Council by the Clerk.

It shall be a sufficient bar and answer in any court to any action or proceeding for the collection of any demand or claim against the Village, under this section, that the notice of injury and the verified proof of claim, as in this section required, were not presented and filed within the time and in the manner as herein provided.

Sec. 13.2. Limitation on dedication of streets.

The Council shall not accept dedication of streets unless and until the owners have provided facilities such as storm and sanitary sewers and water mains, and laterals in both cases, surfacing of streets, sidewalks, and street lighting acceptable to the Council and equivalent to services already available to residents in that section of the Village. The Council shall establish specifications and standards of materials and workmanship for all improvements required to be made under the provisions of this section and may require that all work done shall be subject to inspection and approval by the Village Manager or by a proper person designated by him. The Village may refuse to accept, as compliance with the requirements of this section, any work, installation, or improvement which does not conform to the specifications or standards established by it. In the installation of such facilities prior to dedication there shall be no cost to the Village. In lieu of compliance with the provisions of this section, the Council may accept payment of any amount equal to the cost of complying with the provisions of this section to defray the expense of doing such work or the making of such installation or improvement by the Village.

Sec. 13.3. Publication.

The Council shall determine the method of publication of all notices, ordinances, and proceedings for which a mode of publication is not prescribed by this Charter or by law. The Council may determine that such publication may be made in a newspaper which is printed or circulated in the Village, or that such publication may be made by posting in the office of the Clerk and in five (5) other public places in the Village. In case publication is made by posting, a notice of such posting, setting forth by a descriptive phrase, the purpose or nature of the notice, ordinance, or proceeding posted, and location of the places where posted, shall be published at least once in a newspaper published and circulated in the Village within seven (7) days after such posting was done.

Sec. 13.4. No estoppel by representation.

No official of the Village shall have power to make any representation or recital of fact in any franchise, contract, document or agreement, contrary to any public record of the Village. Any such representation shall be void and of no effect as against the Village.

Sec. 13.5. Village records.

All records of the Village shall be public.

Sec. 13.6. Prior Village ordinances and regulations.

All ordinances, resolutions, rules, and regulations of the Village of Milford which are not inconsistent with the provisions of this Charter, in force and effect at the same time of the adoption of this Charter, shall continue in full force as ordinances, resolutions, rules and regulations of the Village until repealed or amended by action of the proper authorities.

Sec. 13.7. Tense.

Except as otherwise specifically provided or indicated by the context, all words used in this Charter indicating the present tense shall not be limited to the time of the adoption of this Charter, but shall extend to and include the time of the happening of any event or requirement for which provision is made therein, either as a power, immunity, requirement, or prohibition.

Sec. 13.8. Headings.

The chapter and section headings used in this Charter are for convenience only and shall not be considered to be a part of this Charter.

Sec. 13.9. Effect of illegality of any part of Charter.

Should any provision or section, or portion thereof, of this Charter be held by a court of competent jurisdiction to be invalid, illegal, or unconstitutional, such holding shall not be construed as affecting the validity of this Charter as a whole or any of the remaining portion of such provision or section; it being hereby declared to be the intent of the Charter Commission and of the electors who voted thereon that such unconstitutionality or illegality shall not affect the validity of any part of this Charter except that specifically affected by such holding. Further, it is hereby declared that it was the intent of the Charter Commission and of the electors of the Village of Milford, in preparing and adopting this Charter, that said instrument should conform in all respects with the provisions and requirements of State law. In the event that any provision of this Charter shall conflict with or

contravene the provisions of any general law of the State of Michigan, the provisions of such general law of the State shall govern.

Sec. 13.10. Amendments.

This Charter may be amended at any time in the manner provided in Act No. 278 of the Public Acts of Michigan of 1909 (MCL 78.1 et seq.), as amended. Should two (2) or more amendments, adopted at the same election, have conflicting provisions, the one receiving the largest affirmative vote shall prevail as to those provisions.

Adopted by Charter Commission: May 22, 1958

Approved by Governor: September 23, 1958

Approved by Electorate and Effective: October 20, 1958

CHARTER COMPARATIVE TABLE

This table shows the location of the sections of the basic Charter and any amendments thereto.

Date	Section	Section this Charter
10-20-58	1.1—13.10	1.1—13.10
3-11-84		5.3
3- 9-98		8.5
5-21-12		8.5
11- 6-18		8.5

Chapter 1 GENERAL PROVISIONS

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

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

State law reference(s)—Authority to codify ordinances, MCL 66.3a.

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

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

Bureau. The term "bureau" shall mean the municipal ordinance violations bureau.

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

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

County. The term "the county" or "this county" shall mean the County of Oakland in the State of Michigan.

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

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

Municipal civil infraction. The term "municipal civil infraction" shall mean a violation of a provision of this Code for which the remedy and/or penalty is prescribed to be a civil fine, or other sanction other than a criminal penalty. A municipal civil infraction is not a lesser included offense of a criminal offense or of an ordinance violation that is not a civil infraction.

Municipal civil infraction determination. The term "municipal civil infraction determination" shall mean a determination that a defendant is responsible for a municipal civil infraction by one of the following:

- (1) An admission of responsibility for the municipal civil infraction.
- (2) An admission of responsibility for the municipal civil infraction, "with explanation."
- (3) A preponderance of the evidence at an informal hearing or formal hearing.
- (4) A default judgment for failing to appear at a scheduled appearance.

Municipal civil infraction violation notice. The term "municipal civil infraction violation notice" shall mean a written notice prepared by an authorized official, directing a person to appear at the village municipal ordinance violation bureau for the purpose of paying a civil fine and/or costs for a violation which is prescribed to be a municipal civil infraction.

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

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

Officer, department, board, commission or other agency. Whenever any officer, department, board, commission or other agency is referred to by title only, such reference shall be construed as if followed by the words "of the Village of Milford, Michigan." Whenever by the provisions of this Code any officer of the village is assigned any duty or empowered to perform any act or duty, reference to such officer shall mean and include such officer or his deputy or authorized subordinate.

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

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

Public Acts. All references to "Public Acts" are references to Michigan Public Acts.

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

Repeat offense. The term "repeat offense" shall mean a determination of responsibility for a second, or any subsequent, municipal civil infraction with regard to the same code provision, committed by the same person within any three-year period, unless some other period is specifically provided with regard to a specific Code provision.

Responsible or responsibility. The term "responsible" or "responsibility" shall mean a determination entered by a court or magistrate that a person is in violation of a provision of this Code prescribed to be a municipal civil infraction.

Shall, may. The word "shall" is mandatory; the word "may" is permissive.

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

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

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

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

Village. The word "village" shall mean the Village of Milford, Michigan.

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

Violation. The term "violation" shall mean any act which is prohibited or made or declared to be unlawful or an offense under this Code, including affirmative acts as well as omissions and/or failures to act where the act is required by this Code.

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

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

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

Sec. 1-4. History notes.

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

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

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

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

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

- (1) Affecting the boundaries of the village;
- (2) Relating to any specific local improvement;
- (3) Authorizing, directing or ratifying any purchase or sale;
- (4) Approving or accepting any subdivision or plat;
- (5) Authorizing or directing the issuance of any bonds or other evidence of indebtedness;
- (6) Authorizing or directing the making of any investment;
- (7) Making or otherwise affecting any appropriations;
- (8) Levying or otherwise affecting any taxes, not inconsistent with this Code;
- (9) Relating to franchises;
- (10) Prescribing traffic regulations, including through streets, speed limits, one-way traffic, limitations on load of vehicles or loading zones;
- (11) Regarding special districts;
- (12) Pertaining to zoning or rezoning;
- (13) Regulations pertaining to personnel;
- (14) Any temporary or special ordinances;
- (15) Any administrative ordinance;

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

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

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

Sec. 1-8. Severability.

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

Sec. 1-9. Amendments to Code.

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

Sec. 1-10. Supplementation of Code.

- (a) By contract or by village personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the village council. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of 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 authorized to prepare the supplement, may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:
 - (1) Organize the ordinance material into appropriate subdivisions;
 - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
 - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
 - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
 - (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-11. Altering Code.

It shall be unlawful for any person to change or amend, by additions or deletions, any part or portion of this Code, or to insert or delete pages or portions thereof, or to alter or tamper with this Code in any manner

whatsoever which will cause the Code to be misrepresented thereby. Any person violating this section shall be punished as provided in section 1-12.

Sec. 1-12. General penalties and sanctions for violations of Code and village ordinances; continuing violations; injunctive relief.

- (a) Unless a violation of this Code or any ordinance of the township is specifically designated in the Code or ordinance as a municipal civil infraction, the violation shall be deemed to be a misdemeanor.
- (b) The penalty for a misdemeanor violation shall be a fine not exceeding \$500.00 (plus costs of prosecution), or imprisonment not exceeding 90 days, or both, unless a specific penalty is otherwise provided for the violation by this Code or any ordinance.
- (c) The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by this Code or any ordinance, plus any costs, damages, expenses and other sanctions, as authorized by law.
 - (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 as specified in section 1-17, plus costs and other sanctions, for each infraction.
 - (2) Increased civil fines shall be imposed for repeated violations by a person of any requirement or provision of this Code or any ordinance. Unless otherwise specifically provided by this Code or any ordinance for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be as specified in section 1-17, 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, this Code.
- (d) Each day on which any violation of this Code or any ordinance continues is a separate offense and shall be subject to penalties or sanctions as a separate offense.
- (e) In addition to any penalties provided for in this Code, any equitable or other remedies available may be sought.

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

Sec. 1-13. 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 municipal ordinance violations bureau.
- (b) The form of citations used to charge municipal civil infraction violations shall be in accordance with state law (see MCL 600.8709).

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- (c) In a municipal civil infraction action involving the use or occupancy of land or 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.

Sec. 1-14. Authority of municipal ordinance violations bureau.

- (a) The municipal ordinance violations 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.

Sec. 1-15. 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. Such 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 notice.

Sec. 1-16. Procedure for persons electing not to respond to municipal civil infraction violations notice.

If 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 such 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.

Sec. 1-17. Schedule of civil fines established.

A schedule of civil fines payable to the bureau for admissions of responsibility by persons served with municipal ordinance violation notices is hereby established.

- (1) The fines for violations of the sections listed below shall be \$30.00 for the first offense, \$60.00 for the second offense and \$90.00 for the third and subsequent offenses:
 - a. Section 22-31 et seq., pertaining to solicitors.
 - b. Section 22-81 et seq., pertaining to garage sales.

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- c. Sections 42-70 and 42-71, pertaining to handbills.
 - d. Section 50-11, pertaining to begging.
 - e. Section 54-10, pertaining to swimming.
 - f. Section 58-71 et seq., pertaining to fishing.
 - g. Section 70-1, pertaining to bicycles, skates and play vehicles.
- (2) The fines for violations of the sections listed below shall be \$50.00 for the first offense, \$250.00 for the second offense and \$500.00 for the third and subsequent offenses:
- a. Section 18-31 et seq., pertaining to the building, electrical, plumbing and mechanical codes.
 - b. Section 18-61 et seq., pertaining to smoke detectors.
 - c. Section 18-91 et seq., pertaining to dangerous buildings.
 - d. Section 18-116 et seq., pertaining to the fire prevention code.
 - e. Section 34-31 et seq., pertaining to alarm systems and false alarms.
 - f. Chapter 38, pertaining to engineering design and construction standards.
 - g. Section 42-26 et seq., pertaining to nuisances.
 - h. Section 42-61 et seq., pertaining to littering.
 - i. Section 42-106 et seq., pertaining to junk vehicles.
 - j. Section 42-141 et seq., pertaining to soil erosion and sedimentation control.
 - k. Section 42-291 et seq., pertaining to flood hazard zones.
 - l. Section 42-353 et seq., pertaining to municipal dumpsters.
 - m. Section 46-3, pertaining to burning.
 - n. Section 50-252, pertaining to open house parties.
 - o. Section 54-71 et seq., pertaining to alcohol prohibition.
 - p. Section 70-56 et seq., pertaining to excavations in right-of-way.
 - q. Sections 70-62 and 70-101 et seq., pertaining to snow removal.
 - r. Section 70-63, pertaining to sidewalk hazards.
 - s. Section 74-31 et seq., pertaining to subdivision.
 - t. Section 78-231 et seq., pertaining to recreational trespass.
 - u. Section 82-31 et seq., pertaining to water.
 - v. Section 82-86 et seq., pertaining to cross connections.
 - w. Section 82-131 et seq., pertaining to wastewater pretreatment.
 - x. Section 82-176 et seq., pertaining to sewer use.
 - y. Section 86-31 et seq., pertaining to trees.
 - z. Section 86-76 et seq., pertaining to weed control.
 - aa. Chapter 94, pertaining to zoning.

bb. Section 18-160 et seq., pertaining to the property maintenance code.

cc. Section 22-90 et seq., pertaining to residential rentals.

(Ord. No. 231-201, § 1, 11-21-16)

Sec. 1-18. Cash bonds, deposits and earned interest.

Wherever and whenever cash bonds or deposits are required to be made to the village for any purpose established within the Code of Ordinances for the Village of Milford, the village may, but shall not be required to, invest the cash deposit so as to earn interest thereon. In the event the village elects to deposit the cash in an interest bearing account, the village shall not be liable to the person or entity making the initial cash deposit for any claim of earned interest. All cash bonds and deposits shall be maintained by the village in escrow accounts, and any interest earned thereon shall be the property of the village. Outstanding principal amounts, which are no longer required to be posted for the purpose originally deposited, as determined by the village, shall be returned, refunded and/or processed in the manner prescribed by the Code of Ordinances for the Village of Milford.

(Ord. No. 231-138, § 1, 10-19-09)

Chapter 2 ADMINISTRATION²

ARTICLE I. IN GENERAL

Secs. 2-1—2-30. Reserved.

ARTICLE II. VILLAGE COUNCIL

Sec. 2-31. Commission, committee or board: nomination and appointment procedures.

The village council president may nominate, and the village council may appoint, such members of any committees, commissions or boards established or authorized by the Charter or the ordinances of the Village of Milford. In the event that the village council president does not nominate, or in the event that the village council president's nomination is not ratified by the village council, any other member of the village council may nominate, and the village council may appoint, any member of any commission, committee or board, established or authorized by the Charter or the ordinances of the Village of Milford.

²Cross reference(s)—Alcoholic liquors, ch. 6; amusements and entertainments, ch. 10; buildings and building regulations, ch. 18; businesses, ch. 22; cable communications, ch. 26; community development, ch. 30; engineering design and construction standards, ch. 38; environment, ch. 42; roads and bridges, ch. 58; special assessments, ch. 66; streets, sidewalks and other public places, ch. 70; subdivisions and land division, ch. 74; traffic and vehicles, ch. 78; utilities, ch. 82; zoning, ch. 94; administration and enforcement of zoning, § 94-486 et seq.

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

Sec. 2-32. Absences and vacancies.

- (a) *Intent and purpose.*
- (1) Village council finds that the public interest is best protected by promoting the responsibility and accountability of public officials.
 - (2) Village council finds that in order to most effectively serve village residents, a village council member's participation in official village meetings is essential.
 - (3) Village council finds that the best interests of village residents shall be served by the implementation of rules and procedures detailing meeting attendance requirements for village council members.
 - (4) It is the purpose and intent of this section to establish rules, regulations and procedures detailing village council meeting attendance requirements for village council members.
- (b) *Absences.* The failure of a member of village council to attend three or more consecutive regular meetings at any time during his or her appointment, without excuse as described in subsection (c) below, shall result in the issuance of a letter of reprimand, informing that member that he or she is in danger of vacating their office pursuant to section 4.3 of the Village Charter. The failure of a member of village council to attend four or more consecutive regular meetings at any time during his or her appointment, without excuse as described in subsection (c) below, shall result in the issuance of a notice from the council informing that member that he or she has created a vacancy in office pursuant to section 4.3 of the Village Charter. The notice shall also be provided to all village council members. Additionally, if a member of village council shall have their overall attendance fall below 25 percent of all regular meetings of village council in any fiscal year, without excuse as described in subsection (c) below, that member shall create a vacancy in office pursuant to section 4.3 of the Village Charter and a notice from the council shall be issued informing that member of such vacancy. The notice shall also be provided to all village council members. Receipt of such notice by council detailing either four consecutive unexcused absences or poor attendance of a council member shall cause the removal of the member to be put on the agenda for the next scheduled regular meeting of the village council, whereby council shall declare that member's seat vacant. Upon removal of a member of council from office, council shall appoint a successor in the manner described in the village charter for appointments. It shall be the duty of the village clerk to notify any member of the removal from office resulting from the failure to attend meetings under this section. Any member of council that is being removed shall be notified that his or her removal is scheduled to be announced at a specified meeting of the village council.
- (c) *Excused absence procedure.* If a member of village council is unable to attend a meeting, he, she or his or her representative shall contact the village clerk and/or the village manager prior to the meeting whereby the absence will occur in order to advise village council of such absence and the reason therefor. General references to other village obligations, work un-related to village business, health or personal reasons could be provided. Upon notification of a member's inability to attend a scheduled meeting, the village clerk or village manager shall verify that a quorum of members shall be present at the meeting. The absence of a member and the general reason therefor shall cause a motion to excuse the absence of the member to be put before the council at either the missed meeting or at its next regular scheduled meeting following the absence. Failure of the council to adopt a motion to excuse the absence shall result in the absence being unexcused. A determination of whether an absence is excused or unexcused by the council shall be reflected in the minutes of the meeting, but the reason for that decision need not be stated on the record. In the absence of receipt of an excuse, the minutes of the subsequently scheduled meeting of the council shall record the absence of the member as unexcused. No more than four excused absences shall be allowed in any fiscal year.

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- (d) *Tardiness.* If a member of village council arrives any time after the time stated for a scheduled regular or special meeting to begin, that member shall be considered tardy for the meeting. At that member's option, a reason for the tardiness, similar to the general references stated in subsection (c), may be presented to council at that meeting, and council shall vote upon whether that tardy is excused or unexcused. If that member does not request a motion to excuse, that tardiness shall be considered unexcused. The member's excused or unexcused tardiness shall be noted on the record and recorded in the meeting minutes. The village clerk or village manager shall keep records of all incidences of council member tardiness. The first incident of tardiness beyond the third excused tardy shall automatically be considered an unexcused tardy. The first incident of tardiness beyond the next two excused tardys shall automatically be considered an unexcused tardy. The first incident of tardiness beyond the next excused tardy shall automatically be considered an unexcused tardy. Three incidents of unexcused tardiness by any one member in any one fiscal year shall constitute an unexcused absence. The unexcused absence shall be recorded in the minutes of the scheduled regular meeting immediately following the meeting in which the third incident of unexcused tardiness occurred.

(Ord. No. 231-170, § 1, 8-19-13)

Sec. 2-33. Code of ethics.

- (a) *Intent and purpose.* In an effort to maintain the public trust, the Village Council of Milford hereby declares that all public officials and employees of the Village of Milford shall avoid any conflict between their private interests and those of the general public they serve. All village officials and employees shall safeguard public confidence by being honest, fair and respectful of all persons and property with whom they have contact. Furthermore, to enhance the faith of the citizens in the integrity and impartiality of the elected and appointed officials of the Village of Milford, it is necessary to provide specific guidelines for dealing with conflicts of interest and the proper conduct of officials and employees. The Village of Milford intends that its officials and employees will avoid any action which might result in or create the appearance of:
- (1) Using public office or employment for private gain;
 - (2) Giving or accepting preferential treatment or monetary gain to or from any person or organization;
 - (3) Impeding government efficiency or economy;
 - (4) A lack of independence or impartiality of action;
 - (5) Making an official decision outside of proper channels; or
 - (6) Affecting adversely the confidence of the public in the integrity of the Village of Milford.
- (b) *Definitions.* Whenever these terms are used in this section, they shall have the following meaning:
- Compensation* is any money, property, thing of value or benefit received by any person in return for services rendered.
- Confidential information* means information that has been obtained in the course of holding public office or employment that is not available to members of the public pursuant to the Michigan Freedom of Information Act, being MCL 15.231 et seq., or pursuant to other law, regulation, policy or procedure recognized by law, and that the official or employee is not authorized to disclose, including written information, non-written information, and information obtained in the course of a lawful executive or closed session of council.
- Conflict of interest* is either a personal interest or a duty or loyalty to a third party that competes with or is adverse to a village official's or employee's duty to the public interest in the exercise of official duties or official actions.

Decision means a determination, action, vote or other disposition upon a motion, proposal, recommendation, resolution or ordinance by members of the governing body; or a determination, action or other disposition taken by an elected official with the authority to do so.

Official action means a decision, recommendation, approval, disapproval or other action or failure to act which involves the use of discretionary authority.

Private gain means any benefit which is accepted or received by a public servant, or is perceived by a reasonable person to be accepted or received by a public servant, as remuneration for the purpose of improperly influencing an official action in a specific manner or for refraining from the performance of an official action in a specific manner, or as inducement for the public servant to act in favor of some interest other than in the public interest. To clarify, unless the above standard is violated, the following types of benefits, monetary payments, or reimbursements, gifts, or awards may be received by the public servant: payment of salaries, authorized reimbursements, etc.

Village official or employee means the elected members of the village council, any member of any local government agency, board, commission, or other voting body that is established by the Village Charter or by the Code, and any employee, or any individual who provides services to the local government within or outside of its offices or facilities.

(c) *Standards of conduct.*

- (1) *Conflict of interest.* No village official or employee shall use, or attempt to use, his or her official position to secure, request or unreasonably grant any special consideration, privilege, exemption, advantage, contract or preferential treatment for himself, herself, or others, beyond that which is available to every other citizen.
- (2) *Business transactions.* No village official or employee, on his or her own behalf or on behalf of another person, shall have any financial or other direct personal interest in any contractual or non-contractual business transaction with the village unless that official or employee shall first make full public disclosure of the nature of the interest prior to the approval of such transaction.
- (3) *Confidential information.* Village officials and employees shall respect the confidentiality of information concerning the property, personnel or affairs of the village. They shall neither disclose nor divulge to an unauthorized person confidential information acquired in the course of their duties in advance of the time prescribed for its authorized release to the public without proper legal authorization, nor use such information to advance their personal, financial or other private interests.
- (4) *Personal opinion.* A village officer or employee shall not represent his or her personal opinion as that of the village.
- (5) *Appearance of impropriety.* An "appearance of impropriety" shall occur when an official or employee is involved in a decision concerning action of a village body which will affect an immediate family member, even if that official or employee derives no direct or indirect financial benefit from the action. An appearance of impropriety shall be fully disclosed on the official record to the village council. After such disclosure, the official or employee may participate in the decision only if he or she has informed the village council in advance that he or she will so participate.
- (6) *Use of village property and resources.* An officer or employee shall not use, or permit others to use, any property owned by the village for profit or personal convenience or benefit, except:
 - a. When available to the public generally, or to a class of residents, on the same terms and conditions;
 - b. When permitted by policies approved by the village council; or
 - c. When, in the conduct of official business, used in a minor way for personal convenience.

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- (7) *Gifts, favors and loans.* Except as permitted by this section, no village officer or employee shall intentionally solicit or accept any gift from any prohibited source or any gift that is otherwise prohibited by law or ordinance. This subsection shall not apply to the following:
- a. Opportunities, benefits and services available on the same conditions as for the general public or to participants at any national, state or local conference or trade association meeting.
 - b. Anything for which the officer or employee pays the fair market value.
 - c. Any contribution that is lawfully made under the Campaign Finance Laws of the State of Michigan.
 - d. A gift from a relative, meaning those people related to the individual by blood or marriage.
 - e. Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient and not because of the personal friendship.
 - f. Food or refreshments not exceeding \$100.00 per person in value on a single calendar day; provided that the food or refreshments are: (i) consumed on the premises from which they were purchased or prepared; or (ii) catered. For the purposes of this section, "catered" means food or refreshments that are purchased ready to consume which are delivered by any means.
 - g. Food, refreshments, lodging, transportation and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of an officer or employee), if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee, and are customarily provided to others in similar circumstances.
 - h. Intra-governmental and inter-governmental gifts. For the purpose of this section, "intra-governmental gift" means any gift given to an officer or employee from another officer or employee of the village, and "intergovernmental gift" means any gift given to an officer or employee by an officer or employee of another governmental entity.
 - i. Bequests, inheritances and other transfers at death.
 - j. Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100.00.
- (8) *Compliance with law.* Nothing in this section shall negate or lessen any other standard, prohibition, or ethics requirement imposed on any village officer or employee by any other law, ordinance or legal requirement. Village officers and employees shall comply with federal, state and local laws in the performance of their public duties.
- (9) *Respect for process.* Village officers and employees shall perform their duties in accordance with the processes and rules of order established by village council governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions by village staff.
- (10) *Conduct of public meetings.* Village officers and employees participating in public meetings shall prepare themselves for public issues, listen courteously and attentively to all public discussions before the body, and focus on the business at hand. They shall refrain from interrupting other speakers, making comments not germane to the business of the body, or otherwise interfering with the orderly conduct of meetings.
- (d) *Disclosure.* Whenever a village officer or employee is required to recuse himself or herself under subsection (c) of this section, he or she:
- (1) Shall immediately refrain from participating further in the matter;

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- (2) Shall promptly inform his or her superior, if any; and
 - (3) Shall promptly file with the village clerk a signed statement disclosing the reason for the recusal. The clerk shall send copies of the statement to all of the members of the village council, and the statement shall be attached to the minutes of its next meeting.
- (e) *Compliance and enforcement.*
- (1) This Code of Ethics for the Village of Milford expresses standards of ethical conduct expected for the officers and employees of the Village of Milford. Village council members themselves have the primary responsibility to assure that they understand and meet the ethical standards expressed in this code of ethics and that the public can continue to have full confidence in the integrity of government.
 - (2) Complaints alleging a violation of this section by an employee shall be filed with the village manager. The village manager shall investigate the complaint to establish whether a violation of this section occurred and any appropriate sanction that should be imposed. In cases where an employee is a member of a union, compliance with applicable union policies and procedures shall occur.
 - (3) Complaints alleging a violation of this section by any elected or appointed officials shall be filed with the village manager, who shall investigate the complaint. If the village manager has a reasonable belief that a violation of this section occurred, then he or she shall report the complaint and the initial investigation findings to the village council.
 - (4) In addition to receiving complaints from the village clerk, all village council members shall have a responsibility to intervene when they learn of actions of another village council member or other village officer that appear to be in violation of the code of ethics.
 - (5) Upon acquiring reasonable suspicion of a violation of the code of ethics, by complaint or otherwise, the village council president shall set, or any three council members may require the setting of, a public hearing at a regular or special meeting of the village council to determine whether a violation of the code of ethics occurred and, if so, what sanctions shall be imposed for the violation. In complaints alleging a violation of this section by a member of the village council, that member shall not take part in any proceedings related to the complaint as a village council member.
 - (6) The village council may impose sanctions on village officers whose conduct does not comply with the village's ethical standards. A violation of this section by any village officer shall be deemed misconduct in office as set forth in section 4.3 of the Village Charter. Sanctions may include reprimand, formal censure, loss of committee assignment, restrictions on budget or travel, and removal from office. Upon removal of a member of council from office, council shall appoint a successor in the manner described in the Village Charter for appointments.
- (f) *Implementation.* As an expression of the standards of conduct for village officers and employees expected by the public, this code of ethics is intended to be both responsive to complaints and self-enforcing. It therefore becomes most effective when village officials and employees are thoroughly familiar with it and embrace its provisions. Therefore, ethical standards shall be included in the regular orientations for newly elected, appointed or hired village officers and employees. In addition, the village council shall annually review the code of ethics for the Village of Milford.

(Ord. No. 231-178, § 1, 5-5-14)

Secs. 2-34—2-55. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES

DIVISION 1. GENERALLY

Secs. 2-56—2-70. Reserved.

DIVISION 2. ORDINANCE ENFORCEMENT OFFICER

Sec. 2-71. Position established.

There is hereby established the position of ordinance enforcement officer within the village.

(Ord. No. 203, § 1, 11-2-88 eff.)

Sec. 2-72. Duties.

- (a) The ordinance enforcement officer is hereby authorized to enforce all ordinances of the Village of Milford, whether such ordinances specifically designate a different official to enforce the ordinance or do not designate any particular enforcing officer. Where a particular officer is so designated in any such ordinance, the authority of the ordinance enforcement officer to enforce such ordinance shall be in addition and supplementary to the authority granted to such other specific officer. The authority of the ordinance enforcement officer shall also be in addition and supplementary to the authority vested in the president of the council by state statute. The ordinance enforcing authority of the president of the council and the other officers specifically designated in any village ordinance shall continue in full force and effect and shall in no way be diminished or impaired by the terms of this section.
- (b) The ordinance enforcement officer's duties authorized in this section shall include, among others, the following:
 - (1) Investigation of ordinance violations;
 - (2) Serving notice of violations;
 - (3) Serving appearance tickets as authorized under chapter IV of Act No. 175 of the Public Acts of Michigan of 1927 (MCL 764.9c et seq.), as amended, and Act No. 366 of the Public Acts of Michigan of 1984 (MCL 764.9c et seq.);
 - (4) Appearance in court or other judicial proceedings to assist in the prosecution of ordinance violators;
 - (5) Issuing and serving municipal civil infraction violation citations directing alleged violators to appear in court, or municipal civil infraction violation notices directing alleged violators to appear at the village municipal ordinance violations bureau as provided by this Code;
 - (6) Such other ordinance enforcing duties as may be delegated by the village manager.

(Ord. No. 203, §§ 2, 3, 11-2-88 eff.)

Secs. 2-73—2-90. Reserved.

ARTICLE IV. FINANCE

DIVISION 1. GENERALLY

Secs. 2-91—2-105. Reserved.

DIVISION 2. PURCHASES

Sec. 2-106. Definitions.

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

Agent means the village manager or any other officer or employee designated in writing with a monetary limitation, by the village manager, subject to those limitations placed upon the manager by this division.

Contract means contracts for services, subject to the exclusion provided for in this definition, and shall include towel and cleaning service; leases for all grounds, buildings, offices and other space required by the village; and the rental, repair or maintenance of equipment, machinery and other village owned personal property. The term shall not include professional and other contract services which are in their nature unique and not subject to competition.

(Ord. No. 137, § 2, 5-23-66)

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

Sec. 2-107. Purchasing agent.

The village manager shall act as purchasing agent of the village, unless the manager shall designate another officer or employee of the village to act as purchasing agent concurrently with him. Any such designation shall be in writing filed with the village clerk. The village manager shall, from time to time, adopt any necessary rules respecting requisitions and purchasing orders.

(Ord. No. 137, § 3, 5-23-66)

Sec. 2-108. General policy.

Competitive bids for all purchases and public improvements shall be obtained where practicable and contracts awarded to the lowest responsible bidder, subject, however, to all other provisions of this division. Sealed bids shall be asked for in all transactions involving the expenditure of \$1,000.00 or more, except as provided in this division. In cases where it is clearly to the village's advantage to contract without competitive bidding, the village council may so authorize by resolution passed by a majority vote of the councilmembers.

(Ord. No. 137, § 4, 5-23-66)

Sec. 2-109. Purchases or contracts under \$1,000.00.

- (a) *Purchases under \$1,000.00.* Purchases of supplies, materials or equipment, the cost of which is less than \$1,000.00, or such other amount which may from time to time be established by the village council by resolution, may be made in the open market, but such purchases shall, where practicable, be based on at least three competitive bids. At least one of such bids shall be made by a local firm or individual if such is possible, and shall be awarded to the lowest responsible bidder as defined in section 2-110. The purchasing agent may solicit bids verbally or by telephone, or may contact prospective bidders by written communication. Where bids are solicited by written communication, a request for such bids shall also be posted in the village. A record of all open market orders and bids submitted thereon shall be kept for six months and shall be available for public inspection. Any or all bids may be rejected.
- (b) *Purchases under \$100.00.* Purchases of supplies, materials or equipment, the cost of which is less than \$100.00, shall be left up to the discretion of the agent; but under no circumstances may any purchase be split to circumvent the intent of this division.

(Ord. No. 137, § 5, 5-23-66)

Sec. 2-110. Award of contract.

- (a) The agent shall have the authority to award contracts within the purview of this division.
- (b) Contracts shall be awarded to the lowest responsible bidder. In determining the lowest responsible bidder, in addition to the price the agent shall consider:
 - (1) The ability, capacity, and the skill of the bidder to perform the contract or provide the service required;
 - (2) Whether the bidder can perform the contract or provide the service promptly or within the time specified, without delay or interference;
 - (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder;
 - (4) The quality of the performance of previous contracts or services;
 - (5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
 - (6) The efficiency of the financial resources and ability of the bidder to perform the contract or provide the services;
 - (7) The quality, availability, and adaptability of the supplies or contractual services to the particular use required;
 - (8) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
 - (9) The number and scope of the conditions attached to the bid.
- (c) When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the agent and filed with the other papers relating to the transaction.
- (d) Tie bids. In the case of tie bids:
 - (1) If the lowest responsible bids are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to the local bidder.

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- (2) Where subsection (d)(1) of this section is not applicable, the agent shall award the contract to one of the tie bidders by drawing lots in public.
- (e) The agent shall not award the bid to a contractor who is in default on the payment of taxes, licenses, or other monies due the village.
- (f) The agent shall have authority to require a performance bond before entering a contract, in such amount as he shall find reasonably necessary to protect the best interests of the village.
- (Ord. No. 137, § 6, 5-23-66)

Sec. 2-111. Prohibition against subdivision.

No contract or purchase shall be subdivided to avoid the requirements of any section of this division.

(Ord. No. 137, § 7, 5-23-66)

Sec. 2-112. Purchases or contracts over \$1,000.00.

Any expenditure for supplies, materials, equipment, construction project, or contract obligating the village where the amount of the village's obligation is in excess of \$1,000.00, or such other amount as may from time to time be established by the village council by resolution, must be approved by the council, and shall be approved only after competitive bidding as provided by the provisions of this division, unless such expenditure is covered by section 2-113.

- (1) Such expenditure shall be made the subject of a written contract unless excepted from such requirements by the village council in writing. A purchase order shall be a sufficient written contract in cases where the expenditure is in the usual and ordinary course of the village's business.
- (2) Notices inviting sealed competitive bids shall be published in the official newspaper at least five calendar days prior to the final date for submitting bids.
- (3) Such notice shall briefly designate the supplies, materials or equipment desired, or the construction project to be undertaken; the amount of the cash, certified check, or cashier's check required, if any; and the date, time and place of filing and opening of bids. The right shall be reserved to reject any or all bids, or parts thereof.
- (4) In all cases where sealed bids are invited, a copy of the official newspaper notice shall be posted on a public bulletin board in the village hall. The agent shall mail copies of the official notice to such qualified vendors as he may deem necessary to give actual notice to interested bidders and to obtain competitive bidding.
- (5) Unless prescribed by the council, the village manager shall prescribe the amount of any security to be deposited with any bid. Such deposit shall be in the form of cash, certified or cashier's check, or bond written by a surety company authorized to do business in the state. The amount of such security shall be expressed in terms of percentage of the bid submitted. Unless fixed by council, the village manager shall fix the amount of the performance bond, and in the case of construction contracts, the amount of the labor and materials bond to be required of the successful bidders.
- (6) Bids shall be opened in public at the time and place designated in the notice requesting bids in the presence of the agent, the village clerk, and at least one other village official, preferably the head of the department most closely concerned with the subject of the contract. The bids shall thereupon be carefully examined and tabulated and reported to the council, with the recommendation of the agent (as approved by the village manager, if the manager is not acting as the agent for this purchase) at the

next council meeting. After tabulation all bids may be inspected by the competing bidders. In lieu of the procedure for opening bids specified in this section, the council may direct that bids be opened at a council meeting.

- (7) When such bids are submitted to the council, if the council shall find any of the bids to be satisfactory, it shall accept that bid of the lowest responsible bidder as described in section 2-110. However, the council shall have the right to reject any or all bids and to waive irregularities in bidding and to accept bids which do not conform in every respect to the bidding requirements.
- (8) Subsections (b), (c), (d), (e) and (f) of section 2-110 shall apply to this section, provided however, that the word "council" shall be inserted for the words "agent" and "manager."
- (9) At the time the contract is executed by him, the contractor shall file a bond executed by a surety company authorized to do business in the state, to the village, conditioned to pay all laborers, mechanics, subcontractors and materialmen as well as all just debts, dues and demands incurred in the performance of such work, and shall file a performance bond when one is required. Such contractor shall also file evidence of public liability insurance in an amount satisfactory to the village manager, and shall also agree to save the village harmless from any loss or damage caused to persons or property by reason of the contractor's negligence.
- (10) All bids and deposits of certified or cashier's checks may be retained until the contract is awarded and signed. If any successful bidder fails or refuses to enter into the contract awarded to him within five days after such contract has been awarded, or file any bond required within the same time, the deposit accompanying his bid shall be forfeited to the village and the council may, in its discretion, award the contract to the next lower responsible bidder or such contract may be readvertised.

(Ord. No. 137, § 8, 5-23-66)

Sec. 2-113. Exceptions to competitive bidding requirement.

Competitive bidding shall not be required in the following cases:

- (1) Where the subject of the contract is other than a public work or improvement and the product or material contracted for is not competitive in nature and/or no advantage to the village would result from requiring competitive bidding, and the village council authorizes execution of a contract without competitive bidding by resolution passed by majority vote of the council.
- (2) In the employment of professional services.
- (3) Where the village council shall determine that the public interest will be best served by the purchase from or joint purchase with another unit of government. Such determination shall be by resolution passed by a majority vote of the village council.
- (4) Where the village elects to undertake the work itself as provided by the Charter.

(Ord. No. 137, § 9, 5-23-66)

Sec. 2-114. Prohibition of interest.

- (a) Any purchase order or contract within the purview of this division in which the agent or any officer or employee of the village is financially interested, directly or indirectly, shall be void, except that before the execution of a purchase order or contract the village council shall have the authority to waive compliance with this section when it finds such action to be in the best interests of the village. However, if such compliance is waived, then a letter stating the reason for waiver shall be filed with the village clerk.

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- (b) The agent and every officer and employee of the village are expressly prohibited from accepting, directly or indirectly, from any person to which any purchase order or contract is or might be awarded, any rebate, gift, money or anything of value whatsoever.

(Ord. No. 137, § 10, 5-23-66)

Sec. 2-115. Emergency purchases.

- (a) In the event of an apparent emergency endangering the public peace, health, and safety of the village, the village manager may purchase directly any supplies, materials or equipment which he deems necessary during the duration of the apparent emergency. Within one week from the date of the purchase, the manager shall send a written detailed explanation of the emergency and of the purchases made during such emergency to the village clerk. Such report shall be made a part of the minutes of the next council meeting.
- (b) In the event of an emergency endangering the public peace, health, and/or safety of the village, any department head, with the approval of the village manager, may purchase directly any supplies, materials, or equipment, the immediate procurement of which is necessary to the continuation of the work of the department. Within one week from the date of the purchases, the department head making such purchases shall send a written detailed explanation of the emergency and of the purchases made during such emergency to both the village manager and the village clerk. Such report shall be made a part of the minutes of the following council meeting.
- (c) The village manager shall have the power to make any additional rules and regulations concerning emergency purchases which he deems necessary.

(Ord. No. 137, § 11, 5-23-66)

Sec. 2-116. Inspection of materials.

The responsibility for the inspection and acceptance of all materials, supplies, and equipment shall rest with the ordering department.

(Ord. No. 137, § 12, 5-23-66)

Sec. 2-117. Sale of property.

Whenever any village property, real or personal, is no longer needed for corporate or public purposes the property may be offered for sale. Personal property not exceeding \$200.00 in value, or such other amount as may from time to time be established by the council by resolution, may be sold for cash by the agent upon approval of the village manager, if the manager is not acting as the agent, after receiving quotations or competitive bids therefor for the best price obtainable. Property with a value in excess of \$200.00 may be sold after advertising and receiving competitive bids in accordance with this division and after approval of the sale has been given by the council, or after council approval only if the council so authorizes such sale prior to its approval.

(Ord. No. 137, § 13, 5-23-66)

Sec. 2-118. Cooperative purchasing.

The village council or agent shall have the power to enter into purchase contracts with and from other governmental agencies, should there be an opportunity for a saving to the village and/or where the council

determines that it would be in the best interest of the village; provided, however, that the council shall give its prior approval of such purchases.

(Ord. No. 137, § 14, 5-23-66)

Secs. 2-119—2-135. Reserved.

DIVISION 3. TAX EXEMPTION

Sec. 2-136. Payment in lieu of taxes for developments financed with federally-aided or authority-aided mortgages.

It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its citizens of low income and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966 PA 346, as amended, MCLA 125.1401 et seq.) (the "Act"). The Village of Milford (the "village") is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses, not to exceed the taxes that would be paid but for this Act. It is further acknowledged that such housing for eligible tenants is a public necessity, and as the village will be benefited and improved by such housing, the encouragement of the same by providing certain real estate tax exemption for such housing is a valid public purpose; further, that the continuance of the provisions of this article for tax exemption and the service charge in lieu of taxes during the period contemplated in this article are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such ordinances and service charge.

(Ord. No. 231-117, §§ 1, 2, 10-16-06)

Editor's note(s)—Section 1 of Ord. No. 231-117, adopted Oct. 16, 2006, repealed § 2-136, which pertained to housing projects and derived from Ord. No. 156, effective Nov. 26, 1973; and an amendment of Dec. 31, 1973. Section 2 of said ordinance enacted new provisions to read as herein set out.

Sec. 2-137. Definitions.

- (a) *Authority* means the Michigan State Housing Development Authority.
- (b) *Contract rents* are defined by the U.S. Department of Housing and Urban Development in regulations promulgated pursuant to Section 8 of the U.S. Housing Act of 1937, as amended.
- (c) *Eligible tenants* means persons and families eligible to move into a housing development, as defined by the authority.
- (d) *Housing development* means a development that contains a significant element of housing for persons of low or moderate income and elements of other housing and commercial, recreational, industrial, communal, and educational facilities that the authority determines improve the quality of the development as it relates to housing for persons of low or moderate income.
- (e) *Housing project* means
 - (i) Residential real property developed or to be developed or receiving benefits under this act.
 - (ii) A specific work or improvement either for rental or for subsequent sale to an individual purchaser undertaken by a nonprofit housing corporation, consumer housing cooperative, limited dividend

housing corporation (including, pursuant to MCL 125.1411, a limited dividend housing association), mobile home park corporation, or mobile home park association pursuant to or receiving benefits under this Act to provide dwelling accommodations, including the acquisition, construction, or rehabilitation of lands, buildings, and improvements.

- (iii) Social, recreational, commercial, and communal facilities that the authority finds necessary to serve and improve a residential area in which housing described in subparagraph (i) or (ii) is located or is planned to be located, thereby enhancing the viability of the housing.
- (f) *Utilities* means fuel, water, sanitary sewer service and/or electrical service which are paid by the housing project.
- (g) *Sponsor* means a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation (including, pursuant to MCL 125.1411, a limited dividend housing association), mobile home park corporation, or mobile home park association which has applied for a federally-aided or authority-aided mortgage or advance or grant from the authority.
- (h) *Annual shelter rents* means the total collections from, or in the case of housing assisted under Sec. 8 of The U.S. Housing Act of 1937, as amended, Contract Rents paid on behalf of, all occupants of a housing project representing rents or occupancy charges exclusive of charges for gas, electricity, heat or other utilities furnished to the occupants, as defined in MCLA 125.1411(M) for the calendar year.

The following words, terms, and phrases shall have the meaning as defined in the Act: federally-aided mortgage, nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, residential real property, rehabilitation, mobile home park association, mobile home park corporation, and authority-aided mortgage.

(Ord. No. 231-117, § 2, 10-16-06)

Sec. 2-138. Class of housing projects.

The tax exemption established by the Act shall apply to housing projects, defined herein, within the boundaries of the village that meet all of the following criteria:

- (1) The housing project, pursuant to MCL 125.1415a, shall be owned by a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation (including, pursuant to MCL 125.1411, a limited dividend housing association), mobile home park corporation, or mobile home park association;
- (2) The housing project, also pursuant to MCL 125.1415a, shall be financed by a federally-aided or state housing development authority-aided mortgage, advance, or grant from such authority; and
- (3) The housing project shall serve low/moderate-income and/or senior persons and families.
- (4) The housing project shall have, as of December 31, 2007:
 - (a) Satisfied the criteria set forth in subsections (1), (2), and (3) of this section, and
 - (b) Submitted an application for exemption under this article to the village.

(Ord. No. 231-117, § 2, 10-16-06)

Sec. 2-139. Establishment of annual service charge.

Housing projects that qualify under section 2-138 shall be exempt from all ad valorem property taxes provided the owner of the housing project has complied with all provisions of the Act.

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- (a) The annual service charge shall be as follows:
 - (1) The owners of housing projects exempt from ad valorem property taxation under this section shall pay to the village an annual service charge for public services in lieu of all ad valorem taxes. The annual service charge in lieu of taxes shall be for new construction projects the greater of, and for rehabilitation projects the lesser of, the tax on the property on which the project is located for the tax year before the date when construction or rehabilitation of the project was commenced or ten percent of the annual shelter rents obtained from the project.
 - (2) Notwithstanding the provisions of this section, the service charge to be paid each year in lieu of taxes for that part of a housing project that is tax exempt under this section, and that is occupied by other than low-income persons or families shall be equal to the full amount of the taxes that would be paid on that portion of the project if the project were not tax exempt. The benefits of the tax exemption granted by this section shall be allocated by the owner of the housing project exclusively to low-income persons or families in the form of reduced housing charges.
 - (b) Affidavits for certification of tax exemption and for pilot payments must be made to the board of assessors of the village pursuant to MCLA 125.1415a(1), prior to a housing project being eligible for tax exemption in the first instance. The board of assessors shall review and certify the housing project for such tax exemptions and pilot payment prior to any reduction or assumed reductions of property taxes which would be otherwise paid.
 - (c) Upon transmittal of the certification of the board of assessors, the village council shall by resolution grant tax exempt status to each qualified housing project as defined herein.
 - (d) The resolution by the village council effectuating tax exemption and placement on the pilot program shall be effective on adoption, with the tax exemption and pilot payment to occur only upon bona fide use and physical occupancy by persons and families eligible to move into the project, in accordance with the Act, which must occur as of December 31 of the year preceding the tax year in which the exemption is to begin.
 - (e) The service charge in lieu of taxes as determined under the ordinance shall be payable in the same manner as general property taxes are payable to the village.

(Ord. No. 231-117, § 2, 10-16-06)

Sec. 2-140. Resolution; contractual effect.

Notwithstanding the provisions of Section 15(A)(5) of the Act, to the contrary, a contract between the village and the sponsor with the authority as third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes as previously described will be effectuated by enactment of a resolution by the village council as set forth in section 2-139.

(Ord. No. 231-117, § 2, 10-16-06)

Sec. 2-141. Duration.

The tax exempt status of a housing project approved for such status by resolution of the village council, pursuant to MCL 125.1415a(3), shall remain in effect and shall not terminate so long as the project continues to qualify as a permitted class of housing project, as defined in section 2-138.

(Ord. No. 231-117, § 2, 10-16-06)

Chapter 6 ALCOHOLIC LIQUORS³

ARTICLE I. IN GENERAL

Sec. 6-1. Consumption in public.

No alcoholic liquor shall be consumed on the public streets, or in public parks, or in any store or establishment doing business with the public in the village not licensed to sell such alcoholic liquor for consumption on the premises.

(Ord. No. 221, art. I, § 3, 5-18-92)

Sec. 6-2. Conduct on licensed premises.

No person having the management, ownership or control of any premises in the village wherein alcoholic liquors are sold for consumption on such premises shall permit, by loud music, loud entertainment, boisterous conduct or in any other manner, the disturbance of the peace and good order of the neighborhood; nor shall any person frequenting such premises, wherein alcoholic liquors are sold for consumption on the premises, make or assist in making any noise, disturbance or improper diversion by which the peace and good order of the neighborhood is disturbed.

(Ord. No. 221, art. I, § 4, 5-18-92)

Secs. 6-3—6-25. Reserved.

ARTICLE II. LICENSING

Sec. 6-26. Statement of purpose.

- (a) The purpose of this article is to allow the village to establish and administer a policy for the issuance and enforcement of liquor licenses and permits.
- (b) This article shall create the liquor license review committee (LLRC), which shall be comprised of at least two members of the village council, two members of the Milford Downtown Development Authority and one member of the Village of Milford Planning Commission. The purpose of the LLRC is to review applications and make recommendations to the village council as required by this article. The village council president shall appoint members to the LLRC.

³Cross reference(s)—Administration, ch. 2; buildings and building regulations, ch. 18; businesses, ch. 22; offenses and miscellaneous provisions, ch. 50; parks and recreation, ch. 54; zoning, ch. 94.

State law reference(s)—Liquor control act, MCL 436.1 et seq.

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- (c) It shall be the policy of the village to notify all known existing class C type liquor license holders of proposed changes in this Article via first class mail at least ten business days in advance of the village council adopting any revision of this article.

(Ord. No. 221, art. I, § 1, 5-18-92; Ord. No. 231-144, § 1, 2-1-10)

Sec. 6-27. Definitions.

The definitions contained in the Michigan Liquor Control Act, Act No. 8 of the Public Acts of Michigan of 1933 (Ex. Sess.) (MCL 436.1 et seq.), as amended, and in the Administrative Rules of the Michigan Liquor Control Commission are hereby adopted and made a part of this article by reference.

(Ord. No. 221, art. I, § 2, 5-18-92; Ord. No. 231-144, § 1, 2-1-10)

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

Sec. 6-28. Standards for issuance.

- (a) The village council will exercise its discretion in the issuance of all liquor licenses within the village where permitted by state law and the liquor control commission, based upon the village's needs in terms of promoting service, development, and socio-economic benefits and the recommendation of the LLRC.
- (b) Facilities will be given consideration when evidence presented by the applicant tends to establish an overriding benefit to the village in allowing the facility. Such determination shall be based upon consideration of the following:
- (1) Whether the proposal conserves the expenditure of funds for public improvements and services to conform to the most advantageous uses of land, resources and property.
 - (2) The effects that the issuance of the license will have on the existing and/or potential economic development of the proposed location.
 - (3) The number and proximity of other liquor licenses as well as any unused quota licenses available within the village.
 - (4) The proposed location and methods of operation must not detrimentally and unreasonably impact nearby property owners, businesses and residents.
 - (5) Whether a proposed licensed premise is part of a mixed-use project with substantial new retail, office, or residential components. The size of the licensed premise relative to the overall project or development.
 - (6) Determination of impacts to crowd control.
 - (7) The adequacy of parking availability, road circulation and infrastructure.
 - (8) The proposed preservation or restoration of historic buildings.
 - (9) Locating in an underdeveloped area versus the downtown overlay district.
 - (10) Review by the village police department.
 - (11) The applicant's business history and experience and any LCC violation history.
 - (12) Type or character of the establishment (e.g. dining, nightclub, hotel, dance club) and/or whether the facility will be a sit down full service restaurant serving alcohol or other type establishment.
 - (13) Percent of floor area devoted to dining versus bar and/or dance area.

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- (14) Non-payment of taxes or other payment due to the village.
 - (15) The quality of the exterior façade design including, but not limited to, architectural compatibility, context, scale, massing and the proposed building's relationship aesthetically to existing architecture within close proximity.
 - (16) Whether minimum criteria set by the state department of labor and economic growth, liquor control commission has been met.
 - (17) The following factors regarding the applicant:
 - a. The applicant's experience in operating similarly licensed businesses;
 - b. The applicant's general business management experience;
 - c. The applicant's moral character;
 - d. The applicant's past convictions for any of the following:
 - 1. A felony;
 - 2. A crime involving the excessive use of alcoholic liquor;
 - 3. A crime involving any of the following:
 - i. Gambling;
 - ii. Prostitution;
 - iii. Weapons;
 - iv. Violence;
 - v. Tax evasion;
 - vi. Fraudulent activity;
 - vii. Controlled substances;
 - viii. Serious moral turpitude;
 - ix. A misdemeanor of such a nature that it may impair the ability of the applicant to operate a licensed business in a safe and competent manner.
 - (18) Any other factor(s) that may affect the health, safety and welfare or the best interests of the community; whether the application meets all appropriate building, zoning, fire, sanitation and health laws and such other village codes and ordinances that may apply.
- (c) Applicants and transferees are responsible for being fully apprised of this article.
 - (d) Applications for temporary liquor licenses shall be considered by the village council directly without the need of the above described notices or public hearing.
- (Ord. No. 231-084, §§ 1,2, 3-17-03; Ord. No. 231-144, § 1, 2-1-10)

Sec. 6-29. Restrictions on issuance.

No license under this article shall be issued to:

- (1) A person whose liquor license has been revoked or not renewed for cause under this article, or a comparable city, village or township ordinance or state law, whether in the state or otherwise.

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- (2) A copartner or partnership, unless all the members of such copartnership or partnership shall qualify to obtain a license.
 - (3) A corporation, other than a public corporation, if any officer, manager, or director thereof, or stockholder owning in the aggregate more than ten percent of the stock of such corporation, would not be eligible to receive a license under this article for any reason.

(Ord. No. 221, art. II, § 3, 5-18-92; Ord. No. 231-144, § 1, 2-1-10)

Sec. 6-30. Application procedure.

Each applicant seeking a liquor license must make an application to the village clerk on forms that will be provided by the village. Such application pertains to the village approval only, and is in addition to the separate application required by the Michigan Liquor Control Commission. The application shall be accompanied by a deposit of a nonrefundable fee, in an amount determined by resolution of the village council to cover the cost of investigation, review and inspection.

- (1) *Plan of operation.* Applicants will be required to submit a detailed plan of their proposed operation as a part of their application, which shall include a plot plan of the site, a plan for interior and exterior design, layout of any ancillary facilities and a general operational statement outlining the proposed manner in which the establishment will be operated, including a schedule of the hours of operation, crowd control, use of the facilities, parking provisions and the estimated cost of the development.
- (2) *Investigation.* Upon receipt of such application and fees, the village manager will refer the application to the police department, fire department, building department, county health department and such other village officers or employees as he or she may desire, who shall cause a thorough investigation, including a complete history of past business experience and liquor law violations, if any, to be made of the persons and/or premises which must meet or exceed codes. The findings resulting from such investigation shall be reported to the village manager, who then will report such findings to the village council.
- (3) *Hearing.* A public hearing shall be conducted, during which all interested parties will have an opportunity to be heard, either orally or in writing. A notice of public hearing shall be published in a newspaper of general circulation in the village and shall be sent by first class mail or personal delivery to all persons owning property within 300 feet of the boundary of the property in question. The public hearing shall be held not less than 30 days after receipt of the application by the village council during a regular or special meeting of the village council. The publication and mailing of the public hearing notice shall appear in a newspaper of general circulation within the village and be mailed not less than 15 days before the date of the public hearing.
- (4) *Appearance.* The applicant will be required to appear at the hearing before the LLRC committee or the village council, and make a written and/or oral presentation concerning the request.
- (5) *Recommendation.* The LLRC shall review and may recommend approval or disapproval of all requests to the village council.
- (6) *Review factors.* In reviewing a request for a new license or permits or transfers of ownership of existing licenses or transfers into the village of new on premises licensees, the village council or LLRC may consider and/or weigh the factors listed in section 6-28(b).
- (7) *License approval.* If the village council is satisfied that the establishment for which a liquor license is sought may constitute an asset to the community, and meets all the criteria set forth in this article, it will adopt a resolution granting approval subject to satisfaction of stated conditions. Once the council

approves a license, a copy of the resolution granting approval shall be sent to the liquor control commission enabling the commission to complete its investigation.

- (8) *Building conditions.* When the applicant's building or remodeling is completed, it must meet all state and local regulations, and must comply with the representations made to the council by the applicant. If a license is approved by the liquor control commission and it is subsequently determined that the project was not completed as required by plans and specifications presented to the village or in compliance with representations made to the village, the village may recommend that the license not be renewed for the following year.
- (8) *Compliance with law.* Applicants for liquor licenses shall continue to comply with all applicable state and village regulations and the general policy established in this article, including a comprehensive written plan of operation, and will operate the premises consistent with any representations made to the village council in obtaining the license. Failure of such compliance or variance from the plan of operation presented may result in the refusal by the council to renew a license or the revocation of the license.
- (9) *Changes in operation.* Substantial change in operation, including change in space, floor plan, etc., shall be returned for review and approval in compliance with this article.
- (10) *Permits.* Permits for dance, entertainment, or dance and entertainment may be approved by council based upon the potential impact of such discretionary permits from the standpoint of the community at large. Council may consider the following:
 - a. Whether adequate provisions for anticipated parking needs have been demonstrated.
 - b. Whether nuisances and neighborhood problems will be created by the permit.
 - c. A written commitment from the applicant to follow through with promises and to deal with problems that may arise in accordance with representations made.

(Ord. No. 221, art. II, § 4, 5-18-92; Ord. No. 231-144, § 1, 2-1-10)

Sec. 6-31. Renewals.

On or before March 15 of each year, the village council may schedule a public hearing to recommend renewal or nonrenewal of a liquor license and/or permit. The following will be considered at the hearing:

- (1) *Tax considerations.*
 - (a) All license holders owning the real property in which their business is located shall be held responsible for paying all personal property taxes and other bills due the village each year.
 - (b) All license holders renting or leasing the property in which their business is located shall be responsible for paying all personal property taxes and other bills due the village arising from their use of that property each year.
- (2) *Building and code violations.* Existing violations of building, electrical, mechanical, plumbing, zoning, health, fire or other applicable regulatory codes.
- (3) *Liquor control commission violations.* A review of violations of state liquor control commission regulations to determine a pattern and whether the petitioner for renewal has exhibited an attitude of compliance or has merely avoided revocation. Three or more violations within a calendar year shall be cause for revocation.
- (4) *Nuisance.* Nuisances upon or in connection with the licensed premises, including, but not limited to, any of the following:

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- a. A pattern of patron conduct in the neighborhood of the licensed premises which is in violation of the law and/or disturbs the peace, order and tranquility of the neighborhood;
 - b. Failure to maintain the grounds and exterior of the licensed premises, including litter, debris or refuse blowing or being deposited upon adjoining properties;
 - c. Entertainment on the licensed premises without a permit and/or entertainment which disturbs the peace, order and tranquility in the neighborhood of the licensed premises;
 - d. Any advertising, promotion or activity in connection with the licensed premises which by its nature causes, creates or contributes to disorder, disobedience to rules, ordinances or laws, or contributes to the disruption of normal activity of those in the neighborhood of the licensed premises;
 - e. Failure to comply with all standards and plans of operation established and approved at time of issuance.

(Ord. No. 221, art. II, § 5, 5-18-92; Ord. No. 231-144, § 1, 2-1-10)

Sec. 6-32. Inspections.

In addition to the inspection required to report on the issuance of a license under this article, the licensee is advised that there will be at least one unannounced inspection by the village annually which may inquire into all aspects of compliance spelled out in this article. Failure by the licensee to permit the inspection of the licensed premises by the village's agents or employees in connection with the enforcement of this article shall be cause for nonrenewal or revocation.

(Ord. No. 221, art. II, § 7, 5-18-92; Ord. No. 231-144, § 1, 2-1-10)

Secs. 6-33—6-60. Reserved.

ARTICLE III. CABARETS

Sec. 6-61. Definitions.

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

Cabaret means any place wherein food and/or any type of alcoholic beverage is sold or given away on the premises and the operator thereof holds a yearly license from the state to sell such beverages by the glass and where the patrons are provided with entertainment or space for dancing.

Nudity means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, the human male or female buttocks, or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

Obscenities means those slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.

Operator means any person licensed by the state liquor control commission, or such person's agent or employee, operating any cabaret.

Person means any person, copartnership, firm, corporation, society, club, association or other organization which engages in, sponsors or conducts the operation of any cabaret.

(Ord. No. 176, § 3, 4-10-78 eff.)

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

Sec. 6-62. Licensing.

- (a) *License required; applicable regulations.* It shall be unlawful for any person to operate any cabaret in the village without having first obtained the proper license therefor from the village council. No license shall be issued until the applicant shall have complied with the requirements of the zoning ordinances, the provisions of this article and other applicable ordinances of the village.
- (b) *Fee.* The village council shall, by resolution, establish the annual fee for a license for the operation of a cabaret.
- (c) *Denial, revocation of license.* The village council may refuse to issue a license for the operation of any business regulated by this article and may revoke any license already issued upon proof submitted to it of the violation by any applicant, or a licensee, his agent or employee within the preceding two years of any criminal statute of the state or of this article or any other ordinance of this village regulating, controlling or in any way relating to the construction, use or operation of any of the establishments included in the scope of this article.
- (d) *Inspection of premises.* Upon application and before any license required by this article shall be issued, it shall be the duty of the building department to cause an inspection of the proposed premises of any cabaret. Upon full compliance with all pertinent laws, rules and regulations of the building department, including the following particular requirements, such department shall certify the application to the village council.
 - (1) *Plumbing.* All plumbing in cabarets shall meet the minimum requirements of the plumbing code of the village. All rooms housing sanitary facilities shall be equipped with sanitary towels of a type acceptable to the county department of health. Sanitary drinking fountains shall not be located in the toilet room.
 - (2) *Ventilation.* Proper ventilation, either natural or mechanical, shall be provided so that each person in the premises will be supplied with 1,200 cubic feet of air per hour.
 - (3) *Fire protection, lighting and building safety.* The premises of the licensed establishment shall meet the requirements and limitations of the fire prevention code of the village, and shall furnish lighting sufficient to provide one foot candlepower at tabletop level. Such lighting may be reduced to accommodate acts of entertainment, while such acts are in progress, but must be raised to the required level at all other times the establishment is in use as defined in this section.
 - (4) *Compliance with building code.* The premises shall comply with the building code of the village.

(Ord. No. 176, § 4, 4-10-78 eff.)

Sec. 6-63. Prohibited acts.

- (a) It shall be unlawful for any owner or operator to permit any employee or entertainer to leave such cabaret in the company of any patron not related to such employee or entertainer prior to the closing hours of such cabaret. Continued employment of an employee or entertainer who leaves such cabaret with nonrelated patrons shall be deemed to be permitting such occurrences to take place.
- (b) It shall be unlawful for any licensee, his agent or employee to allow nudity or obscenity as defined in this article, such as topless or bottomless or totally uncovered waitresses or waiters, bartenders, or barmaids,

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entertainers including dancers, impersonators or any other type for the attraction or entertainment of customers.

- (c) No dancing or entertainment shall be permitted in any cabaret between the hours of 2:00 a.m. and 7:30 a.m.; provided, that the exceptions in the Michigan Liquor Control Act governing the hours of operation on December 24 and 25 annually and the regulations of the state liquor control commission governing hours of operation on January 1 shall prevail on the aforementioned dates.

(Ord. No. 176, § 5, 4-10-78 eff.)

Sec. 6-64. Penalty for violation of article.

- (a) Violation of any of the provisions of this article shall be punishable as a misdemeanor as provided in section 1-12 of this Code, as may be determined by a court of competent jurisdiction.
- (b) Each day that a violation under this article continues to exist shall be considered to be a separate violation subject to the penalties of this article.

(Ord. No. 176, § 6, 4-10-78 eff.)

Chapter 10 AMUSEMENTS AND ENTERTAINMENTS⁴

ARTICLE I. IN GENERAL

Secs. 10-1—10-30. Reserved.

ARTICLE II. RESERVED⁵

Secs. 10-31—10-75. Reserved.

ARTICLE III. DANCEHALLS

DIVISION 1. GENERALLY

⁴Cross reference(s)—Administration, ch. 2; buildings and building regulations, ch. 18; businesses, ch. 22; fire prevention and protection, ch. 46; offenses and miscellaneous provisions, ch. 50.

State law reference(s)—Offenses relating to public exhibitions and entertainment, MCL 750.463 et seq.; offenses concerning coin-operated devices, MCL 752.811.

⁵Editor's note(s)—Ord. No. 231-071, §§ 1 and 2, adopted Sept. 16, 2002, deleted and reserved §§ 10-31—10-33 and 10-51—10-59, which pertained to pinball machines, arcades and pool tables and was derived from Ord. No. 186, §§ 1.01—12.01, June 17, 1981; and Ord. No. 186-A-54, July 20, 1983.

Secs. 10-76—10-90. Reserved.

DIVISION 2. PERMIT

Sec. 10-91. Required.

No public dance or dancehall shall be established, maintained or conducted in any place within this village by any person without first obtaining a permit to operate such place from the village council. No person shall be granted a permit under the provisions of this division who is under 21 years of age and who has not resided within this state for a period of at least one year immediately prior to the application for such permit; nor shall any such permit be granted to any person who has been convicted of any crime involving moral turpitude, nor to any person whose general reputation in any community in which he has resided during the five years next preceding such application is that of a gambler, bootlegger, cheat or promoter of vice and immorality.

(Ord. No. 139, § 1, 6-24-68 eff.)

Sec. 10-92. Exemptions.

Nothing in this division contained as to the making of application for a permit and the payment of a license fee shall be construed to apply to any fraternal lodge, church organization incorporated under the laws of this state or chartered by a superior governing body incorporated under the laws of this state, organized exclusively for fraternal, religious or charitable purposes, and conducting its affairs in a room or auditorium occupied by and under the control of such lodge or church organization; provided, however, that this exemption shall not extend so as to exempt such lodge or church organization from prosecution for violation of any of the other provisions of this division, whether licensed under this division or not.

(Ord. No. 139, § 6, 6-24-68 eff.)

Sec. 10-93. Application; fee.

Any person desiring to open or establish any dance or dancehall shall first make application therefor to the village clerk, setting forth in such application his age, correct name, post office address and residence, the length of time he has resided within this state, and where, and his places of residence for the past five years immediately before the time of such application; whether or not he has ever been convicted of any crime involving moral turpitude; and giving references in such application to at least five reputable citizens of the community wherein he has last resided within this state, and the written recommendations of at least two such reputable citizens of such community respecting his moral character. Every such application shall be accompanied by a fee of \$5.00, payable to the village treasurer for the use of the village, upon issuing of license to the applicant; and the applicant shall specify in such application the class of business and the exact location of the place thereof for which he requests a permit. In case the applicant for such permit is a corporation authorized to do business in this state, the application shall be made by the agent of such corporation who will have principal charge of the place proposed to be established, and such application shall contain all of the statements and furnish all the facts and recommendations in respect of such agent as are required in the case of a private individual. Such permit to a corporation shall be revocable upon the occurrence of a change in the agent so managing such place, and a new permit may be required by the village council before any new agent shall take charge of such place for such corporation. In case of a partnership, each active partner in such business shall join in the application for such permit, and shall furnish all of the information and recommendations required of an individual applicant.

(Ord. No. 139, § 2, 6-24-68 eff.)

Sec. 10-94. Granting of permit; term; form and contents.

- (a) The village council receiving an application for a permit under this division, if presented in due form, shall pass upon such application at its next regular meeting or at any special meeting called for such purpose, or at any adjournment thereof, and if satisfied that such applicant possesses the qualifications prescribed in this division shall grant such permit for a term up to one year.
- (b) All permits issued under this division shall be in such form as the village council may prescribe, and shall contain the name, address, place of business and the class of such business so permitted to the holder, and the date of expiration of such permit, and shall be authenticated by the signature of the village clerk.

(Ord. No. 139, § 3, 6-24-68 eff.)

Sec. 10-95. Revocation.

Every permit issued under this division shall be revoked for any of the following causes:

- (1) That intoxicating liquors are either sold or consumed on the premises, or that persons under the influence of intoxicating liquors are permitted to frequent, be in, or remain on such premises;
- (2) That gambling in any form is permitted in or about such premises;
- (3) That such places are frequented habitually by persons of low repute, or that the place is conducted in such a manner as to be generally reputed in the immediate vicinity thereof to be immoral and a menace to the morals and good citizenship of the community.

In any of the foregoing cases the village council shall revoke such permit and give notice of such revocation to the holder. For the purpose of enforcing these provisions for revocation the village council may act on its own initiative, or on complaint of any resident. When such revocation is sought, the village clerk shall give a written notice to the licensee personally, or by leaving such notice with his agent or employee at his place of business, in which notice shall be stated the charges made against him for which revocation of his permit is sought; and the time and place at which he may appear to defend against such charges, which time shall be not sooner than three full days from the serving of such notice. For such hearing the village council may subpoena witnesses in the same manner as such witnesses are subpoenaed in criminal cases in justice court. Such hearings need not follow the strict legal requirement of court trials. If, after an impartial and unbiased investigation, the village council is convinced that the charges have been sustained, it shall revoke the permit. If the council desires the services of the prosecuting attorney at such hearing, it is hereby made the duty of the prosecuting attorney to attend and assist in the conduct of such hearing. If the council shall determine that such license shall be revoked, the village clerk shall personally notify the permit holder, or his agent or employee in charge of the premises, in writing, and such permit shall be revoked from and after midnight of such day.

(Ord. No. 139, § 4, 6-24-68 eff.)

Sec. 10-96. Penalty for violation.

Any person violating any of the provisions of this division shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a penalty as provided in section 1-12 of this Code.

(Ord. No. 139, § 5, 6-24-68 eff.)

Chapter 14 ANIMALS⁶

ARTICLE I. IN GENERAL

Secs. 14-1—14-30. Reserved.

ARTICLE II. ANIMAL CONTROL⁷

Sec. 14-31. Definitions.

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

Animal means a nonhuman zoological species classified for purposes of this article as follows:

- (1) Domesticated pet (such as a dog, cat or bird).
- (2) Farm animal: An animal which is normally part of the livestock maintained on a farm, including:
 - a. Bovine and like animals;
 - b. Equine and like animals;
 - c. Swine and like animals;
 - d. Ovine and like animals;
 - e. Rabbits (not maintained or kept as domesticated pets);
 - f. Other farm-type animals not specifically mentioned, including but not limited to chickens, ducks and other domesticated fowl.
- (3) Wild or exotic animals. Such animals include any wild or undomesticated animal which is not of a species customarily used as an ordinary household pet, but one which would ordinarily be confined to a zoo, or one which would ordinarily be found in the wilderness of this or any other country. Such animals weigh less than 100 pounds and would not cause a reasonable person to be fearful of bodily harm or property damage.
- (4) Dangerous animals. Such animals include any wild or undomesticated animal which is not of a species customarily used as an ordinary household pet, but one which would ordinarily be confined to a zoo, or

⁶Cross reference(s)—Parks and recreation, ch. 54.

State law reference(s)—Authority to adopt animal control ordinance, MCL 287.290; crimes relating to animals and birds, MCL 750.49 et seq.; dog law, MCL 287.261 et seq.

⁷Editor's note(s)—Ord. No. 231-073, § 1, adopted Oct. 7, 2002, repealed §§ 14-31—14-35, which pertained to dogs and was derived from Ord. No. 154, §§ 87—89 and 91, April 24, 1972; Ord. No. 154-C, June 17, 1987. Section 3 of Ord. No. 231-073 enacted provisions pertaining to animal control and designated as §§ 14-1—14-9 which, with the permission of the village, the editor has included as §§ 14-31—14-39.

one which would ordinarily be found in the wilderness of this or any other country. Such animals would cause a reasonable person to be fearful of bodily harm or property damage.

- (5) Dangerous dogs. Any dog which, because of its aggressive nature, training, breeding or characteristic behavior, is capable of inflicting serious physical harm or death to humans or which, when unprovoked, chases or approaches persons in a menacing fashion or in an apparent attitude of attack on public or private property.

Person who maintains an animal means any person who owns or controls the animal or who owns, controls or has legal possessory right in the property on which the animal is located or maintained.

(Ord. No. 231-073, § 3, 10-7-02)

Sec. 14-32. Domesticated pets.

Domesticated pets may be maintained in all zoning classification districts, provided that dogs are licensed in accordance with the provisions of Act No. 339 of the Public Acts of Michigan of 1919 (MCL 287.261 et seq.), as amended, and providing that dogs are kept in accordance with village regulations and provided that they do not create a public nuisance. The village council may, by resolution, impose limitations on numbers of domesticated pets, adopt housing requirements, and impose any other restrictions deemed necessary by the council to promote the welfare of the animal and to protect neighborhood standards and community concerns. Recognizing that, because of availability of training, breeding and animal husbandry, certain species of animals formerly classified as nondomesticated animals become viewed by society as domesticated animals or household pets, the village council may, by resolution, declare a particular species as domesticated pets.

(Ord. No. 231-073, § 3, 10-7-02)

Sec. 14-33. Certain animals prohibited.

No person or persons may house or keep farm animals, wild or exotic animals, dangerous animals and/or dangerous dogs anywhere within the Village of Milford.

(Ord. No. 231-073, § 3, 10-7-02)

Sec. 14-34. Cruelty to animals.

No person owning or harboring any animals nor shall any other person treat an animal in a cruel or inhumane manner; or negligently or willfully cause or permit any animal to suffer unnecessary pain or torture; or willfully fail to provide the animal with proper food, drink, shelter or protection from the weather.

(Ord. No. 231-073, § 3, 10-7-02)

Sec. 14-35. Handling of refuse and wastes.

The refuse and wastes resulting from the maintenance of animals shall be controlled upon the premises, and shall be cared for or disposed of within a reasonable time so as to minimize hazards of health and offensive effects.

(Ord. No. 231-073, § 3, 10-7-02)

Sec. 14-36. Barking dogs.

It shall be unlawful for any person to keep or harbor any dog which by loud or frequent or habitual barking, yelping or howling, shall annoy the neighborhood, or people passing to and fro upon the streets, or which disturbs the public peace and quiet.

(Ord. No. 231-073, § 3, 10-7-02)

Sec. 14-37. Reasonable control.

It shall be unlawful for any dog not to be confined and under reasonable control when upon the premises of its owner or custodian. When off of the premises of its owner or custodian all dogs must be leashed. Civil fines for violation of this section (14-37) shall be \$50.00 for the first offense, \$250.00 for a second offense and \$500.00 for any offense beyond two.

(Ord. No. 231-073, § 3, 10-7-02; Ord. No. 231-119, § 1, 1-3-07)

Sec. 14-38. Exception to article.

Nothing in this article or in resolutions authorized by this article shall affect private or commercial operations dealing with animals which comply with the ordinances of the Village of Milford as well as state and federal laws and regulations.

(Ord. No. 231-073, § 3, 10-7-02)

Sec. 14-39. Penalty for violation of article.

Any person violating any of the provisions of this article shall be deemed responsible for committing a municipal civil infraction.

(Ord. No. 231-073, § 3, 10-7-02)

Chapter 18 BUILDINGS AND BUILDING REGULATIONS⁸

ARTICLE I. IN GENERAL

Secs. 18-1—18-30. Reserved.

⁸Cross reference(s)—Administration, ch. 2; alcoholic liquors, ch. 6; amusements and entertainments, ch. 10; community development, ch. 30; engineering design and construction standards, ch. 38; environment, ch. 42; fire prevention and protection, ch. 46; roads and bridges, ch. 58; subdivisions and land division, ch. 74; utilities, ch. 82; zoning, ch. 94.

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

ARTICLE II. CONSTRUCTION CODE⁹

Sec. 18-31. Adoption of state construction code.

Pursuant to the authority granted by the Michigan Home Rule Act for Villages, being Act No. 278 of the Public Acts of Michigan of 1909 (MCL 78.1 et seq.), and the Stille-Derossett-Hale Single State Construction Code Act, Act No. 230 of the Public Acts of 1972, as amended, along with the State Construction Code composed of the Michigan Residential Code, the Michigan Mechanical Code, the Michigan Plumbing Code, the Michigan Fire Code, the Michigan Rehabilitation Code, and the Michigan Building Code, and its appendices, specifically including Appendix G. The village assumes responsibility for the administration and enforcement of the State Construction Code, as amended, throughout its corporate limits.

(Ord. No. 231-114, § 1, 9-5-06)

Sec. 18-32. Enforcing agency.

Pursuant to the Stille-Derossett-Hale Single State Construction Code Act, Act No. 230 of the Public Acts of 1972, as amended, along with the State Construction Code composed of the Michigan Residential Code, the Michigan Mechanical Code, the Michigan Plumbing Code, the Michigan Fire Code, the Michigan Rehabilitation Code, and the Michigan Building Code, and its appendices, specifically including Appendix G, the village hereby designates the building official, and such building inspectors, plumbing inspectors, heating and refrigeration inspectors, electrical inspectors, and other officers and employees as shall be designated by the building official, as the enforcing agency to discharge the responsibilities of the village thereunder.

(Ord. No. 231-114, § 1, 9-5-06)

Sec. 18-33. Designation of regulated floodprone hazard areas.

The Federal Emergency Management Agency Flood Insurance Study, entitled the Oakland County Michigan and Incorporated areas Flood Insurance Study, and dated September 29, 2006, and the Flood Insurance Rate Map(s), panel number(s) 26125C0451F, 0452F, 0453F, 0454F and dated September 29, 2006, are adopted by the village by reference and declared to be a part of Section 1612.3 of the Michigan Building Code.

(Ord. No. 231-114, § 1, 9-5-06)

Sec. 18-34. Fees.

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

⁹Editor's note(s)—Section 1 of Ord. No. 231-114, adopted Sept. 5, 2006, amended art. II, which consisted of §§ 18-31—18-33, in its entirety to read as herein set out. Former art. II pertained to similar subject matter and derived from the original codification of the Code.

(Ord. No. 231-114, § 1, 9-5-06)

Secs. 18-35—18-60. Reserved.

ARTICLE III. SMOKE DETECTORS

Sec. 18-61. Fire detection system required.

Every building to be constructed in the village for residential purposes shall have installed therein a fire detection system which complies with this article.

(Ord. No. 195, § 1, 4-17-85 eff.)

Sec. 18-62. Existing buildings.

Buildings constructed prior to the adoption of the ordinance from which this article is derived may be used for single-family residential purposes without compliance with the provisions of this article; however, the installation of smoke detectors is required in existing single-family dwellings whenever:

- (1) An addition to a dwelling is constructed;
- (2) A fire repair permit is required;
- (3) A permit to remodel an existing dwelling is required;
- (4) A certificate of occupancy is required;
- (5) A dwelling requires an inspection due to resale under a federal program; or
- (6) A solid fuel or woodburning stove or fireplace is installed or altered.

(Ord. No. 195, § 2, 4-17-85 eff.)

Sec. 18-63. Multiple dwelling buildings.

Every multiple dwelling building used for multifamily residential occupancy, including hotels and motels, shall have installed therein in each living unit the required number of smoke detectors within three months from the effective date of this article.

(Ord. No. 195, § 4, 4-17-85 eff.)

Sec. 18-64. Compliance with construction code.

The installation and maintenance of smoke detectors or other fire detection systems shall be in accordance with the requirements of the state construction code, Act No. 230 of the Public Acts of Michigan of 1972 (MCL 125.1501 et seq.), as amended (BOCA National Building Code).

(Ord. No. 195, § 5, 4-17-85 eff.)

Sec. 18-65. Number of detectors.

The building official shall be designated the final authority in determining the minimum amount of smoke detectors required and enforcement of this article.

(Ord. No. 195, § 6, 4-17-85 eff.)

Sec. 18-66. Other ordinance requirements.

The provisions of this article shall not be construed as affecting or changing any ordinance requirements for a fire alarm system applicable to structures or places of public resort or amusement.

(Ord. No. 195, § 3, 4-17-85 eff.)

Sec. 18-67. Penalty for violation of article.

Any person, firm, owner, corporation, landlord, tenant or individual who violates any provision of this article is deemed responsible for committing a municipal civil infraction. The imposition of a penalty for any violation of this article 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. No. 195, § 7, 4-17-85 eff.)

Secs. 18-68—18-90. Reserved.

ARTICLE IV. DANGEROUS BUILDINGS

Sec. 18-91. Prohibited.

Pursuant to the authority granted in Act No. 61 of the Public Acts of Michigan of 1969 (MCL 125.538 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 section 18-92.

(Ord. No. 158, § 1, 3-11-74 eff.)

Sec. 18-92. Definition.

As used in this article, "dangerous building" means 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 article.
- (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.

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- (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. No. 158, § 2, 3-11-74 eff.)

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

Sec. 18-93. Notice; contents; hearing officer; filing of notice with officer; service.

- (a) Notwithstanding any other provision of this article, 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 his pleasure. The 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 article 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. No. 158, § 3, 3-11-74 eff.)

Sec. 18-94. 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 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 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 findings and copy of his 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 section 18-93.
- (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 section 18-93 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 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. No. 158, § 4, 3-11-74 eff.)

Sec. 18-95. Judicial review.

An owner aggrieved by any final decision or order of the village council under section 18-94 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. No. 158, § 5, 3-11-74 eff.)

Sec. 18-96. Penalty for violation of article.

Any person, firm, owner, corporation, landlord, tenant or individual who violates any provision of this article is deemed responsible for committing a municipal civil infraction. The imposition of a penalty for any violation of this article 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.

Secs. 18-97—18-115. Reserved.

ARTICLE V. RESERVED¹⁰

Secs. 18-116—18-145. Reserved.

ARTICLE VI. CONSTRUCTION PERMITS AND DEPOSITS

Sec. 18-146. Fee schedule.

Schedules of fees for building and excavation deposits, construction, alteration, grading and filling permits, special inspection fees, overtime inspection fees, plumbing permits, electrical permits, mechanical permits, erection of signs and display structures, marquees, or other appurtenant structures or fees for special inspections or tests, certificates of use and/or occupancy, other privilege or requirement fees, both within and without the jurisdiction of the village building department, shall be established from time to time by resolution of the village council. All fees for such permits and deposits shall be related to the estimated total project cost, based upon current standard prices, as determined by the village building official.

(Ord. No. 180-B, 2-22-84 eff.)

Sec. 18-147. Payment of fees.

- (a) No permit for new construction, alteration, removal, demolition or other building operation or filling, grading or excavating shall be issued until all fees required under this chapter, or under other ordinances or laws, shall have been paid, nor shall any amendment to a permit necessitating an additional fee be granted until additional fees shall be paid. No permit shall be issued until all permit deposits and other charges required under this chapter or under other ordinances or laws shall have been paid.
- (b) The payment of a permit fee shall not relieve the applicant or holder of the permit from the payment of all other fees which may be prescribed by law or other ordinance.

(Ord. No. 180-B, 2-22-84 eff.)

Sec. 18-148. Permit deposits.

It shall be unlawful for any person to commence the erection of any structure, or to excavate, fill or grade within the village, until that person shall have deposited with the village building department a cash deposit which shall be placed at the disposal of or forfeited to the village as set forth in this article. Such deposit shall be held by the village and applied as required to save the village and the public harmless from any damage to health, safety or welfare of the community arising from such construction, excavation, filling or grading. Any expenses arising from any such damage and all administrative costs connected therewith, specifically including, without limiting the generality of the foregoing, damage to trees, shrubs, plants, bushes, shrubbery, water hydrants, water mains,

¹⁰Editor's note(s)—Ord. No. 231-218, § 1, adopted Aug. 20, 2018, repealed art. V, §§ 18-116, 18-117, which pertained to the fire prevention code and derived from Ord. No. 182, §§ 1, 2, effective Feb. 27, 1980. See ch. 46, art. I for similar provisions.

sewer mains, curbs, sidewalks, crosswalks, paving or street surfacing, buildings or fences, damage caused by any failure to remove any dirt, waste or debris accumulated incidental to such work or caused by failure to backfill any excavation properly, and all expenses incurred by the village arising from failure to comply with the terms of this chapter or any permit issued pursuant to this chapter, shall be paid to the village. The amount of each deposit shall be as follows:

- (1) One hundred dollars for deposit for residential and commercial alterations, additions, accessory buildings and garages, and other work over \$500.00.
- (2) Five hundred dollars for permits for all new residential single-family dwellings.
- (3) One hundred dollars to \$1,000.00 for deposits for grading, filling and excavating.
- (4) Depending upon the exposure to damages a particular project causes public property, all other deposits will range from \$100.00 to \$2,500.00, as determined by the building inspector.

(Ord. No. 180-B, 2-22-84 eff.)

Sec. 18-149. Certificate of occupancy; forfeit of deposit.

- (a) A final certificate of occupancy shall not be issued nor shall the cash deposit or remainder of the deposit be refunded until the building or structure has been satisfactorily completed and the land surrounding such building or structure has been properly graded. Grading shall include the approved means of erosion prevention.
- (b) If any structure is occupied prior to issuance of an occupancy permit or use permit, the permit deposit as set forth in this article shall be immediately forfeited to the village. If any work for which a permit is required is not completed within two years of the date of issuance of the permit required therefor, or within one year of the date of any amendment thereto, the permit deposit shall thereupon be immediately forfeited to the village.

(Ord. No. 180-B, 2-22-84 eff.)

Sec. 18-150. Unclaimed permit deposits.

If a permit deposit remains unclaimed for a period of two years or more from the date of issuance of the permit, or within one year of the date of any amendment thereto, the village treasurer shall cause a written notice of forfeiture to be deposited in the United States Post Office, certified mail, return receipt requested, addressed to the last known address of the holder of the permit, declaring that unless the permit deposit is claimed within 60 days of the date of mailing such notice of forfeiture, the permit deposit shall immediately be forfeited to the village, absolutely, without further action of any kind. If the permit holder claims the permit deposit within such 60-day period, it shall be refunded after deduction of the following fees:

- (1) *Inspection fee*, \$35.00 per inspection.
- (2) *Custodial charges*, \$20.00.
- (3) *Service fees*, \$10.00 per service.
- (4) *Bookkeeping costs*, \$5.00 per year.

(Ord. No. 180-B, 2-22-84 eff.)

Secs. 18-151—18-159. Reserved.

ARTICLE VII. PROPERTY MAINTENANCE CODE

Sec. 18-160. Adoption.

The International Property Maintenance Code, 2018 Edition, as published by the International Code Council, is hereby adopted as the Property Maintenance Code for the Village of Milford, with the insertions and amendments specified in this article. A copy of the International Property Maintenance Code, 2018 Edition, is available for inspection at the office of the Village of Milford Clerk.

(Ord. No. 231-145, § 1, 5-3-10; Ord. No. 231-226, § 1, 2-4-19)

Sec. 18-161. Insertions.

The following sections of the International Property Maintenance Code, 2018 Edition, are completed by inserting the following information:

101.1 Title. Insert: "Village of Milford."

103.5 Fees. Insert: "As adopted by Resolution of the Village of Milford Council."

112.4 Failure to comply. Insert: "...a fine as set forth in Chapter 1 of the Code of Ordinances for the Village of Milford, Sec. 1-17(2)."

302.4 Weeds. Insert: "eight (8") inches."

304.14 Insect screens. Insert: "March 1 to December 1."

602.3 Heat Supply. Insert: "October 1 to May 15."

602.4 Occupiable work spaces. Insert: "October 1 to May 15."

(Ord. No. 231-226, § 1, 2-4-19)

Sec. 18-162. Amendments.

(a) The following sections of the International Property Maintenance Code, 2018 Edition, are amended to read as follows:

103.1 General. The Village of Milford Building Official is designated as the code official for purposes of administering and enforcing this Code.

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

assessed and collected on the tax rolls in the same manner and with the same interest and penalties as delinquent special assessments.

106.4. Violation penalties. Any person, firm or corporation who shall violate a provision of this Code, or fail to comply therewith, or with any of the requirements thereof, shall be responsible for a municipal civil infraction and be subject to the penalties, including civil fines, costs, damages, expenses and court judgments and orders to enforce or enjoin violations of this Code as provided in Chapter 1 of the Village of Milford Code of Ordinances. Each day that a violation continues after due notice has been served, in accordance with the terms and provisions hereof, shall be deemed a separate offense. A violation of any of the provisions of this Code is hereby declared to be a public nuisance per se and may be abated by order of any court of competent jurisdiction.

111.2. Membership of the board. As authorized by Section 14 of the Stille-DeRossett-Hale Single State Construction Code Act, Public Act No. 230 of 1972, the Construction Board of Appeals for the Village of Milford shall serve as the Board of Appeals as provided by Section 111.

- (b) Sections 111.2.1, 111.2.2, 111.2.3, 111.2.4 and 111.2.5 of the International Property Maintenance Code, 2018 Edition, are deleted.

(Ord. No. 231-145, § 1, 5-3-10; Ord. No. 231-226, § 1, 2-4-19)

Editor's note(s)—Formerly codified as § 18-161. New provisions added by Ord. No. 231-226 consequently renumbered § 18-161 as 18-162, as herein set out above.

Sec. 18-163. Referenced codes.

- (a) References to the International Building, Existing Building, Fuel Gas, Mechanical and Plumbing Codes, and the list of those ICC Codes in chapter 8 of the International Property Maintenance Code, 2018 Edition, are amended to refer to the versions of those codes that are part of the state construction code that is administered and enforced in the village as provided in article II of chapter 18 of the Village of Milford Code of Ordinances.
- (b) References to the International Fire Code in the International Property Maintenance Code, 2018 Edition, are amended to refer to the fire prevention code adopted in article I of chapter 46 of the Village of Milford Code of Ordinances.

(Ord. No. 231-226, § 1, 2-4-19)

Secs. 18-164—18-185. Reserved.

Chapter 22 BUSINESSES¹¹

ARTICLE I. IN GENERAL

Secs. 22-1—22-30. Reserved.

¹¹Cross reference(s)—Administration, ch. 2; alcoholic liquors, ch. 6; amusements and entertainments, ch. 10; cable communications, ch. 26; sidewalk restaurants, § 70-31 et seq.; vehicles for hire, ch. 90; zoning, ch. 94.

ARTICLE II. PEDDLERS, SOLICITORS AND STREET VENDORS¹²

Sec. 22-31. Definitions.

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

Canvasser means a person who, without prior specific invitation or appointment, attempts to enlist noncommercial support for or against a particular religion, philosophy, ideology, political party, issue or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause, or distributes handbills or flyers advertising a noncommercial event or service, including student and youth support and solicitation of proceeds for an educational, recreational, civic or religious purpose which directly benefits the student and/or sponsoring organization.

Peddler means any person who, without prior specific invitation or appointment, offers, exposes for commercial sale or makes available for a commercial price, makes, sells and/or delivers commercial articles to purchasers, or takes or attempts to take commercial orders for sale of goods, foodstuffs, or services of any kind, for immediate or future delivery or performance, whether or not such person has, carries or exposes for sale a sample of the subject of such sale or whether or not he or she is collecting advance payments on such sale, by any of the following means:

- (1) Traveling by foot, automotive vehicle, or other conveyance, from place to place, house to house, or street to street, carrying, conveying or transporting such goods, wares, merchandise or foodstuffs;
- (2) Hiring, leasing or occupying any building or structure for the exhibit or sale of such goods, foodstuffs, or services, while not on the village tax rolls, including a person who associates temporarily with a local merchant or dealer, which building or structure is not otherwise used for that purpose;
- (3) Offering out of doors such goods, foodstuffs or services from a stationary cart, stand, wagon, automotive vehicle or from one's person.

Person means any individual, firm, co-partnership, corporation, company, association, or joint stock association, house of worship, religious sect or denomination, society, organization or league, and includes any trustee, receiver, assignee, subcontractor, agent or other similar representative thereof.

Solicitor means a person who, without prior specific invitation or appointment, attempts to obtain a commercially driven donation for a particular patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, charitable, political or religious purpose, even if incidental to such purpose there is the sale of some good or service, or distributes a handbill or flyer advertising a commercial event or service.

(Ord. No. 231-231, § 1, 5-20-19)

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

¹²Editor's note(s)—Ord. No. 231-231, § 1, adopted May 20, 2019, repealed the former Art. II, §§ 22-31—22-44, and enacted a new Art. II as set out herein. The former Art. II pertained to similar subject matter and derived from the 1996 Code.

Sec. 22-32. Penalty.

Any person violating any of the provisions of this article shall be guilty of a misdemeanor punishable by up to 90 days in jail and/or a \$500.00 fine.

(Ord. No. 231-231, § 1, 5-20-19)

Sec. 22-33. License required.

It shall be unlawful for any person, either as principal or agent, to operate as a peddler or as a solicitor in the village without having first obtained a license in the manner provided in this article. A canvasser is not required to obtain a license; however, canvassers may voluntarily make application for a license to the village clerk for their own business purposes. Processing of a license does not constitute an endorsement by the village of the subject activity.

(Ord. No. 231-231, § 1, 5-20-19)

Sec. 22-34. Application for license.

- (a) Any person who shall operate as a peddler or a solicitor within the village shall be required to make application for a license to the village clerk in accordance with the provisions of this section.
- (b) Prior to the date of beginning operations in the village, any person operating as a peddler or a solicitor must provide the following information to the village clerk on forms provided at the village office, which information shall be further investigated by the village police department:
 - (1) The name of the person(s) who will engage in peddling within the village, including the person's current home address and length of residence at such address, business address if other than the residence address, business and residence telephone numbers, driver's license or state identification number, and a physical description including height, weight, and color of hair and eyes.
 - (2) A brief description of the business or activity to be conducted including the methods to be used and a description of the types of goods or services to be sold.
 - (3) The dates, hours and location for which the right to engage in peddling or soliciting is sought.
 - (4) Proof that the applicant has obtained all licenses or permits, if any, required by state law.
 - (5) If employed by or acting as an agent for another entity, the name, address and telephone number of the other entity that is being represented, and when this entity was formed, including the form of its organization.
 - (6) A statement as to whether the applicant's parent organization has ever been found to have violated a municipal ordinance regulating peddling or soliciting, and if "yes," the details thereof.
 - (7) A current ICHAT (Internet Criminal History Access Tool) report (within the last 30 days) for each employee who will be engaging in peddling as to whether the peddler, or an officer or director of the peddler's parent organization has/have ever been convicted of a felony, and/or of any sex offense, and if so, the date and location of such conviction, and a brief description of the offense. A waiver to perform a criminal background search shall be provided by the village which must be signed by each person.
 - (8) A current photograph of the applicant and a photograph of the person(s) who will be engaged in the peddling, taken within 60 days immediately prior to the date of the filing of the application, which

picture shall be two inches by two inches in size showing the face and shoulders of the peddler, in a clear and distinguishing manner.

- (9) The motor vehicle make, model, year, color, state license plate and number of any vehicle which will be used by each person peddling/soliciting.
 - (10) The mailing or website address where residents having subsequent questions can go for more information.
 - (11) Copies of literature to be distributed, other municipal references, etc.
 - (12) The application shall be signed by the applicant stating that the information contained therein is true and correct, that the village shall have the right to investigate and verify the information contained in the application, and that the applicant has read the peddlers and solicitors ordinance and agrees to abide by its terms.
 - (13) The applicant shall sign a hold harmless agreement releasing the village from any claims made against the village that arise out of the actions of the peddler or solicitor.
- (c) An application for peddling/soliciting shall be accompanied by a fee. Such fee shall be established by resolution of the village council. No fee shall be charged to:
- (1) Village merchants, representatives and charities engaging in year-round business with a permanent location in the village.
 - (2) Any honorably discharged veteran who is a resident of this state and who has obtained a veteran's license from a county clerk within the state.
- (d) Information submitted under this section shall remain valid for up to six months, however, a peddler/solicitor shall, within three calendar days after a change occurs, report to the village clerk in writing any material change in any information previously provided on the application form. A new application is required to be submitted to the village clerk and the village police department for any peddling/soliciting activity conducted beyond six months after the current application.

(Ord. No. 231-231, § 1, 5-20-19)

Sec. 22-35. Filing false application.

No person shall knowingly file or cause to be filed an application for peddling/soliciting or a document supporting such an application containing one or more false statements.

(Ord. No. 231-231, § 1, 5-20-19)

Sec. 22-36. Approval/denial.

- (a) Upon the receipt of an application for approval of peddling/soliciting activities required by this article, the village clerk shall, within 48 hours of the time of such receipt, refer such application to the chief of police or his or her designated representative for making any necessary investigation. The officer charged with the duty of making the investigation shall make recommendation thereon, favorable or otherwise, within 30 days after receiving the application. The officer shall then forward the application and recommendation to the village clerk. Upon completion of the required investigation, the peddling/soliciting activity shall be approved upon a determination that the applicant has met all provisions of this article, including:
- (1) The required fees have been paid;

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- (2) The applicant has not made a material misrepresentation of fact in and/or falsified any of the contents of the application, unless the applicant can demonstrate that the falsehood was the result of excusable neglect;
 - (3) The applicant has not had a peddler's or solicitor's permit denied or revoked by the village within a period of two years prior to the date of the application;
 - (4) The applicant has never been convicted of a felony, a misdemeanor involving moral turpitude and/or convicted of any sexual offenses;
 - (5) The applicant has met all other requirements of this article.
- (b) If the village denies peddling/soliciting activity, such denial shall be immediately conveyed in writing to the applicant by the village clerk. Within 48 hours of the denial, the village clerk shall prepare a written report which shall be issued, either by email communication, facsimile correspondence or first-class mail, to the applicant, and the applicant shall be invited to respond to the report and present evidence in support of his or her response.
 - (c) Denials may be appealed to the village council by the filing of a written appeal within seven days of the denial. The village council shall make a determination after presentation by the applicant, supported by a preponderance of the evidence, as to whether or not the grounds for denial should be upheld. The village council's decision may be reviewed by a court of competent jurisdiction.

(Ord. No. 231-231, § 1, 5-20-19)

Sec. 22-37. Revocation of peddling/soliciting activity.

- (a) Peddling/soliciting activity may be revoked for any of the following reasons:
 - (1) The peddler/solicitor has violated any of the provisions of this article, this Code for the village, or any state or federal laws, rules or regulations pertaining to peddling or soliciting statute of the state.
 - (2) Fraud, misrepresentation, or incorrect statements have been made by the peddler/solicitor in the course of carrying on an activity or in application for peddling/soliciting activity.
 - (3) The peddler/solicitor has been convicted of any felony or misdemeanor involving moral turpitude within the last seven years prior to or while peddling/soliciting in the village.
 - (4) The peddler/solicitor has conducted an activity in such a manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public.
 - (5) The peddler/solicitor has had a written complaint filed against him or her for violation of this article and probable cause exists for substantiation of the complaint.
- (b) If upon investigation by the village, it is discovered that a peddler/solicitor has violated any regulations of this article, written notice of such violation shall be issued, by certified mail, to that person. Immediately upon the giving of such notice, approval for the peddling/soliciting activity shall become null and void.
- (c) Revocations may be appealed in the same manner as denials.

(Ord. No. 231-231, § 1, 5-20-19)

Sec. 22-38. Other licenses or permits.

Permission obtained under this article shall not relieve any person of the responsibility for obtaining any other permit, license or authorization required by any other ordinance, regulation, statute or administrative rule.

No peddler or solicitor shall be allowed to distribute food until the applicant and any vehicle and equipment used by such applicant are approved by the health department for the state or the county, if such approval is required by law.

(Ord. No. 231-231, § 1, 5-20-19)

Sec. 22-39. Regulations, conduct.

No peddler or solicitor shall:

- (1) Peddle or solicit upon a premise in defiance of a posted notice stating: "No Trespassing" or "No Solicitors or Peddlers".
- (2) Remove any yard sign, door or entrance sign that gives notice to such person that the resident or occupant does not invite visitors.
- (3) Fail to immediately and peacefully depart from a premises when requested to do so by the occupant.
- (4) Use or attempt to use any entrance other than the front or main entrance to a dwelling.
- (5) Fail to accurately reveal all information contained in the application for peddling/soliciting and all information required to be revealed by state law to any person requesting such information.
- (6) Represent that the peddling/soliciting activity approved under this article is an endorsement by the village.
- (7) Stop for the purposes of selling or offering to sell any products within a distance of 500 feet from any public, private or parochial school building, or the lands on which such school buildings are located in the village on any days during which such school is in session.
- (8) Occupy a stationary location on a public street, sidewalk, parkway, park, parking lot or any other public property, which is used by pedestrians or persons operating motor vehicles, unless otherwise approved by the village. A peddler or solicitor shall be presumed to have occupied a stationary location if he or she has conducted business in any such public place for a period in excess of ten minutes.
- (9) Use or employ any flashing lights on any vehicle, or any other device for the purpose of attracting attention to any goods, wares or merchandise the peddler or solicitor proposes to sell.
- (10) Threaten or harass any person in the course of their activities or in any way engage in conduct that threatens the health and safety of another or causes a nuisance.
- (11) No person shall engage in abusive peddling or solicitation. Abusive activity shall include, but not be limited to, one or more of the following while peddling or soliciting or immediately thereafter: coming closer than three feet to the person peddled or solicited unless and until such person indicates he or she wishes to make a purchase or otherwise receive the peddling or solicitation; blocking or impeding the passage of the person being peddled or solicited; repeating peddling or solicitation after the person has indicated his or her objection to the peddling or solicitation; following a person by proceeding behind, ahead or alongside such person after the person has indicated his or her objection; threatening a person with physical harm by word or gesture; abusing a person being peddled or solicited with words which are offensive and inherently likely to provoke an immediate violent reaction; or touching the person being peddled or solicited without consent.
- (12) No peddler or solicitor shall request a person being peddled or solicited to retrieve something from inside his or her home which requires him or her to leave the front door.
- (13) No peddler or solicitor shall request a person being peddled or solicited to allow him or her to enter the person's residence.

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- (14) During a parade which proceeds through the village no peddler or solicitor shall sell, peddle, solicit or canvass in the street which is part of the parade route.
 - (15) Sell, peddle or solicit on any village block that has demonstrated by a petition signed by 51 percent of the residents on that block, being submitted to the village, that it is an exempt block.

(Ord. No. 231-231, § 1, 5-20-19)

Sec. 22-40. Stands, regular places of business require approval.

It shall be unlawful for any licensee to sell, peddle or solicit on the public streets, alleys or other public places of the village at any established stand or location, or use any place on the highways as a regular place of business, or use any place on private property as a regular place of business without first obtaining approval from the village.

(Ord. No. 231-231, § 1, 5-20-19)

Sec. 22-41. Identification card.

Any police or code official may require any person seen soliciting or peddling, who is not known by such official to hold an approved application, to show proof of identity for verification with the village clerk, and to enforce the provisions of this article against any person found to be violating them.

(Ord. No. 231-231, § 1, 5-20-19)

Sec. 22-42. Manner of canvassing—Duties of canvassers.

No canvasser shall:

- (1) Canvass upon a premise in defiance of a posted notice stating: "No Trespassing," "No Peddlers or Solicitors" or "No Canvassers".
- (2) Remove any yard sign, door or entrance sign that gives notice to such person that the resident or occupant does not invite visitors.
- (3) Fail to immediately and peacefully depart from a premises when requested to do so by the occupant.
- (4) Use or attempt to use any entrance other than the front or main entrance to a dwelling.
- (5) Fail to accurately reveal all information required to be revealed by state law to any person requesting such information.
- (6) Represent that the canvassing activity is endorsed by the village.
- (7) Request a person being canvassed to retrieve something from inside his or her home which requires him or her to leave the front door.
- (8) Request a person being canvassed to allow him or her to enter the person's residence.

(Ord. No. 231-231, § 1, 5-20-19)

Sec. 22-43. Hours in residential areas.

No person shall engage in peddling, solicitation or canvassing in residential areas prior to 9:00 a.m. or after 8:00 p.m. or sunset, whichever is earlier.

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(Ord. No. 231-231, § 1, 5-20-19)

Sec. 22-44. Records of licenses.

The village clerk shall file with the police chief a copy of each approved application and the police chief shall report to the village clerk any complaints against any license holder and any convictions, pleas or other findings of responsibility for violations of this article. The village clerk shall keep a record of all such complaints and violations.

(Ord. No. 231-231, § 1, 5-20-19)

Secs. 22-45—22-80. Reserved.

ARTICLE III. GARAGE SALES

Sec. 22-81. Definitions.

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

Garage sale, rummage sale, or other similarly termed sale means any sale of tangible personal property not otherwise regulated in the village ordinances.

Person means and includes all individuals, families living within the same household, firms, corporations or organizations.

(Ord. No. 166, § 1, 9-8-76 eff.)

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

Sec. 22-82. Permit required.

No person shall conduct what is known as a garage sale or rummage sale within the village limits without having first procured from the village clerk a permit therefor, for which no fee shall be charged.

(Ord. No. 166, § 2, 9-8-76 eff.)

Sec. 22-83. Period of sale.

Any person conducting a garage or rummage sale may not conduct such sale for a period of more than three consecutive days.

(Ord. No. 166, § 3, 9-8-76 eff.)

Sec. 22-84. Limit on number.

No person shall be allowed more than two garage sale permits within any 12-month period; provided, that this section shall not apply to duly constituted nonprofit or religious organizations which shall have registered as such with the county clerk and, in which event, the permit as specified in section 22-82 shall be issued to such nonprofit or religious organizations for a one-year period. In no instance, with the exception of qualified nonprofit

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or religious organizations, shall more than two garage sales be held at any one location within any 12-month period.

(Ord. No. 166, § 4, 9-8-76 eff.)

Sec. 22-85. Conducting sale without permit.

Any person who shall conduct a garage sale or rummage sale without having procured a permit from the village clerk for such sale shall be considered guilty of violating this article.

(Ord. No. 166, § 5, 9-8-76 eff.)

Sec. 22-86. Distance from lot line; posting permit; outside storage of goods.

All garage or rummage sales shall be held no closer than 25 feet from the front lot line of the premises covered in the permit. Such permit shall be posted at the location of the sale so as to be visible to the public. There shall be no overnight outside storage of the goods or merchandise held for purchase in such garage sale.

(Ord. No. 166, § 6, 9-8-76 eff.)

Sec. 22-87. Advertising signs.

No signs advertising a garage sale shall be placed upon any public property. Two signs advertising a garage sale are permitted to be placed upon private property with the consent of the owner of such property. Within 24 hours of the conclusion of a garage sale, all such advertising signs shall be removed.

(Ord. No. 166, § 7, 9-8-76 eff.)

Sec. 22-88. Penalty for violation of article.

Any person violating any of the provisions of this article shall, upon conviction thereof, be deemed responsible for committing a municipal civil infraction.

(Ord. No. 166, § 8, 9-8-76 eff.)

Sec. 22-89. Reserved.

ARTICLE IV. RESIDENTIAL RENTALS

DIVISION 1. GENERALLY

Sec. 22-90. Purpose.

The Village of Milford recognizes the importance of the rental housing segment in the overall village housing scheme. As the entity responsible for the building and housing codes, it is in the interest of the village to ensure that all residential rental units, structures and grounds leased for occupancy to the general public are in compliance with the minimum property maintenance standards adopted and enforced by the village. Such compliance is necessary for protection of the health, safety and welfare of residents of rental properties and

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adjacent properties, and for the maintenance of property values and "quality of life" within the immediate neighborhoods in which residential rental units are located. Consequently, the village determines it necessary to provide for regulation of such rental properties through mandatory registration, inspection and certification.

(Ord. No. 231-181, § 1, 8-4-14; Ord. No. 231-228, § 1, 2-19-19)

Sec. 22-91. Definitions.

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

Building official means the person, or his or her designee, appointed as chief administrator of building and construction codes, permits and accepted construction procedures within the Village of Milford.

Certificate of compliance means an official document submitted in connection with an inspection stating that a residential rental dwelling unit and/or structure meets the minimum standards established by the village for occupancy.

Landlord means any person who owns or controls a rental unit and rents such unit, either personally or through a designated agent, to any person.

Owner means the legal title holder of a rental unit or the premises within which the rental unit is situated.

Residential rental dwelling structure means any building containing one or more residential rental dwelling units including any common areas accessible to residents of all residential rental units within the building, restricted or non-accessible portions of the structure and the building exterior.

Residential rental dwelling unit means 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 a remuneration of any kind is paid. Single-family residences, duplexes, apartments and rooming houses may all contain and be classified as rental units.

Residential rental premises means the site upon which a residential rental dwelling unit or structure is located including, but not limited to, yards, walkways, driveways, patios, decks, accessory structures, fences and landscaping.

Responsible local agent means a person or representative of an individual, a corporation, partnership, firm, joint venture, trust, association, organization or other entity having his or her place of residence in the county and designated by the property owner as responsible for operating such property in compliance with the ordinances adopted by the village. All official notices of the village may be served on the responsible local agent, and any notice so served shall be deemed to have been served upon the owner of record.

(Ord. No. 231-181, § 1, 8-4-14; Ord. No. 231-206, § 1, 5-15-17; Ord. No. 231-228, § 1, 2-19-19)

Sec. 22-92. Fees.

Fees for registration of residential rental dwelling units, inspections and certificates of compliance shall be as established by resolution of the village council.

(Ord. No. 231-181, § 1, 8-4-14; Ord. No. 231-228, § 1, 2-19-19)

Sec. 22-93. Penalty.

Any person who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of this article shall be responsible for a municipal civil infraction, subject to chapter 1 of the Code of Ordinances for the Village of Milford. As set forth in that chapter, increased civil fines may be imposed for repeated violations.

(Ord. No. 231-181, § 1, 8-4-14; Ord. No. 231-228, § 1, 2-19-19)

DIVISION 2. REGISTRATION

Sec. 22-94. Required.

No property owner shall lease, rent or otherwise allow a rental unit to be occupied unless the rental unit is registered with the village and a person is designated a responsible local agent. The responsible local agent shall be legally responsible for operating the registered rental unit in compliance with the ordinances adopted by the village, shall be responsible for providing access to the rental unit for the purpose of making any and all inspections necessary to ensure compliance with the ordinances adopted by the village, and shall accept all legal notices or service of process with respect to the rental unit. The responsible local agent shall maintain a list of the names and number of occupants of each rental unit for which he is responsible.

(Ord. No. 231-181, § 1, 8-4-14; Ord. No. 231-228, § 1, 2-19-19)

Sec. 22-95. Registration term and renewal of existing rental units.

Property owners shall register any and all rental units within the village and shall designate a responsible local agent. Such registration shall be effective for one year, and it shall be the responsibility of the property owners to re-register such rental unit on the first day of the month immediately following the expiration of the registration for each rental unit. It shall be unlawful for any rental unit to be occupied unless a new certificate of compliance has been issued. A rental unit which has not been previously certified shall be deemed to have an expiration date on the date the responsible local agent is notified to register the rental unit. Upon registration, a certificate of compliance shall then be obtained pursuant to division 3 of this article prior to permitting occupancy of any new rental unit.

(Ord. No. 231-181, § 1, 8-4-14; Ord. No. 231-228, § 1, 2-19-19)

Sec. 22-96. Change in registration information.

The property owner of a rental unit registered with the village shall re-register within 60 days after any change occurs in registration information. A new owner of a registered rental unit shall re-register the rental unit as provided in this article. Registration and/or inspection fees shall not apply.

(Ord. No. 231-181, § 1, 8-4-14; Ord. No. 231-228, § 1, 2-19-19)

Sec. 22-97. Re-registration.

A property owner shall re-register annually and prior to expiration of any certificate of compliance issued in connection with biennial inspections.

(Ord. No. 231-181, § 1, 8-4-14; Ord. No. 231-228, § 1, 2-19-19)

Sec. 22-98. Application for registration.

An application for registration of a rental unit shall be made in such form and in accordance with such instructions as may be provided by the village building department and shall include at least the following information:

- (1) The address of the rental unit;
- (2) The names and addresses of all owners of the rental units;
- (3) The name, address and telephone number of the person authorized to collect rent from the individuals occupying the rental units;
- (4) The name, local address and telephone number of the responsible local agent;
- (5) The number of rental units in each building;
- (6) The maximum number of occupants expected to reside in the residential rental dwelling structure;
- (7) The maximum number of occupants expected to reside in each residential rental dwelling unit;
- (8) A scale drawing of the interior of the residential rental dwelling structure, including all rooms in residential rental dwelling units and any common areas accessible to residents and any restricted or non-accessible portions of the structure. All rooms and areas shall be identified on the drawing by type (i.e., bedroom, bathroom, kitchen, living room, etc.); and
- (9) The number of off-street parking spaces provided on the residential rental premises.

(Ord. No. 231-181, § 1, 8-4-14; Ord. No. 231-228, § 1, 2-19-19)

Sec. 22-99. Inaccurate or incomplete registration information.

It shall be a violation of this article for a property owner or a responsible local agent to provide inaccurate information for the registration of rental units or to fail to provide information required by the village for such registration. In those cases in which the owner is not a natural person, the owner information shall be that of the president, general manager or other chief executive officer of the organization. Where more than one natural person has an ownership interest, the required information shall be provided for each such owner.

(Ord. No. 231-181, § 1, 8-4-14; Ord. No. 231-228, § 1, 2-19-19)

DIVISION 3. CERTIFICATE OF COMPLIANCE

Sec. 22-100. Required.

No person shall own, operate, lease, rent or occupy a rental unit unless there is a valid certificate of compliance issued in connection with an inspection by the village building official, which certificate of compliance shall be issued in the name of the owner and issued for the specific rental unit. The certificate shall be issued for each structure containing a rental unit, and shall be displayed in a conspicuous place in each rental unit at all times. The certificate of compliance shall be issued only after all of the following are completed:

- (1) Registration of the rental unit with the building department;
- (2) Inspection by the village building official demonstrating compliance with all ordinances adopted by the village and state law; and

(3) Payment of all fees required for registration and inspection.

(Ord. No. 231-181, § 1, 8-4-14; Ord. No. 231-228, § 1, 2-19-19)

Sec. 22-101. Biennial inspections.

Subsequent to the registration of all rental units as required in division 2 of this article, the building official shall commence an inspection of all rental units. Once the rental unit is deemed to be in compliance with the criteria as set forth in this article, and all ordinances adopted by the village and state law, the inspection required for issuance of a certificate of compliance shall be satisfied. Once the inspection required for issuance of the certificate of compliance is satisfied, it shall then be valid for a period of two years. Unless an earlier inspection is deemed necessary by the village, the building official shall thereafter conduct a biennial inspection. The biennial inspection shall not, however, eliminate the registered owner's responsibility to register such units on an annual basis.

(Ord. No. 231-181, § 1, 8-4-14; Ord. No. 231-228, § 1, 2-19-19)

Sec. 22-102. Temporary certificates.

Temporary certificates of compliance may be issued without prior inspection to owners of occupied rental units existing as of August 28, 2014. Such certificates may be issued as of the effective date of the initial registration following August 28, 2014, to allow property owners to operate such rental units until such time as an inspection may be made by the building official. At such time as an inspection is made by the building official, and a determination has been made that compliance with the provisions of this article have been secured, the temporary certificate shall expire.

(Ord. No. 231-181, § 1, 8-4-14; Ord. No. 231-228, § 1, 2-19-19)

Sec. 22-103. Prerequisites for issuance.

The building official shall not issue a certificate of compliance unless a current rental unit registration is in effect, the responsible local agent is properly designated, any fees for registration plus any penalties are paid in full and the inspection, as required in this article, has determined that compliance has been secured with the minimum standards and other provisions of the ordinances adopted by the village.

(Ord. No. 231-181, § 1, 8-4-14; Ord. No. 231-228, § 1, 2-19-19)

Sec. 22-104. Revocation.

If the building official shall discover the failure of any property owner to comply with a notice of violation issued pursuant to the provisions of the ordinances adopted by the village, the certificate of compliance may be revoked.

(Ord. No. 231-181, § 1, 8-4-14; Ord. No. 231-228, § 1, 2-19-19)

Sec. 22-105. Appeal of denial of registration or revocation.

Any property owner whose rental unit registration has been denied or whose certificate of compliance has been revoked may file an appeal to the Village of Milford Zoning Board of Appeals.

(Ord. No. 231-181, § 1, 8-4-14; Ord. No. 231-228, § 1, 2-19-19)

Sec. 22-106. Order of vacation.

- (a) Upon revocation of a certificate of compliance, founded upon a determination that a rental unit is unfit for human habitation, and after exhaustion of an appeal to the Milford Township Zoning Board of Appeals, if one has been made, the owner or operator of the unit shall immediately vacate the unit; and no person shall thereafter occupy the unit for sleeping or living purposes until such unit complies with this article.
- (b) When a rental unit is found to be in violation of the provisions of the ordinances adopted by the village but determined to be habitable, a vacation order shall not be entered; but the certificate of compliance shall be deemed expired and the rental unit shall be in violation of the terms of this article.

(Ord. No. 231-181, § 1, 8-4-14; Ord. No. 231-228, § 1, 2-19-19)

Sec. 22-107. Renewal.

At least 30 days prior to the expiration of a certificate of compliance, the village shall notify the registered owner to re-register the rental unit and to arrange for a compliance inspection if necessary. The property owner shall be responsible for re-registering a rental unit and arranging a compliance inspection prior to the expiration date on the certificate. When a certificate of compliance is reissued in accordance with this article, it shall have a one-year expiration date with the same month and day as shown on the previous certificate, regardless of the date that the new certificate is actually issued.

(Ord. No. 231-181, § 1, 8-4-14; Ord. No. 231-228, § 1, 2-19-19)

Sec. 22-108. Certificate of compliance not required.

A certificate of compliance shall not be required for living or sleeping accommodations in:

- (1) Nursing homes, convalescent homes, retirement homes, foster homes or for temporary group shelters provided by legal not-for-profit agencies which are inspected, certified and/or licensed by other governmental agencies.
- (2) All residential rental units and/or complexes currently inspected by the Federal Housing and Urban Development Department (HUD) or the Federal Housing Administration (FHA).
- (3) Hotels, motels and bed and breakfast establishments as classified in the Michigan Building Code, as amended.
- (4) Parsonages.

(Ord. No. 231-181, § 1, 8-4-14; Ord. No. 231-228, § 1, 2-19-19)

DIVISION 4. INSPECTIONS

Sec. 22-109. Basis.

Inspections may be made to obtain and maintain compliance with the standards of this article based upon one of the following:

- (1) A complaint received by the village indicating that there is a violation of the standards or the provisions of the ordinances adopted by the village;

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- (2) An observation by the village of a violation of the standards or the provisions of the ordinances adopted by the village;
 - (3) A report or observation of a dwelling that is unoccupied and unsecured or a dwelling that is fire damaged;
 - (4) The registration, re-registration and certification of a rental unit as required by this article;
 - (5) The need to determine compliance with a notice or an order issued by the village;
 - (6) An emergency observed or reasonably believed to exist;
 - (7) A request for an inspection by the property owner; or
 - (8) Requirements of law where a dwelling is to be demolished by the village or where ownership is to be transferred to the village.

(Ord. No. 231-181, § 1, 8-4-14; Ord. No. 231-228, § 1, 2-19-19)

Sec. 22-110. Complaint-initiated inspections.

If an inspection is initiated by a complaint and no violation is found to exist, no inspection fees will be assessed against the owner of the inspected rental unit.

(Ord. No. 231-181, § 1, 8-4-14; Ord. No. 231-228, § 1, 2-19-19)

Sec. 22-111. Inspection procedures.

- (a) All structures, units and premises governed by this article shall be inspected. All structures, units and premises inspected shall comply with the standards of the ordinances adopted by the village.
- (b) If an inspection is scheduled and the owner or responsible local agent fails to appear, an inspection fee shall be assessed against the owner and/or the responsible local agent, even though an inspection could not be performed. Rescheduling of the inspection shall be the sole responsibility of the owner or responsible local agent. No inspection shall be completed until all fees are paid in full.
- (c) A property owner, local agent or tenant shall provide access to his/her residential rental dwelling unit(s) and/or structure(s). An individual refusing entry shall be notified of the village's authority to inspect the property and that it will take appropriate and necessary action, including but not limited to: issuance of a citation, obtaining a search warrant, posting the unit as uninhabitable and/or instituting other legal action as prescribed herein.
- (d) Once the inspection required for issuance of the certificate of compliance is satisfied, it shall then be valid for a period of two years.

(Ord. No. 231-181, § 1, 8-4-14; Ord. No. 231-228, § 1, 2-19-19)

Sec. 22-112. Inspection criteria.

- (a) The village shall utilize the "International Property Maintenance Code" and other applicable ordinance requirements adopted by the village council as the established standards for the inspection of residential rental dwelling structures and units.

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- (b) The building official shall prepare a standardized checklist of items to be inspected consistent with the standards of the "International Property Maintenance Code". The checklist shall be available to all residential rental property owners and tenants prior to an inspection.
 - (c) The building official shall determine whether the rental dwelling structure(s) and uses comply with, or are legal nonconforming uses in their zoning district. In the event that a legal nonconformity cannot be established, or an owner disagrees with the findings of the building official in that regard, an appeal may be taken to the Village of Milford Zoning Board of Appeals.
 - (d) Water department approval shall be required, simultaneous with the inspection timeframe, indicating whether the water service account for the rental dwelling structure or unit is current. All water service payments and arrearages must be satisfied prior to the issuance of a certificate of compliance.

(Ord. No. 231-181, § 1, 8-4-14; Ord. No. 231-228, § 1, 2-19-19)

Sec. 22-113. Reinspection.

Where a reinspection must be made to ensure conformity with this article or before a certificate of compliance is issued for those rental units that have been issued violation notices, there will be charged a separate fee for every inspection when the violation has not been abated or corrected.

(Ord. No. 231-181, § 1, 8-4-14; Ord. No. 231-228, § 1, 2-19-19)

Sec. 22-114. Enforcement authorization.

The village building official, code enforcement officer, fire officials and Milford Police Officers are authorized to enforce the provisions of this article.

(Ord. No. 231-181, § 1, 8-4-14; Ord. No. 231-228, § 1, 2-19-19)

Sec. 22-115. Administrative liability.

Except as may otherwise be provided by state statute, local law or ordinance, an officer, agent or employee of the village charged with the enforcement of this article shall not render himself or herself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his or her duties under this article.

(Ord. No. 231-181, § 1, 8-4-14; Ord. No. 231-228, § 1, 2-19-19)

Sec. 22-116. Right of entry.

When an inspection shall be made, the building official, or other enforcing officer, may request permission to enter the premises at any reasonable time for the purpose of performing his or her duties under this article. Permission to access the premises may be granted by the owner of the premises, his or her agent, or a tenant occupying the premises or any other occupant of the premises. If there is an emergency, then the building official, or other enforcing officer, shall have the right to enter at any time.

(Ord. No. 231-181, § 1, 8-4-14; Ord. No. 231-228, § 1, 2-19-19)

Sec. 22-117. Warrants for nonemergency situations.

In a nonemergency situation where the owner, his or her agent, a tenant or other occupant of the premises demands a warrant for the inspection of the premises, the building official, or other enforcing officer, shall obtain a warrant from a court of competent jurisdiction. It shall be appropriate and sufficient to set forth the basis for inspection (e.g., complaint, compliance, etc.) established in this article and other applicable acts or in rules or regulations. The warrant shall also state that it is issued pursuant to this section, and that it is for the purposes set forth in this article and other acts which require that inspections be conducted. If the court finds that the warrant is in proper form and in accord with this subsection, then it shall issue the warrant forthwith. In the event of an emergency, no warrant shall be required.

(Ord. No. 231-181, § 1, 8-4-14; Ord. No. 231-228, § 1, 2-19-19)

Sec. 22-118. Access by owner.

Every tenant or other occupant of a property in the village shall give the owner thereof, or his or her agent or employee, access to any part of the premises at reasonable times for the purpose of making such inspections, maintenance, repairs or alterations as are necessary to comply with the provisions of this article.

(Ord. No. 231-181, § 1, 8-4-14; Ord. No. 231-228, § 1, 2-19-19)

Sec. 22-119. Additional rental regulations.

- (a) *Parking requirements.* The provisions of section 94-339 of this Code, regarding the requirements for the location and type of off-street parking, shall apply to residential rentals under this article, except that the number of off-street parking spaces required for residential rentals in any one-family residential district shall be two spaces for each residential dwelling unit plus one space per bedroom.
- (b) *Maximum occupancy.* The maximum number of occupants for which any rental structure or unit may be licensed shall be based upon the size and number of bedrooms as defined by the International Property Maintenance Code, as amended from time to time.
 - (1) The minimum area for a one-occupant bedroom, not including closet space, shall be 70 square feet; and
 - (2) The minimum area for bedrooms, other than one-occupant bedrooms, not including closet space, shall be 50 square feet per occupant; and
 - (3) All rental properties shall comply with the provisions regarding overcrowding, as set forth in the International Property Maintenance Code, as amended from time to time, including:

Minimum area requirements:

MINIMUM AREA IN SQUARE FEET

Space*	1 - 2 Occupants	3 - 5 Occupants	6+ Occupants
Living room	120	120	150
Dining room	No requirement	80	100

*This is in addition to the required area for bedrooms.

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- (c) *Occupant load.* Unless otherwise stated herein, in accordance with the standards established in the Michigan Building Code, as amended from time to time, the occupant load permitted in any rental structure or unit shall be one occupant per 200 square feet of floor area.
 - (d) *Impervious surfaces.* The provisions of section 94-302 of this Code regarding the requirements for minimum landscape surface ratio shall apply to all residential rentals within the village.
 - (e) *Accessory buildings and structures.* The provisions of section 94-338 of this Code regarding the requirements for accessory buildings and structures shall apply to all residential rentals. In addition, no accessory building or structure shall be used for habitation or ancillary business purposes, except for those home occupations and home-based businesses that receive approval pursuant to section 94-345 of this Code.

(Ord. No. 231-228, § 1, 2-19-19)

Sec. 22-120. Fire safety requirements.

- (a) *Scope.* The provisions of this article shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment to be provided.
- (b) *Responsibility.* The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises that do not comply with the requirements of this article.
- (c) *Means of egress.* A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the International Fire Code.
- (d) *Aisles.* The required width of aisles in accordance with the International Fire Code shall be unobstructed.
- (e) *Locked doors.* All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the International Building Code.
- (f) *Emergency escape openings.* Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction, and the following. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening.
- (g) *Fire-resistance-rated assemblies.* The required fire-resistance rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.
- (h) *Opening protectives.* Required opening protectives shall be maintained in an operative condition. All fire and smokestop doors shall be maintained in operable condition. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable.
- (i) *Fire protection systems.* All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the International Fire Code.
- (j) *Automatic sprinkler systems.* In accordance with the standards established in the Michigan Building Code, as amended from time to time, an automatic sprinkler system shall be installed throughout all residential structures and units where more than 16 persons reside. Inspection, testing and maintenance of automatic sprinkler systems shall be in accordance with NFPA 25.

(k) *Smoke alarms.* Single or multiple-station smoke alarms shall be installed and maintained in building code Groups R-2, R-3, R-4 and in dwellings not regulated in Group R occupancies, regardless of occupant load at all of the following locations:

- (1) On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
- (2) In each room used for sleeping purposes.
- (3) In each story within a dwelling unit, including basements and cellars, but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

Single or multiple-station smoke alarms shall be installed in other groups in accordance with the International Fire Code.

(l) *Power source.* In building code Group R occupancies and in dwellings not regulated as Group R occupancies, single-station smoke alarms shall receive their primary power from the building wiring, provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

Exception: Smoke alarms are permitted to be solely battery operated in buildings where no construction is taking place, buildings that are not served from a commercial power source and in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for building wiring without the removal of interior finishes.

(m) *Interconnection.* Where more than one smoke alarm is required to be installed within an individual dwelling unit in building code Groups R-2, R-3, R-4 and in dwellings not regulated as building code Group R occupancies, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

Exceptions:

- (1) Interconnection is not required in buildings which are not undergoing alterations, repairs, or construction of any kind.
- (2) Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes.

(Ord. No. 231-228, § 1, 2-19-19)

Secs. 22-121—22-140. Reserved.

ARTICLE V. PROHIBITION OF MARIHUANA ESTABLISHMENTS

Sec. 22-141. Definitions.

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

Marihuana establishment means that term as defined in the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, as amended.

Marihuana facility means that term as defined in the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, as amended.

(Ord. No. 231-225, § 1, 12-17-18)

Sec. 22-142. Marihuana establishments prohibited.

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

(Ord. No. 231-225, § 1, 12-17-18)

Sec. 22-143. Violations and penalties.

- (a) Any person who disobeys, neglects or refuses to comply with any provision of this article or who causes, allows, or consents to any of the same shall be deemed to be responsible for the violation of this article. A violation of this article is deemed to be a nuisance per se.
- (b) A violation of this article is a municipal civil infraction, for which the fines shall not be less than \$100.00, nor more than \$500.00, in the discretion of the court. The foregoing sanctions shall be in addition to the rights of the village to proceed at law or equity with other appropriate and proper remedies, including injunctive relief. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the village incurs in connection with the municipal civil infraction.

(Ord. No. 231-225, § 1, 12-17-18)

Secs. 22-144—22-165. Reserved.

Chapter 26 CABLE COMMUNICATIONS¹³

¹³Editor's note(s)—Ord. No. 231-077, § 1, adopted Jan. 21, 2003, deleted ch. 26, arts. I—XI, §§ 26-1—26-92, in its entirety. Section 2 of this ordinance enacted a new ch. 26, §§ 26-1—26-92, as set forth herein. Former ch. 26 pertained to similar subject matter, and was derived from Ord. No. 231-058, § 2, adopted August 20, 2001.

Cross reference(s)—Administration, ch. 2; businesses, ch. 22; streets, sidewalks and other public places, ch. 70; zoning, ch. 94.

ARTICLE I. IN GENERAL

Sec. 26-1. Short title.

The ordinance codified in this chapter shall be known and cited as the cable communications ordinance.
(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-2. Purpose.

The purpose of this chapter is to promote and encourage the furnishing of a high quality but economical cable communications service to the residents of the village and to regulate such service in the public interest.
(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-3. Cable system requirements.

No person shall own or operate a cable system, as defined in this chapter, in the village, except by operating authority granted by the village, or except by franchise granted by the village, which franchise shall comply with all the requirements of this chapter, except as otherwise may be provided in a franchise agreement.
(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-4. Definitions.

For purposes of this chapter, any subsequent ordinance dealing with cable communications, any franchise agreement between the village and a cable communications company, and any application or proposal submitted pursuant to an RFP, the following terms, phrases, words and their derivations shall have the meanings given herein:

Access cablecasting means services provided by a cable television system on its public, education, local government, licensed or other access channels.

Access channels means channels which are dedicated to the public interest, according to the following categories (collectively "PEG access" or "PEG channels"): (a) Public access; (b) Educational access; and (c) Governmental access.

Applicant means a person submitting a proposal for the franchise of a cable communications system.

Basic cable service means any service tier which includes the retransmission of local television broadcast signals.

Cable communications service or cable service means:

- (a) The one-way transmission to subscribers of (i) video programming, or (ii) other programming service; and
- (b) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

Cable communications system, cable system, CATV, SMA-TV (satellite master antenna television), or system means a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include: (a) A facility that serves only to retransmit the television signals of one or more television broadcast stations; (b) A facility that serves subscribers without using any public right-of-way; (c) A facility of a common carrier which is subject, in whole or in part, to the provisions of title II of the Federal Communications Act, except that such facility shall be considered a cable system other than for purposes of section 621(c) to the extent such facility is used in transmission of video programming directly to subscribers; or (d) Any facilities of any electric utility used solely for operating its electric utility system.

Cablecast means to distribute programs (both from broadcasting sources and original programs) through the cable system by means of coaxial cable or other electrical conductors or fiber optical transmitters.

Community refers to any unit with common needs or interests such as individual villages or neighborhoods, school districts or groups with common characteristics.

Community-specific cablecasting means programming or channel allocation which selectively cablecasts to individual communities to meet their unique needs or interests.

Connection means the attachment of the drop to the first radio or television set of the subscriber.

Converter means an electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a subscriber, and by an appropriate channel selector also permits a subscriber to view all basic subscriber signals included in the basic service delivered at designated converter dial locations. The converter may also allow reception of additional programming and/or services at extra cost to the subscriber.

Drop means the cable that connects the subscriber terminal to the nearest feeder cable of a cable system.

FCC means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.

Feeder means an intermediate line of cable system that carries signals from trunk line to drops.

Franchise means the rights of a grantee to construct and operate a cable system in the village, subject to the Village Charter, this chapter and the franchise agreement.

Franchise agreement means the agreement between grantee and the village setting specific rights and responsibilities of each for construction and operation of cable system.

Fraud or deceit is not limited to common law fraud and deceit but includes the meaning of those words under federal securities law.

Grantee means a person to whom a cable communications franchise has been granted or who otherwise has authority to operate a cable system.

Gross revenues means all revenue derived by grantee or any entity affiliated with grantee, from the operation of the cable system to provide cable services in the franchise area. Gross revenues shall include, but shall not be limited to, basic subscriber monthly fees, pay cable fees, converter rentals, late payment fees, installation and reconnection fees, advertising and home shopping revenue, leased access fees, and internet access service fees. The term does not include (a) any taxes on services furnished by grantee on behalf of said governmental unit, and (b) any dividends, distributions, interest or payments for service between grantee and its affiliates, subsidiaries and parent.

Headend means the equipment at the antenna site in a master antenna or cable system; the point of origination that collects all the signals (from broadcast stations, cable stations and satellite stations) and sends them to the subscribers.

Hub means one of two or more elements in a large cable system from which trunk lines originate, from which programming and data is sent out via trunk lines, where upstream messages are received and where switching is accomplished. Large systems have multiple hubs linked to each other and/or to a master headend.

Installation means the connection of the system from feeder cable to the point of connection.

Interactive system means a two-way operations system. See also *Two-way capability*.

Interconnect means to link cable headends so that subscribers to different cable systems can see the same programming simultaneously.

Local origination means programs produced locally, the content of which may be original or produced elsewhere and sold or licensed to grantee for use.

Local public access refers to the public opportunity to use cable channels which are dedicated to that purpose and are not under control of grantee.

Lockout device means a device which prevents reception of one or more channels at an individual drop.

Loop means a completely interactive closed-circuit net connecting specified municipal, educational, medical or commercial facilities within a system which should also have the capacity to be interconnected to the main cable system.

Pay TV means cable channels that require an additional subscriber fee.

Person means an individual, partnership, corporation or other entity as the context may indicate.

Point-to-point transmission means a signaling path provided by a system to transmit signals of any type from a subscriber terminal to another point in the system.

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

Proposal means an applicant's response to an RFP or otherwise pursuant to an applicant's request for the award of a new or renewal franchise. However, renewal proposals shall not be subject to the franchise application fee set forth in this chapter.

Public property means any real property owned by the village other than a street.

RFP means a request by the village for a proposal from applicants for a cable system.

Security system means optional two-way service(s) offered to cable subscribers which may alert authorities and/or subscribers of potential emergencies in the subscriber's home or public or private buildings.

Senior citizen means a person 62 years old or older.

Street or highway means the surface of and the space above and below any public street, road, highway, freeway, land, path, public way, alley, court, sidewalk, boulevard, parkway, drive or any easement or right-of-way now or hereafter held by the village which shall, within its proper use and meaning in the sole opinion of the village, entitle grantee to the use thereof for the purpose of installing, or transmitting over, poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments and other property as may be ordinarily necessary and pertinent to a system.

Subscriber means a person who pays an installation charge and/or monthly fee to a cable system operator for connections to the system and for programs and services carried on the cable.

Subscriber service drop means the same as *Drop*.

Trunk or trunk line means the main line of a cable system that carries signals from headend to extremities of cable system.

Two-way capability means the ability of a cable system to conduct signals to a headend as well as from the headend. See also *Loop*.

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

Village means the Village of Milford and all the territory within its corporate limits.

Village council means the governing body of the village.

(Ord. No. 231-077, § 3, 1-21-03)

ARTICLE II. SELECTION OF FRANCHISEE

Sec. 26-5. Award of franchise.

An ordinance granting a nonexclusive franchise may be adopted only after publication of the fact that the ordinance is available for inspection by the public during business hours in the office of the Village of Milford Clerk. Adoption of said ordinance cannot take place within 30 days of the date of said publication.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-6. Franchise application contents and fees.

All proposals shall be submitted in writing and shall be accompanied by a nonrefundable fee in an amount to be determined by the village council. All proposals shall contain the information required by the village, either in an RFP or otherwise.

- (a) Such information shall include, without limitation, the following:
 - (1) Information regarding the identity of the applicant;
 - (2) Biographical data of the applicant's principal owners and proposed management, including the experience of such persons in the cable communications field;
 - (3) Audited financial statements or the applicant's most current interim financial statements, which interim statements need not be audited but which shall be reviewed by a certified public accountant in accordance with standards established by the American Institute of Certified Public Accountants and which interim statements shall be accompanied by the accountant's report thereon;
 - (4) A financing plan for the proposed system and a projection, covering the term of the franchise, of revenue and expense in sufficient detail to permit a determination to be made of the financial viability of the applicant's proposal;
 - (5) A detailed description of the system and facilities proposed for the village, including the matters to which a response is specifically required by applicable sections of this chapter, and including a schedule of projected rates for all charges and fees to subscribers;
 - (6) A detailed timetable for the construction and commencement of operation of the system, including the matters to which a response is specifically required by applicable sections of this chapter.
- (b) A new or renewal franchise may be adopted, amended or extended by resolution or ordinance as may be required by local law.

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- (c) The village shall be entitled to verify any information furnished by the applicant in response to the RFP or in response to other requests for information regarding the applicant and the applicant's affairs. The village may exercise such right by requiring reports from the applicant, or from third parties having knowledge of the applicant, or by conducting such other kinds of investigation as the village may deem proper. In such cases the applicant shall furnish the village with such written authorization regarding release of information as may be necessary to carry out the intent and purpose of the foregoing provisions. All of the foregoing provisions shall also be applicable to a grantee as well as an applicant, it being deemed to be in the public interest that the village remains knowledgeable regarding grantee and the operation of the system throughout the term of the franchise.
 - (d) No applicant, nor any person on behalf of any applicant, shall, in responding to an RFP or in responding to any other request for information by the Village or by any other officer or agency thereof, make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading. A violation of this provision constitutes a fraud upon the village.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-7. Criteria for award of cable franchise.

The award of a new or renewal franchise to an applicant shall be based upon the information contained in the applicant's proposal and such other relevant information as may be obtained by the village regarding such applicant and the proposal. Such award shall be based upon the criteria specified by law and, to the extent lawful, such other factors as the village may deem relevant including the criteria set forth below:

- (a) The experience of the applicant in the cable communications field and the credentials of its owners and managers;
- (b) The applicant's financial resources, including both present financial condition and the availability of committed funding to finance the applicant's proposed system; and the specificity and credibility of the applicant's projections of the revenue and expenses attributable to the construction and operation of the system;
- (c) The applicant's system design, including channel capacity and ability to provide a broad range of services in conformity with the highest quality standards of the cable industry;
- (d) The applicant's schedule of rates and the length of time the applicant is committed to maintain such rates;
- (e) The applicant's response to specific local concern or needs, whether formulated by the village and made known to applicant or whether ascertained by the applicant.

(Ord. No. 231-077, § 3, 1-21-03)

Secs. 26-8, 26-9. Reserved.

ARTICLE III. FRANCHISE AGREEMENT

Sec. 26-10. Franchise agreement.

The franchise agreement shall be in such form and contain such terms and provisions as shall be approved by the village council. The agreement may be adopted, amended and extended, by resolution of the village council or by any other mode of adoption, amendment or extension authorized or required by law.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-11. Grant of franchise.

Grantee shall be awarded a franchise, pursuant to the provisions of section 26-5 of this chapter, either by resolution of the village council or by any other means authorized or required by law. Grantee shall be promptly notified of the award by the village by written notice thereof, sent by registered or certified mail.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-12. Execution and delivery by grantee.

- (a) The franchise agreement shall be properly executed and delivered to the village by grantee, promptly after approval by village. The franchise agreement shall not become effective until that specific date set forth in the franchise agreement.
- (b) Grantee shall pay to the village all costs incurred by the village in the franchise process as provided in the franchise agreement. All other payments which are to be made to the village by grantee shall similarly be made in accordance with the terms and conditions of the franchise agreement.
- (c) Grantee shall deliver all monies, documents and instruments required by this chapter or by the franchise agreement at the times provided by the franchise agreement.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-13. Execution and delivery by village.

Upon receipt by the village from grantee of the properly executed franchise agreement, together with the payment of all applicable fees, documents and instruments as may be required in accordance with section 26-12, the village may execute the agreement and, upon execution, shall deliver one fully executed copy to grantee; provided, however, nothing in this chapter shall prohibit the village from revoking the award of the franchise prior to delivery of an executed copy of the franchise agreement to grantee. In the event of any such revocation, which shall be accomplished in the same manner as that used in granting the award, any funds and all documents and instruments delivered by grantee to the village in connection with grantee's acceptance of the award, shall be returned forthwith to grantee.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-14. Term of franchise and other provisions.

- (a) The franchise agreement shall provide for a nonexclusive franchise for a term of not more than 15 years, which term shall commence as of the date set forth in the franchise agreement.
- (b) The franchise agreement shall provide that throughout the term of the franchise, grantee shall pay the village a franchise fee at the times and in an amount provided in the franchise agreement. Acceptance of any

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payment by the village shall not be construed as a release of or as an accord and satisfaction regarding any claim the village may have for further and additional sums payable as a franchise fee or for the performance of any other obligation of grantee under this chapter or the franchise agreement.

- (c) The franchise agreement shall, in substance, contain the following express undertakings by grantee:
 - (1) That grantee agrees to and accepts all provisions of the ordinance codified in this chapter as initially adopted and waives any claim that any provision of this chapter is unlawful provided, however, grantee reserves the right to contest in good faith any interpretation by the village of a provision, which interpretation is believed by grantee to be incorrect;
 - (2) That grantee recognizes the right of the village to make lawful amendments to this chapter during the term of the franchise.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-15. Negotiated provisions.

The franchise agreement shall contain such further conditions or provisions as may be negotiated between the village and grantee except that no such conditions or provisions shall conflict with any provision of this chapter or other law.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-16. Rights reserved by village.

- (a) Any franchise granted pursuant to this chapter shall be subject to the right of the village, by resolution of the village council, to revoke the franchise for just cause. "Just cause" includes, without limitation:
 - (1) A material violation by grantee of any provision of the franchise agreement or this chapter, or any rule, order, or determination of the village made pursuant thereto, where such violation remains uncured pursuant to the terms and conditions of the franchise agreement;
 - (2) Any attempt by grantee to dispose of any of the facilities or property of the system in contravention of the franchise agreement;
 - (3) The commission of any fraud or deceit upon the village.
- (b) Any franchise granted under this chapter shall be subject to all lawful applicable provisions of this chapter or other village ordinances made pursuant to the powers of the village, the Village Charter, and any lawful amendments to the foregoing, whether made prior to or after the inception of the franchise.
- (c) Any franchise granted under this chapter shall be subject to the following additional rights of the village:
 - (1) To require proper and adequate extension of plant and service and maintenance thereof at the highest practicable standard of efficiency, pursuant to the terms and conditions of the franchise agreement;
 - (2) To establish reasonable standards of service and quality of products, and to prevent unjust discrimination in service or rates;
 - (3) To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;
 - (4) To impose such other lawful ordinances or regulations as may be determined by the village council to be conducive to the safety, welfare and accommodation of the public;

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- (5) Through its appropriately designated representatives, to inspect all construction or installation work performed subject to the provisions of the franchise and this chapter, and make such inspections as it shall find necessary to ensure compliance with the terms of the franchise, this chapter, and other pertinent provisions of law;
 - (6) At the expiration of the term for which a franchise is granted or upon termination and cancellation as provided therein, to require grantee, subject to applicable law, to remove, at grantee's sole expense, any and all portions of the system from the public ways within the village;
 - (7) To require grantee to safeguard and keep private all individual home subscriber information.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-17. Procedure for termination.

Any termination, revocation or cancellation of the franchise prior to the expiration of the term thereof shall be made by resolution of the village council only after a public hearing thereon. Grantee shall be entitled to 30 days' written notice of such hearing and the notice shall specify with reasonable particularity the ground upon which the contemplated termination is based. Any such termination, revocation or cancellation shall be subject to any requirements of higher law and any limitations and due process procedures contained in the franchise agreement between the village and grantee.

(Ord. No. 231-077, § 3, 1-21-03)

Secs. 26-18, 26-19. Reserved.

ARTICLE IV. DESIGN OF SYSTEM

Sec. 26-20. Channel capacity.

Grantee shall maintain throughout the term of the franchise the number of channels specified to be initially activated in the franchise agreement. Grantee shall upgrade the system's facilities, equipment and service pursuant to the terms and conditions of the franchise agreement.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-21. Picture quality and technical requirements.

- (a) The system shall produce a picture upon each subscriber's television screen in black and white or color, depending upon whether color is being telecast and provided the subscriber's television set is capable of producing a color picture, which is undistorted and free from ghost images, without material degradation of color fidelity. The system shall produce a sound which is undistorted on a properly operating standard receiver of a subscriber.
- (b) The system shall transmit or distribute signals to television and radio receivers of all subscribers without causing cross-modulation in the cables or interfering with other electrical or electronic systems or the reception of other television or radio receivers.
- (c) The system shall at all times meet not less than minimum FCC technical standards.
- (d) The system shall be designed for and operated on a 24-hour-a-day continuous operation basis.

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- (e) Grantee's proposal shall specify the procedure for initially and subsequently testing the technical capacity of the system. Representatives of the village may be present during testing. The tests shall be done annually or at such other periods as may be set forth in the franchise agreement. All expenses for all such tests shall be paid by grantee.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-22. Two-way capacity.

- (a) Grantee shall provide the capability of maintaining an operational two-way system (audio, video and data impulse).
- (b) Grantee will not install or permit the installation of any equipment that will permit transmission of two-way services utilizing audio, video or digital signals without first obtaining written permission of the subscriber. This provision is not intended to prohibit the transmission of signals useful only for the control or measurement of the system performance, or utility meter reading.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-23. Facilities.

Grantee's proposal shall describe, in detail, the location of its headend, hubs, distribution system, studios, equipment and other facilities and a plan for implementing the construction, utilization and maintenance of those facilities including plans for accommodating further growth and changing needs and desire of the community as determined by the village.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-24. Special channel and access requirements.

- (a) Grantee shall carry broadcast stations in accordance with FCC rules as from time to time revised.
- (b) Grantee's proposal shall describe, in detail, the utilization of converters or other special equipment which subscribers are to receive and any charges for them.
- (c) Grantee shall provide adequate channels for PEG access. All residential subscribers who receive all or any part of the total services offered on the system shall also receive all PEG access channels at no additional charge. These channels shall be activated upon system activation and thereafter maintained as needed. If required by the franchise agreement, grantee shall establish rules and regulations for the use of PEG access channels which shall be approved by the village before implementation and thereafter shall not be altered or amended without approval of the village. In preparing such rules:
 - (1) Grantee shall provide an equal opportunity for use of access services;
 - (2) Grantee shall present a needs assessment of the community to be served and provide a plan to meet those needs;
 - (3) Grantee shall develop a plan to allocate to the village a reasonable use and fair schedule of channel time and use of equipment and facilities so that the village can send and receive programming fitted to its needs. Such plan shall be approved by the village before implementation and thereafter shall not be altered or amended without approval of the village;
 - (4) Grantee shall describe all equipment and facilities and any charges for their use;

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- (5) Grantee shall comply, at a minimum, with the reasonable requirements of the village now or hereafter adopted or determined regarding access channels.

(d) Grantee's proposal shall describe in detail all other channel offerings and charges for the same.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-25. Service to public buildings.

Grantee's proposal shall designate all publicly owned buildings in the village (village hall, police department, fire department, schools, library, etc.) and any buildings owned or leased for governmental use by any state, federal or local government in the village, to which grantee intends to provide service. The provisions for such service shall be described in detail and shall be provided without charge. Grantee's proposal shall include in such designation plans for existing as well as future publicly owned buildings.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-26. Interconnection.

- (a) *Interconnection required.* Grantee shall interconnect origination and access channels of the cable system with any or all other systems in adjacent areas, pursuant to the terms and conditions of the franchise agreement. Interconnection of systems may be done by direct cable connection, microwave link, satellite or other appropriate method.
- (b) *Interconnection procedure.* Upon receiving the directive of the village to interconnect, grantee shall immediately initiate negotiations with the other affected system or systems in order that costs may be shared equitably for both construction and operation of the interconnection link.
- (c) *Relief.* Grantee may be granted reasonable extension of time to interconnect or the village may rescind its order to interconnect upon petition by grantee to the village. The village shall grant said request if it finds that grantee has negotiated in good faith and has failed to obtain an approval from the system or systems of the proposed interconnection, or that the cost of the interconnection would cause an unreasonable or unacceptable increase in subscriber rates.
- (d) *Cooperation required.* Grantee shall cooperate with any interconnection corporation, regional interconnection authority or village, county, state or federal regulatory agency which may be hereafter established for the purpose of regulating, financing or otherwise providing for the interconnection of cable systems beyond the boundaries of the village.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-27. Community-specific cablecasting.

If required by the village, grantee's proposal shall describe the means and manner of providing community-specific cablecasting over the system and the time of activation and points of delivery.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-28. Computer services.

If required by the village, grantee shall design and construct a system so that A and B cables (serving residential and institutional users) accommodate interactive data communications and so that the total network

transmission time is less than one-tenth of a second. Further, the system shall accommodate interactive communications of point to point, point to multipoint, and multipoint to multipoint communications between subscribers or potential subscribers.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-29. All-channels emergency alert.

Except to the extent preempted by federal law, in case of any emergency or disaster, grantee shall make its entire system available, without charge, to the village or to any other governmental or civil defense agency that the village may designate. The system shall be engineered to provide an audio alert system to allow authorized officials to override automatically the audio signals on all channels and to transmit and report emergency information. The system shall also have the capability for visual transmission of emergency messages.

(Ord. No. 231-077, § 3, 1-21-03)

Secs. 26-30—26-32. Reserved.

***ARTICLE V. SERVICES AND PROGRAMMING;
SUBSCRIBER CONTRACTS; COMPLAINTS***

Sec. 26-33. Services and programming.

If required by the village, grantee's proposal shall state the extent of its commitment to provide for the following:

- (a) A variety of origination programming;
- (b) Automated channels carrying information from local sources;
- (c) Local access programming;
- (d) A home security package (with mechanisms to decrease incidents of false alarms);
- (e) Access support including color broadcast studio and location production equipment, postproduction equipment, access promotion plans, and use of video facilities;
- (f) Plans accommodating growth of access, production centers;
- (g) A system to accommodate data, audio and video transmissions between institutions;
- (h) Service to public buildings;
- (i) Expanding distant signal offerings as FCC rules allow;
- (j) Broadcast stations signals in late night and early morning hours;
- (k) An FM service with individual station processing;
- (l) A means for using the system during emergencies;
- (m) Needs of schools and other learning institutions.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-34. Local origination and cablecasting.

If required by the village, grantee's proposal shall include detailed information on plans for local origination, origination cablecasting, automated channels carrying information from local sources, variety of origination programming, review of and incorporation of the needs and reports of the village, channel allocations, estimated programming hours, equipment, personnel and other resources committed to local origination production.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-35. Use of channels.

- (a) Charges made by grantee to a user, except for public access channels, which shall be free, shall be set forth in the franchise agreement. Grantee shall not discriminate among users.
- (b) Advertising for any candidate for political office or for the parties sponsoring such candidates, shall be granted only upon the basis that all such other candidates for the same office or other parties sponsoring such candidate (where a party itself so advertises in the first instance) shall be provided with comparable advertising time and at a comparable rate.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-36. Marketing.

If required by the village, grantee's proposal shall describe a marketing plan, advertising policy and means to promote the use of the access channels.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-37. Interruption of service.

Whenever it is necessary to shut off or interrupt service, grantee shall do so during periods of minimum use of the system. Unless such interruption is unforeseen and immediately necessary, grantee shall give reasonable notice thereof to subscribers. All costs incurred in repairing the system shall be paid by grantee, and if service is interrupted or disconnected, rebates and/or reductions in charges will be made pursuant to the terms and conditions of the franchise agreement. The cause for any such interruption shall be removed, and service restored as promptly as reasonably possible.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-38. Complaints.

- (a) Grantee shall maintain an office in or proximate to the village which shall be open during all usual business hours, have a listed local telephone, and be so operated that complaints and requests for repairs or adjustments may be received at any time, seven days per week.
- (b) Notice of this information shall be provided to all new subscribers at time of subscription and to existing subscribers annually.
- (c) All complaints by the village, subscribers or other interested persons regarding the quality of service, equipment malfunction, billing disputes, and any other matters relative to the system, shall be investigated

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and responded to by a service representative of grantee within 24 hours. If reasonably possible, grantee shall promptly rectify the cause of all valid complaints.

(Ord. No. 231-077, § 3, 1-21-03)

Secs. 26-39—26-41. Reserved.

ARTICLE VI. CONSTRUCTION

Sec. 26-42. Initial service area.

- (a) If required by the village, grantee's proposal shall indicate the date by which system engineering and design shall be completed and dates on which each state of system construction shall be completed.
- (b) The energized cable shall be extended substantially throughout the village (as determined by the village) within 18 months after commencement of construction or as otherwise provided in the franchise agreement. All persons along the route of the energized cable who desire them shall have individual drops installed within the same period of time.
- (c) If required by the village, a map prepared by grantee reflecting the areas within the village initially served by the system along with the schedule for development of the system shall be included in grantee's proposal.
- (d) The village shall cooperate with grantee in the development of its proposed service areas by making available to grantee for copying all maps, data and other statistical information then in possession of the village needed for the preparation of a map defining the initial service area.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-43. Construction timetable.

- (a) Grantee's construction timetable as set forth in the franchise agreement shall reflect the specific method and schedule of construction of the system. The plan of grantee shall reflect the following:
 - (1) Location of all facilities including studios, headends, microwave receivers and senders and all hubs and wiring;
 - (2) A timetable reflecting when each area within the initial service area will be served;
 - (3) Grantee shall provide in its timetable a construction pattern that will allow the utilization of service to the greatest number of people in the shortest time period.
- (b) Within 60 days after the effective date of the franchise term, grantee shall apply for all necessary permits, licenses, certificates and authorizations which are required in the conduct of its business including, but not limited to, any joint use attachment agreements, microwave carrier licenses or any other permits, licenses and authorizations to be granted by duly constituted regulatory agencies having jurisdiction over the operation of the cable communications system, or their associated microwave transmission facilities. If after six months from the commencement of the franchise term, grantee has not received the permits, licenses, certificates and authorizations described in this paragraph, the village may assess penalties pursuant to the franchise agreement without regard to fault for delay in obtaining such permits, licenses, certificates and authorizations, unless otherwise provided in the franchise agreement.
- (c) Promptly after obtaining all necessary permits, licenses, certificates and authorizations, grantee shall give written notice thereof to the village and commence construction and installation of the system.

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- (d) Grantee shall promptly notify the village of all delays known or anticipated in the construction of the system. The village may extend the construction timetable in the event grantee, acting in good faith, experiences delays by reason of circumstances beyond its control.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-44. Construction standards.

- (a) Grantee shall not open or disturb the surface of any streets or public property without first obtaining a permit from the village for which permit the village may impose a reasonable fee to be paid by grantee. The lines, conduits, cables and other property placed in the streets, and public property pursuant to such permit shall be located in such part of the street or public property as shall be determined by the village. Grantee shall upon completion of any work requiring the opening of any streets or public property, restore the same including the pavement and its foundations to as good a condition as formerly and in a manner and quality approved by the village. Such work shall be performed with diligence and due care and if grantee fails to perform the work promptly, to remove all dirt and rubbish and to put the street or public property back into the condition required by this chapter, the village shall have the right to put the streets or public property back into such condition at the expense of grantee. Grantee shall, upon demand, pay to the village the cost of such work done.
- (b) All wires, conduits, cable and other property and facilities of grantee shall be so located, constructed, installed and maintained as not to endanger or unnecessarily interfere with the usual and customary trade, traffic and travel upon, or other use of, the streets and public property of the village. Grantee shall keep and maintain all of its property in good condition, order and repair so that the same shall not menace or endanger the life or property of any person. The village shall have the right to inspect and examine at all reasonable times and upon reasonable notice the property owned or used, in part or in whole, by grantee. Grantee shall keep accurate maps and records of all of its wires, conduits, cables and other property and facilities located, constructed and maintained in the village. Further, grantee shall furnish copies of such maps and records from time to time as requested by the village without charge.
- (c) All wires, conduits, cables and other property and facilities of grantee shall be constructed and installed in an orderly and workmanlike manner. All wires, conduits and cables shall be installed, where possible, parallel with electric and telephone lines. Multiple cable configurations shall be arranged in parallel and bundled with due respect for engineering considerations.
- (d) Grantee shall at all times comply with the following codes, rules, regulations, as amended, and any others supplemental to or in substitution thereof:
- (1) National Electrical Safety Code (National Bureau of Standards);
 - (2) National Electrical Code (National Bureau of Fire Underwriters);
 - (3) Bell System Code of Pole Line Construction;
 - (4) Applicable FCC and other applicable federal, state and local regulations and ordinances.

In any event, the installation, operation or maintenance of the system shall not endanger or interfere with the safety of persons or property in the village.

- (e) Whenever the village undertakes any public improvement which affects grantee's equipment or facilities, the village may, with due regard to reasonable working conditions and with reasonable notice, direct grantee to remove or relocate its wires, conduits, cables and other property at its own expense.

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- (f) Grantee's plans for constructing its system, and the construction of the system, shall be in accordance with its proposal as modified by the franchise agreement. However, grantee shall comply with the following minimum requirements:
- (1) Grantee shall construct underground in any area where both electrical or telephone lines have been installed underground.
 - (2) Grantee shall change from aerial to underground at its own expense, in any area where both the telephone and electrical utilities are hereafter changed from aerial to underground.
 - (3) To enable grantee reasonable opportunity to change its wiring from aerial to underground, and also to allow it to prewire all new subdivisions or new development areas, the village shall provide grantee with written notice of the following, in accordance with the terms of the franchise agreement:
 - a. Any changes of which village has knowledge, or which the village may order, regarding a change from aerial to underground of any line (telephone or electrical) within its boundaries;
 - b. Any underground trenching that may be pending;
 - c. New subdivisions and development. All of such subdividers or developers shall be notified of the franchise and the system;
 - d. All ordinance changes affecting the wiring of the system.
- (g) Grantee shall, upon completion of any work on private property (or easements thereon), restore the same including any and all landscape features, plantings, turf, buildings, pipes and wires (overhead and underground), pavements, sidewalks, foundations or other features whatsoever, to as good a condition as existed before construction.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-45 Location, maintenance and removal.

- (a) Grantee shall not place poles or other fixtures where the same will interfere with any gas, electric or telephone fixtures, water hydrant or main.
- (b) Grantee, at the request of any person holding a building moving permit and with not less than five days' advance notice, shall temporarily remove, raise or lower its wires, conduits and cables. The expense of such temporary removal, raising or lowering of wires, conduits and cables shall be paid by persons requesting the same, and grantee shall have the authority to require such payment in advance.
- (c) Grantee shall have the authority, to the extent the village has authority to grant the same, to trim trees upon or overhanging any street or public property so as to prevent the branches of such trees from coming in contact with the wires, conduit and cables of grantee. All trimming shall be done under the supervision and direction of the village and at the expense of grantee.

(Ord. No. 231-077, § 3, 1-21-03)

Secs. 26-46—26-49. Reserved.

ARTICLE VII. SYSTEM OPERATIONS

Sec. 26-50. Information availability.

- (a) Throughout the term of the franchise, grantee shall maintain books and records in accordance with normal and accepted bookkeeping and accounting practices for the cable communications industry, and allow inspection and copying of the same at reasonable times at its designated office. The books and records to be maintained by grantee shall include the following:
 - (1) A record of all requests for service;
 - (2) A record of all subscriber or other complaints and the action taken;
 - (3) A file of all subscriber contracts, provided, however, that grantee will not have to disclose subscriber records which would tend to invade subscriber privacy;
 - (4) Grantee policies, procedures and company rules; and
 - (5) Financial records, pursuant to the terms and conditions of the franchise agreement.
- (a) Village shall give grantee at least 24 hours' notice before making inspections of any books or records of grantee.
- (b) Grantee shall file with the village, at the time of its payment(s) of the franchise fee, the following:
 - (1) A financial statement, certified by grantee as correct, showing in such detail as may be required by the village the gross operating revenues of grantee for the period to which the fee relates, together with all other financial information customarily contained in such statements and such other financial information as may be required by the franchise agreement;
 - (2) An annual certified financial statement prepared by an independent certified public accountant showing in such detail as may be required by the village the gross operating revenues of grantee for the period to which the annual fee relates, together with all other financial information customarily contained in such statements and such other financial information as may be required by the franchise agreement;
 - (3) Such other information and documents required by the franchise agreement;
 - (4) A statement of its current billing practices if changed from a prior filing;
 - (5) A copy of its current rules if changed from a prior filing;
 - (6) A copy of its current subscriber service contract if changed from a prior filing.
- (d) The village, its agents and representatives shall have the authority to arrange for and conduct an audit of and copy the books and records of grantee as provided in the franchise agreement; provided, however, that all books and records so audited shall remain the sole and exclusive property of grantee. Grantee shall first be given notice of the audit request, as provided in the franchise agreement' the description of and purpose for the audit, and the description, to the best of the village's ability, of the books, records and documents it wishes to review.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-51. Service contract.

- (a) Grantee shall receive approval from the village of the form and content of any service contract to be used by grantee prior to entering any such service contracts with subscribers, and grantee shall make no substantive changes in the approved service contract without prior approval of the village. The service contract shall

include, at a minimum, a schedule of all rates and charges, a description of services, instructions on the use of the system, and billing and collection practices.

- (b) Grantee shall have authority to promulgate rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable grantee to exercise its rights and perform its obligations under this franchise and to ensure an uninterrupted service to each and all of its subscribers; provided such rules, regulations, terms and conditions are not in conflict with the provisions of the franchise agreement ordinances of the village and laws of the state or the United States.
- (c) Each subscriber shall be provided with instructions on filing complaints or otherwise obtaining information or assistance from grantee.
- (d) All items described in this article shall be provided to each new subscriber at the time a contract is entered or service begun and to all existing subscribers forthwith upon any changes therein.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-52. Subscriber practices.

- (a) There shall be no charge for disconnection of any installment or outlet. If any subscriber fails to pay a properly due monthly subscriber fee or any other proper fee or charge when due, grantee may discontinue service to such subscriber; provided, however, grantee may not remove any of its equipment until after the later of (1) 45 days after the due date of said delinquent fee or charge, or (2) ten days after delivery to subscriber of written notice of the intent to disconnect. If a subscriber pays before expiration of the later of (1) or (2), grantee shall not disconnect. After disconnection, upon payment in full of the delinquent fee or charge and the payment of a reconnection charge, grantee shall promptly reinstate the subscriber's cable service. Where a subscriber has become delinquent in payment more than once, grantee shall not be required to reinstate the subscriber's cable service.
- (b) Refunds to subscribers shall be made or determined in the following manner:
 - (1) If grantee fails, upon request by a subscriber, to provide any service then being offered, grantee shall promptly refund all deposits or advance charges paid for the service in question by said subscriber. This provision does not alter grantee's responsibility to subscribers under any separate contractual agreement or relieve grantee of any other liability.
 - (2) If any subscriber terminates any monthly service because of failure of grantee to render the service in accordance with the franchise, grantee shall refund to such subscriber the proportionate share of the charges paid by the subscriber for the services not received. This provision does not relieve grantee of liability established in other provisions of the franchise.
- (c) If any subscriber terminates any monthly service prior to the end of a prepaid period, a proportionate portion of any prepaid subscriber service fee, using the number of days as a basis, shall be refunded to the subscriber by grantee.

Sec. 26-53. Reserved.

ARTICLE VIII. RATES AND CHARGES

Sec. 26-54. Limitations on rates.

The charges made for services of grantee shall be as set forth in the franchise agreement. Grantee shall receive no consideration whatsoever from its subscribers for or in connection with its service to its subscribers other than in accordance with this section, without approval of the village council.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-55. Adjustments to rates.

The village council shall have the power, authority and right to cause grantee's rates and charges to conform to the provisions of section 26-54, and for this purpose it may deny or institute changes in such rates and charges when it determines that, in the absence of such action on its part, grantee's rates and charges or proposed rates and charges will not conform to section 26-54; provided, however, that the village council shall not, in making such determination, act in contravention of the franchise agreement.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-56. Rate schedule.

Grantee's proposal shall include a detailed schedule of all rates and charges applicable to the system as required by the RFP. There shall be no charge for disconnection of any installation or connection and no charge for maintenance or repair service unless such service is required as a result of damage caused by the subscriber.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-57. Rate changes.

- (a) The criteria and standards relating to the establishment of rate changes, whether initiated by the village or by grantee, shall include those certain criteria set forth in the franchise agreement.
- (b) The procedure for reviewing and establishing a proposed rate change shall be set forth in the franchise agreement.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-58. Limitations on rate regulation.

The provision of this article shall apply only if, when, and to the extent permitted by law.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-59. Reserved.

ARTICLE IX. LANDLORD-TENANT RELATIONSHIP

Sec. 26-60. Purpose.

The village declares that the ordinance codified in this chapter has as one of its principal objectives the lawful public purpose of rapidly developing and maximizing the educational, community service, cultural and public safety potential of the village. The village further finds that the public interest and necessity require that no owner of any multiple unit residential dwelling (nor its agent or representative) be permitted to directly or indirectly prevent any resident of such dwelling from receiving cable communications service installation, maintenance and services from a grantee operating under a valid franchise issued by the village.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-61. Negotiation of agreement.

In order to provide the opportunity for the residents of any multiple unit residential dwelling to obtain service from grantee, such grantee may negotiate an agreement with the owner of that dwelling or, failing agreement, may request that the village exercise its power of eminent domain for the necessary public purpose of enabling grantee to serve residents of that multiple unit residential dwelling. Upon request of such grantee, the village may commence condemnation proceedings in accordance with applicable law. In the event of such proceeding, in preparing its good-faith offer of just compensation, the village may consider:

- (a) The amount and fair market value of space occupied by grantee's cable and related facilities. The fair market value of the space shall be assessed in light of the prior use, if any, of that space, together with any evidence of nonspeculative alternative uses;
- (b) The present value of any funds that the owner will reasonably expend over time in ensuring that grantee conforms to all laws, regulations and reasonable conditions necessary to ensure the safety, convenient functioning and appearance of the multiple unit residential dwelling;
- (c) The continued physical availability of other space on the premises for the installation of alternative modes of television program reception or delivery;
- (d) As an offset to the amounts set forth in sections 26-60 and 26-61, any increase in the fair market value of the multiple unit residential dwelling attributable to the availability of grantee's service to the property's tenants; and
- (e) Any other reasonable, nonspeculative factors which the village may find relevant.

The requesting grantee shall indemnify the village for expenses and costs incurred by the village in the condemnation proceedings as well as for the full amount of the condemnation proceedings [when they] are completed or otherwise settled.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-62. Additional charges.

- (a) Notwithstanding anything to the contrary set forth in this chapter or the franchise agreement, grantee shall be permitted to charge each resident of a multiple unit residential dwelling an additional charge, above and beyond the service rate for a single-family dwelling as specified in the franchise agreement, solely to defray the exact additional per resident cost to grantee of compensating the owner for access to the multiple unit residential dwelling.

(b) Any such additional charge shall be subject to the approval of the village. Such additional charge shall not be included in the computation of franchise fees due to the village pursuant to this chapter or the franchise agreement.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-63. Denial of service.

Notwithstanding any other language in this section or elsewhere in this chapter, grantee shall not be obligated to provide service to any multiple unit residential dwelling so long as the owner of that dwelling demands compensation from grantee in an amount that is unreasonable or imposes financial or other conditions that would, in grantee's reasonable business judgment, render provision of service to that dwelling uneconomic. Should grantee subsequently agree to render service to such multiple unit residential dwelling, there shall be no installation charges to the residents of such dwelling beyond those set forth in the franchise agreement. Grantee shall not be obligated, in such circumstances, to request the village to institute condemnation proceedings.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-64. Discrimination against tenant prohibited; penalty.

Neither the owner of any multiple unit residential dwelling nor its agent or representative shall penalize, charge or surcharge a tenant or resident or forfeit or threaten to forfeit any right of such tenant or resident or discriminate in any way against such tenant or resident who requests or receives cable communications service from a company operating under a valid and existing cable communication franchise issued by the village. Any person convicted of violating any provision of this article is subject to a fine of not more than \$500.00 for each offense.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-65. Resale prohibited.

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

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-66. Conformance with laws.

Nothing in this article shall prohibit a person from requiring that cable communications system facilities conform to laws and regulations and reasonable conditions necessary to protect safety, functioning and appearance.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-67. Indemnification.

Nothing in this article shall prohibit a person from requiring grantee to agree to indemnify the owner, or his agents or representatives, for damages or for liability for physical damages caused by installation, operation, maintenance or removal of cable television facilities.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-68. Limitations on landlord/tenant regulations.

The provisions of this article apply only if, when, and to the extent permitted by law.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-69. Reserved.

ARTICLE X. MISCELLANEOUS

Sec. 26-70. Administrator.

The village council may appoint an administrator who shall serve at the pleasure of the council and who shall be responsible for the continuing administration of the franchise on the part of the village. The village shall provide written notice to grantee of the initial appointment of the administrator and any subsequent appointments.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-71. Advisory body.

The village council may appoint a cable communications advisory committee to perform such duties and to have such powers as the village council may determine. The composition and terms of office of the members of the committee, as well as the duties and powers of the committee, shall be determined and established by resolution of the village council.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-72. Delegation of authority.

The village reserves the right to delegate from time to time any rights or obligations under the franchise to any body or organization. Any such delegation shall be effective upon written notice thereof to grantee. Upon receipt of such notice grantee shall be bound by all terms and conditions of the delegation not in conflict with the franchise. Any such delegation or revocation thereof, no matter how often made, shall not be deemed to be an amendment to the franchise or require grantee's consent.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-73. Subliminal advertising prohibited.

Grantee is expressly prohibited from transmitting any form of subliminal advertising at any time.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-74 Tampering prohibited.

No person, whether or not a subscriber to the cable system, may intentionally or knowingly remove or damage or cause to be damaged any wire, cable, conduit, equipment or apparatus of grantee, or to commit any act with an intent to cause such removal or damage, or tap, tamper with or otherwise connect any wire or device

to a wire, cable, conduit, equipment and apparatus and appurtenances of the licensee with the intent to obtain a signal or impulse from the cable system without authorization from or compensation to grantee, or obtain cable television or other communications service or sell, rent, lend, offer or advertise for sale, rental or use any instrument, apparatus, device, or plans, specifications, or instructions for making or assembling the same to connect to grantee's cable system with intent to cheat or defraud grantee of any lawful charge to which it is entitled.

(Ord. No. 231-077, § 3, 1-21-03)

Secs. 26-75—26-77. Reserved.

ARTICLE XI. CUSTOMER SERVICE AND MISCELLANEOUS

Sec. 26-78. Customer service.

Grantee shall maintain a local office or offices which provide the necessary facilities, equipment and personnel to comply, under normal operating conditions, with the customer service standards set forth in subsections (a) through (e) of this section. For purposes of this section, "normal operating conditions" embrace all conditions which are within the control of grantee, including special promotions, pay-per-view events, rate increases and maintenance or upgrade of the cable system, but excluding conditions outside grantee's control, such as, natural disasters, civil disturbances, power outages, telephone network outages and extreme weather:

- (a) On a quarterly basis, sufficient customer service representatives and toll-free telephone line capacity during normal business hours to assure that a minimum of 90 percent of all calls will be answered within 30 seconds and 90 percent of all calls for service will not be required to wait more than 30 seconds after such call has been answered before being connected to a service representative. All incoming customer service lines shall not be simultaneously busy more than three percent of the total time the cable office is open on any business day. Grantee shall report its compliance with this section quarterly. In the event grantee ever defaults under the requirements of this section, then the village may require grantee to comply on a monthly basis and report such compliance monthly until such time that compliance has been established for three consecutive months in which case grantee may revert to quarterly compliance and reporting;
- (b) Staffed emergency toll-free telephone line capacity on a 24-hour basis, including weekends and holidays;
- (c) Maintenance of an office in the franchise area of the Western Oakland County Cable Communications Authority (hereinafter "the authority") with adequate office hours to meet public demand. The authority may require grantee to alter or extend these hours if there is significant evidence through subscriber complaints that the posted hours are not adequate;
- (d) An emergency system maintenance and repair staff, capable of responding to and repairing system malfunctions on a 24-hour basis;
- (e) An installation staff, capable of furnishing standard installation to any subscriber within seven days after receipt of a request. "Standard installations" means those located up to 175 feet from where trunk and feeder cable have been activated. Grantee shall, at its sole expense, cause all drops required to be buried to be properly buried within 15 days of installation of service unless conditions during such period make burial impracticable, in which case the drop shall be buried within 15 days after physical conditions reasonably allow for such burial. In the event of any dispute between grantee and the subscriber as to when conditions permit burial of the drop, such dispute shall be resolved by the

decision of the village's building official or other official designated by the village to resolve such disputes;

- (f) Grantee shall provide written instructions and information at the time of installation and reinstallation, and at least annually thereafter, to all subscribers on products and services, prices and options, installation and service maintenance policies, instructions for using the system, and billing and complaint procedures. Such instructions and information shall include grantee's business address, applicable phone number, and the name of the appropriate official or department of grantee to whose attention the subscriber should direct a request for service, request for billing adjustment or complaint. Such instructions and information shall also include the name, business address and telephone number of the authority's executive director and the title, business address and telephone number of the designated village employee to whom the subscriber can call or write for information regarding the terms, conditions and provisions governing grantee's franchise if grantee fails to respond within a reasonable period of time to the subscriber's complaint or request for installation, service or billing adjustment.
- (1) Grantee shall promptly furnish revised written instructions and information to each subscriber whenever the instructions and information previously provided have been changed.
- (2) The written instructions and information provided for herein shall be subject to the review and approval of the authority which shall not withhold its approval unreasonably. The authority shall have the power to compel changes in such material if the authority deems the same to be misleading, incorrect or inadequate in any material respect; and Grantee shall promptly institute any changes so required by the authority.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-79. Cable service.

- (a) Grantee shall interrupt system service only with good cause and for the shortest time possible and, except in emergency situations, only after periodic cablecasting notice of service interruption for two days prior to the anticipated interruption. Services may be interrupted between 1:00 a.m. and 5:00 a.m. for routine testing, maintenance and repair, without notification, any night except Friday, Saturday, Sunday, holidays or the night preceding a holiday.
- (b) Grantee shall maintain a written log, or an equivalent stored in computer memory and capable of access and reproduction in printed form, of all subscriber complaints. Such log shall list the date and time of such complaints, identifying the subscribers and describing the nature of the complaints and when and what actions were taken by grantee in response thereto. Such log shall be kept at grantee's local office, reflecting the operations to date for a period of at least three years, and shall be available for public inspection during regular business hours. Grantee shall submit a summary of such complaints monthly to the authority for its review or a copy thereof if the authority so requests.
- (c) For purposes of this section "service interruption" means any loss or distortion of picture and/or sound on one or more channels; "subscriber problem" means a service interruption affecting a single subscriber; "outage" shall mean a service interruption affecting two or more subscribers. Grantee shall maintain a sufficient repair force of competent technicians so as to respond effectively, under normal operating conditions as specified in section 26-78 above, to any subscriber problem or outage within the following time periods, unless the applicable period is extended at the request of the subscriber or extended pursuant to the requirements of any applicable law or regulation:

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- (1) Subscriber problem: "same day" service, seven days a week for all requests for service received prior to 12:00 p.m. each day. In no event shall the response time for notice received after 12:00 p.m. exceed 24 hours, including weekends and holidays, from the time grantee receives notice of the problem.
 - (2) Outage: within two hours, including weekends and holidays, from the time grantee discovers or receives notice of the outage.
- (d) Upon receipt of a request for service, grantee shall establish a four-hour appointment window with the subscriber (or adult representative of the subscriber). Grantee shall respond to the request for service within such established appointment window. In the event access to the subscriber's home is not made available to grantee's technician when the technician arrives during the established appointment window, the technician shall leave written notification stating the time of arrival and requesting that grantee be contacted again to establish a new appointment window. In such case, the required response time for the request for service shall be 24 hours from the time grantee is contacted to establish the new appointment window. Notwithstanding the foregoing, if grantee's technician telephones the subscriber's home before or during the appointment window and is advised that the technician will not be given access to the subscriber's home during the appointment window, then the technician shall not be obliged to travel to the subscriber's home or to leave the written notification referred to above; and the burden shall again be upon the subscriber (or adult representative of the subscriber) to contact grantee to arrange for a new appointment window, in which case the required response time for the request for service shall again be 24 hours from the time grantee is contacted to establish the new appointment window.
- (e) Except as otherwise provided in subsection (d) of this section, grantee, under the provisions of this section 26-78, shall be deemed to have responded to a request for service, a subscriber problem, or an outage only when sufficient technicians arrive at the service location, begin work on the request for service or remedial work, as the case may be, and proceed diligently to complete such work.
- (f) No charge shall be made to the subscriber for any service call unless the problem giving rise to the service request can be demonstrated by grantee to have been:
- (1) Caused by subscriber negligence;
 - (2) Caused by malicious destruction of cable equipment; or
 - (3) A problem previously established as having been noncable in origin.
- (g) All service personnel of grantee or its contractors or subcontractors who have as part of their normal duties contact with the general public shall wear on their clothing a clearly visible identification card bearing their name and photograph. Grantee shall account for all identification cards at all times. Every service vehicle of grantee shall be clearly identifiable by the public as such a vehicle.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-80. Grantee's billings and communications.

- (a) Grantee's bills to its subscribers shall be clear, concise and understandable and shall be itemized as to each charge reflected thereon. The bill and any accompanying communication from grantee to its subscribers, and any other communication from grantee to its subscribers, shall not contain any material misstatement or omit to state a material fact which omission would make the information furnished misleading.
- (b) The billing form and content in use by grantee as of the date of adoption of this article shall be subject to the approval of the authority. Any modification of the form and content of grantee's bills to subscribers shall also be subject to the authority's approval.

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- (c) The authority shall not withhold its approval of the form and content of grantee's bills unreasonably. If the authority disapproves of the form of wording of any of grantee's bills to subscribers, it shall so notify grantee and shall specify the basis for such disapproval. Grantee shall then modify the bills so as to remedy the defects specified by the authority. The modification shall be implemented by grantee effective with the first billing after the expiration of 45 days after receipt by grantee of the authority's notice of disapproval, unless the authority extends such time.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-81. Disconnect and downgrade charges.

- (a) Grantee shall make no charge to any subscriber on account of complete discontinuance of service or, except as may be otherwise authorized by law, a net downgrade of service whereby the subscriber requests a lower tier of basic service and/or a net reduction in premium service.
- (b) Grantee may only disconnect a subscriber if at least 45 days have elapsed after the due date for payment of the subscriber's bill and grantee has provided at least ten days' written notice to the subscriber prior to disconnection specifying the effective date after which cable services are subject to disconnection; provided, however, notwithstanding the foregoing, grantee may disconnect a subscriber at any time if grantee in good faith and on reasonable grounds determines that the subscriber has tampered with or abused grantee's equipment, or is or may be engaged in the theft of cable services.
- (c) Grantee shall promptly disconnect any subscriber who so requests disconnection. No period of notice prior to requested termination of service may be required of subscribers by grantee. If the subscriber fails to specify an effective date for disconnection, the effective date shall be deemed to be the day following the date the disconnect request is received by grantee. No charge may be imposed upon the subscriber for any cable service delivered after the effective date of the disconnect request.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-82. Late payment charges.

Late payment charges imposed by grantee upon subscribers shall be fair and shall be reasonably related to grantee's cost of administering delinquent accounts. No late payment charge shall be imposed upon a subscriber, and a subscriber shall not be deemed to be in arrears on a bill, unless at least 30 days have elapsed after the due date specified on the bill; and, for purposes of this section and the prior section, the due date specified on the bill shall not be earlier than the first day of the monthly period to which the bill is attributable.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-83. Notice of programming or channel change.

Grantee shall provide at least 30 days' written notice to subscribers prior to disconnecting any channel or programming service or to realigning any channel and shall provide written notice of the same to the authority no later than grantee's notice to subscribers. This provision shall not preclude the right of the village or the authority on behalf of the village to contest or prohibit any such action by grantee if, and to the extent, such right exists. The foregoing notice requirement shall not apply in cases in which a programming service is discontinued because a nonaffiliated provider thereof discontinues furnishing the same to grantee on less than 30 days' notice to grantee. In any such case grantee shall nevertheless furnish notice to its subscribers and the authority promptly upon grantee receiving notice of the discontinuance of the programming service from such unaffiliated provider.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-84. Notice of price increase or reduction of service.

Grantee shall provide at least 30 days' written notice to subscribers prior to implementing any increase in subscriber rates or reduction in subscriber services and shall provide written notice of the same to the authority no later than grantee's notice to subscribers. The provisions of this section shall not preclude the right of the village or the authority on behalf of the village to contest or prohibit any such action by grantee if, and to the extent, permitted by law.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-85. Grantee's communications.

Prior to or simultaneously with any communication made by grantee to the general public or to grantee's subscribers announcing or explaining any increase in subscriber rates or reduction in programming services, grantee shall furnish a copy of such communication to the authority. Such communication shall not contain any material misstatement or omit to state a material fact which omission would make the information furnished misleading.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-86. Disclosure of information on grantee's costs.

In the event grantee, in any communication to the general public, to the village, to subscribers, or to the authority, justifies a price increase or reduction in service on the basis of increased costs to which grantee has been or will be subjected, then grantee, on written request of the authority, shall promptly furnish the authority the underlying information on which such claim of increased costs is based in such form as the authority may request. The information furnished shall not contain any material misstatement or omit to state a material fact which omission would make the information furnished misleading.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-87. Subscriber rebates.

- (a) Except for planned outages where subscribers are provided reasonable notification in advance, upon a subscriber's request, grantee shall provide not less than a one-day credit for each day in which there is a period of four hours or more during which the subscriber experienced a significant impairment of cable service not attributable to any action or omission of the subscriber or to any defect in the subscriber's equipment. The credit specified herein shall be equal to one-thirtieth of the subscriber's total monthly bill for all services and equipment other than pay-per-view; provided, however, if such monthly bill includes a charge for a pay-per-view program subject to such outage or significant impairment, then the credit shall be increased by the amount of such charge.
- (b) In the event of a violation of the provisions of this article by grantee which results in a subscriber not receiving cable programming service or receiving only significantly impaired service, the authority may order and direct grantee to issue a rebate to such subscriber in an amount determined by the authority to provide monetary relief to the subscriber substantially equal to the subscriber's unliquidated detriment or loss resulting from such violation, not to exceed the subscriber's monthly bill.
- (c) Nothing in this section shall be deemed to preclude a subscriber from requesting and receiving from grantee a rebate greater than that provided in subsections (a) and (b) of this section.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-88. Security fund.

- (a) Subsequent to the effective date of the ordinance codified in this article, within ten days after the award of a new franchise or the transfer, extension or renewal of an existing franchise, grantee thereunder shall furnish the authority, on behalf of all of the authority's member communities, and thereafter maintain with the authority, throughout the term of the franchise, a cash deposit of \$50,000.00 as security for:
 - (1) The faithful performance by it of all the provisions of this article and the franchise;
 - (2) Compliance with all orders, permits and directions of any agency, commission, board or department of the village having jurisdiction over its acts or defaults under the franchise; and
 - (3) The payment by grantee of any claims, liens and taxes due the village which arise by reason of the construction, operation or maintenance of the system.
- (b) Within ten days after notice to it that any amount has been withdrawn from the security fund, grantee shall pay to or deposit with the authority a sum of money in the full amount withdrawn.
- (c) If grantee fails to pay to the village any fees within the time fixed herein; or fails, after ten days' written notice, to pay to the village any taxes due and unpaid; or fails to repay the village within such ten days, any damages, costs or expenses which the village shall be compelled to pay by reason of any act or default of grantee in connection with a franchise; or fails, after any applicable notice and cure period, to comply with any provisions of the franchise which the village reasonably determines can be remedied by a withdrawal from the security fund, the authority, on request of the village may immediately withdraw the amount thereof, with interest and any additional charges, from the security fund. Upon such withdrawal, the authority shall notify grantee of the amount and date thereof and shall remit to the village the amount so withdrawn.
- (d) The security fund deposited pursuant to this section, including all interest thereon, if any, shall be held by the authority, for the benefit of its member communities, in the event that the franchise is rescinded or revoked by reason of the default of grantee. Grantee, however, shall be entitled to the return of such security fund, or such portion thereof as remains on deposit at the expiration of the term of the franchise, provided that there is then no outstanding default on the part of grantee. Any interest earned by the investment of the security fund shall become part of the security fund and unless consumed by the payment of liquidated damages, fees or other charges under this article, shall be returned to grantee at the expiration of the franchise term, provided that there is then no outstanding default on the part of grantee.
- (e) The authority shall maintain the security fund in a segregated account and shall not commingle the same with any other moneys of the authority. The authority may, but shall not be required to, invest the security fund so as to earn interest thereon and shall not be liable to grantee on any claim based upon the lack or insufficiency of interest earned by such fund.
- (f) Payment from the security fund shall not constitute a cure of any violation or any act of noncompliance by grantee. The rights reserved to the village with respect to the security fund are in addition to all other rights of the village whether reserved by this article or authorized by law, and no action, proceeding or exercise of a right with respect to such security fund shall affect any other right the village may have.
- (g) The security fund provided for in this section shall be in addition to any performance bond, letter of credit or other security provided for in the franchise agreement.

(Ord. No. 231-077, § 3, 1-21-03)

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Sec. 26-89. Liquidated damages.

- (a) The authority may assess liquidated damages of up to \$100.00 per day against grantee for each day grantee is in violation of this article. Such assessment may be levied against the security fund specified in this article or any letter of credit, performance bond or other security provided for in the franchise agreement after any applicable notice and cure period.
- (b) Assessment of liquidated damages shall not constitute a waiver by the village of any other right or remedy it may have under the franchise agreement or applicable law, including the right to recover from grantee any costs and expenses, including reasonable attorney's fees, which are incurred by the village on account of grantee's violation of this article.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-90. Evaluation of violations.

- (a) The violation of this article by grantee, grantee's agents, employees and/or independent contractors employed or retained by grantee shall be grounds for evaluating:
 - (1) Grantee's compliance with any existing agreement and with applicable law;
 - (2) The quality of grantee's service and whether it has been reasonable in light of community needs;
 - (3) The technical ability of grantee to provide the services, facilities and equipment as set forth in an operator's proposal for future or renewed cable services; and
 - (4) The reasonableness of grantee's proposal to meet the future cable-related community needs and interests of the residents and cable television consumers of the village.
- (b) These evaluations shall be proper and germane for the village to consider formally when reviewing a proposal for renewal of any agreement to provide cable services within the village.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-91. Remedies available.

If the authority determines that grantee has violated this article, the authority may order appropriate rebates to subscribers as provided in this article and/or assess liquidated damages against grantee as provided in this article. In addition, the village may pursue any additional or other legal or equitable remedies available to it under the franchise agreement or any applicable law.

(Ord. No. 231-077, § 3, 1-21-03)

Sec. 26-92. Appeal process.

With respect to matters affecting the village individually, and excluding matters affecting all of the authority's member communities equally, grantee may appeal any action of the authority to the village by submitting a written appeal within 21 days from the date of the authority's action to which grantee objects. Upon such appeal, the village council shall conduct a de novo review of the action of the authority being appealed and shall set a hearing date within 60 days of the date of receipt of the appeal. Grantee may present any information, data or other evidence to the village council either prior to or at the time of the hearing. Hearings shall be open to the public and members of the public and representatives of the authority may also present any evidence or information pertinent to the matter appealed. The village council shall then determine whether to uphold, reverse,

or modify the action of the authority. The appeal shall stay any further action on the matter appealed until the appeal has been decided by the village council.

(Ord. No. 231-077, § 3, 1-21-03)

Chapter 30 COMMUNITY DEVELOPMENT¹⁴

ARTICLE I. IN GENERAL

Secs. 30-1—30-30. Reserved.

ARTICLE II. DOWNTOWN DEVELOPMENT AUTHORITY

Sec. 30-31. Purpose.

The village council, having determined that it is necessary and in the best interest of the public to halt property value deterioration and to increase property tax valuation where possible in the village business district, to eliminate the causes of such deterioration and to promote economic growth, a downtown development authority is hereby established pursuant to Act No. 197 of the Public Acts of Michigan of 1975 (MCL 125.1651 et seq.), as amended, to be known as the Village of Milford Downtown Development Authority.

(Ord. No. 192, § 2, 1-5-82 eff.)

Sec. 30-32. Interpretation of terms.

References in Act No. 197 of the Public Acts of Michigan of 1975 (MCL 125.1651 et seq.), as amended, to "chief executive officer" shall mean the president of the village council; to "governing body of the municipality" shall mean the village council; to "municipality" shall mean the village; to "the authority" shall mean the village downtown development authority; and to "the agency which is chiefly responsible for planning in the municipality" shall mean the village planning commission.

(Ord. No. 192, § 3, 1-5-82 eff.)

Sec. 30-33. Powers and duties.

The village downtown development authority shall have all the powers and duties as set forth in Act No. 197 of the Public Acts of Michigan of 1975 (MCL 125.1651 et seq.), as amended.

¹⁴Cross reference(s)—Administration, ch. 2; buildings and building regulations, ch. 18; engineering design and construction standards, ch. 38; roads and bridges, ch. 58; streets, sidewalks and other public places, ch. 70; subdivisions and land division, ch. 74; utilities, ch. 82; zoning, ch. 94.

State law reference(s)—Housing and slum clearance projects, MCL 125.651 et seq.; housing corporation law, MCL 125.601 et seq.; urban redevelopment corporations, MCL 125.901 et seq.

(Ord. No. 192, § 4, 1-5-82 eff.)

Sec. 30-34. Director, bond.

The village downtown development authority, should it desire, may employ a director who, before entering upon the duties of such office, shall take and subscribe to the constitutional oath and furnish bond by posting bond in the penal sum of \$20,000.00, payable to the authority for the use and benefit of the authority, approved by the village council and filed with the village clerk.

(Ord. No. 192, § 6, 1-5-82 eff.)

Sec. 30-35. District boundaries.

The village downtown development authority shall exercise its powers and duties within the downtown development district, such district being specifically described as follows:

Commencing at the intersection of Eaton and N. Milford Rd. then southerly along Highland St. to Commerce St. then east to the C & O Railroad right-of-way then southerly along the easterly line of the Mill Pond, excluding Sidwell #16-10-277-011, to Liberty St. west to Pettibone Creek, south along the Creek to Water St. then along Clinton St., excluding Sidwell #16-10-429-001 and 002, to the rear lot line of property on the south side of Huron St., then east to S. Main St. and south on S. Main to Washington, then east on Washington to the C & O Railroad, excluding Sidwell #16-11-304-006, then northerly to Canal St. then east to the rear lot line of property on the east side of Union St., thence north to the first lot north of Commerce St., then west to Union St., then north on Union to the northerly lot line of Sidwell #16-11-104-013, then west to the rear lot lines of the residential lots then north to Detroit St., then west to Main St. then north to Summit St, excluding Sidwell #16-10-229-005, 006, and 007, then west to the C & O Railroad then north to the rear lot lines of property zoned B-1 or B-2 then westerly to Eaton St. thence to the point of beginning. The District includes the following properties as described by their Sidwell Identification Numbers:

- 16-03-476-007
- 16-03-476-008
- 16-03-476-009
- 16-03-476-010
- 16-03-476-011
- 16-03-476-012
- 16-03-477-003
- 16-03-477-004
- 16-03-477-005
- 16-03-477-006
- 16-10-227-005
- 16-10-227-007
- 16-10-227-015
- 16-10-227-016
- 16-10-227-017

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16-10-227-018
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16-10-229-004
16-10-229-008
16-10-229-009
16-10-277-011
16-10-277-012
16-10-277-013
16-10-277-014
16-10-278-001
16-10-278-002
16-10-278-003
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16-11-107-002
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16-11-304-014
16-10-501-001-009
16-11-501-001

(Railroad property)

The Village of Milford Downtown Development Authority shall exercise its powers and duties within the Downtown Development District being specifically described as follows:

Part of Sections 3, 10 and 11, Town 2 North, Range 7 East, Village of Milford, Oakland County, Michigan, described as follows:

Beginning at the intersection of the centerlines of Eaton Street (as platted) and N. Milford Road (formerly called Highland Road);

thence South 21 degrees 08 minutes 30 seconds East 385.00 feet, more or less, along the centerline of N. Milford Road to the intersection of N. Milford Road, Summit Street and Highland Street;

thence southerly along the centerline of Highland Street to the intersection of Highland Street and Commerce Road;

thence easterly along the centerline of Commerce Road to a point 351.40 feet west of the Chesapeake and Ohio Railroad (formerly Pere Marquette Railway) right of way;

thence South 02 degrees 57 minutes 43 seconds East to the water's edge of the Mill Pond;

thence westerly and southerly along the westerly water's edge of the Mill Pond to the North line of Liberty Street;

thence East on Liberty Street to the West right of way line of the Chesapeake and Ohio Railroad;

thence South along the West right of way line of the Chesapeake and Ohio Railroad to Main Street;

thence South along the West right of way line of Main Street to the Southerly bank of the Huron River;

thence West along the southerly bank of the Huron River to a point North of the West lot line of Lot 3 Meads Addition to the Village of Milford;

thence South along said lot line to the southerly right of way line of Water Street;

thence West along the South right of way line of Water Street to the West right of way line of Clinton Street;

thence South along the West right of way line of Clinton Street to the North property line of Lot 46, Meads Addition to the Village of Milford;

thence East along the North property line of Lots 49, 50, 53 and 54 of Meads Addition to the Village of Milford to the West right of way line of Main Street;

thence South to the South right of way line of Washington Street;

thence East along the South line of the right of way of Washington Street to the easterly line of the Chesapeake and Ohio Railroad right of way;

thence northwesterly along the East line of the Chesapeake and Ohio Railroad right of way to the Northwest corner of Lot 4, Block 14, Phelp's Addition to the Village of Milford and a point on the South line of the right of way of Canal Street;

thence East along the South line of the right of way of Canal Street to the Northeast corner of Lot 4, Block 13, Phelp's Addition;

thence, North along the East lot lines of Lots 1 through 4 inclusive, Block 5, Phelp's Addition continuing North 34 feet along the East boundary line of Lot 5, Block 5, Phelp's Additions;

thence West 63 feet and thence North to the North right of way line of Liberty Street;

thence East to the East property line of Lot 1, Block 6, Phelp's Addition;

thence North along the East lot lines of Lots 1 through 11, inclusive, Block 6, Phelp's Addition (including that portion of Lot 7 thereof as dedicated or occupied for Center Street), and as extended across the right of way of Commerce Road to the South line of Lot 1, Block 32, Phelp's Addition;

thence North along the East lot line of said Lot 1, Block 32, Phelp's Addition to the Northeast corner thereof;

thence West along the North lot line of Lot 1, Block 32, Phelp's Addition to the easterly right of way of Union Street;

thence North along the easterly right of way line of Union Street to a point located twelve feet (12') South of the North lot line of Lot 3, Block 32, Phelp's Addition;

thence West to the West line of the right of way of Union Street;

thence continuing West along a line located twelve feet (12') South of and parallel to the North lot line of Lot 12, Block 31, Phelp's Addition to the West lot line of said Lot 12, Block 31;

thence North twelve feet (12') along the East lot line of Lot 3, Block 31, Phelp's Addition;

thence continuing North along the East lot line of Lots 4 through 7, inclusive, Block 31, Phelp's Addition, as extended across Detroit Street to the Southeast corner of Lot 1, Block 21, Phelp's Addition and the North right of way line of Detroit Street;

thence West along the North right of way line of Detroit Street and the South lot line of Lot 1, Block 21, Phelp's Addition to the Southwest corner of said lot and the East right of way line of Main Street;

thence North along the East right of way line of Main Street to the Northwest corner of Lot 3, Block 21, Phelp's Addition;

thence West across Main Street to the Northeast corner of Lot 14, Block 22, Phelp's Addition;

thence West along the North lot line of said Lot 14 to the West line of Section 11 and the East line of Section 10;

thence North along said line between Sections 10 and 11 to the North line of the right of way of Summit Street;

thence West 427.85 feet, more or less, along the North right of way line of Summit Street to the West line of the Chesapeake and Ohio Railroad right of way;

thence North 03 degrees 11 minutes 38 seconds West 1,305.29 feet, more or less, along the West line of the Chesapeake and Ohio Railroad right of way to the Northern limits of the Village of Milford and the South one-eighth (S 1/8) line of Section 3;

thence along said Northern limits of the Village of Milford and South one-eighth (S 1/8) line North 89 degrees 19 minutes 23 seconds West 330.00 feet, more or less, to the centerline of Pettibone Creek;

thence southwesterly, southerly and southeasterly along the centerline of Pettibone Creek 1040 feet, more or less, to the centerline as extended of Eaton Street (as platted);

thence from said centerline of Pettibone Creek South 70 degrees 21 minutes 30 seconds West 370.80 feet, more or less, along the said centerline of Eaton Street to the point of intersection with the centerline of N. Milford Road (formerly called Highland Road) and the point of beginning.

Area A. District boundaries are as follows:

Commencing at the intersection of the east right-of-way line of Highland Avenue and the south right-of-way line of Commerce Road, then north along the east right-of-way line of Highland Avenue, continuing northerly along the east right-of-way line of Milford Road to Eaton, then east on Eaton to Pettibone Creek, then north along Pettibone Creek to the village corporate limit line (northern boundary line of sidwell parcels 16-03-476-018 and 16-03-476-019), then west along the corporate village limit (northern boundary of 16-03-476-018 and 16-03-476-019) to the center of the roadway of Milford Road, then north along the centerline of Milford Road to the village corporation limit line, then west along the northern boundary line of sidwell parcels 16-03-326-011 and 16-03-326-012, to the northwest corner of sidwell parcel 16-03-326-011, then south along the western boundary line of sidwell parcel 16-03-326-011 to the southwest corner of parcel 16-03-326-011, then west along the northern boundary line of parcel 16-03-326-003, then south along the western boundary line of sidwell parcel 16-03-326-003 (also the village corporation limit line) to the southwestern corner of sidwell parcel 16-03-326-003, then east along the southern boundary line of sidwell parcel 16-03-326-003, then to the northwest corner of sidwell parcel 16-03-403-008, then south along the western boundary line of 16-03-403-008 to the Abbey Lane south road right-of-way line, then east along the south Abbey Lane right-of-way line to the northwest corner of sidwell parcel 16-03-451-024, then south along the western boundary line of sidwell parcel 16-03-451-024 to the southwest corner of 16-03-451-024, then west to northwest corner of 16-03-451-010, then south along the western boundary of 16-03-451-010 to the southwest corner of that parcel, then east along the southern boundary line of sidwell parcel 16-03-451-010 to western right-of-way line of Milford Road, then south along Milford Road to the northeast corner of sidwell parcel 16-03-453-019, then west along the northern boundary line of 16-03-453-019 and the northern boundary line of 16-03-453-016 to the northwest corner of sidwell parcel 16-03-453-016, then south along the western boundary line of sidwell parcel 16-03-453-016 and continuing south along the western boundary line of parcel number 16-03-453-021 to the northern boundary line of sidwell parcel 16-10-201-006, then east along the northern boundary line of sidwell parcel 16-10-201-006 to the western boundary of parcel number 16-10-201-010, then south along the western boundary line of parcel number 16-10-201-010, then east along the south boundary line of 16-10-201-010 to the west right-of-way line of Highland Road, then south to the north boundary line of 16-10-201-005, then west along the north boundary line of 16-10-201-005, then south along the west boundary line of 16-10-201-005 to the south right-of-way line of Commerce Road, then east along the south right-of-way of Commerce Road to the east right-of-way line of Highland Avenue.

Sidwells:	16-03-326-012
	16-03-326-013
	16-03-326-011
	16-03-401-002
	16-03-401-003
	16-03-326-003
	16-03-403-008
	16-03-451-024
	16-10-451-015
	16-10-201-005

	16-03-451-010
	16-03-453-016
	16-03-453-019
	16-03-453-021
	16-03-476-018
	16-03-476-019
	16-03-476-017
	16-03-476-016
	16-10-201-010

Area B. District boundaries are as follows:

Commencing at the intersection of the east right-of-way line of Clinton and the north right-of-way line of Huron, then west along Huron to the southwest corner of 16-10-404-010, then south to the north right-of-way line of General Motors Road, then west on General Motors Road to the southeast corner of sidwell parcel 16-10-402-001, then north along the eastern boundary line of sidwell parcel number 16-10-402-001 to the northern boundary line of sidwell parcel 16-10-402-001, then west along the northern boundary line of sidwell parcel 16-10-402-001, continuing west along the northern boundary line of sidwell parcel number 16-10-301-009 and continuing westerly following the Huron River to the northwest corner of sidwell parcel 16-10-301-007, then south along the western boundary line of sidwell parcel 16-10-301-007 to the south right-of-way line of General Motors Road, then east along the south right-of-way line of General Motors Road to the northwest corner of sidwell parcel 16-10-376-021, then south along the western boundary line of the following sidwell parcels 16-10-376-021, 16-10-376-010, 16-10-376-018, 16-10-376-019 and 16-10-376-020, to the southwest corner of 16-10-376-020, then east along the southern boundary line of sidwell parcel 16-10-376-020 and across Milford Road to the east right-of-way line of Milford Road, then north to the southwest corner of sidwell parcel 16-10-451-008, then east along the southern boundary line of sidwell parcels 16-10-451-010 and 16-10-451-008 to the southeast corner of 16-10-451-010, then north to the southwest corner of sidwell parcel 16-10-451-002, then east to the southeast corner of sidwell parcel 16-10-451-002, then east to the east right-of-way line of Mill Street, then north along the east right-of-way line of Mill Street to the north right-of-way line of Washington Street, then east along the north right-of-way line of Washington Street to the southeast corner of sidwell parcel 16-10-430-006, then north along the western boundary line of sidwell parcels 16-10-430-006 and 16-10-430-005, to the southeast corner of sidwell parcel

16-10-430-002, then east along the southern borders of sidwell parcels 16-10-430-003 and 16-10-430-004, crossing Dean Street, and continuing east along the southern boundary line of sidwell parcel 16-10-431-001 to the southeast corner of sidwell parcel 16-10-431-001, then south along the western boundary line of sidwell parcel 16-10-431-003 to the southwest corner of sidwell parcel 16-10-431-003, then east along the southern boundary line of sidwell parcel 16-10-431-003 to the southeast corner of sidwell parcel 16-10-431-003, then north along the eastern boundary line of 16-10-431-003 to the southwest corner of 16-10-431-004, then east along the southern boundary line of 16-10-431-004 to the east right-of-way line of Clinton, then north to the north right-of-way line of Huron Street.

Sidwells:	16-10-432-001
	16-10-431-004
	16-10-431-003
	16-10-431-001
	16-10-430-004
	16-10-430-003
	16-10-430-002
	16-10-430-001
	16-10-430-005
	16-10-430-006
	16-10-451-002
	16-10-402-001
	16-10-451-011

	16-10-451-015
	16-10-451-014
	16-10-451-003
	16-10-301-008
	16-10-301-009
	16-10-376-021
	16-10-376-014
	16-10-376-018
	16-10-376-010
	16-10-376-019
	16-10-376-020
	16-10-301-007
	16-10-451-010

Area C. District boundaries are as follows:

Commencing at the intersection of the Huron River and the west right-of-way of Main Street, then north along Main Street to the CSX Railroad right-of-way, then north along the western CSX Railroad right-of-way to the north right-of-way line of Liberty Street, then west along Liberty Street to the southeast corner of sidwell parcel 16-10-277-021, then south to the south right-of-way line of Liberty Street, then east on Liberty

Street to the northeast corner of sidwell parcel 16-10-279-010, then southwest along the eastern boundary line of sidwell parcel 16-10-279-010 to the southeast corner of 16-10-279-010, then west along the southern boundary line of 16-10-279-010 to the southwest corner of 16-10-279-010, then north along the west boundary of sidwell parcel 16-10-279-010 to the southeast corner of sidwell parcel 16-10-279-001, then southwest along the southern boundary line of sidwell parcel 16-10-279-001 to the southwest corner of 16-10-279-001, then south along the western boundary line of sidwell parcel 16-10-279-011 to the Huron River, then east along the Huron River to the west right-of-way line of Main Street.

Sidwells:	16-10-279-003
	16-10-279-004
	16-10-279-005
	16-10-279-006

	16-10-279-007
	16-10-279-009
	16-10-279-011

Area D. District boundaries are as follows:

Commencing at the intersection of the Huron River and the southeast corner of sidwell parcel 16-11-307-001, then northwest along the Huron River to the western CSX Railroad right-of-way, then south along the western railroad right-of-way to the north right-of-way of Washington Street, then east across the railroad right-of-way to the east right-of-way line of Caroline Street, then north along Caroline Street to the southwest corner of sidwell parcel 16-11-307-001, then east along the southern boundary line of 16-11-307-001 to the Huron River.

Sidwells:	16-11-302-001
	16-11-302-002
	16-11-302-003
	16-11-307-001
	16-11-305-001

	16-11-326-037 (part)
	16-11-501-004
	16-11-501-006
	16-11-501-007
	16-11-501-008

Area E. Area is described as sidwell parcel numbers 16-03-478-002, 16-03-478-004, 16-03-478-007 and the south half of 16-03-501-004.

Sidwells:	16-03-478-004
	16-03-478-002

	16-03-478-007
	16-03-501-004 (south half)

(Ord. No. 192, § 5, 1-5-82 eff.; Ord. No. 192-A, 9-2-87; Ord. No. 192-B, 5-2-94)

Editor's note(s)—At the city's request, and during Supplement No. 1, Ord. No. 192, adopted Jan. 5, 1982, and Ord. No. 192-A, adopted Sept. 2, 1987, both of which pertain to the downtown development authority, were reinserted into the Code under section 30-35. At the editor's discretion, the two ordinances were inserted at the beginning of the section in chronological order.

Sec. 30-36. History.

The Village of Milford Downtown Development Authority (the "authority") previously prepared and approved the tax increment financing and development plan (the "original plan") which was approved by the village council (the "village council") of the Village of Milford (the "village") on May 4, 1998, for the development area in the downtown district within the village and also approved the 2003 plan amendments (the "plan amendments") amending the original plan, by resolution adopted on July 17, 2003.

On September 15, 2003, the village council held a public hearing on the plan amendments pursuant to Act 197, Public Acts of Michigan, 1975, as amended (the "Act") and on September 15, 2003, it adopted a resolution approving the plan amendments and amending the original plan (the original plan as amended by the plan amendments shall be referred to as the "plan").

It is necessary to ratify and confirm the actions taken in connection with the approval of the plan amendments and the plan by adoption of an ordinance approving the plan.

(Ord. No. 231-107, § 1, 12-5-05)

Sec. 30-37. Findings.

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

(Ord. No. 231-107, § 1, 12-5-05)

Sec. 30-38. Public purpose.

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

(Ord. No. 231-107, § 1, 12-5-05)

Sec. 30-39. Approval and adoption of plan.

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

(Ord. No. 231-107, § 1, 12-5-05)

Secs. 30-40—30-60. Reserved.

ARTICLE III. BUILDING AUTHORITY

DIVISION 1. GENERALLY

Sec. 30-61. Articles of incorporation.

These articles of incorporation of the village building authority, as set forth in this article, are adopted by the incorporating unit for the purpose of creating an authority under the provisions of Act No. 31 of the Public Acts of Michigan of 1948 (Extra Session) (MCL 123.951 et seq.), as amended.

(Ord. No. 148, 3-25-70 eff.)

Sec. 30-62. Title.

The name of the corporation created by this article is the Village of Milford Building Authority.

(Ord. No. 148, art. I, 3-25-70 eff.)

Sec. 30-63. Incorporating unit.

The incorporating unit creating the building authority is the Village of Milford, Michigan.

(Ord. No. 148, art. II, 3-25-70 eff.)

Sec. 30-64. Purposes.

The purposes of the building authority are the acquiring, furnishing, equipping, owning, improving, enlarging, operating and/or maintaining a building or buildings, or additions to buildings, and automobile parking lots or structures, recreational facilities and the necessary site or sites therefor, for the use of the village.

(Ord. No. 148, art. III, 3-25-70 eff.)

Sec. 30-65. Powers.

The building authority shall be a body corporate with the power to sue or be sued in any court of this state. It shall possess all the powers, privileges and authority set forth in Act No. 31 of the Public Acts of Michigan of 1948 (Extra Session) (MCL 123.951 et seq.), as amended. It shall also possess all powers set forth in this article and those incident thereto and the enumeration of any powers in this article shall not be construed as a limitation upon its general powers unless the context shall clearly indicate otherwise. The building authority shall have a corporate seal. The building authority shall possess all the powers necessary to carry out the purposes of its incorporation and those incident thereto.

(Ord. No. 148, art. IV, 3-25-70 eff.)

Sec. 30-66. Fiscal year.

The fiscal year of the building authority shall commence on July 1 in each year and end on June 30 of the following year.

(Ord. No. 148, art. VI, 3-25-70 eff.)

Sec. 30-67. Moneys.

All moneys of the building authority shall be deposited in a bank to be designated by the building authority commission, and all checks or other forms of withdrawal therefrom shall be signed by the treasurer and countersigned by the chairman of the commission. The officers of the commission and of the authority shall have such other powers and duties as may be, from time to time, conferred upon them by the commission.

(Ord. No. 148, art. XV, 3-25-70 eff.)

Sec. 30-68. Acquisition of property.

The building authority shall possess all powers necessary to carry out the purposes thereof and those incident thereto. It may acquire property by purchase, lease, gift, devise or condemnation, either within or without its corporate limits, and may hold, manage, control, sell, exchange, or lease such property as authorized and permitted by Act No. 31 of the Public Acts of Michigan of 1948 (Extra Session) (MCL 123.951 et seq.), as amended.

(Ord. No. 148, art. XVI, 3-25-70 eff.)

Sec. 30-69. Acquisition and lease of property.

The building authority and any incorporating unit shall have power to enter into a contract or contracts whereby the authority will acquire property contemplated by the terms of Act No. 31 of the Public Acts of Michigan of 1948 (Extra Session) (MCL 123.951 et seq.), as amended, and lease such property to the incorporating unit for a period not to exceed 40 years. The consideration specified in such contract for such use shall be subject to increase by the authority, if necessary, in order to provide funds to meet its obligations.

(Ord. No. 148, art. XVIII, 3-25-70 eff.)

Sec. 30-70. Condemnation of property.

For the purpose of accomplishing the object of its incorporation, the building authority may acquire property as provided in this article, and for the purpose of condemnation it may proceed under the provisions of Act No. 149 of the Public Acts of Michigan of 1911 (MCL 213.21 et seq.), as amended, or any other appropriate statute.

(Ord. No. 148, art. XVII, 3-25-70 eff.)

Sec. 30-71. Revenue bonds.

The building authority shall have the right, power and privilege of issuing self-liquidating revenue bonds pursuant to the terms of section II of Act No. 31 of the Public Acts of Michigan of 1948 (Extra Session) (MCL 123.951 et seq.), as amended, and pursuant to the provisions of Act No. 94 of the Public Acts of Michigan of 1933 (MCL 141.101 et seq.), as amended, and/or pursuant and subject to any statute now existing or as may be amended pertaining to the self-liquidating revenue bonds, provided that such bonds shall be payable solely from the revenue of any property of the authority, which revenue shall be deemed to include payments made under any lease or contract for the use of such property whose revenues are pledged which has been leased by the authority for a period extending beyond the last maturity of the bonds. The issuance of such revenue bonds shall be subject to the referendum provisions of Act No. 31 of the Public Acts of Michigan of 1948 (Extra Session) (MCL 123.951 et seq.), as amended, and of the referendum provision of Act No. 94 of the Public Acts of Michigan of 1933 (MCL 141.101 et seq.), as amended.

(Ord. No. 148, art. XIX, 3-25-70 eff.)

Sec. 30-72. Tax exemption.

All property owned by the building authority shall be exempt from taxation pursuant to the terms of Act No. 31 of the Public Acts of Michigan of 1948 (Extra Session) (MCL 123.951 et seq.), as amended.

(Ord. No. 148, art. XX, 3-25-70 eff.)

Sec. 30-73. Power to contract.

The building authority shall have the power to contract with any person for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating or maintaining a building or buildings on the necessary site or sites therefor, for the use of the village.

(Ord. No. 148, art. XXI, 3-25-70 eff.)

Sec. 30-74. Procurement of services; compensation.

The building authority commission shall have the power to secure all necessary services to carry out the functions of the authority and to fix the compensation therefor, subject to the provisions of section 30-94, provided that no officer or employee of the village shall receive compensation from the authority except by a two-thirds vote of all of the members of the commission and approval by the majority of the village council.

(Ord. No. 148, art. XXII, 3-25-70 eff.)

Sec. 30-75. Dissolution.

The building authority shall continue in existence until dissolved by the incorporating unit or by law; provided, that it shall in no event be dissolved if such dissolution would operate as an impairment of any of its contracts or other lawful obligations.

(Ord. No. 148, art. V, 3-25-70 eff.)

Secs. 30-76—30-90. Reserved.*DIVISION 2. COMMISSION***Sec. 30-91. Membership.**

The governing body of the building authority shall be a commission consisting of three members. The members of the commission shall be appointed by the village council and their term shall be for three years, commencing on July 1 succeeding appointment. Vacancies on the commission caused for any reason whatsoever shall be filled by the village council and appointments to fill vacancies shall be for the unexpired term of the vacant office. Any qualified elector of the village who has resided in the village for two years consecutively immediately prior to his appointment shall be eligible for appointment to the commission, provided that no member of the village council shall be eligible for appointment to the commission; and provided, further, that the office of any commissioner which is held by an officer, agent or employee of the village shall be deemed vacant if such commissioner shall cease to be an officer, agent or employee of the village.

(Ord. No. 148, art. VII, 3-25-70 eff.)

Sec. 30-92. Term of members.

The term of any member of the building authority commission shall be for three years and shall continue until his successor has been duly chosen and qualified.

(Ord. No. 148, art. IX, 3-25-70 eff.)

Sec. 30-93. Powers.

The commission of the building authority shall have all of the powers vested in it by virtue of any statute, including, but not limited to, Act No. 31 of the Public Acts of Michigan of 1948 (Extra Session) (MCL 123.951 et seq.), as amended. The enumeration of any powers granted in this article to the commission shall not be construed as a limitation upon such general powers.

(Ord. No. 148, art. VIII, 3-25-70 eff.)

Sec. 30-94. Management; records; officers; remuneration.

The general management of the building authority shall be vested in the commission as established in this division, and in the recess of the commission the general management of the building authority, subject to rules, regulations, directives, and policies established by such commission, shall be in a chairman who shall be elected by a majority of the commission. The official records of meetings of the commission and the official records of the

authority shall be kept and maintained by a secretary who shall be elected by the commission. The commission shall also elect a treasurer. The treasurer of the authority shall be the custodian of moneys of the authority and shall be under appropriate bond to guarantee the faithful performance of his duties. The cost of the bond shall be paid by the authority. No commissioner, officer, agent, employee or representative of the building authority shall receive any remuneration whatever, except as may be approved, ratified and confirmed by the village council.

(Ord. No. 148, art. X, 3-25-70 eff.)

Sec. 30-95. Meetings.

The commission of the building authority shall meet at least once monthly, such meetings to be held on the third Monday of each and every calendar month, or such other date as the commission shall by rule determine, provided that such commission may have as many meetings, either within or without the village, as shall be determined by rules or as shall be called by the chairman of the commission, provided that the commission shall not be called to any special meeting except on three days' notice in writing, such call being issued by the chairman of the commission, the secretary of the commission, or any two other members of the commission in a notice signed by him or them.

(Ord. No. 148, art. XI, 3-25-70 eff.)

Sec. 30-96. Journal of business.

The building authority commission shall keep an accurate and true journal of its business, written in the English language, which journal shall be kept on file and open for public inspection in the office of the village clerk.

(Ord. No. 148, art. XII, 3-25-70 eff.)

Sec. 30-97. Rules of procedure.

The building authority commission shall have the right to adopt rules governing its procedure which are not in conflict with this article or any law.

(Ord. No. 148, art. XIV, 3-25-70 eff.)

Sec. 30-98. Authority to establish other powers and duties.

In addition to the powers set forth, either expressly or impliedly, in this article, the building authority commission shall have the authority and power to establish other powers and duties of the officers of the commission, or its employees, by bylaws or by rules or regulations duly adopted by the commission, provided that no rule or regulation shall contravene or violate any ordinance of the village, the Village Charter, or the statutes or constitution of the state.

(Ord. No. 148, art. XIII, 3-25-70 eff.)

Chapter 34 EMERGENCY SERVICES

ARTICLE I. IN GENERAL

Secs. 34-1—34-30. Reserved.

ARTICLE II. ALARM SYSTEMS

Sec. 34-31. Definitions.

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

Alarm system means any assembly of equipment and devices, or a single device, except for an alarm system on a motor vehicle, that emits, transmits or relays a signal intended to summon, or that would reasonably be expected to summon, emergency services of the village.

Alarm user means and includes the owner of the land or premises within which an alarm system is installed; the tenant, occupant, or person having possession or control of any premises in which an alarm system is installed; and any person having actual or constructive possession of an alarm system, when such alarm system signals an emergency.

Chief means the chief of police of the village, acting personally or through a duly authorized representative.

Emergency means a hazard, condition, or situation calling for immediate action or urgent attention and to which municipal public safety personnel are customarily expected to respond on an immediate or high priority basis.

False alarm means a signal given by an alarm system when no emergency is found by the public safety personnel that respond to the alarm.

Public safety personnel means and includes village police officers, dispatchers, firefighters and other employees of the village who provide emergency services to persons and/or property within the village.

(Ord. No. 218, § 2, 10-7-91)

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

Sec. 34-32. Purpose; alarm program; compliance required.

- (a) The village has determined that there exists an unjustified increase in the amount of public safety resources expended in responding to false alarms for emergency assistance which can be avoided, provided that alarm devices incorporate appropriate design techniques, necessary features, be properly installed, regularly maintained, and properly utilized. In order to reduce the burden imposed upon the general public caused by false alarms, the police department shall establish a program for:
- (1) Informing the public of methods to minimize false alarms;
 - (2) Issuing permits for alarm systems;
 - (3) Developing policy and criteria for identifying those false alarms that are avoidable through the application of proper system design, installation, maintenance, training, application, use, and equipment features;
 - (4) Creating, maintaining and analyzing records and data necessary for determining whether a particular alarm response was to a false alarm, and if so, whether the false alarm was attributable to an avoidable deficiency in design, application, use, or other similar cause;

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- (5) Determining whether a particular false alarm was caused by one or more avoidable deficiencies; suspending or revoking alarm permits for installations that are determined to be the source of excessive false alarms caused by one or more avoidable deficiencies; providing information to the public that will alleviate, or cure, avoidable deficiencies in alarms, alarm systems, and their application and operation.

(b) All citizens of the village shall abide by this article and all regulations promulgated under the authority of this article, and cooperate fully with the police department for the realization of these objectives.

(Ord. No. 218, § 1, 10-7-91)

Sec. 34-33. Permit—Required.

All alarm systems installed, maintained or used within the village shall require an alarm permit as provided in this article.

(Ord. No. 218, § 5, 10-7-91)

Sec. 34-34. Same—Time to obtain.

Permits must be obtained for alarm systems in existence on the effective date of the ordinance from which this article is derived. In all other cases, a permit must be obtained before the system is installed and used. It is unlawful to cause or allow an alarm system requiring a permit to be used unless there is a valid permit for that system. Should a false alarm occur for any reason at a location for which a permit has not been obtained, the alarm user will be charged as a second or subsequent offender in an amount as determined under section 34-45.

(Ord. No. 218, § 6, 10-7-91)

Sec. 34-35. Same—Application, contents.

Applications for alarm system permits shall be filed with the village police department on forms provided and furnished by the police department. The alarm user shall provide the following:

- (1) The alarm user's name, address and telephone number;
- (2) The street address of the property at which the alarm system is maintained;
- (3) The name, address and telephone number of the alarm company which installed and/or monitors the alarm system, if any, and the name and telephone number of at least one other person who can be reached at any time, day or night, and who, within a 30-minute response time can open the premises within which the alarm system is installed and deactivate the signal if necessary;
- (4) An affirmation in writing and signed by the alarm user which states that the alarm system is equipped with a functional automatic shutoff device, as required by section 34-38.

(Ord. No. 218, § 8, 10-7-91)

Sec. 34-36. Same—Issuance.

The police chief or designated representative shall act upon each application for an alarm system permit within a reasonable time and shall issue a permit when it determines that the application and proposed alarm system conform to the requirements of this article, the other ordinances of the village and other applicable state laws and regulations.

(Supp. No. 23)

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(Ord. No. 218, § 9, 10-7-91)

Sec. 34-37. Automatic dialing devices prohibited.

- (a) No person shall install or use a device or combination of devices which will, upon activation, either mechanically, electronically, or by other means, initiate the automatic intrastate calling, dialing, or connection to any telephone number assigned to the village police department, or the 911 emergency number which connects or assigns the call to the department or its dispatchers.
- (b) No alarm system will be permitted to terminate at the village police department. Also, no alarm signal shall cover more than one business place and/or residence, meaning that buildings with more than one business must have a separate alarm signal for each business located therein, provided that each business has a separate entrance. No single alarm signal may cover a grouping of houses, apartments or condominiums which have separate entrances to each unit.

(Ord. No. 218, § 3, 10-7-91)

Sec. 34-38. Automatic shutoff required.

All alarm systems to be installed which emit a signal audible beyond the boundaries of the property protected must have an automatic shutoff feature which silences the audible portion of the alarm not more than ten minutes after being tripped. All persons shall terminate the use of existing alarm systems which lack this automatic shutoff feature within 60 days after the effective date of the ordinance from which this article is derived.

(Ord. No. 218, § 4, 10-7-91)

Sec. 34-39. Penalty for violation of article.

Any person who violates this article shall be deemed responsible for committing a municipal civil infraction.

(Ord. No. 218, § 18, 10-7-91)

Sec. 34-40. Responsibility of police department.

The police chief or an authorized representative has primary responsibility for the administration of this article. By way of example and not limitation, the police chief shall:

- (1) Promulgate procedures, regulations, and guidelines;
- (2) Establish a system for notifying alarm users each time public safety personnel respond to a false alarm;
- (3) Develop a program that provides each alarm user an opportunity to submit a written or oral explanation for each false alarm; and
- (4) Provide a system for recording and keeping records of alarm permits, activation or sounding of alarms, false alarms, and at-fault alarms.

(Ord. No. 218, § 7, 10-7-91)

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Sec. 34-41. Due care in operation required.

Every alarm user shall exercise due care to install, maintain and use every alarm system so as to avoid its signalling false alarms. Every alarm user shall diligently instruct, supervise, and control those having access to the alarm system and the alarmed premises, and shall take all reasonable steps to prevent the system from signalling false alarms.

(Ord. No. 218, § 10, 10-7-91)

Sec. 34-42. Excessive alarms.

Alarm systems which signal more than two at-fault alarms in any 12 consecutive month period are deemed to be abusive of public safety personnel, are declared to be a public nuisance, and are deemed an excessive number of at-fault false alarms for purposes of this article.

(Ord. No. 218, § 11, 10-7-91)

Sec. 34-43. Notice of false alarm; explanation.

The chief of police or designated representative shall notify each alarm user each time public safety personnel respond to a false alarm, and offer the alarm user the opportunity to submit a written or oral explanation for the actuation of the alarm. Should the alarm user, after such notice, fail to provide a written explanation to the chief within 30 days of the date of mailing of such notification, the alarm will be deemed an at-fault false alarm.

(Ord. No. 218, § 12, 10-7-91)

Sec. 34-44. Determination of at-fault false alarm.

The police chief shall conduct an investigation concerning the explanation for the false alarm submitted by an alarm user according to section 34-43. Unless one of the following exceptions is found to exist, the false alarm shall be determined to be an at-fault false alarm:

- (1) Alarm system malfunctions, if corrective measures have been instituted within a 72-hour period with notification to the police department documenting repair service by a state-licensed alarm company to remedy the malfunction.
- (2) Alarm conditions activated by a person working on the alarm system with prior notification to the police department.
- (3) Alarms which can be substantiated as being activated by disruption or disturbance of utility company facilities or motor vehicle utility pole accidents or storm conditions.

(Ord. No. 218, § 13, 10-7-91)

Sec. 34-45. Fee charged for responding to at-fault false alarms.

Every alarm user shall pay to the village a fee for responding to the second and subsequent at-fault false alarms signaled by that person's alarm system within any 12 consecutive month period. The schedule of false alarm fees shall be periodically set by resolution of the village council, but the fee shall not exceed the village's direct and indirect costs of responding to at-fault false alarms, administering the system of recording and

classifying the alarms, and collecting and accounting for the user fee charged. Such fee shall be paid within 30 days of written notice, shall be a debt in favor of the village, and the obligation of the alarm user.

(Ord. No. 218, § 14, 10-7-91)

Sec. 34-46. Corrective action.

The police chief may initiate corrective action if excessive at-fault false alarms are signaled by any alarm system. Such corrective actions may include one or more of the remedies enumerated in this article, institution of ordinance violation proceedings, imposition and collection of user fees by billing and/or prosecution actions, and the institution of civil proceedings for court-ordered abatement of nuisances. All of these remedies shall be cumulative.

(Ord. No. 218, § 15, 10-7-91)

Sec. 34-47. Presumption as to alarm user.

For purposes of prosecuting violations of the penal provision of this article, and for purposes of collecting the fees incurred because of excessive at-fault false alarms, the alarm user is presumed to be that person whose name appears on the most recent assessment roll approved by the board of review, as updated, associated with the real or personal property protected by the alarm system.

(Ord. No. 218, § 16, 10-7-91)

Sec. 34-48. Fees assessed to real property.

Fees for responding to at-fault false alarms may be collected through the procedures prescribed in the Village Charter for special assessment debts.

(Ord. No. 218, § 17, 10-7-91)

Chapter 38 ENGINEERING DESIGN AND CONSTRUCTION STANDARDS¹⁵

ARTICLE I. IN GENERAL

Sec. 38-1. Purpose.

The purpose of this chapter is to establish the minimum engineering requirements for the design and construction of subdivisions, site plan improvements, utility systems, and roads located within the village through the adoption of the Village of Milford Engineering Standards and Design Specifications, as may be amended. In the event conflicts arise between the provisions of this chapter and the engineering standards and design specifications, this chapter shall govern.

¹⁵Cross reference(s)—Administration, ch. 2; buildings and building regulations, ch. 18; community development, ch. 30; roads and bridges, ch. 58; streets, sidewalks and other public places, ch. 70; subdivisions and land division, ch. 74; utilities, ch. 82; zoning, ch. 94.

(Ord. No. 217, § 101, 10-19-92; Ord. No. 231-203, § 1, 10-3-16)

Sec. 38-2. Definitions.

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

AASHTO means the American Association of State Highway and Transportation Officials.

ANSI means the American National Standards Institute.

ASTM means the American Society for Testing and Materials.

AWWA means the American Water Works Association.

Easement means the right of an owner of property, by reason of such ownership, to use the property of another for purposes of ingress, egress, utilities, drainage and similar uses.

Engineering standards and design specifications means the engineering and construction standards and design specifications, as approved by village council and incorporated herein by reference, which establish minimum engineering requirements for the design and construction of subdivisions, site plan improvements, utility systems and roads located within the village. The engineering standards and design specifications, as may be revised and amended from time to time, shall be maintained in the village clerk's office.

GLUMRB means the recommended standards for sewage works (ten states standards), standards for use as a guide in the design and preparation of plans and specifications for sewage works, prepared by the Standards Committee of the Great Lakes-Upper Mississippi River Board of State Sanitary Engineers.

MDOT means the Michigan Department of Transportation.

MDPH means the Michigan Department of Public Health.

NCPI means the National Clay Pipe Institute.

RCOC means the Road Commission for Oakland County.

Standard detail drawings (SDD) means the village standard detail drawings for water mains, storm sewers, sanitary sewers and road pavement adopted by village council resolution. These standard detail drawings are set forth and included in the engineering standards and design specifications.

Subdivision shall be equivalent to a subdivision as defined in the village subdivision regulations. A site condominium consisting entirely of single-family detached condominium units shall be equivalent to a subdivision as used in this chapter.

Village means the Village of Milford, Michigan, represented by the village manager.

Village engineer means the consulting engineers employed by the village.

Village manager means the person appointed by the village council in charge of the village's administrative duties.

(Ord. No. 217, § 200, 10-19-92; Ord. No. 231-203, § 1, 10-3-16)

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

Sec. 38-3. Interpretation.

The provisions of this chapter shall be held to be the minimum requirements adopted for the promotion and preservation of public health, safety and general welfare of the village. This chapter is not intended to repeal, abrogate, annul or in any manner interfere with existing regulations or laws of the village, nor conflict with any statutes of the state or the county, except that this chapter shall prevail in cases where this chapter imposes a greater restriction than is provided by existing statutes, laws or regulations.

(Ord. No. 217, art. XVI, 10-19-92)

Sec. 38-4. General procedures and requirements.

- (a) All construction shall be in compliance with the procedural and substantive requirements of chapter 94, concerning zoning; chapter 74, concerning subdivisions and land division; article V, chapter 42, concerning soil erosion control; article II, chapter 58, concerning private roads; chapter 70, concerning sidewalk, driveway, drainage course and right-of-way openings; the Subdivision Control Act of 1967, Act No. 288 of the Public Acts of Michigan of 1967 (MCL 560.101 et seq.); the Condominium Act, Act No. 59 of the Public Acts of Michigan of 1978 (MCL 559.101 et seq.), as amended; and all other applicable statutes and ordinances, in addition to the requirements contained in this chapter and the engineering standards and design specifications, as amended.
- (b) Engineering drawings for proposed subdivision improvements, site plan improvements, utility and road construction shall be approved by all jurisdictional agencies and the village engineer prior to the beginning of construction. Prior to the start of construction all site improvement related approvals and permits must be secured.
- (c) A developer shall provide the village with necessary easements prior to commencement of construction to allow maintenance of any water mains, sanitary sewers or storm drains that are to be located on developed property and maintained by the village. The form of such easements shall be subject to approval of the village engineer and the village attorney. Sufficient evidence of title shall be provided by the grantor along with the easement in the form of a policy of title insurance, acceptable to the village attorney, to show that the grantor of the easement is the owner of the property. All parties having a legal interest in the property shall execute and grant the easement. Easements shall be of a minimum 20-foot width, unless a narrower width is approved by the village engineer. The village engineer may approve a narrower width upon determination that strict adherence to the 20-foot standard would result in undue hardship to the developer, and that all necessary maintenance functions can be adequately and efficiently performed within a narrower easement.

(Ord. No. 217, § 300, 10-19-92; Ord. No. 231-203, § 1, 10-3-16)

Sec. 38-5. Sealing of plans.

All subdivision construction plans, site plans, utility plans, and road plans submitted to the village for review shall bear the signature and seal of a civil engineer or land surveyor currently licensed in the state, except as otherwise stipulated in this chapter.

(Ord. No. 217, § 301, 10-19-92)

Sec. 38-6. Standard details.

All utilities described and contained in this chapter shall be constructed in accordance with the village's standard details drawings as set forth and included in the engineering standards and design specifications, copies of which shall be kept in the office of the village clerk, available for inspection and distribution to the public. Reproducible copies are available from the village engineer.

(Ord. No. 217, § 302, 10-19-92; Ord. No. 231-203, § 1, 10-3-16)

Sec. 38-7. Phased construction.

On all projects for which phasing of construction is intended, a separate plan sheet shall be included in the construction drawings which breaks down all improvement quantities by item, that is, sidewalks, storm sewer, landscaping, pavement base and wearing courses, and utilities for each phase. Such phasing limits shall match those approved or to be approved by the village planning commission.

(Ord. No. 217, § 303, 10-19-92)

Sec. 38-8. Inspections.

Full-time or part-time inspection as determined by the village manager and/or the village engineer shall be required during the construction of subdivisions, site plan improvements and utility systems and roads located within the village. Such construction and improvements shall include, but not be limited to, water mains, sanitary sewers, storm sewers, stormwater holding facilities, street paving, driveway pavements and pumping stations. Inspection personnel shall be provided by the village or the village engineer. All estimated costs to be incurred for inspection review services must be paid prior to the start of construction by the proprietor, owner or developer of the project to be constructed. All costs incurred by the village for inspection shall be paid by the proprietor, owner or developer prior to final acceptance of the project by the village.

- (1) Three working days prior to beginning any work, the owner or his contractor must notify the village or village engineer.
- (2) It shall be the owner's responsibility to provide soil and material testing to ensure that all construction methods and materials meet the requirements of this chapter. Such testing will be performed by a qualified testing laboratory or registered professional engineer acceptable to the village engineer. All testing shall be subject to the direction and review of the village or village engineer.
- (3) Failure by the owner or his contractors or agents to strictly adhere to this chapter, to use good engineering judgment during any phase of the work, or to conduct the work in accordance with the approved plans may cause the village engineer to consider the work unacceptable.

(Ord. No. 217, § 304, 10-19-92; Ord. No. 231-203, § 1, 10-3-16)

Sec. 38-9. Pre-construction meeting and requirements.

Prior to construction of subdivisions and project improvements, a pre-construction meeting will be scheduled by the village engineer to discuss the various project requirements with the developer, contractor and the village. Prior to scheduling a pre-construction meeting, items such as insurance binders, permits and other items as required by law must be submitted for review and approved by the village engineer.

(Ord. No. 217, § 306, 10-19-92)

Sec. 38-10. Deposit and fees.

At the time of submittal of plans and specifications and detailed estimate of cost of the proposed subdivisions and project improvements, the proprietor shall deposit with the village a fee for review of such, as estimated by the building department and village engineer. Actual review costs incurred by the village will be deducted from the deposit. If costs exceed the deposit amount, then the developer shall deposit additional funds. At the completion of review, any surplus funds will be returned to the developer. Further, prior to the construction of subdivision and project improvements, the proprietor shall provide a deposit to be held in escrow by the village. This escrow deposit shall be made prior to the commencement of any construction and no later than 24 hours prior to any preconstruction meeting. The deposit amount shall be based upon the engineer's estimate for the project, the amount and type of work involved and the typical production rates.

At the completion of the project, if the deposit made toward the cost of a total inspection fee, as provided in this section, is not sufficient, then the contractor or owner shall pay such additional amount as may be required to pay to the village for the total inspection costs at the time when funds are depleted. If, at the completion of the project, it is ascertained that the total inspection cost to the village was less than the amount deposited, then the surplus shall be returned to the contractor or owner upon the final acceptance of the project. The fees and charges contained in this section shall be in addition to those charged for debt services, service charges, connection charges and other charges or fees imposed for sanitary sewer and water supply.

(Ord. No. 217, art. XVII, 10-19-92; Ord. No. 231-203, § 1, 10-3-16)

Sec. 38-11. Insurance and bond.

- (a) Prior to construction of subdivision and project improvements, the contractor shall procure and maintain during the life of any contract or agreement for such construction insurance protecting the village and village engineer from any claim for damages, real, personal or otherwise, in such amounts and form as are established by resolution of the village council.
- (b) Prior to the acceptance of improvements by the village, a two-year maintenance bond in the amount of 50 percent of the cost of the improvements shall be posted by the proprietor or contractor.

(Ord. No. 217, art. XVIII, 10-19-92; Ord. No. 231-203, § 1, 10-3-16)

Sec. 38-12. Variance.

- (a) The village council may authorize a variance from the terms of this chapter when it determines that undue hardship may result from strict compliance. In granting any variance, the council shall prescribe other conditions that it deems necessary or desirable for the public interest. No variance shall be granted unless the village council finds at least one of the following conditions to be valid:
 - (1) There are special circumstances or conditions affecting the subdivision or project improvement such that a strict application of the provisions of this chapter would deprive the applicant of reasonable use of his property.
 - (2) The variance is necessary for the preservation and enjoyment of the substantial property rights of the applicant.
 - (3) That an alternative proposed by the applicant shall be adequate for the intended use and shall not substantially deviate from the performance that would be obtained by strict enforcement of the standards.

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- (4) That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the area in which such property is situated.
- (b) Application for a variance from the terms of this chapter shall be submitted in writing by the proprietor at the time the preliminary plans are submitted, stating fully and clearly all facts relied upon by the proprietor, and shall be supplemented with maps, plans or other additional data which may aid in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions or other legal provisions necessary to guarantee the full achievement of the plan.
- (Ord. No. 217, art. XXII, 10-19-92)

Sec. 38-13. Alternative designs.

Substitutions to the standards described in this chapter may be allowed if, in the judgment of the village engineer, the alternative design is equal to or better than the standards set forth in this chapter.

(Ord. No. 217, § 305, 10-19-92)

Sec. 38-14. Tracking earthen materials onto right-of-way.

Tracking of earthen materials onto pavements is prohibited. It shall be the responsibility of the owner or permit holder to clean up and remove all materials tracked onto the right-of-way.

(Ord. No. 217, § 307, 10-19-92)

Sec. 38-15. Penalty for violation of chapter.

Any person, or anyone acting in behalf of such person, violating any of the provisions of this chapter shall, upon conviction thereof, be deemed responsible for committing a municipal civil infraction. Each day that a violation is permitted to exist shall constitute a separate violation.

(Ord. No. 217, art. XIX, 10-19-92)

Secs. 38-16—38-40. Reserved.

***ARTICLE II. PLAN REQUIREMENTS FOR UTILITY, PAVING AND GRADING
CONSTRUCTION***

Sec. 38-41. General plan requirements.

All plans for utility, paving and grading construction shall be submitted to the village for approval. The plans and specifications shall be prepared under the supervision of a civil engineer licensed in the state. Plans shall contain the signature and seal of that engineer. All elevations shall be on USCGS datum. All sheets shall be 24 inches by 36 inches. The plans shall contain a note requiring that all construction shall conform to village construction standards.

- (1) *Title sheet requirements.* The title sheet shall show:
- a. Project title.

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- b. Location map with north indicator and graphic scale, drawn with appropriate scale generally not greater than one inch equals 100 feet nor smaller than one inch equals 2,000 feet, showing locations of proposed utilities and relationship of general project area to the surrounding area.
 - c. Overall layout of the complete pavement and utility system including manhole numbers and direction of flow arrows on storm and/or sanitary sewer systems.
 - d. Index of plan sheets.
 - e. Symbol legend.
 - f. Name, address and telephone number of proprietor.
 - g. Plan completion date with most recent revision dates.
 - h. A statement that the work shall conform to the village's standards and specifications.
 - i. North arrow and scale.
 - j. MISS DIG note.

(2) *Detail sheet requirements.*

- a. Detail sheets shall include specific and complete details for the utility appurtenances and structures to be included with the utility construction and special, unusual, or allied construction requirements. Detail sheets shall also include specific and complete details for paving.
- b. Scales utilized for special details shall be selected to clearly portray intended construction and component or equipment arrangement. Scales used shall be clearly identified.
- c. Standard details shall include the SDD as provided by the village. A reproducible drawing of these details may be obtained by contacting the village engineer and is available for inspection at the office of the village clerk.
- d. Standard detail drawings for the village consist of the following:
 1. W-1 water main standard details;
 2. W-2 water main standard details;
 3. SA-1 sanitary sewer standard details;
 4. ST-1 storm sewer standard details.

(Ord. No. 217, §§ 400—402, 10-19-92; Ord. No. 231-203, § 2, 10-3-16)

Sec. 38-42. Water main plans.

Water main plans shall consist of title sheet, plan sheet(s), detail sheets, and SDD. Water mains 12 inches in diameter and larger shall also be shown in profile. Scale of plan portion of sheet shall be no smaller than one inch equals 50 feet horizontal and one inch equals five feet vertical. As a minimum, the following information shall be shown:

- (1) Reference benchmarks established at intervals not greater than 1,200 feet and convenient to the proposed construction shall be noted on each sheet with identification, location, description and established elevation listed. Generally, at least two benchmarks shall be noted on each sheet.
- (2) Street names and widths, subdivision names, lot numbers, legend, list of quantities, and other pertinent information.

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- (3) Existing topography extending 100 feet past the site boundaries and all existing or planned surface or underground improvements in the streets or easements in which water main construction is proposed, and in contiguous areas if pertinent to design and construction. Topography shall include existing elevation contours at a minimum of two-foot intervals at USCGS datum.
 - (4) Location, length and size of each section of proposed water main.
 - (5) Dimensions to property lines, right-of-way lines and buildings from the water mains, hydrants, gate valves, bends, etc. Use of a coordinate system is acceptable.
 - (6) Service line location and diameter shall be shown to all buildings other than single-family detached dwellings.
 - (7) The plans shall indicate the finish grades of all fire hydrants, valve-well rims and all other water structures.
 - (8) Provide top of water main elevation at all points of potential conflict with other utilities.
 - (9) Two-dimensional ties shall be provided for gate valves, hydrants, bends, etc., from property lines or reference lines.

(Ord. No. 217, § 403, 10-19-92)

Sec. 38-43. Sanitary sewer plans.

Sanitary sewer plans shall consist of title sheet, plan/profile sheets, detail sheets and SDD. Plan/profile sheets consist of a plan view of the proposed construction plotted on the top portion of the sheet with a profile view plotted directly below and aligned with the plan view. Scale of plan portion of sheet shall be no smaller than one inch equals 50 feet, with scale of profile portion of sheet one inch equals 50 feet horizontal and one inch equals five feet vertical. Manholes shall be identified by numbers assigned consecutively and increasing in direction opposite to direction of flow in each sewer. Reference benchmarks established at intervals not greater than 1,200 feet and convenient to the proposed construction shall be noted on the plan/profile sheets with identification, location, and description and established elevation listed. Generally, at least two benchmarks shall be noted on each sheet. Each plan/profile sheet shall include a tabulated list of quantities appearing on that sheet.

- (1) *Plan portion.* Plan portion of sheet shall include at least:
 - a. Existing topography extending 100 feet past the site boundaries and all existing or planned surface or underground improvements in the streets or easements in which sewer construction is proposed, and in contiguous areas if pertinent to design and construction.
 - b. Street names, street and easement widths, all other street and easement survey information including deflections and curve data, subdivision names, lot numbers, lot dimensions, first floor elevations and indicate with or without basements.
 - c. Location, length, size and direction of flow of each section of proposed sewer between manholes.
 - d. Locations of all manholes and other sewer appurtenances and special structures. These manholes and appurtenances shall be located using two-dimensional ties to property lines or reference lines. Use of a coordinate system is also acceptable.
 - e. Building sewers, wye branches, or tee inlets to be constructed or installed concurrently with sewer construction, with locations at easement and/or property lines. Length, size, end of lead invert elevations, and amount of riser shall be shown on the plan for each building sewer.
 - f. District limits of sewer.

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- (2) *Profile portion.* Profile portion of sheet shall appear below companion plan portion, generally projected vertically, and shall show at least the following:
- a. Size, slope, length, type and class of pipe, type of pipe joint and controlling invert elevations for each section of proposed sewer between manholes.
 - b. Limits of special backfill requirements.
 - c. Profile over centerline of proposed sewer, of existing and finished ground, and pavement surfaces. Existing profile obtained from actual field survey data. Profiles obtained from aerial photographs will not be permitted.
 - d. Location of existing or proposed installations crossing the line of the sewer or otherwise affecting sewer construction.
 - e. Location, by station, of every proposed manhole, with manhole number, invert elevation of all inlet or outlet pipes, top of casting elevation, and manhole type.
 - f. Location, by station, of all building sewers, wye branches or tee inlets to be constructed or installed concurrently with proposed sewer construction.
 - g. The elevation of the lowest floor and corresponding lot number to be served by the sanitary sewer if the depth of sewer is less than ten feet.
 - h. Cover elevations of all manhole covers shall be shown.
 - i. Required risers, with control elevations.
 - j. Invert elevation at property line for building sewers to be included with sewer construction.

(Ord. No. 217, § 404, 10-19-92)

Sec. 38-44. Storm sewer plans.

Storm sewer plans shall contain a drainage plan delineating the area contributing to the storm sewer system with a table of drainage calculations. Plan/profile sheets shall consist of a plan view of the proposed construction plotted on the top portion of the sheet with a profile view plotted directly below and aligned with the plan view. Scale of plan portion of sheet shall be no smaller than one inch equals 50 feet, with scale of profile portion of sheet one inch equals 50 feet horizontal and one inch equals five feet vertical. Manholes shall be identified by numbers assigned consecutively and increasing in direction opposite to the direction of flow in each sewer. Reference benchmarks established at intervals not greater than 1,200 feet and convenient to the proposed construction, location, description and established elevation listed. Generally, at least two benchmarks shall be noted on each sheet. Each plan/profile sheet shall include a tabulated list of quantities appearing on that sheet.

- (1) *Plan portion.* Plan portion of sheet shall contain at least but shall not be limited to the following information:
- a. Existing topography extending 100 feet past the site boundaries and all existing or planned surface or underground improvements in streets or easements in which sewer construction is proposed, and in contiguous areas if pertinent to design and construction. Topography shall include existing elevation contours at a minimum of two-foot intervals at USCGS datum.
 - b. Street names, street and easement widths, all other street and easement survey information including deflections and curve data, subdivision or condominium names, lot numbers and lot dimensions.
 - c. Location, length, size and direction of flow of each section of proposed sewer between manholes.

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- d. Locations of all manholes and other sewer appurtenances and special structures. These manholes and appurtenances shall be located by two-dimensional ties to property lines or reference lines. Use of a coordinate system is also acceptable.
 - e. Sump pump leads, wye branches, or tee inlets to be constructed or installed concurrently with sewer construction with locations at easement and/or property lines. Length, size and end-of-lead invert elevations shall be shown on the plan for each lead.
- (2) *Profile portion.* Profile portion of sheet shall appear below the companion plan portion, generally projected vertically, and shall show at least the following:
- a. Size, slope, length, type and class of pipe, and controlling invert elevations for each section of proposed sewer between manholes.
 - b. Limits of special backfill requirements.
 - c. Profile, over centerline of proposed sewer, of existing and finished ground and pavement surfaces. Existing profiles obtained from actual field survey data. Profiles obtained from aerial photographs will not be permitted.
 - d. Location of existing or proposed installations crossing the line of the sewer or otherwise affecting sewer construction.
 - e. Location, by station, of every proposed manhole, with manhole number, invert elevation of all inlet or outlet pipes, top of cover elevation and manhole type.
 - f. Hydraulic grade line for ten-year storms at each manhole.
 - g. Location, by station, of all building sewers, wye branches or tee inlets to be constructed or installed concurrently with proposed sewer construction.

Plan requirements may be modified at the discretion of the village manager and or village engineer in instances when the scope of work is considered to be minor.

(Ord. No. 217, § 405, 10-19-92; Ord. No. 231-203, § 2, 10-3-16)

Sec. 38-45. Street construction plans.

Street construction plans shall consist of a cover sheet showing a plan view of the entire area, plan/profile sheets, detail sheets and SDD. Reference benchmarks established at intervals not greater than 1,200 feet and convenient to proposed construction shall be noted on the plan/profile sheets with identification, location, description and established elevation listed. Generally, at least two benchmarks shall be noted on each sheet. Scale of plan portion of sheet shall be no smaller than one inch equals 50 feet, with scale of profile portion of sheet one inch equals five feet vertical. Plan/profile sheets consist of a plan view of the proposed construction plotted directly below and aligned with the plan view. Such sheets shall include at least the following:

- (1) Existing topography extending 100 feet past the site boundaries and all existing or planned surface or underground improvements in streets or easements in which street construction is proposed, and in contiguous areas if pertinent to design and construction. Topography shall include existing elevation contours at a minimum of two-foot intervals at USCGS datum.
- (2) Street names, street and easement widths, alignment and curve data, subdivision names, lot numbers and lot dimensions.
- (3) Elevations shown at every station and half station on tangent.

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- (4) At all vertical curves, tangent elevation shall be shown for point of curvature, point of intersection and point of tangency only, and corrected elevation shown at every station and half station. Length of vertical curve and stationing of point of curvature and point of tangency shall also be indicated.
 - (5) Elevation at spring points of all intersection radii.
 - (6) Profile of existing ground along centerline of proposed street.
 - (7) Stationing of plan and profile.
 - (8) Proposed grade elevation of top of curb.
 - (9) Location and elevation of storm manholes, inlets and catchbasins, with connecting sewer and any other structures in or adjacent to the pavement.

(Ord. No. 217, § 406, 10-19-92)

Sec. 38-46. Sidewalk construction plans.

Sidewalk construction plans shall consist of a cover sheet showing a plan view of the complete job, plan/profile sheets drawn to a scale no smaller than one inch equals 50 feet horizontal and one inch equals five feet vertical, and standard detail sheets. Plan/profile sheets shall consist of a plan view of the proposed construction plotted on the top portion of the sheet with a profile view plotted directly below and aligned with the plan view. In addition:

- (1) Profiles of existing centerline of the roadway, street right-of-way line and parallel drainage facilities are to be provided; and the proposed profile along the street right-of-way line shall be provided. The horizontal location of the centerline of each driveway within the limits of construction shall also be delineated in the profile view.
- (2) The length of the frontage of each parcel of land abutting the proposed improvement shall be dimensioned on the plans. Each such parcel shall be identified by its subdivision or condominium name and lot number, or by its permanent parcel number, as established and assigned by the county equalization department, or street address number.
- (3) Barrier-free ramps shall be designed at curbs in accordance with the current Americans with Disabilities Act standards and requirements.
- (4) The direction of drainage from each parcel shall be indicated by drainage arrows.
- (5) For any straight run of a sidewalk, grades shall be given in percent, and the station and length of each vertical curve shall be shown, with grade elevations computed and stated for intervals not exceeding 50 feet.
- (6) Reference benchmarks established at intervals not greater than 1,200 feet and convenient to the proposed construction shall be noted on the plan/profile sheets with identification, location, description and established elevation listed. Generally, at least two benchmarks shall be noted on each sheet.
- (7) Street names and widths, subdivision or condominium names, legend, list of quantities and other pertinent information shall be shown on the plans.

(Ord. No. 217, § 407, 10-19-92; Ord. No. 231-203, § 2, 10-3-16)

Sec. 38-47. Grading and surface drainage construction plans.

The scale of the grading plan shall not be smaller than one inch equals 100 feet. Larger scales, such as one inch equals 50 feet, shall be used if necessary for clarity of presentation. North arrow, scale, proprietor's name and dimensions shall also be shown. Grading plans shall show at least, but not be limited to, the following information:

- (1) Existing topography and ground elevation contours, with a two-foot contour interval extending 100 feet past the boundary of the site.
- (2) All proposed and existing storm drainage facilities, such as storm sewers, manholes, catchbasins and inlets including rim and end section finish grades. In addition, the grades of proposed and existing utility structures shall be shown.
- (3) Stationing of centerline of street pavements, and pavement elevations at 50-foot intervals, and at all high points and all low points.
- (4) Top of curb or shoulder elevation opposite each front lot corner, and side lot corner for corner lots, to hundredths of a foot.
- (5) Proposed ground elevation at each lot corner, front and rear, and side lot elevations to tenths of a foot.
- (6) Finish house grades and first floor elevations for each lot, to hundredths of a foot, shown inside rectangular boxes drawn comparable to a typical house to be built in the subdivision and placed within each lot according to the front yard setback.
- (7) Whenever swales for each lot drainage are called for on the plan, swale elevations at the high point adjacent to the house, the back of the house, and the front of the house shall be provided. General flow direction of swales shall be shown with arrows. Include a typical lot grading scheme.
- (8) Existing elevations shall be provided at 50-foot intervals along all site boundary lines.
- (9) Drainage flow arrows shall be shown to indicate the direction surface water flows on the lots and pavement.
- (10) Proposed elevations shall be provided for pavement, sidewalks, top of curbs, parking islands and additional locations as required by the village engineer.
- (11) A benchmark located within 100 feet of the site based on USCGS datum.

(Ord. No. 217, § 408, 10-19-92)

Secs. 38-48—38-75. Reserved.

ARTICLE III. GENERAL CONSTRUCTION STANDARDS FOR WATER MAINS, STORM SEWERS AND SANITARY SEWERS

Sec. 38-76. Scope.

Standards and specifications contained in this article and in the engineering standards and design specifications shall apply to the design and construction of all water mains, storm sewers, sanitary sewers and related appurtenances constructed within the legal limits of the village.

(Ord. No. 217, § 500, 10-19-92; Ord. No. 231-203, § 3, 10-3-16)

Sec. 38-77. Fundamental requirements.

- (a) *Site grading.* In new developments, the entire site shall be positively graded to within six inches of proposed finished grade prior to construction of any permanent improvements other than permanent soil erosion and sedimentation control facilities.
- (b) *Cleanup.* General cleanup, including completion of rough grading of backfilled trench areas, shall continuously progress along with, and shall lag no further than 100 feet behind, the pipe installation operations. Fine grading and restoration work not dependent on weather or subject to seasonal limitations shall also progress concurrently with, and shall lag no further than 500 feet behind, the pipe installation operations.
- (c) *Pavement replacement, temporary.* All pavement removed in crossing and/or paralleling paved streets, alleys, drives and parking areas shall be temporarily replaced by the contractor immediately following completion of backfilling operations. Temporary pavements for streets and alleys shall conform in all respects, other than time of placement, to the RCOC supplementary permit specifications for underground construction. Temporary pavements for driveways, including approaches and parking areas, shall consist of a minimum of three inches of compacted cold patch asphalt over a minimum of seven inches of compacted MDOT 22A aggregate base. All temporary pavements, including those constructed for streets, alleys, drives and parking areas, shall be maintained in good condition by the contractor until the final pavement replacement is made.
- (d) *Trench enclosures.* All trenches shall normally be backfilled at the end of the working day. Only under special conditions and with the approval of the village engineer shall trenches be left open overnight. Trenches which are allowed to be left open overnight shall be completely enclosed with suitable fencing and lighted barricades. When the trench contains water or when required by the village engineer, the exposed end of the pipe shall be securely closed with a watertight plug. The end of the pipe shall be properly staked with a two-inch by two-inch marker extending to within six inches of the ground surface.
- (e) *Prohibition of salvaged materials.* All sewer pipes, water mains, precast structures, castings and appurtenances shall meet or exceed the specifications required in this chapter. No secondhand or salvaged materials will be permitted.
- (f) *Abandoned utilities.* All castings, hydrants, valves and similar items to be abandoned shall become the property of the village department of public services and returned to the village maintenance building.
- (g) *Staking requirements.* All proposed utilities, appurtenances and roads shall be properly staked for location and elevation prior to construction under the supervision of a land surveyor or engineer licensed in the state. This information shall be provided to the village engineer prior to the start of construction.

(Ord. No. 217, § 501, 10-19-92; Ord. No. 231-203, § 3, 10-3-16)

Sec. 38-78. Specifications by reference.

Whenever reference is made to generally recognized specifications, such as those promulgated by AASHTO, ANSI, MDOT, etc., such specifications shall apply and be binding as if fully set forth in this chapter.

(Ord. No. 217, § 502, 10-19-92)

Sec. 38-79. Excavation.

The trench shall be excavated so that the pipe can be laid to the alignment and grade shown on the plan, taking into consideration the bedding specified. Excavation shall include removal of all materials encountered and

disposal off the site of those materials not suitable or needed for backfilling of the trench. All adjacent structures encountered above and below the ground surface shall be properly protected and supported.

(Ord. No. 217, § 503, 10-19-92)

Sec. 38-80. Width of trench.

If the maximum trench widths noted on the plans are exceeded, unless otherwise authorized by the village engineer, the contractor shall construct a concrete cradle or other type of approved bedding to provide support for the additional load.

- (1) When sand bedding is used, the maximum trench widths shall be used to permit compaction of the bedding around the pipe.
- (2) If stone bedding is used, a minimum six-inch clearance shall be provided on each side of the pipe without exceeding the maximum trench width as tabulated.

(Ord. No. 217, § 504, 10-19-92)

Sec. 38-81. Pipe bedding.

Pipe bedding is defined as that material placed from a minimum of four inches below the pipe to 12 inches above the top of the pipe. It shall consist of stone or sand, as noted on the SDD. The bedding shall be removed under each bell so that the pipe barrel will be uniformly supported for its full length. The bedding material shall be placed and compacted uniformly on both sides of the pipe to prevent lateral movement. Mechanical methods of tamping shall be used when it is possible to do so without damaging the pipe. Bedding shall be placed in layers of six inches or less as necessary to obtain thorough compaction around the pipe. In addition:

- (1) If density tests become necessary to resolve a question of the sufficiency of compaction of bedding material, the minimum acceptable density shall be considered to be 95 percent of maximum density as determined by the AASHTO T180, method D, modified proctor method.
- (2) Bedding of pipe shall be in accordance with SDD.
- (3) Where unstable bottoms are encountered, the contractor shall provide a foundation consisting of an approved graded and processed angular stone or gravel to act as an impervious mat to prevent migration or vertical movement of unstable soils or bedding materials. Where trench sheeting, plates or a trench box are used due to severe ground conditions, all voids to the side and below the top of the pipe caused by the sheeting, plates or box withdrawal shall be completely filled or the supports left in place below the top of the pipe.
- (4) Due to potential damage to exterior walls of PVC or composite pipe, particularly under cold weather conditions if rocks, frozen material, or large objects strike the pipe, the contractor shall carefully avoid dumping any materials other than approved bedding stone on the pipe until 12 inches of cover is placed on it. Pipe walls and ends shall also be protected from abrasion and damage during handling and shall be fully inspected just prior to placing in the trench.
- (5) Care shall be taken during bedding compaction to avoid distorting the shape of the pipe or damaging its exterior wall. Mobile equipment shall not be used over the pipe trench until 48 inches of cover has been placed and properly compacted.
- (6) House connections shall be made to wye or tee fittings. Bedding for house connection sewers shall be equal to that of the main sewer bedding. Risers in deep and unstable trenches should be bedded in crushed, angular stone to avoid settlement. Concrete shall not be used for bedding. End caps or plugs

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as recommended by pipe manufacturer shall be braced or anchored to withstand air test pressures. Caps or plugs shall not be chemically welded in place.

(Ord. No. 217, § 505, 10-19-92; Ord. No. 231-203, § 3, 10-3-16)

Sec. 38-82. Reserved.

Editor's note(s)—Ord. No. 231-203, § 3, adopted Oct. 3, 2016, deleted § 38-82 entitled "Concrete cradles", which derived from Ord. No. 217, § 506, adopted Oct. 19, 1992.

Sec. 38-83. Laying of pipe.

Laying of pipe shall conform to the following specifications:

(1) *Handling material.*

- a. Proper and suitable tools and equipment for the safe and careful handling, conveying and laying of the pipe shall be used. Care shall be taken to prevent the coating of the ductile iron pipe from being damaged. Pipe, valves, hydrants and fittings strung along the route shall be placed in such a manner that they will not be submerged or collect water. Dropping of material directly from a truck or platform is prohibited.
- b. All pipe and castings shall be carefully examined for defects. Materials that are found to be defective shall not be used and shall immediately be removed from the site.

(2) *Cleaning pipe and fittings.*

- a. All lumps, blisters and excess coal tar coating shall be removed from both the bell and spigot ends of each length of pipe and each fitting. The outside of each spigot and the inside of each bell shall be wire-brushed and wiped clean, dry and free from oil or grease immediately prior to installation. The inside of the pipe shall be free of dirt and debris.
- b. Any damage to the exterior pipe coating shall be repaired with an approved coating before the pipe is laid.

(3) *Laying pipe.*

- a. Each pipe shall be inspected for possible defects and compliance with the plans before being placed in the trench. Joint surfaces shall be free of foreign matter.
- b. Pipe laying operations shall follow immediately behind the excavation.
- c. Pipe shall be laid upstream from the lower end of the sewer, with bell ends up grade. The use of brick, lumps of clay, wood, etc., to level the pipe will not be permitted. Pipe shall be pushed home and, if joints do not remain tightly closed or construction is in saturated sand, a cable and winch, or other approved means, shall be used to maintain a tight joint. Under no circumstances shall pipe be dropped directly into the trench.
- d. All pipe shall be laid to line and grade as called for on the plans. Each pipe as laid shall be checked by the contractor. The trench shall be excavated to provide equal clearance on both sides of the pipe. After the pipe is set, care shall be taken in backfilling so as not to disturb its line or grade. As work progresses, the interior of the pipe shall be thoroughly cleaned. At all times, the open ends of the pipe shall be covered to prevent foreign matter from entering.

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- e. When the trench contains water, the exposed end of the pipe shall be closed with a watertight plug. This provision shall apply during the noon hour as well as overnight. If water is in the trench, the seal shall remain in place until the trench is pumped completely dry.
- (4) *Cutting and handling of PVC pipe.*
- a. Cutting of pipe lengths, where required, shall be performed by the use of tools or equipment that will provide a neat, perpendicular cut without damage to the plastic. All burrs shall be removed by the use of a file, knife, or abrasive paper. Spigot ends on cut pipe shall be beveled similar to factory beveling to prevent gasket damage.
 - b. Bowing or warping of plastic pipe can occur with temperature fluctuations.
 - c. The contractor shall store and protect the pipe to minimize bowing. Nominal pipe lengths of ten feet, 12 feet six inches, or 20 feet having deviations from straight greater than one inch shall not be used.
- (5) *Cutting and handling of composite pipe.*
- a. Cutting of pipe lengths, where required, shall be performed by the use of tools or equipment that will provide a neat, perpendicular cut without damage to the plastic or the filler material.
 - b. Bowing or warping of ABS pipe can occur with temperature fluctuations. The contractor shall store and protect the pipe to minimize bowing. Nominal pipe lengths of 12 feet six inches having deviations from straight greater than one inch shall not be used.

(Ord. No. 217, § 507, 10-19-92; Ord. No. 231-203, § 3, 10-3-16)

Sec. 38-84. Backfilling.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
- Backfilling* means the placement in the trench of approved material by an acceptable method from the top of the bedding to proposed ground surface grade.
- (b) *Unsuitable material.* All backfill material shall be free from cinders, ashes, refuse, vegetation or organic matter, boulders, rocks or stones, blue or gray clay or other material which, in the opinion of the village engineer, is unsuitable.
- (c) *Backfilling immediately after installation.* Unless otherwise authorized by the village engineer, all excavations shall be backfilled at least to a point one foot above the pipe immediately after installation.
- (d) *Backfilling from one foot above top of pipe to grade.*
- (1) Backfilling to grade shall not fall more than 100 feet behind pipe laying unless otherwise permitted by the village engineer. In locations where compaction of the backfill to a specific density is not required by this chapter, backfill may, where practicable, be machine placed. Excavated material, other than blue or gray clay, shall be compacted by a small dozer in lifts of not over 12 inches loose measure or in layers appropriate to the compaction technique used as approved by the village engineer. Machine compaction of backfill is mandatory where large volumes of backfill are involved.
 - (2) Settlement occurring in trenches within one year after completion of the work shall be filled, regraded and restored with sod or topsoil, seed and mulch by the contractor as determined by the village.
 - (3) Settlement occurring in trenches under pavement within one year after completion of the work shall be filled and pavement replaced by the contractor as determined by the village.

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- (e) *Backfill under streets, alleys, sidewalks, drives and parking areas.* The trench backfill under existing and proposed streets, alleys, sidewalks, drives and parking areas shall be of granular material MDOT class II placed in layers and thoroughly compacted. If density tests become necessary to resolve the question concerning the compacting of backfill material, the minimum acceptable density shall be considered to be 95 percent of maximum density as determined by the AASHTO T180, method D, modified proctor method. The maximum thickness of each layer shall generally be no greater than 15 inches and in all cases shall be of such thickness that the equipment used will provide the required density for the full depth of the backfill. This backfill shall include the area to the outside of shoulders in ditch sections and three feet back of curb in curb sections, and thence down on a ratio of one-to-one slope, unless otherwise required by the governing agency having jurisdiction over the area affected. In all cases, this fill shall be constructed to elevations determined by the proposed grade of the surfacing. For sidewalks, the sand backfill shall be constructed to the original sidewalk grade and maintained until the sidewalk is replaced. Streets, alleys, sidewalks, drives and parking areas which are disturbed during the course of construction shall be backfilled and restored to a usable condition as soon as such crossing is made.
 - (f) *Backfilling in freezing weather.* At no time shall frozen materials be permitted for use as backfill.
 - (g) *Backfilling around structures.* All backfill placed within three feet of manholes, catchbasins, gate wells and other underground structures shall be approved sand, placed in one-foot layers, and compacted. After the structure and/or exterior masonry plaster has set up sufficiently to resist damage, backfilling shall be performed in a manner that will not cause unequal pressure on the structure.
 - (h) *Backfilling around fire hydrants.* Backfill around fire hydrants shall be carefully tamped in six-inch layers from the centerline of the lead main to a height one foot below the finished grade. Care shall be taken to ensure that the hydrant remains plumb during backfilling. Excavated material shall then be used to backfill to grade.

(Ord. No. 217, § 508, 10-19-92; Ord. No. 231-203, § 3, 10-3-16)

Sec. 38-85. Construction in unstable soil.

- (a) Pipe and pipe appurtenances must be supported on a firm foundation. The trench bottom shall remain stable during backfilling and all subsequent pipe laying operations.
- (b) When unstable trench bottoms, such as wet clays, sands, etc., are encountered, it will be necessary to excavate below design depth to stable, noncompressible ground and backfill to grade with materials as approved by the village engineer, one-fourth inch to three-fourths inch in size.
- (c) Where organic materials, such as peat, marl, muck, etc., exist at the trench bottom, it shall be necessary to remove these to stable soils and backfill to grade with the aforementioned select materials. Where the material below plan grade is unstable to such a degree that it cannot be removed and replaced with an approved material, the contractor shall construct supports as directed by the village engineer.

(Ord. No. 217, § 509, 10-19-92)

Sec. 38-86. Construction in fill areas.

Where necessary to lay pipe in a fill area, unstable or unsuitable material shall be removed and slopes steeper than one vertical on two horizontal shall be stepped before fill material is placed. The embankment shall be of suitable material, one vertical on two horizontal fill slopes, and shall be placed in layers not exceeding one foot in thickness compacted to 95 percent of maximum density as determined by the AASHTO T180, method D, modified proctor method, to the proposed top of the pipe. The embankment shall be not less than four pipe diameters plus 12 feet wide at the invert of the pipe and shall be continued up to provide no less than three feet of cover over the pipe.

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(Ord. No. 217, § 510, 10-19-92)

Sec. 38-87. Pipe clearance in rocks.

Rocks, boulders and stones over two inches in diameter shall be removed to provide a clearance of at least six inches from any part of the pipe or appurtenances.

(Ord. No. 217, § 511, 10-19-92)

Sec. 38-88. Roadway, railroad and waterway crossings.

All construction within a road or railroad right-of-way or a waterway shall be performed in accordance with the requirements of the governmental body having jurisdiction over the right-of-way involved. A construction permit shall be obtained from the department of public services for all work within any right-of-way easement or private road easement within the jurisdiction of the village. Advanced notice of intent to start work shall be given to the village before such work commences.

(Ord. No. 217, § 512, 10-19-92)

Sec. 38-89. Trench box.

Metal trench boxes used for trench construction and safety, where possible, should ride above the top of the pipe on the bottom of a wider step-trench. Using this method will usually permit the trench box to be dragged forward without interfering with pipe bedding or pulling the pipe joints apart. If the trench box rides below the top of the pipe, then care must be taken to protect the integrity of the pipe bedding, particularly when movement of the trench box leaves a void in the pipe bedding. Care must also be taken to ensure that movement of the trench box does not pull the pipe joints apart and, if necessary, the pipelines should be secured with a wood crossblock, cable and winch at the downstream manhole.

(Ord. No. 217, § 513, 10-19-92)

Sec. 38-90. Trench excavation and tunneling near trees.

Trench excavation shall not approach nearer than four feet to any tree that is not designated on the plans to be removed. Trees two inches or less in diameter may be removed, heeled in, and subsequently replanted in their original locations if proper precautions are taken to prevent permanent injury to the tree. Trenches approaching trees having a diameter greater than eight inches shall begin and end at points located no nearer to such trees than the radius of the tree, expressed in inches, multiplied by one foot per inch. As an example, the trench shall not approach closer than six feet to a 12-inch diameter tree. Tunneling operations adjacent to or under trees shall begin and end at points which fall outside a radius, measured from the center of the tree, equal to:

- (1) Four feet around trees eight inches or less in diameter.
- (2) The radius of the tree in inches multiplied by one foot per inch.

(Ord. No. 217, § 514, 10-19-92)

Sec. 38-91. Pipe certifications.

- (a) All pipe shall be certified by the manufacturer to meet the applicable specification requirements. Certification forms together with a report of the test results shall be provided to the construction inspector

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with pipe deliveries and copies shall be forwarded to the village engineer or the village. Certification forms shall include project name, location, contractor and test lot number. Lot sizes shall be acceptable to the village engineer.

- (b) All pipe and fittings shall be suitably marked to provide manufacturer's name or trademark, lot or production number, specification designation, PVC cell classification, SDR number and nominal diameter. Fittings, however, need not contain lot number, cell classification or SDR number.

(Ord. No. 217, § 515, 10-19-92)

Sec. 38-92. Bored and jacked casing.

Steel casings shall be bored and jacked in any areas considered to be detrimentally affected by open cut construction in the opinion of the village engineer. The open cutting of public paved roadways will not be permitted, except under extremely unusual situations and with approval from the village engineer.

- (1) *Materials.* See engineering standards and for required materials.
- (2) *Installation.*
 - a. *Casing pipe.* Casing pipe shall be installed in a continuous auguring or mining and jacking operation with the casing pipe installation following directly behind the face of the excavation. Water shall not be introduced during the boring-jacking operation.
 - b. *Bulkheads.* The ends of the casing pipe shall be closed with a masonry bulkhead at least eight inches thick.
 - c. *Minimum boring distances.* All work shall be performed from boring and jacking pits adequately sheeted to prevent damage to the roadway, railway, etc. The minimum distance from the edge of the pavement to the trench or boring and jacking pit for curb or guardrail sections, railway tracks, or two-lane highways will vary from shoulder point to the toe of slope as shown on the plans or as directed by the village engineer.

(Ord. No. 217, § 516, 10-19-92; Ord. No. 231-203, § 3, 10-3-16)

Sec. 38-93. Special conditions.

- (a) *PVC pipe.* The completed installation of PVC pipe shall at no point have out-of-round pipe deflections greater than 7.5 percent. The village engineer shall have the option of requiring deflectometer or go/no-go gauging tests run prior to acceptance on pipelines where high deflections are suspected.
- (b) *Composite pipe.* The completed installation of composite pipe shall at no point have out-of-round pipe deflections greater than five percent. The village engineer shall have the option of requiring deflectometer or go/no-go gauging tests run prior to acceptance on pipelines where high deflections are suspected.

(Ord. No. 217, § 517, 10-19-92)

Secs. 38-94—38-115. Reserved.

ARTICLE IV. WATER MAINS

Sec. 38-116. Scope.

This article, in conjunction with the engineering standards and design specifications, as revised, establish the minimum requirements for the design and construction of water distribution systems located within the village.

(Ord. No. 217, § 600, 10-19-92; Ord. No. 231-203, § 4, 10-3-16)

Sec. 38-117. Compliance required.

All water mains and appurtenances proposed within the village shall be constructed in accordance with the standards and specifications contained in this article and the engineering standards and design specifications.

(Ord. No. 217, § 601, 10-19-92; Ord. No. 231-203, § 4, 10-3-16)

Sec. 38-118. Design and construction standards.

(a) *General requirements.*

- (1) Generally, the distribution system in all developments requiring more than 600 feet of water main shall have a minimum of two connections to a source of supply and shall be a looped system. Water mains are to be looped whenever possible. Water main systems shall incorporate minimum sizings as determined by the village water distribution system master plan and other requirements as determined by inclusion of the proposed project within the master plan computer network model, as well as minimum/maximum flows and pressures as determined by the village engineer. Water mains are required to be extended along all road frontages abutting the proposed development.
- (2) Generally, water mains shall be installed on the north or east side of all streets, 7.5 feet from the public right-of-way line, or easements exclusively reserved for such use. Vertical separation shall be at least 18 inches between the water main and other utilities. A minimum lateral separation of ten feet shall be maintained between the water main and sanitary/storm sewers whenever possible.
- (3) Within nonplatted projects, water mains shall be installed parallel to the property lines or building lines, with clearance distances to allow for a 20-foot-wide easement centered on the centerline of all water mains. All water mains on which fire hydrants are located shall be located within dedicated easements or rights-of-way and shall be dedicated to the village.
- (4) Water main stubs shall be provided to property lines at locations designated by the village engineer for future extension.
- (5) The easement descriptions shall include hydrant leads and shall extend a minimum of ten feet beyond the hydrant on any lead. The easement documents shall contain a provision prohibiting the construction of or locating of any above ground structures within the limits of such easements.
- (6) Water main stubs shall terminate with a hydrant, followed by a gate valve in well.
- (7) Sand or other porous material approved by the village engineer shall be required full depth of trenches under all driveways and parking areas (private or commercial), streets, alleys and sidewalks.
- (8) All water mains crossing paved public streets shall be bored and jacked unless otherwise approved by the village.
- (9) For interior fire protection systems, a separate fire protection line shall be provided in addition to a domestic service for each building. Individual shutoff valves shall be provided within a public water main easement.

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- (10) No secondhand or salvaged materials or equipment will be permitted.
- (b) *Soil conditions.*
- (1) Where required by the village engineer, exploratory borings and laboratory tests shall be provided by the developer. Boring locations shall be indicated on the plans.
 - (2) Water main design, relative to pipe bedding and locations, shall reflect the proper selection of materials and construction method compatible with the field conditions. Areas which show unsatisfactory ground material for pipe bearing or possible chemical deterioration due to soils shall be avoided, or the pipe shall be suitably installed on adequately designed bedding and/or enclosed in protective wrap or coating.
- (c) *Water mains.*
- (1) *Generally.*
 - a. Feeder mains 12 inches or larger in diameter shall be provided on major streets, collector streets and elsewhere as design dictates and/or as provided by the water distribution system master plan.
 - b. Water mains in new developments shall be installed from boundary to boundary in abutting roads and interior streets, and at other locations as may be deemed necessary by the village engineer for future extensions.
 - c. Main sizes within new developments shall be eight inches in diameter minimum, and larger as design dictates, for residential and commercial developments. Water mains of 12-inch diameter minimum size will be required for industrial developments.
 - d. Hydrant leads shall not exceed 25 feet in length.
 - e. Profile views are required for 12-inch and larger water mains, for water mains parallel to major and collector streets, at crossings with other utilities and for other sizes when determined necessary by the village engineer.
 - f. Water mains in cul-de-sacs and U-streets shall extend around proposed cul-de-sacs and U-streets so that each lot has a public water main across the front.
 - g. Hydrants and valves shall be located on extensions of lot lines.
 - h. Minimum cover over mains and fire hydrant leads shall be 5.5 feet, including crossings through ditch sections. When installed parallel to a ditch, mains shall have 5.5 feet of cover minimum, as measured from the nearest point in the ditch cross section. Water main crossings under streets, roads, alleys and other paved or traveled areas shall have a minimum cover of 5.5 feet.
 - (2) *Materials.*
 - a. *Piping.* All water mains shall meet or exceed the specifications required in this article and the engineering standards and design specifications. The materials approved for use in water main pipes shall be ductile iron conforming to ANSI A21.51 (AWWA C151), class 54, pressure class 350, or better.
 - b. *Marking.* Ductile iron pipe shall be marked as required by ANSI A21.51 (AWWA C151).
 - c. *Ductile iron joints and fittings.*
 1. Push-on type joints, when specified, shall be in conformity with the current ANSI A21.11 and shall be Tyton, Super Bell-Tite, or approved equal. The bulb or main body portion of the gasket shall have a maximum compression set of 20 percent after 22 hours at 158 degrees Fahrenheit as determined in accordance with ASTM designation D-395, method B.

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2. Mechanical type joints, when specified, shall be in conformity to the current ANSI A21.11, rubber gasket joints for cast iron pressure pipe and pipe and fittings. The bolts shall be of the high strength, low alloy steel-type.
 3. Flanged joints shall conform to ANSI B16.1.
 4. Bell and socket joints shall be Clow Bell Joint River Crossing Pipe, Uniflex, or equivalent, as approved by the village engineer.
 5. Fittings shall conform to ANSI A21.10 (AWWA C110).
- d. *Cement-mortar lining.* Ductile iron pipe and fittings shall be lined with cement mortar, twice the standard thickness, conforming to ANSI A21.4 (AWWA C104).
 - e. *Pipe coating.*
 1. The inside and outside of all unlined pipes and the outside of all lined pipes shall be covered with a uniform coating of coal tar varnish or hot applied enamel. The coating materials shall be applied uniformly and shall be of a quality necessary to provide a firm, tenacious and tough coating which will not sag or flow when exposed to pipe temperatures of 140 degrees Fahrenheit, nor crack, peel or check when pipe temperatures attain 20 degrees Fahrenheit.
 2. Two coats of cold-applied coal tar base paint may be substituted for the hot-applied enamel provided all other requirements of these standards are met.
 3. These coatings after drying 48 hours shall have no deleterious effect upon the quality, color, taste or odor of potable water.
- (d) *Valves.*
- (1) *Generally.*
 - a. A tapping sleeve, valve and well shall be provided at every connection to existing mains unless otherwise approved by the village engineer. All such connections provided shall not disrupt the existing water service.
 - b. In general, valves shall be arranged so that no single line failure will require more than 800 feet of main, 24 homes, or 30 multiple units to be out of service. On feeder mains, valves shall be spaced not more than one-quarter mile apart. Valves shall be so arranged that any section can be isolated by closing not more than four valves.
 - c. Valves shall generally be located far enough back from the intersection of street right-of-way lines for the gate well structure to clear crosswalks, typically five feet off intersecting right-of-way line.
 - (2) *Pressure sustaining valves.*
 - a. In systems where two or more pressure districts are to be connected, the plans shall include a pressure sustaining valve separating the two districts as directed by the village engineer.
 - b. A line valve shall be installed separating two pressure districts.
 - c. Materials:
 1. *Gate valves:* See engineering standards and design specifications.
 2. *Pressure sustaining valve:* Clayton model 50 G-01, 150 class, manufactured by the CAL-VAL Company or as may otherwise be specified by the village engineer.
- (e) *Valve wells.*

(1) *Generally.*

- a. A valve well shall be provided for all line valves six inches and larger.
- b. In no case shall a sewer be connected to a valve well for any purpose.
- c. Bricks shall be thoroughly wetted and laid in a full bed of mortar. Plastering shall be performed in conjunction with the laying of brick and block shall never be more than six and two courses ahead of the exterior plaster, respectively.
- d. All brick, block, mortar and concrete work shall be properly cured and protected from freezing for a minimum of 48 hours. When the temperature is 40 degrees Fahrenheit and below, brick, mortar and concrete shall be heated to a minimum temperature of 60 degrees Fahrenheit.
- e. Extension stems and stem guides shall be provided in each valve well wherein the valve operating nut is further than five feet below the top of the valve well cover. Extension stems shall extend to within five feet of the top-of-cover elevation.
- f. See engineering standards and design specifications for additional information.

(2) *Materials.*

- a. Base structure: See SDD.
- b. Precast reinforced concrete well sections: See SDD.
- c. Brick shall, as a minimum, conform to ASTM C32, grade MS, or ASTM C55, grade U-L.
- d. Mortar for laying brick or pointing of joints and for plastering outside of structures shall be composed of one part type II masonry cement and 2.5 parts masonry sand.
- e. Water for concrete and mortar shall be clean and fresh, free from oil, acids and organic matter.
- f. Manhole steps: See SDD.
- g. Covers: See SDD.
- h. Extension stems and stem guides shall be as manufactured by East Jordan Iron Works, or approved equivalent.
- i. Corporation stops: See engineering standards and design specifications.
- j. Direct tapping of the water main is permitted unless otherwise directed by the village engineer.
- k. Radial concrete block shall conform to ASTM C139.

(f) *Fire hydrants and appurtenances.*

(1) *Generally.*

- a. Fire department connections shall be located and be visible on a street front or in a location approved by the fire department. Such connection shall be located so that immediate access can be made by the firefighters and fire apparatus. Obstructions such as fences, bushes, trees, walls or other similar objects shall not be permitted for new or existing installations.
- b. In single-family residential areas, hydrants shall be spaced approximately 500 feet apart so that all structures are within a 250-foot radius of a hydrant. It is recommended that a hydrant be located at every intersection on the same corner with the street sign.
- c. Hydrants shall be spaced approximately 300 feet apart on line in commercial, industrial and multiple-family residential areas and meet the following requirements:

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1. In general, no part of a building shall be more than 300 feet from a fire hydrant as measured by the unobstructed hose length.
 2. The village engineer shall approve final locations of all hydrants, subject to review by the fire chief.
 3. Spacing of hydrants around commercial and/or manufacturing establishments shall be considered as individual cases and shall be determined by consultation with the fire chief.
 4. Fire hydrants located within parking areas shall be protected by a minimum six-inch curb, standard guardposts or other acceptable method. Guardpost specification: four-inch steel pipe, eight feet in length, installed four feet below grade, pipe filled with concrete.
 5. The nozzle outlets shall be 18 inches above finish grade. In all cases, the visibility of the hydrant shall be considered. No parking shall be allowed within 15 feet of a hydrant.
 6. Spacing between hydrants and valve wells shall be sufficient to facilitate ditch grading.
 7. Additional hydrants may be required depending on the specific hazard or use to protect the structure.
 8. A hydrant shall be installed at the end of every dead-end main. A one-inch corporation stop with ten feet, plus or minus, of copper attached shall be provided adjacent to the hydrant for the purpose of obtaining water samples when the nearest valve well is more than one pipe length away.
 9. In general, hydrants shall be located in the road right-of-way not more than ten feet from back of curb or edge of pavement. The maximum distance to a hydrant from the centerline of the right-of-way of streets or roads having one-half right-of-way width greater than 40 feet, or from the centerline of the nearest roadway in the case of a divided highway, shall be 30 feet. The location of hydrants with respect to the right-of-way line shall generally be 7.5 feet from the side lot lines extended.
 10. A six-inch gate valve with a three-piece cast iron valve box (5.25-inch diameter screw shaft) shall be placed at each hydrant; see SDD.
- d. The five-inch Storz adaptor shall face the street centerline unless otherwise directed by the fire chief.
 - e. All hydrants shall be accessible by a roadway capable of supporting fire apparatus and equipment weighing up to 25 tons.
 - f. All grade, facing and vertical alignment adjustment of hydrants shall be completed prior to pressure testing.
 - g. All hydrants shall be cleaned and painted with a rust inhibitive, oil base paint such as Rustoleum or village engineer approved equal to the village color code prior to acceptance.
 - h. Prior to acceptance, the lubricant reservoirs in all hydrants having such construction shall be filled with a lubricant acceptable to the state department of public health and recommended by the hydrant manufacturer.
 - i. Fire hydrant location is important when sprinklers and standpipe systems are installed and distance between the hydrant and the Siamese will need approval of the fire department. Siamese connection must be visible, readily accessible and properly identified.
 - j. Fire lanes shall be designated by the fire chief when it is deemed necessary.

- k. If a new building is more than 175 feet from a public fire hydrant, a fire hydrant, if required, shall be provided ten to 15 feet off the right side of the drive entrance or as recommended by the fire chief.
 - l. Where valves and hydrants are adjacent to a ditch, the ditch shall be enclosed with a culvert crossing.
- (2) *Materials.*
- a. Hydrants: See engineering standards and design specifications for approved hydrant materials.
 - b. Valve boxes shall be East Jordan Iron Works figure E-3002, or approved equivalent.
- (g) *Thrust blocks.* See SDD for thrust block specifications.
- (h) *Utility crossings.*
- (1) A minimum of 18 inches of clearance shall be provided between the water main and any existing underground utility unless otherwise required by the village engineer; see SDD.
 - (2) Whenever a main is installed under any existing utility line such as gas, buried electric power, telephone line, sewer or water, provision shall be made to properly support or distribute any concentrated load to avoid settlement and possible failure of the lower main. Such provisions shall consist of concrete bedding of the main, complete concrete encasement, or some other method as shown on the plans.
- (i) *Special crossings.*
- (1) *Railroad crossings.* Water main shall be installed at railroad crossings within an encasement pipe specified by the railroad. Details shall include encasement pipe thickness and diameter, water main bedding, and complete pressure grouting with a flowable fill as approved by the village engineer, of the encased water main.
 - (2) *Stream crossings.* Ball joint river pipe shall be used at stream crossings unless otherwise approved by the village.
- (j) *Water services.* All water services shall be seamless copper tubing designated as type K and shall conform to ASTM B-88. Fittings and threads shall be in accordance with ASTM B62 and AWWA C800. Water services shall extend to within five feet of the building.
- (1) The basis of design for size shall be considered using a flow rate of 20 gallons per minute per residential dwelling unit. The basis of size other than for residential use shall be determined by the developer's engineer and submitted for approval by the village prior to submittal of final plans. Minimum size of service shall be one inch. Service connections must be made to a village owned and maintained water main. Service shutoff valves must be located within a dedicated easement or street right-of-way, generally at the property line.
 - (2) Water leads shall be less than 100 feet in length and, for multiple type uses, the following minimum sizes shall apply:

Number of units per building	Water service size (inches)
4—15	1.5
16—31	2
32 and over	3 (ductile iron)

(Ord. No. 217, § 602, 10-19-92; Ord. No. 231-203, § 4, 10-3-16)

Sec. 38-119. Pressure tests.

- (a) No permanent connection to existing water mains shall be made before the newly constructed water mains have undergone a satisfactory pressure test as witnessed by the village engineer or the village department of public services staff. Temporary connections (jumpers) between existing water mains and the newly constructed system, which connections may be made for chlorinating and flushing purposes, shall include a back checkvalve to prevent backflow and possible contamination of the public water supply.
- (b) Pressure testing shall be made in lengths of 2,000 feet or less unless otherwise authorized by the village engineer. Before applying the specified test pressure, all air shall be expelled from the pipe.
- (c) Pressure testing shall be accomplished by filling the main with clean water under a minimum hydrostatic pressure of 150 pounds per square inch. In no case shall the leakage in any stretch of pipe being tested exceed 11 U.S. gallons per inch diameter of main per mile of pipe (0.0001736 multiplied by diameter (inches) multiplied by pipe length (feet) in a two-hour period.

(Ord. No. 217, § 603, 10-19-92)

Sec. 38-120. Dedication of water system.

All water main systems, excluding building service leads, which serve more than one parcel of land shall be dedicated to the village for maintenance and operation. The dedication of the water system must be in accordance with the village policy for acceptance of developer provided utilities.

(Ord. No. 217, § 604, 10-19-92)

Sec. 38-121. Disinfection of water mains.

- (a) No permanent connection to an existing water main shall be allowed until the new water main pressure test and bacteriological test have been successfully completed and approved by the village engineer or village department of public services.
- (b) All new water mains shall be disinfected in a manner acceptable to the state department of public health.
- (c) Water samples for bacteriological testing shall be taken from the end of each main and at any other locations selected by the village engineer. Samples shall be taken from corporation stops only, unless authorized by the village engineer.
 - (1) Bacteriological water samples shall be collected by the village department of public service. One sample shall be taken for each section of main disinfected. Analysis of each sample must be made by a laboratory approved by the state department of public health.
 - (2) If analysis of any sample indicates that the water is unsafe for human consumption, the disinfection, sampling and analysis procedures shall be repeated until samples obtained on two successive days are found to be safe.
 - (3) A suggested method of disinfection is as follows:
 - a. After satisfactory hydrostatic tests are obtained, the new system shall be chlorinated. A chlorine gas and water mixture shall be applied by means of a solution-feed chlorinating device. The chlorine solution shall be applied through a corporation stop at the beginning of the main. A slow flow of water shall be let into the main approximately at the point of injection of the chlorine solution at a rate such that the chlorine dosage of the entering water shall be at least 50 milligrams per liter. An open discharge shall be maintained at all extremities of the system, and

the introduction of chlorine solution and water shall be continued until the full dosage of chlorine reaches each outlet.

- b. The chlorinated water shall remain in the system at least 24 hours, and at the end of that time, the chlorine residual at pipe extremities and other representative points shall be at least 25 milligrams per liter. If the chlorine residual is found to be less than 25 milligrams per liter at the end of 24 hours, further application of chlorine shall be made and the retention period repeated until the required 25 milligrams per liter residual is obtained.

(Ord. No. 217, § 605, 10-19-92)

Sec. 38-122. Acceptance inspection.

All water main systems shall be subject to a final inspection prior to acceptance of the system by the village.

(Ord. No. 217, § 606, 10-19-92)

Secs. 38-123—38-150. Reserved.

ARTICLE V. SANITARY SEWERS

Sec. 38-151. Scope.

This article, in conjunction with the engineering standards and design specifications, establishes the minimum requirements for the design and construction of sanitary sewer systems located within the village.

(Ord. No. 217, § 700, 10-19-92; Ord. No. 231-203, § 5, 10-3-16)

Sec. 38-152. Definitions.

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

Branch sewer means a sewer that receives, via lateral sewers, wastewater from a relatively small area and discharges into a main sewer serving more than one branch sewer area.

Building drain means that part of the lowest piping of the wastewater drainage system of a building which receives the sanitary sewage from soil pipes, waste pipes and other drainage pipes inside the perimeter walls of the building and conveys it to the building sewer, which begins approximately five feet outside the building wall.

Building sewer and house connection means that part of the exterior sewer piping of a drainage system which continues from a building drain approximately five feet outside the building wall and carries the flow emanating from the building drain to the public sanitary sewer.

Lateral sewer means a sewer that discharges into a branch or other sewer and has no other sewer tributary to it.

Main or trunk sewer means a sewer to which one or more branch sewers are tributary.

Public sanitary sewer means a pipe or conduit, with appurtenances, within village rights-of-way or easements and formally dedicated to the village, that carries liquid and/or water-carried wastes from residences, commercial

buildings, industrial plants and institutions, together with minor quantities of stormwaters, surface waters and groundwaters that are not admitted intentionally.

Sanitary sewage means wastewater discharged from homes, commercial establishments and other structures, designated as sanitary flow because it is composed of used or spent water resulting from human use in so-called sanitary conveniences.

(Ord. No. 217, § 701, 10-19-92)

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

Sec. 38-153. Compliance required.

All sanitary sewers proposed within the village shall be constructed in accordance with the standards and specifications contained in this article and the engineering standards and design specifications.

(Ord. No. 217, § 702, 10-19-92; Ord. No. 231-203, § 5, 10-3-16)

Sec. 38-154. Design and construction standards.

(a) *Location of sanitary sewers.*

- (1) *In streets.* Sanitary sewers shall generally be located on opposite sides of streets from water mains, generally being 7.5 feet off the southerly and westerly street right-of-way lines.
- (2) *In easements.* Easements for sanitary sewers shall have a minimum width of 25 feet, centered upon the sewer. Such easements shall be deeded or dedicated to the village with restrictions against use or occupation of easements by the property owners and/or by other utilities in any manner which would restrict sewer maintenance or repair operations.
 - a. Stubs for possible extensions shall be provided to the property lines at locations designated by the village engineer.
 - b. Within unplatted projects, sewers shall be installed parallel to the property lines, or building lines, with clearance distances to accommodate the full width of the proposed easement.

(b) *Sewer capacity.*

- (1) *Tributary area.* Sanitary sewers shall be designed to serve all natural tributary areas, anticipating full development of such areas, with due consideration given to topography, established zoning and the village's adopted master land use plan.
- (2) *Population.* For design purposes, population shall be based on a minimum of 3.26 persons per detached single-family home site, and 2.5 persons for each multiple-family dwelling unit. Submissions for review shall include a tabulation of occupancy (usage) types and the conversion of these into terms of equivalent single-family units. The area of the site, in acres, may be used to calculate dwelling units based on density allowed in the village zoning ordinance. The village's table of unit factors shall be used to convert the different usage types to equivalent single-family units.
- (3) *Sewage quantities for pipe design.*
 - a. For service areas with design populations of 500 or less, sewer design capacity shall be 400 gallons per capita per day, as specified under the ten state standards of GLUMRB.
 - b. For service areas with design populations greater than 500 but less than 28,400, sewer design capacity shall be based on the following formula:

Q = 100	=	18 + VP
	=	4 + VP

Where:

Q	=	Design capacity in gallons per capita per day.
P	=	Design population expressed in thousands.

- c. For service areas with design populations exceeding 28,400, sewer design capacity shall be 250 gallons per capita per day, as specified by GLUMRB.
- (c) *Minimum pipe size.* Minimum pipe size for sanitary sewers shall be eight inches nominal internal diameter. Sewers shall not be oversized in order to lower pipe slopes unless it can be shown that they will flow at least one-half full during peak flows.
- (d) *Hydraulics.* Hydraulic requirements for sanitary sewers shall be as follows:
- (1) *Calculations.* Calculations shall utilize Manning's formula, where "n" is appropriate to the pipe material used.
 - (2) *Minimum and maximum velocities.* Minimum design velocity shall be two feet per second, and maximum design velocity shall be ten feet per second, with the pipe flowing full. The slope of the sewer between the last two manholes at the upper end of any lateral shall be increased to six-tenths of one percent or greater to obtain cleaning velocity. Whenever sufficient grade is available, one percent minimum slope shall be utilized on lateral sewer lines.
 - (3) *Allowable pipe slopes.* Allowable pipe slopes are as follows:

Pipe diameter (inches)	Minimum slope (feet per 100 feet)	Maximum slope (feet per 100 feet)
8	0.40	8.00
10	0.28	7.00
12	0.22	5.30
15	0.15	3.90
18	0.12	2.90
21	0.10	2.32
24	0.080	1.92
27	0.067	1.64
30	0.058	1.44
36	0.046	1.12

- (4) *Allowances for changes in pipe size.* Maximum flow velocity for full pipe flow shall be maintained by continuity of the eight-tenths diameter depth above invert for pipe size increases.
 - (5) *Allowance for direction changes.* Provide a drop of one-tenth foot in the downstream sewer invert for direction changes in excess of 30 degrees to compensate for velocity head loss of the incoming flow.
- (e) *Allowable types of pipe and pipe joints.* The following types of pipe are allowed in cases where residential use will be served by the sanitary sewer. If the sewer serves commercial and/or industrial uses only extra strength clay pipe will be permitted.

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- (1) *Reinforced concrete sewer pipe.* Reinforced concrete sewer pipe shall conform to the requirements of ASTM C76, class IV. Joints shall conform to the requirements of ASTM C443, joints for circular concrete sewer and culvert pipe, using rubber gaskets, with the exception that gasket material shall be synthetic rubber only and shall conform to the requirements of ASTM C361. Joints in concrete pipe having a diameter of 30 inches or larger shall be pointed on the inside with mortar after backfilling has been completed.
 - (2) *Ductile iron pipe.*
 - a. Ductile iron pipe shall conform to the current requirements of ANSI A21.51, class 54 or pressure class 350, or better.
 - b. Mechanical type joints, when specified, shall conform to the current ANSI A21.11, rubber gasket joints for cast-iron pressure pipe and pipe and fittings. The bolts shall be of the high strength, low alloy steel type.
 - c. Push-on type joints, when specified, shall conform to the current ANSI A21.11, and shall be Tyton, Super Bell-Tite, or approved equal. The bulb or main body portion of the gasket shall have a maximum compression set of 20 percent after 22 hours at 158 degrees Fahrenheit as determined in accordance with ASTM D395, method B.
 - (3) *Polyvinyl chloride (PVC) pipe.*
 - a. PVC pipe and fittings for six-inch through 15-inch diameter shall be as described under ASTM designation D 3034 SDR 26, standard specification for polyvinyl chloride sewer pipe and fittings. PVC pipe and fittings for 18-inch through 27-inch diameter shall be ASTM F 679 SDR 35.
 - b. Joints for pipe and fittings shall be of the elastomeric gasket push-on type. Such joints shall conform to ASTM designation D 3212 and the pipe manufacturer shall file with the village a copy of certified test results of its jointing system prior to use. Gasket joints shall be installed in accordance with procedures specified by the pipe manufacturer. Care should be taken to ensure all joints being pushed to the full home position and held tightly in the home position during any grade or line adjustments.
 - (4) *ABS composite sewer pipe.*
 - a. ABS composite pipe and fittings shall be as described under ASTM designation D 2680, standard specification for acrylonitrile-butadiene-styrene (ABS) composite sewer pipeline.
 - b. Solid wall ABS pipe for six-inch house connection sewers shall be SDR 35 conforming to ASTM designation D 2751 SDR 23.5, standard specification for acrylonitrile-butadiene-styrene (ABS) sewer pipe and fittings. Solid wall pipe shall be installed in accordance with the requirements outlined below.
 - c. Pipe shall have a home mark. Pipe with an absence of filler material at the ends greater than one-fourth-inch deep shall be subject to rejection or acceptable repair.
 - d. Joints shall be chemically welded in accordance with the manufacturer's recommendation. Additionally, all exposed ends of the pipe shall be fully and thoroughly coated with plastic jointing cement prior to making joint to seal ends to eliminate the possibility of false low pressure air tests. Care shall be taken to ensure all joints being pushed to the full home position and held tightly in the home position during any grade or line adjustments. Pipe shall be rotated during joint insertion to ensure a complete spread of jointing cement. ABS plastic cement primer and ABS plastic pipe cement shall arrive at the job site in sealed and labeled containers. Johnny mops or similar swab type applicators shall be used to apply primer and cement. Opened containers in the trench shall be protected from dirt, water and other contaminants.

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- (5) *Permitted class of pipe.* For any class of pipe, a higher strength or greater thickness of pipe may be substituted for the minimum strength or minimum thickness of pipe specified for that class of pipe.
- (6) *Pipe markings.* All sanitary sewer pipe shall have the class and date of manufacture conspicuously marked on each length by the manufacturer. In addition, the lot number shall similarly be marked on all reinforced concrete pipe.
- (7) *Force mains (sanitary sewer pressure pipe).* Force mains shall be ductile iron or polyvinyl chloride (PVC) piping systems.
- a. Ductile iron pipe shall conform to the requirements stated in subsection (e)(3) of this section.
 - b. Rigid polyvinyl chloride bell and spigot type pressure pipe and couplings conforming to ASTM D3034, latest revision, with an SDR no greater than 21. Spigot end of pipe shall be marked to visually determine when the spigot is fully sealed in the bell of the adjoining pipe. Joints shall be push on, conforming to AWWA C111(ANSI 21.11).
- (f) *Depth of sewers.*
- (1) *Minimum depth.* Unless otherwise approved, no sanitary sewer shall have less than four feet of cover. In general, sanitary sewers shall have a minimum of eight feet of cover below finished road surface grade. The minimum depth of force mains shall be five feet.
 - (2) *Depth below building grade.* Unless otherwise approved, the top of any sanitary sewer shall be at least nine feet below finished grade elevation at the building setback line of each fronting property which the sewer is designed to serve.
- (g) *Building sewers.*
- (1) *Connections.*
 - a. Connections shall be made directly to the sewer with a service saddle unless otherwise permitted by the village engineer. If a connection to an existing manhole is permitted, a proper channel shall be constructed within the existing manhole or other structure at which the connection is to be made to direct the flow to the existing outlet in a manner which will tend to create the least amount of turbulence. Any portion of the existing structure which would interfere with such construction shall be removed.
 - b. Connections made into a manhole 18 inches or more above the invert shall be diverted down to within 18 inches of the manhole bottom to allow entrance into the manhole for inspection or repair of the manhole or the building sewer lead.
 - c. When connections are made with sewers or drains carrying fluids, special care must be taken that no part of the work is built underwater. A flume or dam must be installed and pumping maintained, if necessary, and the new work kept dry until completed and any concrete or mortar has set.
 - d. Wherever existing manhole structures or sewer pipes are to be tapped, holes shall be drilled at four inches center-to-center around the periphery of any proposed pipe opening to create a plane of weakness before breaking out the section. The pipe (stub or saddle) to be placed in the opening shall be cut flush with the inside wall of such structure. Voids outside the pipe barrel, placed in the pipe opening, shall be sealed with an approved nonshrinking grout. A concrete collar shall then be poured 12 inches thick around the pipe and extended a minimum 12 inches beyond the outside wall surface of the manhole with the remainder of the pipe cradled in concrete.

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- (2) *Inclusion with sewer construction.* Unless otherwise approved, construction of house leads from the public sewer to the easement and/or property line for each fronting parcel which the sewer is designed to serve shall be included with the construction of each sanitary sewer.
 - (3) *Wyes and tees.* Where the construction of building sewers to the property line is not required concurrently with the sanitary sewer construction, a wye branch or tee inlet with riser is required. Such tee, wye or riser shall be provided with a watertight stopper or plug with type of joint used for the sewer pipe and shall be installed for every lot or building site which the sewer is designed to serve. Such tee, wye or riser and end of building sewer shall be marked with a two-inch by two-inch (nominal dimension) hardwood marker to six inches below the ground surface.
 - (4) *Risers.* Building sewer risers shall be installed to a depth of ten feet below finished ground elevation, unless otherwise authorized by the village. All risers that are installed without building leads shall include an approved stopper.
 - (5) *Size and length.* Minimum size for building sewers shall be six-inch nominal internal diameter. Maximum length of building sewers shall be 200 feet unless otherwise approved by the village engineer.
 - (6) *Minimum slope.* Minimum slope for building sewers shall be one-eighth inch per foot (one percent), with one-fourth inch per foot (two percent) preferred.
 - (7) *Connection branches.* All connection branches in the sewer pipe shall be securely and completely fastened to or formed in the wall of the pipe during manufacture. All pipes containing such connection branches shall be installed with the main sewer. Wyes for vacant property shall be installed opposite the center of the frontage unless otherwise indicated. All wyes that are installed with building sewers shall include an approved stopper.
 - (8) *Size and slope.* Building sewers shall be a nominal six inches inside diameter and shall be the same strength as the sewer to which they connect. Building sewers shall be installed with a minimum slope of one-eighth inch per foot (one percent), preferred one-fourth inch per foot, to a depth of ten feet below finished surface elevation, where possible, unless otherwise directed by the village engineer.
 - (9) *Ends; marking.* The ends of building sewers shall terminate with an approved stopper at the property line or easement line, whichever is farther. The ends shall be marked with a two-inch by two-inch hardwood stake placed vertically from the pipe invert to two feet above the ground surface. The portion above ground shall be painted with an approved phosphorescent paint.
- (h) *Manholes.*
- (1) *Locations.*
 - a. Manholes shall be constructed at every change in sewer grade, alignment and pipe size, and at the end of each sewer line. Maximum distance between manholes shall be 300 feet for sewers 36 inches and smaller in diameter.
 - b. Monitoring manholes shall be placed on all industrial building sewers located in an easement or the public road right-of-way.
 - (2) *Construction.* Manholes shall be constructed of precast reinforced concrete sections; see SDD. The following conditions must also be adhered to:
 - a. Pipe shall not extend into a manhole beyond the inside face of the manhole wall. Field cutting of pipe to be used at manholes shall be done in a neat, workmanlike manner, using methods approved by the village engineer. Exposed ends of reinforcing steel shall be cut flush with the pipe end.

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- b. Concrete placed inside precast flexible joint manholes to form the channel through the manhole shall not be placed between the pipe and the opening in the manhole base section so as to interfere in any way with the flexibility of the joint.
 - c. Manhole assembly shall be in strict accordance with the manufacturer's recommendations. Particular care shall be taken to keep foreign materials from interfering with proper joint assembly. The bell and spigot surfaces shall be wiped clean. The surfaces (bell, spigot, synthetic rubber O-ring gasket) shall then be coated with a lubricating material to overcome the friction resistance when setting the precast sections home.
 - d. Manhole structures which are to be left open overnight shall be securely enclosed with suitable fencing and have adequate lighted barricades.
 - e. All manholes shall be supported on a firm, stable foundation. The foundation shall remain stable during backfilling and subsequent operations.
- (3) *Drop manholes.* A drop manhole shall be constructed whenever an inlet sewer pipe enters a manhole at an invert elevation 18 inches or more above the invert elevation of the outlet sewer pipe. Drops between six inches and 18 inches will not be permitted.
 - (4) *Stubs.* Where future connections to a manhole are anticipated, stubs or blind drop connections with watertight plugs shall be provided.
 - (5) *Bulkheads.* Where sanitary sewers tap into existing manholes, a six-inch masonry bulkhead shall be constructed in the sewer to prevent flow into the existing system from the new system.
 - (6) *Materials and appurtenances.* All materials contained in these specifications shall conform to the requirements of section 5.14.02, MDOT Standards for Construction, and Oakland County Department of Public Works Standards and Specifications for Sanitary Sewer Construction, except as otherwise specified by the village.
- (i) *Special structures and appurtenances.*
 - (1) *Preliminary plans.* Preliminary plans for special structures and appurtenances required for sanitary sewer systems shall be submitted to the village for review and comment prior to their inclusion in the construction drawings.
 - (2) *Inverted siphons.* Inverted siphon design shall provide at least two independent parallel pipes, with a minimum diameter of six inches each, sized to secure an average velocity of flow of at least three feet per second for average flows.
 - (3) *Pumping stations.* Sewage pumping stations shall have at least two pumps or ejectors, each sized to handle maximum design flow. For three or more pumps or ejectors, sizing of units shall be such that design flows can be handled with the largest unit out of service. Design features shall conform to the ten states standards of GLUMRB. Pump station design shall also conform to other requirements as determined by the village engineer. When all pumps are operating, the pumping station shall not discharge flows which exceed the capacity of any downstream sewers. Force mains shall be provided with automatic air release valves in wells at all main high points of the type approved by the village engineer. Cleanouts shall be placed at locations designated by the village engineer. The contractor will supply a portable emergency power source which will become the property of the village if the village maintains the pumping station.

(Ord. No. 217, § 703, 10-19-92; Ord. No. 231-203, § 5, 10-3-16)

Sec. 38-155. Dedication to village.

All sanitary sewer systems, excluding building sewers, which service more than one building or more than one parcel of land shall be dedicated to the village for maintenance and operation. The dedication of the sewer system must be in accordance with the village policy for acceptance of developer provided utilities.

(Ord. No. 217, § 704, 10-19-92)

Sec. 38-156. Manhole casting adjustments.

Adjustments to manhole castings shall be accomplished prior to final acceptance by using precast concrete adjustment rings bolted to the cone section of the manhole with synthetic rubber O-ring gaskets compressed between each adjacent ring or injection molded high density polyethylene adjustment rings.

(Ord. No. 217, § 705, 10-19-92; Ord. No. 231-203, § 5, 10-3-16)

Sec. 38-157. Acceptance test.

All sanitary sewer systems shall be subjected to and must successfully pass a preliminary infiltration, air or exfiltration test, or a combination thereof, in accordance with the requirements of this section prior to scheduling a final acceptance test of the system by the department of public services or village engineer. Removal of the bulkhead as required in subsection 38-154(h)(5) shall not proceed without approval of the department of public services or village engineer. All final acceptance tests shall be witnessed by the department of public services or the village engineer.

- (1) *Infiltration test.*
 - a. All sewers over 24 inches in diameter and all smaller sewers where the groundwater level is more than seven feet above the top of the sewer shall be subjected to an infiltration test.
 - b. Maximum allowable infiltration shall not exceed 200 gallons per inch of diameter per mile of pipe per 24 hours for the overall project. All sewers being tested by the infiltration method shall be allowed to stabilize for a period of 24 hours with the test bulkhead in place.
- (2) *Exfiltration test or air test.* All sewers of 24 inches in diameter or less where the groundwater level is seven feet or less above the top of the sewer shall be subjected to either exfiltration tests or air tests as determined by the village engineer.
 - a. *Exfiltration test.*
 1. For the purpose of exfiltration testing, the internal water level shall be equal to the external water level plus four feet as measured from the top of the highest pipe in the system being tested. This could be either a house lead or a lateral. However, the maximum total height of water above the invert of the pipe at the lower end shall not exceed 16 feet. A prospective test that would exceed this 16-foot limit should not be taken. The line under construction can be broken down into smaller sections so that the maximum head of 16 feet will not be exceeded.
 2. The actual exfiltration of leakage from the sewer line can be measured by recording the volume of water lost over a given period of time in a standpipe or pipes connected in the upstream and/or downstream manhole, or the upstream manhole can be used provided the test water level is below the bottom on the tapered section. It may be necessary to add a measured amount of water during the testing time interval to maintain water in the

standpipe at the specified level so that the total volume of water lost would be based upon the amount of water added and the difference in elevation of water at the end of the testing converted to gallons. When the standpipe method is used, the time interval to record the difference in elevation of the water surface shall be a minimum of 15 minutes. When the upstream manhole method is used, the time interval shall be a minimum of two hours.

3. A minimum of four hours should elapse after the test section is filled with water to permit the escape of trapped air and to allow for maximum absorption. After such absorption and escape of air has taken place, water should be added to the specified test level, and the test begun.
 4. The maximum exfiltration rate shall be 200 gallons per inch diameter of pipe per mile of pipe per 24 hours.
- b. *Air test.* The procedure for air testing of sewers shall be as follows:
1. The sewer line shall be tested in increments between manholes. The line shall be cleaned and plugged at each manhole. Such plugs shall be designed to hold against the test pressure and shall provide an airtight seal. One of the plugs shall have an orifice through which air can be introduced into the sewer.
 2. An air supply line shall be connected to the orifice. The air supply line shall be fitted with suitable control valves and a pressure gauge for continually measuring the air pressure in the sewer. The pressure gauge shall have a minimum diameter of 3.5 inches and a range of zero to ten pounds per square inch gauge. The gauge shall have minimum divisions of one-tenth pound per square inch gauge and an accuracy of plus or minus 0.04 pound per square inch gauge.
 3. The sewer shall be pressurized for four pounds per square inch gauge greater than the greatest back pressure caused by groundwater over the top of the sewer pipe. At least two minutes shall be allowed for the air pressure to stabilize between 3.5 and four pounds per square inch gauge. If necessary, air shall be added to the sewer to maintain a pressure of 3.5 pounds per square inch gauge or greater.
 4. After the stabilization period, the air supply control valve shall be closed so that no more air will enter the sewer. The sewer air pressure shall be noted and timing for the test begun. The test shall not begin if the air pressure is less than 3.5 pounds per square inch gauge, or such other pressure as is necessary to compensate for groundwater level.
 5. The time required for the air pressure to decrease one pound per square inch gauge during the test shall not be less than the time shown in air test tables as developed by the NCPI.
 6. Manholes on sewers to be subjected to air tests shall be provided with a one-half-inch diameter galvanized, capped test pipe installed through the manhole wall and extending three inches into the manhole at an elevation equal to the top of the sewer pipe. Prior to the air test, the groundwater elevation shall be determined as follows:
 - i. The test pipe in the downstream manhole shall be cleared by blowing air through it.
 - ii. A length of clear plastic tubing shall then be attached to the end of the test pipe and extended vertically upward to or near the top of the manhole.
 - iii. Groundwater will enter and rise in the tubing to the elevation of the groundwater level at the manhole and will be readily visible.

The air test pressure shall be adjusted (one foot water equal to 0.433 psi) to compensate for the maximum groundwater level above the top of the sewer pipe to be tested. After all tests are performed and the sewer is ready for final acceptance, the test pipe shall be plugged in an acceptable manner.

- (3) *Test results.*
- a. If a sewer fails to pass any of the previously described tests, the contractor shall determine the location of the leaks, repair them, and retest the sewer. The tests shall be repeated until satisfactory results are obtained. Repair procedures must be approved and inspected by the village engineer.
 - b. All visible leaks and cracks shall be repaired regardless of test results.
- (4) *Safety precautions.* The air test can be hazardous under certain conditions. It is extremely important that all air plugs be properly secured and that care be exercised during the test and in the removal of plugs. A 15-inch plug with 4.5 pounds per square inch applied to it exerts almost 800 pounds of force. This is an example of the potential hazard that exists if plugs are not correctly relieved of air pressure before being removed. As a safety precaution, it is suggested that pressurizing equipment be provided with a ten psi pressure relief device to reduce hazards and to avoid over-pressurization and damaging of any sewer lines. No person shall be allowed in manholes during air testing.
- (5) *Televised inspection.* All sanitary sewer inspections shall be televised with test results approved by the village engineer prior to placing the sewer in service.
- (6) *Force main testing.*
- a. No sanitary sewer pumping system shall be put into service until all pressure piping (force main) has undergone a satisfactory hydrostatic pressure test witnessed by the village engineer.
 - b. Before applying the specified test pressure, all air shall be expelled from the pipe. The contractor shall furnish proper appliances and facilities for testing and draining the main without injury to the work and surrounding territory.
 - c. The contractor shall be responsible for furnishing, and for the cost of, all water required for pressure testing. He shall test by filling the main with clean water under a minimum hydrostatic pressure of 100 pounds per square inch. In no case shall the leakage in any stretch of pipe being tested exceed the 11 U.S. gallons per inch diameter of main per mile of pipe (0.0001736 multiplied by diameter (inches) multiplied by pipe length (feet) in a two-hour period.
 - d. The contractor shall pressure test sections of force main as directed by the village engineer. Pressure testing shall be made in increments of 2,000 feet or less unless otherwise authorized by the village engineer, and then only the allowable leakage for 2,000 feet will be permitted.
- (7) *Test observations.* All final acceptance tests shall be witnessed by representatives of the village engineer or the department of public services.

(Ord. No. 217, § 706, 10-19-92; Ord. No. 231-203, § 5, 10-3-16)

Secs. 38-158—38-180. Reserved.

ARTICLE VI. STORM SEWERS

Sec. 38-181. Scope.

This article, in conjunction with the engineering standards and design specifications, establishes the minimum requirements for the design and construction of storm sewer systems within the village.

(Ord. No. 217, § 800, 10-19-92; Ord. No. 231-203, § 6, 10-3-16)

Sec. 38-182. Compliance required.

All storm sewers proposed within the village shall be constructed in accordance with the standards and specifications contained in this article and the engineering standards and design specifications.

(Ord. No. 217, § 801, 10-19-92; Ord. No. 231-203, § 6, 10-3-16)

Sec. 38-183. General design of stormwater system.

- (a) All storm sewer designs shall conform to the village stormwater management plan. Prior to the approval of a stormwater master plan, storm sewer and on-site stormwater holding facilities shall be in accordance with the requirements of the village engineer. The master plan describes the village stormwater system. Storm drainage facilities will generally be required for stormwater disposal, sized for a ten-year storm event. Design consideration shall also be given to storm events in excess of the ten-year storm event and shall be reviewed and approved by the village engineer.
- (b) Hydraulic design calculations and a copy of the drainage area layout used for the hydraulic design of the storm sewer shall be included in the construction plans submitted for review. The hydraulic gradient shall be shown on the profile sheet of the storm sewer.

(Ord. No. 217, § 802, 10-19-92)

Sec. 38-184. Design and construction standards.

(a) General requirements.

- (1) *In streets.* Storm sewers shall generally be located on the same sides of streets as water mains, and generally five feet off the right-of-way, in an easement along lot frontages, on the northerly and easterly side of the street. All sewers shall be dimensioned to the right-of-way, property lines or other suitable means of locating the sewer.
- (2) *In easements.* Easements for sewers shall have a minimum width of 20 feet. The utility shall be centered in the easement unless otherwise permitted by the village engineer. Such easements shall be deeded or dedicated to the village with restrictions against use or occupation of easements by the property owners and/or by other utilities in any manner which would restrict sewer maintenance or repair operations.
 - a. Easements for possible extensions shall be provided to the property lines at locations designated by the village engineer.
 - b. Sewers shall, whenever feasible, be constructed not closer than ten feet to any building.
 - c. Easements shall be provided for all drainage ditches and storm sewers located within a subdivision.

- d. Drainage and storm sewer easements shall be provided where off-site drainage enters onto the lot or parcel to be developed.
 - e. Easements shall be provided in size and location in accordance with the village stormwater management plan.
 - f. Drainage easements shall be provided at the location of and of the design width required for the 100-year overflow drainage way outside of public rights-of-way.
- (3) *Discharge of storm sewers.* Storm sewers shall not be permitted to discharge directly into a pond or the Huron River unless no wetland area owned by the developer exists in the vicinity for the storm drain effluent.
- (b) *Sewer capacity.*
- (1) *Tributary area.* Sewers shall be designed to serve all natural tributary areas and areas designated in the village stormwater management plan with due consideration given to the topography, established zoning and the adopted village master land use plan and the capacity of the stormwater outlet proposed to be used. Discharge must not be diverted onto abutting properties without necessary easements. The outlet must be in accordance with the existing natural drainage courses in the area. Provision for detention/retention of stormwaters where required must be included in the storm drainage system as described in this article.
 - (2) *Hydrologic considerations.* In general:
 - a. The stormwater disposal system shall utilize a piping system designed for a ten-year rainfall event. The rational formula shall be utilized to determine flows to be accommodated using a ten-year curve ($I = 175/(T + 25)$) for rainfall. Initial time of concentration shall be 20 minutes maximum.
 - b. Runoff coefficients shall be determined for each individual drainage area and calculations for each drainage area must be submitted as part of the design computations. Coefficient design determinations shall be based upon the following minimum coefficients:
 - Agricultural, $C = 0.25$.
 - Pavement and buildings, $C = 0.95$.
 - (3) *Hydraulics.*
 - a. *Pipe sizes.*
 - 1. Minimum pipe sizes for storm sewers receiving surface runoff shall be 12-inch nominal internal diameter. Minimum pipe sizes for rear yard storm sewers receiving sump pump discharge shall be eight-inch nominal internal diameter.
 - 2. Pipe sizes shall not decrease going downstream unless specifically approved by the village engineer.

Trunk sewers shall be sized as design dictates with allowance for extensions.
 - b. *Pipe slopes.* Allowable pipe slopes ($n = 0.013$) shall be as follows:

Pipe diameter (inches)	Minimum slope (feet per 100 feet)
10	0.42
12	0.32
15	0.24
18	0.18

21	0.14
24	0.12
27	0.10
30	0.09
36	0.067
42	0.054
48	0.045
54	0.038
60	0.034

Generally, all catch basin and inlet leads shall have a minimum of one percent slope.

- c. *Minimum and maximum velocities.* Minimum design velocity shall be 2.5 feet per second with pipe flowing full. Maximum design velocity shall be eight feet per second.
 - d. *Calculations.* Manning's formula shall be used for hydraulic calculations. Allowances for head losses through manholes shall be provided.
 - 1. *Allowances for changes in pipe size:* The hydraulic gradient shall be maintained by matching the 0.80-diameter depth above invert for pipe size increases.
 - 2. *Allowance for direction changes:* Provide a drop of 0.10 foot in the downstream sewer invert for direction changes in excess of 30 degrees to compensate for the hydraulic head losses.
 - e. *Surcharging.* Surcharging under design conditions is allowed. However, the hydraulic gradient should be at least two feet below any structure cover elevations.
 - f. *Submerged storm sewers.* Submerged storm sewers shall not be permitted unless specifically approved by the village engineer.
- (c) *Minimum depth of sewers.* Unless specifically approved otherwise by the village engineer, no sewer shall have less than three feet of cover.
- (d) *Plunge pools.* Whenever differences in manhole pipe invert elevations exceed two feet, the manhole shall be provided with a plunge pool (sump) to prevent channel erosion. Plunge pools shall generally be two feet in depth.
- (e) *Manholes, inlets and catchbasins.*
- (1) *Manhole locations.* Manholes shall be constructed at every change in sewer grade, alignment, pipe size and at the junction of sewer lines. Generally, manholes shall be placed not more than 300 feet apart. Generally, manholes should be placed at street intersections. Manholes shall be provided where catchbasin and inlet leads are to be connected to the sewer, unless expressly waived by the village engineer for a specific location.
 - (2) *Catchbasin and inlet locations.* Catchbasins and inlets shall be located using the following design criteria:
 - a. So that the flows to be accommodated do not exceed the intake capacity of the cover. The intake capacity of the cover is assumed to be 0.011 cubic feet per second per square inch of opening.
 - b. At all low points in gutters, swales and ditches.
 - c. At the upstream curb return, if more than 200 feet downstream of high point in gutter or of intercepting structure.

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- d. At maximum intervals of 500 feet along a continuous slope.
 - e. Inlets shall only be allowed in pavement areas, and then only as a high end structure and when followed by a catchbasin within 50 feet of the inlet.
 - f. End sections may be used as a ditch inflow device when followed within 50 feet by a catchbasin. Field catchbasins shall be provided at the low point of all swales and ditches so as to prevent a concentrated flow of stormwater onto a paved surface such as streets, driveways, parking lots, etc.
 - g. In rear yard drainage systems (subdivision) no more than four lots shall drain into a single structure.
- (3) *Stubs.* Where future connections to a manhole are anticipated, stubs with watertight bulkheads shall be provided.
- (4) *Manholes, catchbasins and inlets.*
- a. Manhole, catchbasins and inlets, see SDD.
 - b. Manhole steps, see SDD.
 - c. Pipe shall not extend into a manhole beyond the inside face of the manhole wall. Field cutting of pipe to be used at manholes shall be done in a neat, workmanlike manner, using methods approved by the village engineer. Exposed ends of reinforcing steel shall be cut flush with the pipe end.
 - d. The joint between a precast riser section and the base of the structure or the top of a brick or concrete radial block riser section shall be set in a full bed of mortar. Similarly, the joint between a precast eccentric cone section and the top of a brick or concrete radial block riser section shall be set in a full bed of mortar.
 - e. Brick and radial block used shall be laid in a full bed of mortar and shall be plastered on the outside with at least one-half inch of mortar in a manner that will completely seal the structure. Plastering shall be performed in conjunction with the laying of brick or block. The laying of block shall never be more than two courses ahead of the exterior plaster. The laying of brick shall never be more than six courses ahead of the exterior plaster.
 - f. All precast sections shall be set in a full bed of mortar.
 - g. All brick, block, mortar and concrete work shall be properly cured and protected from freezing for a minimum of 48 hours. When the temperature is 40 degrees Fahrenheit and below, brick, block, mortar and concrete shall be heated to a minimum temperature of 60 degrees Fahrenheit.
 - h. After the concrete and/or plaster has set up sufficiently to avoid damage, backfilling shall be done in a manner that will not cause unequal pressure on the structure.
- (5) *Sewer pipe materials.*
- a. Sewer pipe, including catchbasin and inlet leads, shall conform to the following specifications:
 - 1. Reinforced concrete sewer pipe, ASTM C76 class IV pipe.
 - 2. All catchbasin leads and inlet leads shall be a minimum of ASTM C76 class IV pipe.
 - b. All pipe shall have class, lot number and date of manufacture conspicuously marked on each length by the manufacturer.
 - c. All concrete pipe located under and within five feet of a roadway shall be class IV or better with premium joints.

(6) *Sewer joints including catchbasins and inlet leads.*

- a. Concrete pipe under proposed or existing pavement as well as surcharged or submerged pipe shall have modified grooved joints with approved ring gaskets (premium joints). All other concrete pipe may have tongue and groove joints with an approved cold-applied bituminous pipe joint sealer (DeWitts No. 10). Pipe sizes 36 inches in diameter and over shall be inside cement pointed.
- b. Premium joints shall conform to the requirements of ASTM C443, with the following stipulations and exceptions:
 1. Gaskets shall be synthetic rubber only. Natural rubber gaskets are not acceptable.
 2. Gaskets shall conform to the requirements of ASTM C361.
 3. Pipe sizes 36 inches in diameter and over shall be inside cement pointed.

(7) *Manhole, catchbasin and inlet materials and appurtenances.*

- a. Precast reinforced concrete sections shall conform to ASTM C478.
- b. Water for concrete and mortar shall be clean and fresh, free from oil, acids and organic matter.
- c. Mortar for laying brick and block, pointing of joints, and plastering outside of structures shall be composed of one part type II masonry cement and 2.5 parts masonry sand. No lime shall be used in the mortar.
- d. Manhole steps, see SDD.
- e. Casting frames and covers, see SDD.

(8) *Ditches.*

- a. Ditch design shall include maximum side slopes of one on four. Side slopes of one on three may be utilized where sufficient hardship can be demonstrated, subject to approval of the village engineer. Minimum ditch slope shall be one-half of one percent. All ditches to a maximum of three percent slope shall be provided with topsoil, seed and mulch. Slopes greater than three percent shall be sodded. Ditch slopes over five percent shall be paved. The above erosion measures must be installed to the hydraulic grade line for a five-year storm.
- b. Maximum ditch depths in subdivisions shall not exceed two feet.
- c. Improved open drains may only be permitted upon special circumstances, with the approval of the village engineer.
- d. Open drains shall have an approved slope protection or energy dissipater grouted at areas subject to possible erosion and at other locations as required by the village engineer.

(f) *Pipe end treatment.*

- (1) The inlet end of culverts and storm drains shall have a properly designed inlet structure, i.e., headwall or flared end section, approved by the village engineer.
- (2) Culverts and storm drain outlets shall have headwalls or flared end sections with necessary erosion control, i.e., grouted concrete riprap or energy dissipater, as required by the village engineer.
- (3) Grouted concrete riprap or interlocking concrete pavers is required at all pipe outlet points other than structures. The minimum width of the riprap shall be twice the outside diameter of the pipe. The minimum length of the riprap shall be three times the outside diameter of the pipe, plus one additional foot under the end of the pipe outlet. Where the discharge point is on a slope, the riprap shall extend

from the bottom of slope to the pipe invert as determined by the village engineer. Two types of riprap may be used:

- a. Field stone or broken concrete of four-inch minimum thickness and one square foot minimum area; broken concrete or stone shall be mortared to form a monolithic slab with a minimum thickness of six inches; or
 - b. Poured MDOT 30P or 30M concrete of four-inch minimum thickness scored at a maximum of two-foot intervals. A two-foot-deep poured concrete header shall be installed at the outer edges.
- (g) *Special structures and appurtenances.* Preliminary plans for special structures and appurtenances required for sewer systems shall be submitted to the village for review and comment prior to their inclusion in the construction drawings.
- (h) *Storm drainage house leads.* In all new buildings with footing drains, and all buildings remodeled to include footing drains, there shall be installed a sump pump and a storm drainage house lead. The sump discharge must be directed outside the building, and shall not be connected to a floor drain, wash tub, or any other drain connected to the sanitary sewer. For new developments, the leads shall be connected to the enclosed storm sewer system constructed for the development. For individual buildings where there is no new storm sewer, the storm lead may be connected to an accessible catch basin, wetland, or drainage course, subject to the approval of the village, provided these outlets are immediately adjacent to the property being developed. Otherwise, the leads shall discharge onto the ground at least ten feet from the building in such a manner that the water does not migrate off the subject premises. In no instances shall the sump discharge be directed into the right-of-way, onto adjacent property, or into the sanitary sewer.
- (1) *House lead pipe requirements.* Service leads provided for footing drain discharge shall consist of schedule 40 polyvinyl chloride (PVC) pipe. Minimum pipe diameter shall be four inches. Minimum pipe slope shall be one percent.
 - (2) *Collector pipe requirements.* Storm sewer piping which only collects waters discharged from footing drains shall consist of ASTM C14XM concrete pipe, Armco Truss pipe meeting ASTM D2680-72 specifications for acrylonitrile-butadiene-styrene (ABS) or solid wall PVC pipe meeting ASTM D 3034 SDR 35. Minimum earthcover over pipe shall be two feet. Minimum pipe slope shall be one-half of one percent. Pipe diameter shall not be less than eight inches.

A waiver of these requirements may be requested from the village engineer if suitable soil conditions on site can be demonstrated by the developer.

- (i) *Leaching basins.* Leaching basins may be utilized only when the following conditions exist:
- (1) No adequate storm sewer, open ditch or road drain is available for stormwater disposal.
 - (2) Soil composition and groundwater table is suitable for percolation.
 - (3) Total area of site shall be one acre or less. Consideration will be given for the utilization of leaching basins for sites larger than one acre, provided that soil conditions are optimum. Optimum soil condition is defined as soil composed entirely of coarse sand, gravel or a coarse sand and gravel mixture.
 - (4) Generally, the drainage area to each leaching basin shall be one-fifth acre or less. However, for sites larger than one acre, consideration will be given to larger drainage areas.
 - (5) The leaching basin shall be at least 1,000 gallons in volume with openings in the bottom and sides. The basin shall be bedded in 10-A washed stone with a minimum thickness of 12 inches at the bottom and along all sides.
 - (6) Leaching basins which incorporate a sump with six-inch open joint finger drain tile or perforated pipe may be considered acceptable in pavement areas.

(j) *Connections.*

- (1) A proper channel shall be constructed within any existing manhole or other structure to which a connection is to be made to direct the flow to the existing outlet in a manner which will tend to create the least amount of turbulence. Any portion of the existing structure which would interfere with such construction shall be removed.
- (2) When connections are made with sewers or drains carrying water, special care must be taken that no part of the work is built under water. A flume or dam must be installed and pumping maintained, if necessary, and the new work kept dry until completed and any concrete or mortar has set.

(Ord. No. 217, § 803, 10-19-92; Ord. No. 231-131, §§ 1, 2, 6-2-08; Ord. No. 231-203, § 6, 10-3-16)

Sec. 38-185. Flushing the system.

Prior to final acceptance, the storm sewer system shall be cleaned by flushing from the nearest fire hydrant, water jetting, or other method acceptable to the village. All manholes and structures are to be kept clean of debris. If flushing is the desired method of cleaning the storm sewer system, the water use shall be metered and the contractor shall be billed for the water used at the current village rate. The contractor shall schedule the flushing of the storm sewer system with the department of public services and a representative from that department will be present to ensure that disruptions to the rest of the water system are minimal. All debris removed from the system shall be disposed of properly.

(Ord. No. 217, § 804, 10-19-92)

Sec. 38-186. Acceptance inspection.

All storm sewer systems shall be subjected to a final inspection prior to acceptance of the system by the village.

(Ord. No. 217, § 805, 10-19-92)

Secs. 38-187—38-210. Reserved.

ARTICLE VII. STORMWATER HOLDING FACILITIES¹⁶

Sec. 38-211. Definitions.

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

Detention facility means a facility designed for holding or detaining stormwater runoff for a short period of time and then releasing it at a controlled rate to the natural watercourse. The objective of a detention facility is to regulate the runoff from a given rainfall event and to reduce the impact on downstream drainage systems, natural or manmade.

¹⁶Editor's note(s)—Ord. No. 231-149, § 1, adopted January 18, 2011, repealed the former Art. VII, §§ 38-211—38-219, and enacted a new Art. VII as set out herein. The former Art. VII pertained to similar subject matter and derived from Ord. No. 217, adopted October 19, 1992.

Retention facility means a facility which does not have positive dewatering capabilities whereby water is held for a considerable length of time. The water may be dissipated by plants, evaporation or percolation into the ground.

(Ord. No. 231-149, § 1, 1-18-11)

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

Sec. 38-212. Required.

All new and redevelopment projects shall provide an on-site stormwater holding facility in accordance with the village stormwater management plan and/or the Oakland County Water Resources Commissioner's (WRC) Standards, or a temporary stormwater holding facility when dictated by downstream capacity.

(Ord. No. 231-149, § 1, 1-18-11; Ord. No. 231-203, § 7, 10-3-16)

Sec. 38-213. Detention facilities.

(a) All detention facilities shall also include the following:

- (1) A sediment forebay, or equivalent structure, designed to capture the runoff from a one year storm is required for all sites. The forebay should be a separate cell from the main detention basin and designed such that it will dewater within 48 hours. The volume of detention within the forebay, above any proposed permanent pool of water, can be considered when calculating total detention volume required for a site.
- (2) A manufactured stormwater treatment system may be used in lieu of a sediment forebay.
- (3) Green infrastructure or low impact development techniques may be used in lieu of a sediment forebay.

(b) *Allowable discharge rate.* For new development where on-site detention is required, the outflow to an existing drainage course shall be determined according to the current Oakland County Water Resource Commission standards. The village and the county encourage the use of best management practices (BMPs), such as those listed in the SEMCOG Low Impact Design Manual for Michigan (LID Manual), as revised, to help pretreat and infiltrate stormwater and aid in achieving the calculated allowable discharge rate.

(c) *Types of detention facilities.* The following types of detention facilities will be permitted in the village:

- (1) Basin detention (pond is permitted upon recommendation by the village engineer);
- (2) Parking lot detention;
- (3) Rooftop detention;
- (4) Other methods of stormwater detention may be considered under special circumstances.

(d) *Basin detention.*

- (1) All detention ponds must be capable of complete dewatering by gravity. Only under special circumstances will a pump discharge be allowed to dewater a detention facility and then only upon approval by the village engineer with the knowledge and approval of the village manager.
- (2) Detention volume is defined as the volume of detention provided above the invert of the lowest outflow pipe. Detention volume must be provided for all on-site acreage. Off-site acreage originally draining across the proposed development will be allowed to pass unrestricted, but must either be intercepted and routed through the project's storm drainage system or otherwise be handled in a manner satisfactory to the village engineer and village attorney.

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- (3) All detention basins must have a provision for overflow set at the high water level capable of passing a 100-year storm. A spillway is an acceptable overflow provision with an outlet located so as not to cause potential hardships to adjacent property. If possible any spillway overflow must flow into a recognized natural drainage course. All spillways shall have a hard surface consisting of concrete, asphalt or grouted riprap, unless otherwise approved by the village engineer.
 - (4) Minimum bottom of basin slopes shall be one percent. This requirement may be waived if another alternative to complete dewatering of the basin is presented and approved by the village engineer.
 - (5) One foot of freeboard shall be provided above the design high water elevations.
 - (6) Maximum side slopes shall be one vertical to four horizontal. Anything greater shall require approval of the village engineer and shall be fenced.
 - (7) The volume of stormwater detention shall be computed by the Oakland County Water Resources Commissioner's design procedure for a one hundred-year frequency storm.
 - (8) If interconnected multiple basins are involved in the overall storm system, including both on-site and off-site basins, a detailed hydraulic analysis of the basins must be reviewed and approved by the village engineer.
- (e) *Parking lot detention.*
- (1) Parking lot detention of stormwater will be permitted provided it does not adversely affect the functioning of the facility or business which it serves or create a public nuisance.
 - (2) The required storage volume shall be determined in the same manner as it is done for basin detention.
 - (3) The discharge from the parking lot may be controlled by means of restricted inlets.
 - (4) Where applicable, storage depths of up to nine inches will be permitted in parking areas.
 - (5) Overflow route shall be provided with at least four-tenths of one foot freeboard provided.
- (f) A forebay must be installed at all incoming discharge points to the basin. The purpose of the forebay is to capture sediment in one area and prevent sediment buildup in the main basin. The forebay shall be a separate basin, which can be formed within the main basin by creating a separation with an earthen berm, gabion wall, riprap berm or rock or concrete retaining wall. A manufactured stormwater treatment system or green infrastructure techniques may be used in lieu of a sediment forebay.
- (1) The sediment forebay shall be sized to accommodate a one-year storm event. The village shall use the method of design presented in the Oakland County Water Resources Commissioner's Engineering Design Standards to verify the forebay design calculations.
 - (2) The forebay may be included as part of the total required basin volume, above any permanent pool of water. The forebay cannot be included as available storage if it remains full of water.
 - (3) The side slopes cannot exceed one foot vertical to four feet horizontal.
 - (4) The forebay should have a sump a minimum of two feet deep to capture sediment and prevent resuspension of sediment. The bottom of the basin should slope toward the sump area to capture the sediment.
 - (5) The outlet shall be designed to capture the one-year storm event and dewater the basin within 48 hours. An outlet structure with restricted discharge may also be used within the separation.
 - (6) An outlet (overflow) spillway should be constructed on the separation which allows water to exit the forebay at non-erosive velocities.

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- (7) An access road should be provided for forebay maintenance. An access road is required for all facilities that will be established as a chapter 18, county drain.
 - (8) The forebay should also have a fixed sediment depth marker to measure the amount of sediment that has accumulated. The sediment should be removed when half of the sediment storage capacity has filled in.
 - (g) *Manufactured stormwater treatment systems.* Manufactured stormwater treatment systems may be used in lieu of a sediment forebay. These devices are used to remove sediment and other particulate matter from stormwater runoff. Stormceptor and Vortechs are two brand name devices for such purposes. The Oakland County Water Resources Commissioner does not specify either of the brand name devices be used for a project, unless the project will be ultimately operated and maintained by this office. Other similar devices may be substituted providing that proper supporting data is submitted to this office for review. The supporting data must indicate that the system meets the removal standards referenced herein.
 - (1) Manufactured treatment systems must be installed upstream of the stormwater detention system. If the site is not required to provide stormwater detention, a manufactured treatment system must be installed upstream of the connection to the ultimate outlet location.
 - (2) The system must treat up to the peak flow rate for the ten-year storm event.
 - (3) The system must remove a minimum of 80 percent of the total suspended solids (TSS), based on a 75-micron particle size.
 - (4) The system must remove 90 percent of the floatable free oil.
 - (h) Innovative BMP's non-traditional storm drainage facilities that improve the quality and reduce the quantity of stormwater runoff are encouraged as long as the required detention volume and allowable outflow are achieved. Complete details and specifications for the proposed storm drainage facilities must be submitted. There should be sufficient information provided such that a comprehensive review can be performed. Each case will be evaluated on a site-specific basis. These innovative BMPs may include, but are not limited to, those low-impact development techniques outlined in the Low Impact Development Manual for Michigan.

(Ord. No. 231-149, § 1, 1-18-11; Ord. No. 231-203, § 7, 10-3-16)

Sec. 38-214. Retention facilities.

- (a) Retention ponds which are not to be used for aesthetic, agricultural or consumptive reasons but serve the sole purpose of collecting storm runoff will be permitted only if no drains or natural drainage course for discharging of a detention pond are reasonably available to the developer. Such use of retention ponds shall be considered a temporary measure or last resort to be discontinued as soon as a drain becomes available to the development.
- (b) Retention pond sizing shall be based on soil conditions and shall be sized to accommodate back-to-back 100-year storm volumes.
- (c) Retention basin volume shall not include volume below the average or existing groundwater table. A comprehensive soil investigation including determination of groundwater levels shall be furnished for all retention basins.
- (d) All requirements governing detention ponds, unless specifically revised or waived by the village engineer, shall be applicable to retention ponds.
- (e) Maximum side slopes of retention ponds shall be one vertical to four horizontal. Anything greater shall require approval of the village engineer and shall be fenced.

(Ord. No. 231-149, § 1, 1-18-11; Ord. No. 231-203, § 7, 10-3-16)

Sec. 38-215. Fencing requirements.

When fencing is required by this article the proposed materials, gates and access shall be approved by the village engineer. A four-foot minimum height is required.

(Ord. No. 231-149, § 1, 1-18-11)

Sec. 38-216. Sequence of construction.

Detention/retention basins shall be constructed prior to any other construction for all projects in the village. Immediately following construction of the basin, suitable ground cover shall be established, weather conditions permitting. Such ground cover shall be established on the basin bottoms, side slopes, a ten-foot-wide maintenance strip, and an additional ten-foot width around the entire perimeter of the basin.

(Ord. No. 231-149, § 1, 1-18-11)

Sec. 38-217. Location of subdivision stormwater holding facilities.

All subdivision stormwater holding facilities shall be located in parks or outlots and not on a subdivision lot. During the approval process, the village council may, at its discretion, allow the use of a lot for holding facilities when the lot has been oversized for this use. Holding facilities within proposed septic field areas will not be permitted.

(Ord. No. 231-149, § 1, 1-18-11)

Sec. 38-218. Contaminated soil conditions.

In contaminated soil areas, i.e., landfills, dump sites, etc., where open ditches are proposed, the stormwater holding facility shall be provided with a bentonite or vinyl liner to prevent the seepage of leachate into a watercourse.

(Ord. No. 231-149, § 1, 1-18-11)

Sec. 38-219. Facility maintenance.

A method of facility maintenance and a facility maintenance plan acceptable to the village shall be submitted and approved prior to final plan approval. This method shall provide for private maintenance. If maintenance is not subsequently provided, a special assessment district shall be established prior to final approval of the facility. This would allow the village to provide proper maintenance and assess the cost to the benefitted property owners.

(Ord. No. 231-149, § 1, 1-18-11)

Secs. 38-220—38-245. Reserved.

ARTICLE VIII. GRADING AND SURFACE DRAINAGE

Sec. 38-246. Scope.

This article, in conjunction with the engineering standards and design specifications, establishes the minimum requirements for design of grading and surface drainage in subdivisions and all developments within the village.

(Ord. No. 217, § 1000, 10-19-92; Ord. No. 231-203, § 8, 10-3-16)

Sec. 38-247. Compliance required.

All grading and surface drainage proposed within the village shall be constructed in accordance with the standards and specifications contained in this article and the engineering standards and design specifications.

(Ord. No. 217, § 1001, 10-19-92; Ord. No. 231-203, § 8, 10-3-16)

Sec. 38-248. Grading plan required.

All new subdivisions and site plans within the village will require a grading plan.

(Ord. No. 217, § 1002, 10-19-92)

Sec. 38-249. Design and construction standards.

(a) *Drainage pattern.*

- (1) In general, each residential lot shall drain from the front of the house to the road and from the rear of the house to the rear of the lot.
- (2) Whenever a lot is graded toward the rear, a drainage structure must be provided on the lot or immediately across the rear lot line on the adjacent lot to receive surface runoff. Standard catchbasins or special rear yard inlets may be used for this purpose.
- (3) Drainage within a subdivision which crosses adjacent lots due to topography is permitted.
- (4) Drainage for subdivisions and individual site developments must be self-contained so that drainage across adjacent subdivisions and individual site developments is avoided, unless easements are provided for that purpose.
- (5) Drainage for lots must be directed to either the side lot lines, rear lot line, front yard line, or a swale located eight feet from the house.
- (6) Parking lot and/or site drainage for commercial and industrial sites will not be permitted onto the right-of-way without approval of the village engineer or department of public service director. An on-site storm drainage system or storm drainage facility must be provided.

(b) *Minimum slopes.*

- (1) Minimum ground slope for any part of the site, except for the protective slope around the building, shall be one percent (one-eighth inch per foot).
- (2) Minimum swale slopes along the side property lines, the rear property line and the swale located eight feet behind the building shall be one percent (one-eighth inch per foot).
- (3) The finish building grade, defined as the ground surface elevation at the building exterior, shall be established and maintained at an elevation that will provide a minimum five percent slope away from

the building for a minimum distance of ten feet, with the balance of the site graded to provide positive drainage from that point (minimum one percent slope).

- (c) *Maximum slope.* Generally, the maximum ground slope for any part of the site shall be 25 percent (one vertical to four horizontal).
- (d) *Landscape berms.* The maximum side slope of landscape berms shall be 33 percent (one vertical to three horizontal). If a berm is used for all or part of a buffer zone, all required plant material shall be placed on the top and side slope facing the exterior of the site.
- (e) *Additional requirements.*
 - (1) The high point of the swale located eight feet from a building shall be a minimum of one-half of one foot below the proposed finished ground elevation of the house.
 - (2) Generally, a building shall not be set below the crown of the road on which it fronts.
 - (3) A minimum of six-tenths of one foot of vertical drop shall be provided from the front (and side on corner lots) property line to the top of curb.

(Ord. No. 217, § 1003, 10-19-92; Ord. No. 231-203, § 8, 10-3-16)

Sec. 38-250. Grading.

- (a) At all times the grading shall be conducted in a timely and orderly fashion acceptable to the village engineer. Grading shall be accomplished in a manner that shall adhere to required soil erosion and sedimentation control devices and sequences and shall not alter or in any way affect off-site and adjacent natural drainage. Natural drainage flow passing through any construction site shall be accommodated at all times.
- (b) Any earth excavations and/or embankment construction shall be in strict accordance with the approved engineering drawings and the current state department of transportation standards and specifications for construction.
- (c) Special care shall be taken by the contractor to ensure that trees, stumps, topsoil, or any other surplus or unsuitable materials shall not be placed in future building sites, roadways, or other areas which may support structures. On-site fill or wasting site locations for these unsuitable materials shall be as approved by the village engineer.
- (d) Ground slopes shown between proposed elevations shall be considered constant unless noted to the contrary.
- (e) All subdivisions shall be mass graded to within six inches of the proposed finish grade prior to the installation of utilities and roadways. Mass grading must be completed to an accuracy of two-tenths of one foot of the elevations shown in the subdivision's approved overall grading plan.
- (f) Temporary stockpiling of excavated materials and topsoil within 100 feet of adjacent property lines and/or rights-of-way shall not exceed a height of 20 feet with side slopes not to exceed an angle greater than 45 degrees. The toe of the slope shall be a minimum of 25 feet from adjacent properties and rights-of-way.

(Ord. No. 217, § 1004, 10-19-92)

Secs. 38-251—38-275. Reserved.

ARTICLE IX. STREETS

Sec. 38-276. Scope.

This article, in conjunction with the engineering standards and design specifications, establishes the minimum requirements for the design and construction of streets, public or private, within the village.

(Ord. No. 217, § 1100, 10-19-92; Ord. No. 231-203, § 9, 10-3-16)

Sec. 38-277. Definitions.

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

Alley means any dedicated public right-of-way affording a secondary means of access to abutting property, and not intended for general traffic circulation.

Boulevard street means a street of two one-way pavements of two or more lanes each, separated by a grassed or paved island (can be collector or local street).

Collector street means a street which carries traffic from local streets to major streets.

Cul-de-sac street means a short local street having one end permanently terminated by a vehicular turnaround.

Industrial or commercial street means a street intended to serve primarily as a means of access from within nonresidential subdivisions or nonresidential districts to major streets and not intended to serve residential properties or carry residential traffic.

Local street means a street which is of limited continuity used primarily for access to the abutting residential properties.

Major street means a street which is intended to serve as a large volume thoroughfare for both the immediate village area and the region beyond, and is designated as such on the village's master land use plan.

Marginal access residential street means a local street utilized to provide access to townhouses, cluster housing, multifamily or attached condominium dwellings where the preponderance of buildings have four or more units. This type of street may also be parallel to and adjacent to a major street that provides access to abutting properties and protection from through traffic.

Parkway street means a street intended to serve as the primary access to various uses and facilities within parkland.

Private road means an area of land used for ingress and egress, including vehicular traffic, emergency response and public safety vehicles, and for private and public utilities to serve more than one parcel of land, which is under private ownership and not maintained at public expense.

Street right-of-way means an area dedicated to public use or about to become dedicated for public use, which provides emergency or other vehicular and pedestrian access to adjacent properties, and may be further designated as a local street, major street, service drive, collector street, boulevard, marginal access road, cul-de-sac, road, avenue, alley, lane or however otherwise designated, and shall include the land between the right-of-way lines, whether improved or unimproved, and may comprise pavement, curbs and gutters, shoulders, sidewalks, parking areas, lawn areas, ditches, utilities, signage and other items within the right-of-way lines.

U-street means a short boulevard street permanently terminated by a half-circle turnaround.

(Ord. No. 217, § 1101, 10-19-92; Ord. No. 231-022, § 1, 5-6-99; Ord. No. 231-056, pt. I, 3-5-01)

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

Sec. 38-278. Compliance required.

All street pavements proposed within the village shall be constructed in accordance with the standards and specifications contained in this article and the engineering standards and design specifications.

(Ord. No. 217, § 1102, 10-19-92; Ord. No. 231-203, § 9, 10-3-16)

Sec. 38-279. Design and construction standards.

- (a) All construction methods, equipment, materials and standard details shall be in accordance with the RCOC and MDOT standards and specifications, as supplemented by this article and the engineering standards and design specifications. In the case of conflict between these standards and the village standards, the village standards shall govern. Copies of the RCOC and MDOT standards and specifications can be reviewed at the village clerk's office.
- (b) Soil borings shall be made at maximum intervals of every 250 feet along the centerline of the proposed road. The borings shall be made by an approved drilling company, and shall be to a minimum depth of five feet below the proposed centerline elevation. The log of these borings shall be submitted, in duplicate, with the paving plans and specifications.
- (c) The following table sets forth minimum requirements for street right-of-way widths, pavement widths and pavement thicknesses.

**Table 1.
Street Right-of-Way (R.O.W.) Width, Pavement Width and Pavement Thicknesses**

The following minimum right-of-way widths, pavement widths and pavement thicknesses shall be required:

Street type	R.O.W. width (feet)	Pavement width, back of curb to back of curb (feet)	Pavement thickness (4)	
			Conc. pvmt. (inches)	Bit. pvmt., full depth (inches)
Major	per Village Master Plan	-Special design considerations-		
Collector	Per Village Master Plan			
Local (residential) public (1, 7)	60	26	8	4
Local (residential) private (1, 7)	60 (easement)	26	8	4
Boulevard (collector)	100	27(5)	Special Design Considerations	Special Design Considerations
Boulevard (local)	86	24 (5)	8	4
	60	22 (6)	8	4

Industrial, commercial	70 (2)	36	8	4
Industrial, commercial and office (private)	60 (easement)	36	8	4
Marginal access residential	30 (3)	22	8	4
Cul-de-sac, local residential	60 (radius)	47 (radius)	8	4
Cul-de-sac, industrial, commercial and office	70 (radius)	56 (radius)	8	4
Cul-de-sac, local residential, parkway	60 (radius)	47 (radius)	8	4
Parkway	45 feet R.O.W. width	24' pavement width (back of curb to back of curb)	8	4

Notes:

- (1) Includes site condominiums, detached cluster housing, and attached condominiums or cluster housing of three or less units.
- (2) Industrial, commercial and office street R.O.W. widths may be reduced to 60 feet with two five-foot easements, subject to the review and approval of the village engineer.
- (3) No marginal access street shall extend more than 220 feet in length unless the street ends in a T-turnaround. When a T-turnaround is required it shall be constructed with the same street width, composition and right-of-way standards as the street. The length of the T-turnaround shall not be less than 90 feet and shall be posted as a no parking zone to allow permanent access for emergency vehicles. The village engineer may approve an alternative design that the engineer believes provides the same level of safety and purpose of a T-turnaround.
- (4) Alternate designs for pavement cross sections that provide equal or greater structural capacity and longevity will be considered by the village engineer if adequate engineering data is furnished for analysis. Thickness shown is based on clay subsoil.
- (5) Two lanes of traffic in each direction with parking prohibited.
- (6) One lane of traffic and one parking lane permitted in each direction.
- (7) Existing local residential streets both public and private are permitted to have a 24-foot pavement width excluding curb and gutter. Good cause must be shown and the change must be approved by the village council and village engineer.

Regardless of design, edge drain will be required as determined by the village engineer. Design requirements may be increased due to existing conditions encountered in the field as determined by the village engineer.

- (d) It is recommended that a systematic procedure of construction be followed in order to better coordinate the efforts of the village engineer and the owner or his agents. A progress schedule must be approved by the village engineer before beginning construction.
- (e) It is required that all proposed public and private underground utilities adjacent to or in the street right-of-way be installed prior to the paving of the roadway.
- (f) Concrete and bituminous paving will not be allowed between November 1 and the following May 1 without special permission from the village engineer, request and response to be in writing.

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- (g) Deferment for placement of bituminous aggregate surface courses for a period of one year from the time of construction of the base course is permitted. Deferment for placement of bituminous aggregate surface course for a period longer than one year may be granted by the village upon approval and recommendation by the department of public services or the village engineer. However, the time period beyond one year will only be extended until 90 percent of the lots have been developed. Any extension of placement of bituminous aggregate surface course will require placement of a security deposit by the developer acceptable to the village.
 - (h) Residential and industrial subdivision streets shall be surfaced with bituminous pavement or Portland cement concrete pavement, curbed with Portland cement concrete curb and gutter sections, and provided with enclosed storm drainage systems.
 - (i) The requirements of this section may be modified for residential lot developments (subdivisions, lot splits and detached condominiums) to permit open roadside ditches if the following conditions are met:
 - (1) Each lot must have a gross area not less than one-half acre.
 - (2) Each lot must have a frontage of not less than 120 feet.
 - (3) Each lot must have a depth not less than the lot width, nor greater than three times the lot width.
 - (4) No lot shall be partitioned or divided if such partitioning or dividing would produce lots having less than the minimum width and area stipulated in this section.
 - (5) No water, other than natural surface stormwater, shall be allowed to enter such open roadside ditches. Basement sump water, for example, shall not be discharged into open roadside ditches. Footing drain discharge shall be in accordance with section 38-184, pertaining to storm drainage house leads.
 - (6) Discharge of storm drainage into an open roadside ditch shall be in accordance with storm drainage design standards as set forth in this chapter.
 - (7) The natural groundwater table must be below the bottom of all ditches.
 - (8) Designs for subdivision streets with open roadside ditches shall conform to the requirements of the RCOC standards and specifications.
 - (j) The right-of-way widths set forth in Table 1 shall generally govern; however, if the village determines that additional right-of-way is required for proper construction because of special circumstances, which shall include but not be limited to requirements for horizontal sight distances, grading operations, location of open channels, permanent structures occupying portions of the right-of-way, or for a street that is not so designated but which may function as a collector or major street, such facts will be made known to the proprietor after a review of the plans by the planning commission, the village council, or the village engineer.
 - (k) The proprietor's engineer shall submit acceptable soil investigation analysis so that the village engineer may determine the additional need for undergrading, base material, subbase material, subgrade treatment, and any other special design requirements that the village engineer may deem necessary to ensure the integrity and design life of the street pavement.
 - (l) Refer to articles VI and VIII of this chapter for standards for storm sewers and drainage, and Section VI of the engineering standards and design specifications.

(Ord. No. 217, § 1103, 10-19-92; Ord. No. 231-022, §§ 2, 3, 5-6-99; Ord. No. 231-056, pt. I, 3-5-01; Ord. No. 231-203, § 9, 10-3-16)

Sec. 38-280. Acceptance inspections.

Roads shall be subject to a final inspection prior to acceptance by the village.

(Ord. No. 217, § 1104, 10-19-92)

Sec. 38-281. Dedication of streets.

All streets and rights-of-way intended to be public shall be dedicated to the village for maintenance and use. The dedication of the street system must be in accordance with the village policy for acceptance of developer provided streets.

(Ord. No. 217, § 1105, 10-19-92)

Secs. 38-282—38-305. Reserved.

ARTICLE X. PARKING LOT AND DRIVEWAY PAVEMENT

Sec. 38-306. Scope.

This article, in conjunction with the engineering standards and design specifications, establishes the minimum requirements for the design and construction of parking lots and driveways in all developments in which off-street parking is required in accordance with the village zoning ordinance, as amended.

(Ord. No. 217, § 1200, 10-19-92; Ord. No. 231-203, § 10, 10-3-16)

Sec. 38-307. Definitions.

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

Driveway means any area or portion of a premises, lot, parcel or yard used or proposed to be used to provide a means of ingress, egress, access and circulation of vehicles and traffic to, from and between any public or private street, principal or accessory building, use or structure, loading spaces, or parking lots or spaces.

Driveway approach means that portion of a driveway located between the street right-of-way line and the travel portion of the roadway.

Loading space means an off-street facility or space on the same lot with a building or group of buildings for temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

Maneuvering lane or aisle means a permanently surfaced area of land located between the driveway and all parking spaces and loading spaces, including lanes at the end of parking space tiers and areas provided for adequate ingress and egress from all parking spaces.

Parking lot means that area of land which includes loading spaces, parking spaces and maneuvering lanes.

Parking space means a permanently surfaced area of land adequate to carry out the off-street parking regulations of the village zoning ordinance, and an area for each motor vehicle exclusive of drives, aisles and entrances giving access thereto, and fully accessible for the storage and parking of permitted vehicles.

Right-of-way line means the boundary between private property and the public lands under the legal control of the village.

(Ord. No. 217, § 1201, 10-19-92)

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

Sec. 38-308. Residential driveway approaches.

- (a) See chapter 70, pertaining to streets, sidewalks and other public places, for requirements for construction of driveways.
- (b) Construction of a new or reconstructed driveway approach connecting to an existing village street or private road shall be allowed only after a permit has been issued from the village.
- (c) Driveway approaches that will serve a single-family dwelling shall be constructed in accordance with the standard details and specifications as provided by the village.

(Ord. No. 217, § 1202, 10-19-92; Ord. No. 231-203, § 10, 10-3-16)

Sec. 38-309. Design and construction standards for industrial, commercial, office or multiple-family residential developments.

- (a) *Plan requirements.* All site plans proposing the construction of driveway approaches, driveways and vehicular parking areas shall provide but not be limited to the following dimensions and features:
 - (1) Complete parking spaces, maneuvering lanes and driveways.
 - (2) Typical dimensions and angles of parking spaces, maneuvering lanes and driveways.
 - (3) Radii of driveway returns and all other points of curvature.
 - (4) Proposed and existing parking lot and driveway grades and elevations.
 - (5) Driveway and parking lot cross sectional view of the pavement structure, including subbase, base and surfacing.
 - (6) Existing and proposed drainage structures and controls shall include:
 - a. Size of driveway culvert (diameter and length);
 - b. Type of culvert;
 - c. Type of culvert end treatment;
 - d. Grade of culvert;
 - e. Direction of surface water flow by the use of flow arrows;
 - f. Method of surface water disposal on all pavement areas;
 - g. Location of drainage structures and piping;
 - h. Structure details and any other applicable details;
 - i. Delineation of areas contributing surface waters to each structure or stormwater outlet point;
 - j. A benchmark located within 100 feet of the site based on a USCGS datum.
 - (7) Proposed and existing elevations shall be shown on the plan at all radii points, finish grade at the corners of all buildings, at 50-foot intervals along the edge of the pavement, and at 50-foot intervals along the line of surface flow. Proposed elevation contours at two-foot intervals shall be provided if requested by the village engineer.
 - (8) Drive widths, as follows:

Table 2. Drive Widths (a)

	Maximum width (feet)	Minimum width (feet)	Thickness (inches)
Residential	18	12	6
Office	26(b)	12 (one-way)	6 (c)
Commercial	24(b)	12 (one-way)	8 (c)
Industrial	36	15 (one-way)	8 (c)

Notes:

- (a) Drive locations and interior parking lot drive lanes must conform to the off-street parking layout of the village zoning ordinance.
- (b) Maximum width may be increased to 36 feet for three-lane driveways.
- (c) Approach thickness dimensions are for concrete drives; asphalt drives for other than single-family residential must be approved by the village engineer. Concrete must be air-entrained and reach a minimum of 3,500 psi in 28 days. Driveway and parking lot thickness for office, commercial and industrial uses must be approved by the village engineer.

(b) *Design standards.*

- (1) *Driveway and parking lot surfacing requirements.* The entire parking area, including parking spaces and maneuvering lanes, is required to be hard surfaced.
- (2) *Subgrade requirements.*
 - a. All pavement surfaces must be supported upon a prepared subgrade that has been compacted to at least 95 percent of maximum unit weight in accordance with MDOT standards. When unstable subgrade materials, i.e., peat, muck, marl, wet clays, etc., are encountered, excavation and removal of such unstable materials and replacement to plan subgrade with approved materials compacted in place shall be required. Approved materials shall include slag, crushed stone, gravel, coarse sand, or other materials approved by the village engineer.
 - b. Should it be found that the excavation, removal and replacement of unstable subgrade material is impractical due to excessive depths, alternate pavement structure designs must be submitted to and approved by the village engineer prior to pavement installation.
- (3) *Pavement layout and schematics.* Parking spaces, maneuvering lanes and driveways shall conform in size and configuration to the requirements of the village zoning ordinance, as amended. No parking areas shall be permitted in the future road right-of-way as designated in the village master land use plan.
- (4) *Drainage and grading requirements.*
 - a. *Pavement grading.*
 - 1. Generally, the minimum pavement slopes shall be one percent. Lesser slopes may be used if existing topography prohibits a one percent slope and only upon approval by the village engineer.
 - 2. Maximum driveway slopes shall be ten percent.
 - 3. Maximum parking lot slopes shall be five percent unless otherwise approved by the village engineer.

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4. All driveway approaches to a roadway shall not exceed five percent for a distance of 25 feet (minimum) from the edge of the roadway.
- b. *Drainage.*
1. All paved areas shall be drained to dispose of all surface waters accumulated in the parking area in a manner which will preclude unrestricted drainage of water onto adjacent property unless otherwise approved by the village engineer.
 2. The disposal of stormwaters from all paved surfaces shall conform to the requirements of articles VI, VII and VIII of this chapter and Sections IV and VIII of the engineering standards and design specifications for the design and construction standards for storm sewers and grading.
 3. The discharge of stormwaters onto private property is not permitted unless an easement to do so is received from the affected property owners.

(Ord. No. 217, § 1203, 10-19-92; Ord. No. 231-203, § 10, 10-3-16)

Secs. 38-310—38-335. Reserved.

ARTICLE XI. BICYCLE PATHS

Sec. 38-336. Scope.

This article establishes the minimum requirements for the design of bicycle paths within the village. Bicycle paths shall be placed across the frontage of all proposed projects where so indicated on the village master land use plan.

(Ord. No. 217, § 1300, 10-19-92)

Sec. 38-337. Definitions.

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

Bicycle path means a permanent easement, when located outside of street rights-of-way, for the construction, operation, maintenance, repair and/or replacement of the pathway, which will allow pedestrian and nonmotorized traffic access to adjacent properties.

(Ord. No. 217, § 1301, 10-19-92)

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

Sec. 38-338. Design and construction standards.

Bicycle paths are to be constructed of bituminous pavement or Portland cement concrete pavement, where pathways will extend existing concrete walks. They shall be constructed in accordance with AASHTO guidelines and the standard details and specifications as provided by the village. In addition:

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- (1) Minimum bicycle path widths shall be eight feet, and a three-foot clear zone on each side shall be provided. Sharp grade transitions, trees, signs and other fixed objects in the clear zone shall not be permitted.
 - (2) Bicycle paths are to be generally located with a minimum offset from the road surface of 12 feet. Lesser distances may be allowed along curbed streets or when approaching intersections of streets to provide a safe alignment for crossing at the intersection.
 - (3) Bicycle paths will generally follow the longitudinal slope of the existing ground, with adjustments in grade provided for intersecting drives and streets.
 - (4) The maximum grade of a bicycle path shall be eight percent for 100 feet.
 - (5) Bicycle paths will be sloped one-fourth inch per foot toward the street, unless existing surface drainage requires reversal of the pathway slope.
 - (6) For minimum required horizontal and vertical clearances, see the engineering standards and design specifications.
 - (7) Barrier-free ramps shall be constructed at curbs in accordance with standard details and specifications as provided by the village and in accordance with the Americans with Disabilities Act (ADA) standards and requirements.
 - (8) Bicycle paths shall be constructed across the frontage or throughout a project as determined by the village engineer, unless specifically waived by the planning commission and/or village council.

(Ord. No. 217, § 1302, 10-19-92; Ord. No. 231-203, § 11, 10-3-16)

Secs. 38-339—38-360. Reserved.

ARTICLE XII. SIDEWALKS

Sec. 38-361. Scope; construction permit.

- (a) This article, in conjunction with the engineering standards and design specifications, establishes requirements for the design and construction of sidewalks as required in chapter 70. Sidewalks shall be placed across the frontage of all proposed projects and as determined by the village engineer unless waived by the planning commission and the village council.
- (b) A permit from the village shall be required to construct a sidewalk in the right-of-way.

(Ord. No. 217, § 1400, 10-19-92; Ord. No. 231-203, § 12, 10-3-16)

Sec. 38-362. Plans and specifications.

The plans and specifications for sidewalk construction shall be prepared under the supervision of a civil engineer registered in the state, and each sheet of the plans shall have imprinted thereon the seal of that engineer.

- (1) Plans shall consist of a cover sheet allowing a plan view of the complete job, split plan and profile sheets drawn to a scale of one inch equals 50 feet horizontal and one inch equals five feet vertical, and standard detail sheets. Profiles of existing centerline of the roadway, street right-of-way line and parallel drainage facilities are to be provided. In addition, the proposed profile along the street right-of-

way line shall be provided. The horizontal location of the centerline of each driveway within the limits of construction shall also be delineated in the profile view. Sheet size shall be 24 inches by 36 inches.

- (2) The length of the frontage of each parcel of land abutting the proposed improvement shall be dimensioned on the plans. Each such parcel shall be identified by its subdivision or condominium name and lot number, or by its permanent parcel number, as established and assigned by the county equalization department, and street address number.
- (3) Barrier-free ramps shall be constructed at curbs in accordance with standard details and specifications as provided by the village and in accordance with the Americans with Disabilities Act (ADA) standards and requirements.
- (4) The direction of drainage from each parcel shall be indicated by drainage arrows.
- (5) For any straight run of a sidewalk, grades shall be given in percent, and the station and length of each vertical curve shall be shown, with grade elevations computed and stated for intervals not exceeding 50 feet.
- (6) Elevations shall be on USCGS datum. Benchmarks shall be shown at least every 1,200 feet. Street names and widths, subdivision or condominium names, legend, list of quantities and other pertinent information shall be shown on the plans.
- (7) The plans shall contain a note requiring that all construction shall conform to the village's construction standards.
- (8) Some or all plan requirements may be waived or modified at the direction of the village manager.

(Ord. No. 217, § 1401, 10-19-92; Ord. No. 231-203, § 12, 10-3-16)

Sec. 38-363. Design and construction standards.

- (a) *Materials.* The materials used in sidewalk construction shall meet the requirements specified in the sections of MDOT Standard Specifications for Construction designated as follows:

- (1) Portland cement concrete;
- (2) Granular material class II;
- (3) Premolded joint fillers;
- (4) Concrete curing materials.

The concrete mixture shall conform to the requirements listed for grade of concrete 35S with 6AA coarse aggregate.

- (b) *Design standards.*

- (1) Sidewalk grades shall be set to match the general profile on the traveled road, and elevations shall blend in with the general grading plan of the abutting property and shall not impede drainage to presently established storm structures, ditch drainage or site drainage swales.
- (2) Sidewalk construction shall include grading of the existing land parallel to the sidewalk. Drainage on the street side shall be provided by slope grading to the existing ditch or to the back of curb. Typical cross sections shall detail the work in these areas.
- (3) At street intersections where open ditch drainage prevails, a 12-inch minimum size or larger 16-gauge corrugated metal culvert pipe shall be installed and backfilled with granular material class II (MDOT specification) prior to the sidewalk construction. The culvert pipe shall have sufficient length to provide a sidewalk five feet wide with a grass area 2.5 feet wide each side at top, and a maximum slope of one

foot vertical on three feet horizontal to the ditch flow line. The entire area of the filled ditch section, from the ditch bottom to the edges of the new sidewalk, shall be protected with sod. The sidewalk shall terminate at the shoulder point, eight feet from the edge of the traveled roadway, or at the back of curb.

- (4) At drive or street crossings, residential, commercial or otherwise, the sidewalk shall be sloped to meet the drive or street entrance grade. If existing curb is involved, the curb shall be removed and the sidewalk sloped to meet existing pavement. Curb return transition shall be installed and carried back along the edges of the sidewalk to maintain existing grade each side of the walk. Expansion joints shall be provided at all abutting edges of the sidewalk and the sidewalk header shall include an expansion joint at its junction with the pavement. A typical enlarged detail shall be submitted, indicating the construction features as necessary.
 - (5) All concrete sidewalks shall be a minimum four inches thick, except that sidewalks which extend through a driveway shall be a minimum six inches in thickness.
- (c) *Construction standards.* Sidewalks shall be flush with abutting curbs and paved surfaces, and shall be constructed in accordance with the following standards:
- (1) All unstable subgrade material shall be removed and replaced with class II granular material per MDOT specifications. Subgrade material other than such class II material may be used with prior approval of the department of public services. Tree roots shall be trimmed and cut to allow for proper construction of a sidewalk.
 - (2) Forms shall be clean and straight, composed of wood or metal. The forms shall be staked to line and grade in a manner that will prevent deflection or settlement. Forms shall be oiled before placing concrete.
 - (3) The base shall be thoroughly wetted and the concrete deposited thereon to the proper depth. Concrete shall be spaded along the forms, compressed and struck-off flush with the top of the forms. The surface shall be floated with a steel float, edges and joints properly tooled, and then finished with a wood float or brush, transverse to the centerline of the sidewalk to provide a nonslip surface.
 - (4) One-half-inch transverse expansion joint, the full depth of the sidewalk, shall be placed at uniform intervals not exceeding 50 feet, at driveways, and where the new sidewalk abuts existing concrete structures. Contraction joints shall be formed every five feet. All joints shall be constructed at right angles to the centerline of the sidewalk.
 - (5) The concrete shall be cured with white membrane curing compound, wet burlap, or by other methods approved by the department of building and safety, as soon as surface moisture has disappeared. Concrete shall not be placed on frozen ground. When the temperature is below 40 degrees Fahrenheit, or when freezing temperatures within the next 24-hour period are forecast, concrete shall not be placed unless protection against freezing of the concrete, as required by the village engineer or building official, is provided.

(Ord. No. 217, §§ 1402—1404, 10-19-92)

Secs. 38-364—38-390. Reserved.

ARTICLE XIII. AS-BUILT DRAWINGS, PROCEDURES AND REQUIREMENTS

Sec. 38-391. Review and approval by village engineer.

Prior to the village's approval of a final subdivision plat, final site plan, or the acceptance or approval of any public utility, roadway or other improvements, as-built drawings must be submitted to the village engineer for review and approval.

(Ord. No. 217, § 1500, 10-19-92)

Sec. 38-392. Submission to village.

Two bond sets of as-built drawings shall be initially submitted for review and comment. Upon the approval of the as-built drawings by the village engineer, two complete sets of reproducible bond drawings, together with two digital copies, including both AutoCAD and pdf, shall be submitted to the village.

(Ord. No. 217, § 1501, 10-19-92; Ord. No. 231-203, § 13, 10-3-16)

Sec. 38-393. As-built plan deposits.

In lieu of submitting final as-built plans at the time of final approval, the village council may, at its discretion, require a security deposit in an amount to be determined by the village engineer. This deposit will be returned upon the approval of as-built drawings.

(Ord. No. 217, § 1502, 10-19-92)

Sec. 38-394. Plan criteria.

As-built drawings shall contain all the information shown on the approved construction drawings with the addition of, but not limited to the following information:

- (1) *Sanitary sewers and storm sewers.*
 - a. Plan location of all sewers with respect to property and right-of-way lines.
 - b. A minimum of three tie-downs (dimensions) to all force main bends, manholes, cleanouts, etc.
 - c. Length of sewer as measured from center of manhole to center of manhole; this information should be shown on both plan and profile.
 - d. Length of stubs and manholes.
 - e. The following as-built elevations on USCGS datum:
 1. Manhole, inlet and catchbasin covers;
 2. Invert elevations of pipes within each manhole;
 3. Changes in percents between manholes.
 - f. List of material used for construction. Example: Manholes: Precast, concrete specialties, press wedge flexjoint. Pipe: Eight-inch V.C.P. Clow No Bel six-inch V.C.P. Logan O-Ring.
 - g. Any changes in pipe and manhole locations of more than ten feet shall be redrawn on the plan and profile. The original plan locations of these facilities should be crossed out on the plans.
 - h. Any changes to the total quantities shall be lined out and the correct as-built quantity indicated.

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- i. The following as-built information for all sanitary service leads:
 - 1. Station of wye;
 - 2. Length of lead;
 - 3. Length of riser;
 - 4. Tie from nearest manhole to end of lead.
 - (2) *Retention and detention ponds.*
 - a. As-built drawing of pond.
 - b. The following as-built elevations on USCGS datum:
 - 1. Overflow spillway;
 - 2. Inlet and outlet pipe inverts;
 - 3. Outlet structure cover;
 - 4. Outlet and inlet ditch elevations;
 - 5. Bottom and top of bank slopes.
 - c. A statement of final computed volume of the pond as measured from high water elevation to the invert of the outlet pipe.
 - (3) *Roadways.*
 - a. Top of curb elevations on USCGS datum, at high and low points. Edge of pavement elevations shall be provided in the case of open ditch road designs.
 - b. As-built profiles for any changes in road design.
 - (4) *Water mains.*
 - a. Plan location of all water mains with respect to property lines.
 - b. Rim (cover) elevations on gatewells, USCGS datum.
 - c. Fire hydrant bury line elevations, USCGS datum.
 - d. Distances between gatewells, fittings and fire hydrants.
 - e. Type of materials used in construction.
 - f. Any changes in pipe and structure locations exceeding five feet shall be redrawn on the plan. The original plan locations of these facilities shall be crossed out on the plan.
 - g. Any changes to the total quantities shall be lined out and the correct as-built quantity indicated.
 - (5) *Floodways.* As-built ground elevations of all areas located within a floodway.

(Ord. No. 217, § 1503, 10-19-92; Ord. No. 231-203, § 13, 10-3-16)

Sec. 38-395. Certification.

All as-built plans shall contain a statement by an engineer or land surveyor, currently registered in the state, certifying the drawings to be as-built. All plans must also contain the seal and signature of such registered engineer or surveyor.

(Ord. No. 217, § 1504, 10-19-92)

Chapter 46 FIRE PREVENTION¹⁷

ARTICLE I. FIRE PREVENTION CODE

Sec. 46-1. Adoption of International Fire Code.

The International Fire Code, 2015 Edition, including Appendix Chapters B, C, E, F, G, H, I, J, K, L and M, is hereby adopted as the Fire Code for the Village of Milford regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property and the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said fire code, on file in the office of the village clerk, are hereby referred to, adopted, and made a part hereof, as if set out in this ordinance, with changes as noted below. References in the International Fire Code, 2015 Edition, to "local authorities" shall mean the Village of Milford.

(Ord. No. 231-219, § 1, 8-20-18)

Sec. 46-2. Insertions, additions and changes.

The following sections of the International Fire Code, 2015 Edition, are revised as follows:

101.1. Title - Insert Village of Milford as the Name of Jurisdiction.

108.1. Board of Appeals - Amended to read:

The Construction Board of Appeals established and maintained pursuant to the Stille-DeRossett-Hale Single State Construction Code Act, Public Act No. 230 of 1972, as amended, and found at MCL 125.1501 et seq., administered and enforced under Article II of Chapter 18 of the Code of Ordinances for the Village of Milford, shall serve as the Board of Appeals for purposes of this Code.

109.4. Violation Penalties - Amended to specify offenses as municipal civil infractions punishable as set forth in the Schedule of Fines established by Chapter 1 of the Code of Ordinances for the Village of Milford, and to add:

¹⁷Editor's note(s)—Ord. No. 231-219, § 1, adopted Aug. 20, 2018, repealed the former ch. 46, §§ 46-1—46-5, and enacted a new ch. 46 as set out herein. The former ch. 46 was entitled "Fire Prevention and Protection," and derived from: Ord. No. 229, §§ 1—4, adopted May 15, 1995; and Ord. No. 231-057, pt. 1, adopted June 18, 2001.

Cross reference(s)—Amusements and entertainments, ch. 10; buildings and building regulations, ch. 18; parks and recreation, ch. 54; solid waste, ch. 62; subdivisions and land division, ch. 74.

State law reference(s)—Fires and fire departments, MCL 70.1 et seq.; State Fire Prevention Act, MCL 29.1 et seq.; crimes related to explosives and bombs, MCL 750.200 et seq.; crimes related to fires, MCL 750.240 et seq.

Each day that a violation continues after due notice has been served, in accordance with the terms and provisions hereof, shall be deemed a separate offense. A violation of any of the provisions of this Code is hereby declared to be a nuisance per se and may be abated by order of any court of competent jurisdiction.

111.4. Failure to Comply - Amended to specify a fine in an amount as set forth in the Schedule of Fines established by Chapter 1 of the Code of Ordinances for the Village of Milford.

202. Definitions, Fire Code Official - Amended to read:

The fire chief, fire marshal, code enforcement officer, or other designated authority charged by the applicable governing body with the duties of administration and enforcement of the Code, or the duly authorized representative. The term "fire code official" may be used interchangeably with "code official" and "fire official" in this Code.

307. Open Burning and Recreational Fires - Amended to read:

Open burning is regulated by the Village of Milford Open Burning Ordinance, codified in Article II of Chapter 46 of the Code of Ordinances for the Village of Milford.

507.3. Fire Flow - Fire flow requirements for buildings or portions of buildings and facilities shall be determined in accordance with Appendix B and in accordance with the Village of Milford Engineering Standards.

5601.1.3. Fireworks - Amended to add exception 5 to read as follows:

5. Activities pursuant to and in compliance with the provisions of Chapter 47 of the Code of Ordinance for the Village of Milford and the state law referenced in that Chapter.

(Ord. No. 231-219, § 1, 8-20-18)

Sec. 46-3. State regulations prevail.

Whenever state law or regulations apply a higher standard or requirement than is provided in this fire prevention code, the higher requirement or standard of the state law shall prevail.

(Ord. No. 231-219, § 1, 8-20-18)

Secs. 46-4—46-20. Reserved.

ARTICLE II. OPEN BURNING

Sec. 46-21. Requirements.

- (a) All burning within the village is prohibited with the exception of the following: recreational fires (i.e., outdoor cooking, campfires), highway safety flares, outdoor barbecues and similar domestic or occupational needs.
- (b) Burning permitted by this section is allowable only when contained within a metal, brick or similar fireproof receptacle specifically designed for containing fire.
- (c) Notwithstanding fire prohibitions set forth in this chapter or elsewhere within the Village of Milford Code of Ordinances, the village manager, after consultation with the chief of the fire department, may allow open burning within the village in conjunction with municipal projects when, in the opinion of the village manager, such burning is necessary and not a detriment to the health, safety or welfare of the citizens of the village.

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(Ord. No. 231-219, § 1, 8-20-18)

Sec. 46-22. Responsibility for costs and damages.

- (a) Any person who shall set, start or fuel an open fire prohibited by this article shall pay to the village a service charge for costs and damages incurred. These charges are those incurred by reason of calling out the Milford Fire Department or any other fire department. The village clerk will submit a bill to, and may sue in any court of competent jurisdiction for its service charges as civil damages and may recover such costs and expenses incurred by the village and the Milford Fire Department from, any person who sets such a fire for the total cost of the fire run for personnel, equipment and administrative fees, according to the current village fee schedule, which may be adopted by resolution of the village council.
- (b) Costs or damages covered by this section include reimbursement for wages, including overtime and benefits for village employees involved in any enforcement of this chapter; expenses associated with equipment for normal wear and tear, damages, loss or destruction; expenses associated with claims as a result of injury sustained by employees; or injuries and damages for which the village is held responsible occurring to third persons or property including, but not limited to, all costs of defense.
- (c) Violations of this article shall be deemed municipal civil infractions.

(Ord. No. 231-219, § 1, 8-20-18)

Secs. 46-23—46-50. Reserved.

Chapter 47 FIREWORKS

Sec. 47-1. Purpose.

The Michigan Fireworks Safety Act, Public Act No. 256 of 2011, MCL 28.451 et seq., 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 may endanger property, may cause physical injury, and may 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 provisions are adopted 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.

(Ord. No. 231-179, § 1, 7-21-14)

Sec. 47-2. Definitions.

Except as otherwise provided in this section, the terms used in this chapter shall have the meaning ascribed to them in the Michigan Fireworks Safety Act, or, if not defined in the Act, under the APA Standards. The following words shall have the following meanings:

Act means the Michigan Fireworks Safety Act, Public Act No. 256 of 2011, MCL 28.451 et seq., as amended.

APA Standard 87-1 means the 2001 APA Standard 87-1, Standard for Construction and Approval for Transportation of Fireworks, Novelties and Theatrical Pyrotechnics, published by the American Pyrotechnics Association of Bethesda, Maryland.

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Articles pyrotechnic means the pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but not intended for consumer use, that meet the weight limits for consumer fireworks, but are not labeled as such, and that are classified as UN0431 or UN0432 under 49 CFR 172.101.

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

Display fireworks means large fireworks devices that are explosive materials intended for use in fireworks displays and are designed to produce visible and/or audible effects by combustion, deflagration or detonation.

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

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

Minor means an individual who is less than 18 years of age.

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

- (1) Toy plastic or paper caps for toy pistols in sheets, strips, roll or individual caps containing not more than .25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap.
- (2) Toy pistols, toy cannons, toy canes, toy trick noisemaker, and toy guns in which toy caps as described in subsection (1) are used, that are constructed so that the hand cannot come in contact with the cap when in place for the explosion, and that are not designed to break apart or be separated so as to form a missile by the explosion.
- (3) Flitter sparklers in paper tubes not exceeding one-eighth inch in diameter.
- (4) Toy smoke devices and toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacturer's name and the quantity contained in each box are printed on the box.
- (5) Handheld sparklers.

Person means any individual, agent, legal representative, association, charitable organization, church, nonprofit organization, unincorporated organization, labor organization, partnership, limited liability company, corporation, or any legal entity or commercial organization. An individual shall include a minor as defined in this chapter.

(Ord. No. 231-179, § 1, 7-21-14; Ord. No. 231-229, § 1, 4-1-19)

Sec. 47-3. Prohibition on use of fireworks.

- (a) *Consumer fireworks.* A person may ignite, discharge, or use consumer fireworks only on the following days during the following hours:
 - (1) Between 11:00 a.m. on December 31 and 1:00 a.m. on the immediately following January 1.
 - (2) Between 11:00 a.m. and 11:45 p.m. on the Saturday immediately preceding Memorial Day.

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- (3) Between 11:00 a.m. and 11:45 p.m. on the Sunday immediately preceding Memorial Day.
 - (4) Between 11:00 a.m. and 11:45 p.m. on June 29, June 30, July 1, July 2, July 3 and July 4.
 - (5) Between 11:00 a.m. and 11:45 p.m. on July 5, if that date is a Friday or a Saturday.
 - (6) Between 11:00 a.m. and 11:45 p.m. on the Saturday immediately preceding Labor Day.
 - (7) Between 11:00 a.m. and 11:45 p.m. on the Sunday immediately preceding Labor Day.

A violation of this subsection (a) is a civil infraction, punishable by a fine of \$1,000.00. Of that fine, \$500.00 must be remitted to the Milford Police Department.

- (b) *Low-impact fireworks.* The use, ignition or discharge of low-impact fireworks is permitted only between the hours of 11:00 a.m. and 11:45 p.m. on all days except December 31 when such use is permitted from 11:00 a.m. until 1:00 a.m. on the immediately following January 1. Low-impact fireworks may not otherwise be discharged in violation of this article or the Act, or any other ordinance.
- (c) *Illegal fireworks.* Any use, possession or discharge of any fireworks that is prohibited and/or not approved by the state or the state fire marshal, or that which contains a prohibited chemical, component, compound or composition under the APA 87-1 Standard, or any federal or state law or regulation, is prohibited at all times and places, regardless of how it is labeled.

(Ord. No. 231-179, § 1, 7-21-14; Ord. No. 231-229, § 1, 4-1-19)

Sec. 47-4. Public property.

No person shall at any time or on any day, ignite, discharge or use any fireworks, including consumer fireworks, low-impact fireworks and novelties in public parks or on any other public property, including roads, road endings, schools, sidewalks, easements and rights-of-way.

(Ord. No. 231-179, § 1, 7-21-14)

Sec. 47-5. Private property.

No person shall at any time or on any day, ignite, discharge or use any fireworks, including consumer fireworks, low-impact fireworks and novelties on the property of another person without that organization's or person's express permission to use fireworks on those premises.

(Ord. No. 231-179, § 1, 7-21-14)

Sec. 47-6. Use while under the influence.

No individual shall use, ignite or discharge consumer fireworks or low-impact fireworks while under the influence of alcohol, a controlled substance and/or synthetic marijuana or other illegal substance. Alcoholic liquor means that term as defined in Section 1d of the Michigan Vehicle Code, Public Act 300 of 1949, MCL 257.1d, or any subsequent provisions amending or replacing that provision. Controlled substance means that term as defined in Section 8b of the Michigan Vehicle Code, Public Act 300 of 1949, MCL 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, MCL 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.

(Ord. No. 231-179, § 1, 7-21-14)

Sec. 47-7. Minors.

- (a) A minor shall not possess consumer fireworks.
- (b) A minor shall not use, discharge, or ignite any low-impact fireworks or novelty fireworks, unless under supervision of a parent or guardian, and the use, discharge and ignition is within permitted hours, and does not violate the provisions of this section and the Act.

(Ord. No. 231-179, § 1, 7-21-14; Ord. No. 231-229, § 1, 4-1-19)

Sec. 47-8. Public display.

The village council, upon application in writing in accordance with the provisions of the Act, may grant a permit for the use of fireworks otherwise prohibited, for public display by organizations or groups of individuals approved by the village council. Such application shall be made to the village clerk on a form provided by the state department of licensing and regulation.

(Ord. No. 231-179, § 1, 7-21-14)

Sec. 47-9. Applicability of general ordinances.

Nothing in this chapter or in the Act shall preclude the enforcement of ordinances or laws of general applicability at any time or on any day regardless of whether the conduct or offense is secondary or incidental or to the use, discharge or ignition of fireworks.

(Ord. No. 231-179, § 1, 7-21-14)

Sec. 47-10. Compliance with the Act and applicable zoning approval required.

Any person selling, distributing or transporting fireworks shall otherwise comply with the Act, and is required to obtain the approvals that are necessary under the applicable provisions of the zoning ordinance for the Village of Milford. Failure to secure applicable zoning approvals is subject to penalty as provided in this chapter and/or the Code of Ordinances of the Village of Milford.

(Ord. No. 231-179, § 1, 7-21-14)

Sec. 47-11. Seizure and removal of fireworks.

Any fireworks that are possessed, sold, distributed or displayed in violation of the Act or the Code of Ordinances of the Village of Milford 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 chapter or by other ordinance.

(Ord. No. 231-179, § 1, 7-21-14)

Sec. 47-12. 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.

(Ord. No. 231-179, § 1, 7-21-14)

Sec. 47-13. Penalties.

- (a) Except as otherwise provided, a violation of this chapter is a municipal civil infraction subject to a fine of up to \$500.00 for each violation.
- (b) Any penalty for a violation of this chapter that is prescribed by the Act or another law or ordinance may be subject to the penalty imposed under the Act or under such other law or ordinance.

(Ord. No. 231-179, § 1, 7-21-14)

Sec. 47-14. Seizure and cost recovery.

- (a) All fireworks used, discharged and ignited and possessed in violation of the Act and this chapter are subject to seizure. Any costs incurred by the village to seize and store the fireworks shall be paid by the responsible person.
- (b) 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.

(Ord. No. 231-179, § 1, 7-21-14)

Chapter 50 OFFENSES AND MISCELLANEOUS PROVISIONS¹⁸

ARTICLE I. IN GENERAL

Sec. 50-1. Construction of chapter.

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 chapter shall be construed according to the fair import of their terms, to promote justice and to effect the objects of the law.

(Ord. No. 154, § 2, 4-24-72 eff.)

Sec. 50-2. Definitions.

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

Act or doing of an act includes omission to act.

Property means and includes any matter or thing upon or in respect to which any offense may be committed.

¹⁸Cross reference(s)—Alcoholic liquors, ch. 6; amusements and entertainments, ch. 10; environment, ch. 42; parks and recreation, ch. 54; traffic and vehicles, ch. 78; vehicles for hire, ch. 90.

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

Writing, written or any term of like import means and includes words printed, painted, engraved, lithographed, photographed or otherwise copied, traced or made visible to the eye.

(Ord. No. 154, § 3, 4-24-72 eff.)

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

Sec. 50-3. Penalty for violation of chapter.

Any person who violates any of the sections of this chapter shall, upon conviction, be deemed guilty of a misdemeanor and be subject to a penalty as prescribed in section 1-12 of this Code.

(Ord. No. 154, § 92, 4-24-72 eff.)

Sec. 50-4. Nonsupport of family.

It shall be unlawful for any person of sufficient ability to refuse or neglect to support his family.

(Ord. No. 154, § 23, 4-24-72 eff.)

Sec. 50-5. Engaging in illegal occupation or business.

It shall be unlawful for any person to engage in any illegal occupation or business in any public place.

(Ord. No. 154, § 27, 4-24-72 eff.)

Sec. 50-6. Loitering.

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

Loitering means any continued presence in the nature of lingering, delaying or dilatory departure, or standing or sitting idly.

(b) *Prohibitions.* It shall be unlawful for any person to knowingly:

- (1) Loiter in or about any premises or vehicle where criminal activity or an illegal occupation or business is being conducted;
- (2) Loiter on any street or sidewalk or in any public park or public building or public place or on private property open to the public so as to obstruct the free and uninterrupted passage of the public; or
- (3) Loiter on private property open to the general public when such property is either posted with no loitering signs or the loitering is occurring without the permission of the owner or person having the right of possession.

(Ord. No. 154, § 28, 4-24-72 eff.; Ord. No. 154-D, 8-3-88 eff.)

Sec. 50-7. Fortunetelling, clairvoyance.

- (a) It shall be unlawful for any person to engage in fortunetelling or to pretend to tell fortunetelling or to pretend to tell fortunes for hire, gain or reward.
- (b) It shall be unlawful for any person to pretend by or through means of palmistry, phrenology, clairvoyance, astrology, or fortunetelling by cards or other devices, for money or gain, to enable anyone to get or recover lost or stolen property, or to give success in business, enterprise, speculation or games of chance, or to make one person dispose of property, business or valuable things in favor of another.

(Ord. No. 154, §§ 17, 66, 4-24-72 eff.)

Sec. 50-8. Palmistry, predictions.

It shall be unlawful for any person to pretend, for money or gain, to predict future events by cards, tokens, trances, the inspection of the hands or the conformation of the skull of any person, mind reading so-called, or by consulting the movements of the heavenly bodies.

(Ord. No. 154, § 64, 4-24-72 eff.)

Sec. 50-9. Fortunetelling for gain; no specific means.

It shall be unlawful for any person to pretend for money or gain to tell fortunes or foretell future events by other means than those mentioned in section 50-8.

(Ord. No. 154, § 65, 4-24-72 eff.)

Sec. 50-10. Advertisements as evidence of violation.

It shall be unlawful for any person to publish, by card, circular, sign, newspaper, or any other means whatsoever, that such person shall or will predict future events, and such publication may be given in evidence to sustain an indictment under sections 50-7 through 50-9. Any person whose fortune may have been told as aforesaid shall be competent witness against all persons charged with any violation of such sections.

(Ord. No. 154, § 67, 4-24-72 eff.)

Sec. 50-11. Begging.

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

Accosting means approaching or speaking to a person in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon the person or property in his immediate possession.

Ask, beg or solicit means, without limitation, the spoken, written or printed word or such other acts as are conducted in furtherance of the purpose of obtaining alms.

Forcing oneself upon the company of another means continuing to request, beg or solicit alms from a person after that person has made a negative response, blocking the passage of the individual addressed, or otherwise engaging in conduct which could reasonably be construed as intended to compel or force a person to accede to demands.

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- (b) *Exceptions.* Except when performed in the manner and locations set forth in subsections (c) and (d) of this section, it shall not be unlawful to ask, beg or solicit money or other things of value.
- (c) *Location.* Except as authorized under the licensure provisions of article II Peddlers, Solicitors and Street Vendors, of chapter 22, Businesses, of the Code of Ordinances for the Village of Milford, it shall be unlawful for any person to solicit money or other things of value:
- (1) On private property if the owner, tenant or lawful occupant has asked the person not to solicit on the property or has posted a sign clearly indicating that solicitations are not welcome on the property;
 - (2) Within 15 feet of the entrance to, or exit from, any public toilet facility;
 - (3) Within 15 feet of an automated teller machine, provided that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance to, or exit from, the automated teller machine facility;
 - (4) Within 15 feet of any pay telephone, provided that when a pay telephone is located within a telephone booth or other facility, such distance shall be measured from the entrance to, or exit from, the telephone booth or facility;
 - (5) In any public transportation vehicle, bus or subway station, or within 15 feet of any bus stop or taxi stand;
 - (6) From any operator of a motor vehicle that is in traffic on a public street; provided, however, that this subsection shall not apply to services rendered in connection with emergency repairs requested by the owner or passenger of such vehicle;
 - (7) From any person who is waiting in line for entry to any building, public or private, including any residence, business or athletic facility; or
 - (8) Within 15 feet of the entrance to, or exit from, a building, public or private, including any residence, business or athletic facility.
- (d) *Manner.* It shall be unlawful for any person to solicit money or other things of value by:
- (1) Accosting another; or
 - (2) Forcing oneself upon the company of another.

(Ord. No. 154, § 29, 4-24-72 eff.; Ord. No. 231-180, § 1, 7-21-14)

Secs. 50-12—50-35. Reserved.

ARTICLE II. OFFENSES AGAINST THE PERSON

Sec. 50-36. Assault and battery.

It shall be unlawful for any person to commit an assault, or an assault and battery, on any person.

(Ord. No. 154, § 4, 4-24-72 eff.)

Sec. 50-37. Annoying conduct.

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.

(Ord. No. 154, § 10, 4-24-72 eff.)

Sec. 50-38. Malicious annoyance.

It shall be unlawful for any person to knowingly send or deliver or 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. No. 154, § 20, 4-24-72 eff.)

Sec. 50-39. Harassment and annoying conduct by telephone.

It shall be unlawful for any person to telephone any person repeatedly or cause the same to be done for the primary purpose of harassing such other person or his family, whether or not conversation ensues; or to use any threatening, vulgar, indecent, obscene, immoral, or insulting language over any telephone.

(Ord. No. 154, § 22, 4-24-72 eff.)

Sec. 50-40. Window peeping.

It shall be unlawful for any person to engage in peeping in the windows of any inhabited place in such a manner as would be likely to interfere with the occupant's reasonable expectation of privacy without the occupant's express or implied consent.

(Ord. No. 154, § 24, 4-24-72 eff.)

Sec. 50-41. Domestic assault or assault and battery.

- (a) It shall be unlawful for any person to commit an assault, or an assault and battery on his or her spouse or former spouse, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household. A peace officer may arrest an individual for violation this section, regardless or whether the peace officer has a warrant or whether the violation was committed in his or her presence, if the peace officer has reasonable cause to believe both of the following:
- (1) The violation occurred or is occurring.
 - (2) The individual has had a child in common with the victim, resides or has resided in the same household as the victim, or is the spouse or former spouse of the victim.
- (b) A peace officer, without a warrant, may arrest and take into custody an individual when the peace officer has reasonable cause to believe all of the following apply:
- (1) A personal protection order has been issued under section 2950 or 2950a of the Revised Judicature Act of 1961, Public Act 236 of the Public Acts of 1961, being MCL 600.2950 and 600.2950a.
 - (2) The individual named in the personal protection order is in violation of the order. An individual is in violation of the order if the individual commits one or more of the following acts the order specifically restrains or enjoins the individual from committing:
 - a. Assaulting, attacking, beating, molesting, or wounding a named individual.

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- b. Removing minor children from an individual having legal custody of the children, except as otherwise authorized by a custody or parenting time order issued by a court of competent jurisdiction.
 - c. Entering onto premises.
 - d. Engaging in conduct prohibited under sections 411h or 411i of the Michigan Penal Code, Act No. 328 of the Public Acts of 1931, being MCL 750.411h and 750.411i.
 - e. Threatening to kill or physically injure a named individual.
 - f. Purchasing or possessing a firearm.
 - g. Interfering from petitioner's efforts to remove petitioner's children or personal property from premises that are solely owned or leased by the individual to be restrained or enjoined.
 - h. Interfering with petitioner at petitioner's place of employment or education or engaging in conduct that impairs petitioner's employment or educational relationship or environment.
 - i. Any other act or conduct specified by the court in the personal protection order.
- (3) The personal protection order states on its face that a violation of its terms subjects the individual to immediate arrest and either of the following:
- a. If the individual restrained or enjoined is 17 years of age or older, to criminal contempt of court and, if found guilty of criminal contempt, to imprisonment for not more than 93 days and to a fine of not more than \$500.00.
 - b. If the individual restrained or enjoined is less than 17 years of age, to the dispositional alternatives listed in section 18 of chapter XIIA of the Probate Code, 1939 PA 288, MCL 712A.18.
 - c. Any person arrested pursuant to subsection (1) shall not be released on an interim bond or on his or her own recognizance, but shall be held until he or she can be brought before a magistrate for arraignment. If a magistrate is not available, or trial cannot be held, within 24 hours of arrest, the person shall be held for 20 hours, after which the person may be released on an interim bond or on his or her own recognizance.
 - d. For any person arrested pursuant to subsection (2), the procedures specified in MCL 764.15b shall apply.
 - e. After investigating or intervening in a domestic dispute as described in this section, a peace officer shall provide the victim with a copy of the notice specified in MCL 764.15c(1).
 - f. The peace officer shall prepare a domestic violence report after investigating or intervening in a domestic dispute or an incident involving domestic violence. The report shall contain, but is not limited to containing, all of the information specified in MCL 764.15c(2).
 - g. The law enforcement agency shall retain the completed domestic violence report in its files. The law enforcement agency shall also file a copy of the completed domestic violence report with the prosecuting attorney within 48 hours after the dispute or incident is reported to the law enforcement agency.
 - h. Any person violating this section may be imprisoned for not more than 93 days and/or fined not more than \$500.00 or both.

(Ord. No. 231-014, § 1, 9-21-98; Ord. No. 032, § 1, 10-18-99)

Secs. 50-42—50-65. Reserved.

ARTICLE III. OFFENSES AFFECTING GOVERNMENTAL FUNCTIONS

Sec. 50-66. Interference with police department and related offenses.

- (a) No person shall resist any police officer, any member of the police department, or any person duly empowered with police authority while in the discharge or apparent discharge of his duty, or in any way interfere with or hinder him in the discharge of his 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 such custody.
- (c) No person other than an official police officer of the village shall wear or carry the uniform, apparel, badge, identification card or any other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the village.
- (d) No person shall make available to, present to, or place within the reach of any person confined under the authority of the village any intoxicating or malt liquor, or any tool, implement, or other thing calculated to aid the escape of such person so confined, or any other person confined under the authority of the village.
- (e) No person shall assist or aid, or attempt to assist or aid, any person in the custody of, or confined under the authority of, the village to escape from jail, place of confinement or custody.
- (f) No person shall, while a prisoner in the jail, or at any place where the prisoners are confined, or otherwise in custody of and confined by the village, escape or attempt to escape or to assist others to escape or to attempt to escape from such custody or confinement.

(Ord. No. 154, § 14, 4-24-72 eff.)

Sec. 50-67. False report of crime.

No person shall make or file with the police department of the village any false, misleading or unfounded statement or report concerning the commission or alleged commission of any crime occurring within the village.

(Ord. No. 154, § 21, 4-24-72 eff.)

Sec. 50-68. False police, fire or ambulance calls.

It shall be unlawful for any person to summon, as a joke or prank or otherwise without any good reason therefor, by telephone or otherwise, the police or the fire department or any public or private ambulance to go to any address where the service called for is not needed.

(Ord. No. 154, § 19, 4-24-72 eff.)

Secs. 50-69—50-95. Reserved.

ARTICLE IV. OFFENSES AGAINST PROPERTY

Sec. 50-96. Receiving, concealing 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, if the property purchased, received or concealed shall be of the value of \$100.00 or less.
- (b) Any person being a dealer in or collector of any merchandise or personal property, or the agent, employee or representative of such dealer or collector, who fails to make reasonable inquiry that the person selling or delivering any stolen, embezzled or converted property to him has a legal right to do so shall be presumed to have bought or received such property knowing it to have been stolen, embezzled or converted. This presumption may, however, be rebutted by proof.

(Ord. No. 154, § 59, 4-24-72 eff.)

Sec. 50-97. Destruction, defacing or removal of property.

It shall be unlawful for any person to willfully destroy, remove, damage, alter or in any manner deface any property not his own, or any public school building, bridge, fire hydrant, alarm box, streetlight or street sign, or mark or post handbills on, or in any manner mar the walls of, any public building, or destroy any tree or pole within the village, or destroy, take, or meddle with any property belonging to the village or remove the same from the building or place where it may be kept, placed or stored, without proper authority, or disturb, tamper with, disconnect or damage any water meter without proper authority.

(Ord. No. 154, § 50, 4-24-72 eff.)

Sec. 50-98. Malicious destruction of building or appurtenance.

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, if the damages resulting therefrom shall be \$100.00 or less.

(Ord. No. 154, § 56, 4-24-72 eff.)

Sec. 50-99. Malicious destruction of property.

It shall be unlawful for any person to willfully and maliciously destroy or injure the real or personal property of another, by any means not particularly mentioned or described in this chapter, if the damages resulting therefrom shall be \$100.00 or less.

(Ord. No. 154, § 55, 4-24-72 eff.; Ord. No. 154-A, 4-9-73 eff.)

Sec. 50-100. Breaking and entering, or entering without permission.

- (a) *Prohibitions.* It shall be unlawful for any person to break and enter, or to enter without breaking into, 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 outbuildings belonging thereto, or any other structure, whether occupied or unoccupied, without first obtaining permission to enter from the owner, occupant, agent or person having immediate control thereof. Provided, that this section shall not apply to entering without breaking any place which at the time of such entry was open to the public, unless such entry has been expressly denied.

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- (b) *Exception.* 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 direction in the lawful performance of his duties as such peace officer.

(Ord. No. 154, § 52, 4-24-72 eff.)

Sec. 50-101. Damaging or unauthorized tampering or meddling with motor vehicle.

- (a) *Prohibitions.* 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 starting device or gears of a standing motor vehicle to a position other than that in which it was left by the owner or driver of such motor vehicle; or to 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 to intentionally cut, mash, mark, destroy or damage any motor vehicle, or any of the accessories, equipment, appurtenances or attachments thereof, or any spare or extra parts thereon or attached thereto, without the permission of the owner thereof; or to intentionally release the brake upon any standing motor vehicle, with intent to injure such machine or cause such motor vehicle to remove without the consent of the owner.
- (b) *Exceptions.* This section shall not apply in the case of the moving or starting of a motor vehicle by the police under authority of local ordinance or by a member of the fire department in case of emergency in the vicinity of a fire.

(Ord. No. 154, § 51, 4-24-72 eff.)

Sec. 50-102. Trespassing.

It shall be unlawful for any person to willfully enter upon the lands or premises of another without lawful authority, after having been forbidden to do so by the owner or occupant; or for any person being upon the land or premises of another upon being notified to depart therefrom by the owner or occupant, or the agent or servant of either, without lawful authority to neglect or refuse to depart therefrom; and the posting of signs shall constitute sufficient notice thereof.

(Ord. No. 154, § 58, 4-24-72 eff.; Ord. No. 154-A, 4-9-73 eff.)

Sec. 50-103. Prowling.

It shall be unlawful for any person to prowl about any alley or the private premises of any other person in the nighttime without the authority or permission of the owner of such premises.

(Ord. No. 154, § 25, 4-24-72 eff.)

Sec. 50-104. Larceny.

It shall be unlawful for any person to commit the offense of larceny, by stealing, of the property of another, any money, goods or chattels, or any banknote, bank bill, bond, promissory note, due bill, bill of exchange or other bill, draft, order or certificate, or any bond of 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 writ, process or public record, if the property stolen shall be of the value of \$100.00 or less.

(Ord. No. 154, § 60, 4-24-72 eff.)

Sec. 50-105. Fraudulent procurement of food and lodging.

- (a) *Boardinghouses.* It shall be unlawful for any person to stop, put up, board or lodge at any boardinghouse as a guest or boarder by the day, week or month, or to procure any food, entertainment or accommodation without paying therefor, unless there is a distinct and express agreement made by such person with the owner, proprietor or keeper of such boardinghouse for credit, with intent to defraud such owner, proprietor or keeper out of the pay for such board, lodging, food, entertainment or accommodations; or for any person, with intent to so defraud, to obtain credit at any boardinghouse for such board, lodging, food, entertainment or accommodation, by means of any false show of baggage or effects brought thereto. Provided, that no conviction under this subsection shall be made within ten days of the time of the violation thereof.
- (b) *Hotels, motels, inns, restaurants, cafes.* It shall be unlawful for any person to put up at any hotel, motel, inn, restaurant or cafe as a guest and to procure any food, entertainment or accommodation without paying therefor, except when credit is given therefor by express agreement, with intent to defraud such keeper thereof out of the pay for the same; or for any person, with intent to defraud such keeper out of the pay therefor, to obtain credit at any hotel, motel, inn, restaurant or cafe for such food, entertainment or accommodation, by means of any false show of baggage or effects brought thereto.
- (c) *Prima facie evidence of intent to defraud.* Obtaining food, lodging or accommodation by false pretense or by false or fictitious show of baggage or other property, or by refusal or neglect to pay therefor on demand, or by payment therefor with check, draft or order upon a bank or other depository on which payment was refused, or by absconding without paying or offering to pay therefor, or by surreptitiously removing or attempting to remove baggage, shall be prima facie evidence of such intent to defraud as provided in subsections (a) and (b) of this section.

(Ord. No. 154, §§ 68—70, 4-24-72 eff.)

Sec. 50-106. Delivering checks without sufficient funds.

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

Credit means an arrangement or understanding with the bank or depository for the payment of a check, draft or order, in full, upon the presentation thereof for payment.
- (b) *Prohibitions.* It shall be unlawful for any person, with intent to defraud, to 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 knowing at the time of such making, drawing, uttering, or delivering that the maker or drawer is without sufficient funds in or credit with such bank or other depository, for the payment of such check, draft or order, in full, upon its presentation or for any person, with the intent to defraud, to 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 such lack of funds is due to garnishment, known to the person who made, drew, uttered or delivered the instrument at the time of so doing if the amount payable in the check is \$50.00 or less.
- (c) *Prima facie 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 such bank or other depository provided such maker or drawer shall not have paid the drawee thereof, the amount due thereon, together with all costs and protest fee, within five days after receiving notice that such check, draft or order has not been paid by the drawee.

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- (d) *Notice of protest as evidence of intent to defraud.* Where such check, draft or order is protested on the grounds 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 such bank or other depository.

(Ord. No. 154, §§ 71—74, 4-24-72 eff.)

Sec. 50-107. Malicious destruction of literary property.

It shall be unlawful for any person to willfully, maliciously or wantonly tear, deface, mutilate, write upon, or by other means injure or mar 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 the library of any literary, scientific, historical, or library society or association, whether incorporated or unincorporated.

(Ord. No. 154, § 57, 4-24-72 eff.)

Sec. 50-108. 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 his 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 own use or fraudulently deprive the owner thereof.

(Ord. No. 154, § 54, 4-24-72 eff.)

Sec. 50-109. False pretenses with intent to defraud.

It shall be unlawful for any person, 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 any 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 of property other than was bargained for, or by means of any false weights or measures sell or dispose of a lesser amount or quantity of property than was bargained for, if such land or interest in land, money, personal property, use of such instrument, facility or article, valuable thing, service, larger amount obtained or lesser amount disposed of, shall be of the value of \$100.00 or less.

(Ord. No. 154, § 75, 4-24-72 eff.)

Sec. 50-110. 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 or other credit device, or by the use of any credit card without the authority of the person to whom such card, number or device was issued, or by the use of any credit card, credit number,

telephone number or other credit device which has been revoked and notice of revocation has been given to the person to whom issued.

(Ord. No. 154, § 76, 4-24-72 eff.)

Secs. 50-111—50-135. Reserved.

ARTICLE V. OFFENSES AGAINST PUBLIC MORALS

Sec. 50-136. Prostitution.

It shall be unlawful for any person to engage in any act of prostitution.

(Ord. No. 154, § 26, 4-24-72 eff.)

Sec. 50-137. 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 do any other lewd, illegal or immoral act.

(Ord. No. 154, § 85, 4-24-72 eff.)

Sec. 50-138. Admitting to place for purpose of 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 to knowingly permit any person to remain in any such place for any such purpose.

(Ord. No. 154, § 86, 4-24-72 eff.)

Sec. 50-139. Indecent exposure.

It shall be unlawful for any person to make any immoral exhibition or indecent exposure of his person.

(Ord. No. 154, § 18, 4-24-72 eff.)

Sec. 50-140. Reserved.

Editor's note(s)—Ord. No. 231-175, § 1, adopted December 2, 2013, repealed § 50-140, which pertained to glue sniffing and derived from Ord. No. 154, effective April 24, 1972.

Sec. 50-141. Obscene materials.

- (a) *Prohibitions.* It shall be unlawful for any person to knowingly sell, lend, give away, distribute, show or transmute or offer to sell, lend, give away, distribute, show or transmute, or have in his possession with intent to sell, lend, give away, distribute, show or transmute, or advertise in any manner or to otherwise knowingly offer for either loan, gift, sale or distribution, any obscene, lewd, lascivious, filthy, indecent,

sadistic or masochistic book, magazine, pamphlet, drawing, photograph, motion picture film, figure, image, wire or tape recording or any written, printed or recorded matter of any indecent character which may or may not require mechanical or other means to be transmuted into auditory, visual or sensory representations of such character.

- (b) *Prima facie evidence of intent to distribute.* For the purpose of this section, possession of six or more identical copies, or six or more articles, of any obscene, lewd, lascivious, filthy or indecent book, magazine, pamphlet, newspaper, story paper, writing paper, phonograph record, picture drawing, photograph, slide, motion picture film, figure, image, wire or tape recording, or any written, printed, or recorded matter of any indecent character, shall be prima facie evidence of possession with intent to sell, lend, give away, distribute, show or transmute such articles.

(Ord. No. 154, § 78, 4-24-72 eff.)

Sec. 50-142. Obscenity; tests.

The test to be applied in cases under section 50-141 shall not be whether sexual desires or sexually improper thoughts would be aroused in those comprising a particular segment of the community, the young, the immature or the highly prudish, or would leave another segment, the scientific or highly educated or the so-called worldly wise and sophisticated, indifferent and unmoved. But such test shall be the effect of the book, picture or other subject to complaint considered as a whole, not upon any particular class but upon all those whom it is likely to reach, that is, its impact upon the average person in the community. The book, picture or other subject of complaint must be judged as a whole in this entire context, not by considering detached or separate portions only, and by the standards of common conscience of the community of the contemporary periods of the violation charged.

(Ord. No. 154, § 79, 4-24-72 eff.)

Sec. 50-143. Obscene materials; publishing or distributing.

It shall be unlawful for any person to publish or distribute for resale or for reading or other perusal any book, magazine, or pamphlet, so composed as to constitute a compilation of pictures, illustrations, caricatures, cartoons, words, stories and advertisements, or any combination or combinations thereof, featuring and primarily devoted for the purpose of commercial exploitation, to the description or portrayal or suggestion of illicit sex, or sexual relations, or perversion, lust or sexual passion, or to any combination or combinations thereof.

(Ord. No. 154, § 80, 4-24-72 eff.)

Sec. 50-144. Sales conditioned on sale of obscene materials.

It shall be unlawful for any person to, as a condition to a sale, allocation, consignment or delivery for resale of any paper, magazine, book, periodical or publication, require that the purchaser or consignee receives for resale any other article, book or other publication which is contrary to section 50-141, or to deny or threaten to deny any franchise or impose or threaten to impose any penalty, financial or otherwise, by reason of the failure of any person to accept such articles, books or publications, or by reason of the return thereof.

(Ord. No. 154, § 81, 4-24-72 eff.)

Sec. 50-145. Indecent language in presence of women or children.

It shall be unlawful for any person to use any indecent, immoral, obscene, vulgar or insulting language in the presence or hearing of any woman or child.

(Ord. No. 154, § 77, 4-24-72 eff.)

Sec. 50-146. Sale of crime-oriented materials.

It shall be unlawful for any person to sell, lend, give away, or show, or have in his possession with intent to sell, give away, or show, or to advertise or otherwise offer for loan, gift or distribution, any book, pamphlet, magazine, newspaper, or other printed paper devoted to the publication or principally made up of criminal news, police reports or accounts of criminal deed, or pictures and stories of deeds of bloodshed, lust or crime.

(Ord. No. 154, § 83, 4-24-72 eff.)

Sec. 50-147. Reserved.

Editor's note(s)—Ord. No. 231-175, § 1, adopted December 2, 2013, repealed § 50-147, which pertained to possession, manufacture and sale of drug paraphernalia and derived from Ord. No. 202, effective August 3, 1988.

Sec. 50-148. Reserved.

Editor's note(s)—Ord. No. 231-175, § 1, adopted December 2, 2013, repealed § 50-148, which pertained to possession of marijuana and derived from Ord. No. 201, effective August 3, 1988.

Sec. 50-149. Reserved.

Editor's note(s)—Ord. No. 231-175, § 1, adopted December 2, 2013, repealed § 50-149, which pertained to model glue, unlawful use, sale, possession and derived from Ord. No. 144, effective April 14, 1969.

Secs. 50-150—50-175. Reserved.

ARTICLE VI. OFFENSES AGAINST PUBLIC PEACE

Sec. 50-176. Disturbing the peace.

It shall be unlawful for any person to disturb the public peace and quiet by loud, boisterous or vulgar conduct.

(Ord. No. 154, § 7, 4-24-72 eff.)

Sec. 50-177. Disturbance in business or public place or of 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 or other public meeting where citizens are peaceably and lawfully assembled.

(Ord. No. 154, § 6, 4-24-72 eff.)

Sec. 50-178. Disorderly persons, responsibility for.

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

(Ord. No. 154, § 8, 4-24-72 eff.)

Sec. 50-179. Obscene language and abusive conduct.

No person within the village shall, with the purpose of causing public danger, alarm, disorder or nuisance, or if his conduct is likely to cause public danger, alarm, disorder or nuisance, willfully use abusive or obscene language or make an obscene or abusive gesture to any other person when such words, by their very utterance, or such act, by its very performance, inflict injury or tend to incite an immediate breach of the peace.

Secs. 50-180—50-205. Reserved.

ARTICLE VII. OFFENSES AGAINST PUBLIC SAFETY

Sec. 50-206. Discharge of firearms; shooting ranges.

- (a) *Discharge of firearms prohibited; exception; permit.* The use or discharge of any and all firearms as defined by statute within the village is hereby prohibited, except that shotguns only may be used or discharged by owners on their own land and their invitees, where such owners have a parcel of land containing 15 acres or more, subject, however to the following conditions:
- (1) The use or discharge of shotguns shall in no event be allowed within 300 feet of any building on adjoining land.
 - (2) Owners and/or their invitees shall be required to obtain a 60-day permit from the chief of police before the use or discharge of shotguns shall be allowed.
 - (3) Before a 60-day permit shall be issued by the chief of police to invitees, such invitees shall first submit to the chief of police the written consent of such owners to the use of the property.
 - (4) The chief of police, in his discretion, may refuse the issuance of such 60-day permit if he deems it necessary in the best interest of public health, safety and welfare.
 - (5) The chief of police at his discretion shall have the authority to revoke any permit under this section when the parties so issued permits have abused the use thereof through indiscriminate authorization and lack of regulation on their part.
- (b) *Exceptions.* Nothing contained in this section shall prevent the use or discharge of any firearms on a duly licensed shooting range, or by any person properly acting in self-defense, or by or at the direction of any police, military or governmental authority duly established under the laws of the village, the state or the United States.

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- (c) *Police target shooting.* Nothing contained in this section shall prevent regular policemen, special policemen and auxiliary policemen from using an open air range in the village, or elsewhere, for the purpose of target practice. Such activity shall be subject to the control and discretion of the chief of police as to scheduling the time and determining the location for such target practice and in all other respects.
 - (d) *Licensure of shooting ranges.* No shooting range shall be operated within the village unless a license therefor is procured from the village clerk. No license for the operation of a shooting range shall be issued by the village clerk until there is paid into the village treasury a license fee of \$5.00 per year or any portion thereof, and until the issuance of such license shall have been approved by the chief of police on a reasonable showing that the operation of the shooting range will be properly supervised and will not constitute a danger to life and property.
 - (e) *Penalty for violation.* Any person who shall violate or fail to comply with any of the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as prescribed in section 1-12.

(Ord. No. 146, §§ 1—5, 10-27-69)

Sec. 50-207. Unlawful possession of firearms.

It shall be unlawful for any person under the influence of intoxicating liquor or any exhilarating or stupefying drug to carry, have in his possession or under his control, or use in any manner or discharge, any firearm within the village.

(Ord. No. 154, § 32, 4-24-72 eff.)

Sec. 50-208. Reckless use of firearms.

It shall be unlawful for any person to recklessly or heedlessly or willfully or wantonly use, carry, handle or discharge any firearm without due caution and circumspection for the rights, safety or property of others.

(Ord. No. 154, § 33, 4-24-72 eff.)

Sec. 50-209. Destroying or injuring property by careless, reckless or negligent discharge of firearm.

It shall be unlawful for any person, because of carelessness, recklessness or negligence, but not willfully or wantonly, to cause or allow any firearm under his control to be discharged so as to destroy or injure the property of another, real or personal.

(Ord. No. 154, § 53, 4-24-72 eff.)

Sec. 50-210. 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. No. 154, § 31, 4-24-72 eff.)

Sec. 50-211. Public intoxication.

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

(Ord. No. 154, § 5, 4-24-72 eff.; Ord. No. 154-B, 3-13-78 eff.)

Sec. 50-212. Fighting.

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

(Ord. No. 154, § 11, 4-24-72 eff.)

Sec. 50-213. Jostling.

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

(Ord. No. 154, § 9, 4-24-72 eff.)

Sec. 50-214. Obstructing public passage.

It shall be unlawful for any person to loiter on any street or sidewalk or in any park or public building or conduct himself in any public place so as to obstruct the free and uninterrupted passage of the public.

(Ord. No. 154, § 12, 4-24-72 eff.)

Sec. 50-215. Obstructing traffic.

It shall be unlawful for any person to play any ballgame in any public street or sidewalk or otherwise obstruct traffic on any street or sidewalk by collecting in groups thereon for any purpose.

(Ord. No. 154, § 13, 4-24-72 eff.)

Sec. 50-216. Hurling projectiles at persons or motor vehicles.

It shall be unlawful for any person to wrongfully throw or propel any snowball, missile or object toward any person or motor vehicle.

(Ord. No. 154, § 36, 4-24-72 eff.)

Sec. 50-217. Objects thrown into path of vehicles.

It shall be unlawful for any person to knowingly cause any litter or any object to fall or to be thrown into the path or to hit a vehicle traveling upon the highway.

(Ord. No. 154, § 61, 4-24-72 eff.)

Sec. 50-218. Throwing projectiles from a motor vehicle.

It shall be unlawful for any person to wrongfully throw or propel any snowball, missile or object from any moving motor vehicle.

(Ord. No. 154, § 35, 4-24-72 eff.)

Sec. 50-219. Unsafe excavations.

It shall be unlawful for any person to dig or cause to be dug an excavation or a partially constructed basement for any building or structure and fail to cover or safely fence such excavation within a period of 90 days after such excavation has been commenced.

(Ord. No. 154, § 37, 4-24-72 eff.)

Sec. 50-220. Abandoned iceboxes.

It shall be unlawful for any person to knowingly leave in a place accessible to children any abandoned, unattended or discarded icebox, 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 lid or cover thereof.

(Ord. No. 154, § 49, 4-24-72 eff.)

Secs. 50-221—50-245. Reserved.

ARTICLE VIII. OFFENSES INVOLVING UNDERAGED PERSONS

Sec. 50-246. Negligent supervision of children.

- (a) It shall be unlawful for any person, parent, guardian, custodian, or any other person who is charged with the care of a child under the age of eight years, to allow the child to be locked or confined in a dwelling, building, or other enclosure while the person charged is absent and the dwelling, building or enclosure is out of the sight of the person charged unless the person charged provides a reliable and responsible person at least 13 years old, who is not legally incapacitated or mentally incompetent, to remain with the child to protect the child.
- (b) It shall be unlawful for any person, parent, guardian, custodian, or any other person who is charged with the care of a child under the age of eight years, to allow the child to be left in any public place or place open to the public, while the person charged is absent or is out of the sight of the public place unless the person charged provides a reliable and responsible person at least 13 years old, who is not legally incapacitated or mentally incompetent, to remain with the child to protect the child.
- (c) Law enforcement officers, firefighters or rescue team personnel may use whatever means are reasonably necessary to remove a child from the dangerous conditions set forth by this section. If the parent or caregiver of the child is not located within a reasonable amount of time, the law enforcement officer, firefighter or rescue team member must immediately report the incident to proper authorities, and, if authorized by law to do so, those authorities can take the child into custody.
- (d) A person who violates this section is guilty of a misdemeanor.

(Ord. No. 231-158, § 1, 8-6-12)

Editor's note(s)—Ord. No. 231-158, § 1, adopted Aug. 6, 2013, repealed the former § 50-246, and enacted a new § 50-246 as set out herein. The former § 50-246 pertained to abandonment of children and derived from Ord. No. 154, effective April 24, 1972 and Ord. No. 231-156, adopted June 18, 2012.

Sec. 50-247. Contributing to neglect or delinquency of minors.

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 the probate code.

(Ord. No. 154, § 45, 4-24-72 eff.)

Sec. 50-248. Obscene materials—Sale to minors.

It shall be unlawful for any person to knowingly sell, distribute, or import for the purpose of selling or distributing to a person under the age of 18 years any obscene, lewd, lascivious, filthy or indecent book, magazine, pamphlet, newspaper, story paper, writing paper, phonograph record, picture, tape recording or any written, printed or recorded matter of an indecent character which may or may not require mechanical or other means to be transmuted into auditory, visual or sensory representation of such character, manifestly tending to corrupt the morals of youth, or to introduce into a family, school or place of education, or buy, procure, receive or has in his possession, any obscene, lewd, lascivious, filthy or indecent book, magazine, pamphlet, newspaper, story paper, writing paper, phonograph record, picture, drawing, photograph, motion picture film, figure, image, wire or tape recording or any written, printed or recorded matter of an indecent character which may or may not require mechanical or other means to be transmuted into auditory, visual or sensory representation of such character, either for the purpose of sale, exhibition, loan or circulation, to a person under the age of 18 years or with intent to introduce the same into a family, school or place of education.

(Ord. No. 154, § 82, 4-24-72 eff.)

Sec. 50-249. Same—Distribution by minors.

It shall be unlawful for any person to in any manner hire, use or employ any minor child to sell, give away, or in any manner to distribute, or for any person having the care, custody, or control of any minor child to permit such child to sell, give away or in any other manner distribute any book, magazine, pamphlet, newspaper, story paper, writing paper, picture, drawing, photograph or other article or matter coming within the descriptions of articles and matter mentioned in section 50-248.

(Ord. No. 154, § 84, 4-24-72 eff.)

Sec. 50-250. Furnishing alcoholic liquor to minors.

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

Alcoholic liquor means any spirituous, vinous, malt or fermented liquor, liquids and compounds, whether or not medicated, proprietary, patented, and by whatever name called, containing one-half of one percent or more of alcohol by volume, which are fit for use for beverage purposes.

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- (b) *Prohibitions.* The following acts are unlawful if performed within the village and shall be considered misdemeanors punishable as set forth in this section:
- (1) Alcoholic liquor shall not be sold or furnished to a person unless the person has attained 21 years of age. A person who knowingly sells or furnishes alcoholic liquor to a person who is less than 21 years of age, or who fails to make diligent inquiry as to whether the person is less than 21 years of age, is guilty of a misdemeanor. A suitable sign which describes this section and the penalties for violating this section shall be posted in a conspicuous place in each room where alcoholic liquors are sold. The signs shall be approved and furnished by the state liquor control commission.
 - (2) In an action for the violation of this section, proof that the defendant or the defendant's agent or employee demanded and was shown, before furnishing alcoholic liquor to a person under 21 years of age, a motor vehicle operator's license or a registration certificate issued by the Federal Selective Service, or other bona fide documentary evidence of the age and identity of that person, shall be a defense to an action under this section.
 - (3) A person less than 21 years of age shall not knowingly transport or possess in a motor vehicle alcoholic liquor unless the person is employed by a licensee of the state liquor control commission, or an agent of the liquor control commission, and is transporting or having the alcoholic liquor in a motor vehicle under the person's control during regular working hours and in the course of the person's employment.
 - (4) Within 30 days after the conviction of a person for the violation of subsections (b)(1) and/or (b)(3) of this section has become final, complaint may be made by the arresting officer or the officer's superior before the court from which the warrant was issued, which complaint shall be under oath and shall contain a description of the motor vehicle in which alcoholic liquor was possessed or transported by the person less than 21 years of age in committing the offense and praying that the motor vehicle be impounded. Upon the filing of the complaint the court shall issue an order to the owner of the motor vehicle to show cause why the motor vehicle shall not be impounded. The order to show cause shall have a date and time fixed in the order for a hearing, which date shall not be less than ten days after the issuance of the order and shall be served by delivering a true copy to the owner not less than three full days before the date of hearing or, if the owner cannot be located, by sending a true copy by certified mail to the last known address of the owner. If the owner is a nonresident of the state, service may be made upon the secretary of state as provided in section 403 of Act No. 300 of the Public Acts of Michigan of 1949 (MCL 257.403), as amended.
 - (5) If the court determines upon the hearing of the order to show cause, from competent and relevant evidence, that at the time of the commission of the offense the motor vehicle was being driven by the person less than 21 years of age with the express or implied consent or knowledge of the owner, and that the use of the motor vehicle is not needed by the owner in the direct pursuit of the owner's employment or the actual operation of the owner's business, the court shall authorize the impounding of the vehicle for a period, to be determined by the court, of not less than 15 days nor more than 30 days. The court's order authorizing the impounding of the vehicle shall authorize a law enforcement officer to take possession without other process of the motor vehicle wherever located and to store the vehicle in a public or private garage at the expense and risk of the owner of the vehicle. Appeal shall lie from the order to the circuit court of the county and the provisions governing the taking of appeals from judgments for damages shall be applicable to the appeal. This section shall not prevent a bona fide lien holder from exercising rights under a lien.
 - (6) A person who knowingly transfers title to a motor vehicle for the purpose of avoiding this section is guilty of a misdemeanor.
 - (7) Reserved.
 - (8) A conviction for an act prohibited by subsections (b)(1), (b)(3) or (b)(6) of this section shall be considered to be a misdemeanor and shall be punishable as prescribed in section 1-12.

(c) *Purchase, consumption or possession by person less than 21 years of age.*

- (1) A person less than 21 years of age shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, possess or attempt to possess alcoholic liquor, or have any bodily alcohol content, except as provided in this section. For purposes of this section, a person under the age of 21 is deemed a "minor." A minor who violates this subsection is responsible for a municipal civil infraction or guilty of a misdemeanor punishable by the following fines and sanctions:
- a. For the first violation of this section, MCL 436.1703(1), or other local ordinance substantially corresponding to that statute, the minor is responsible for a civil infraction, shall be fined not more than \$100.00, and shall be subject to the court orders described in subsections (a)(4) and (d). A minor may be found responsible or admit responsibility only once under this subsection (1)a., MCL 436.1703(1)(a), or other local ordinance substantially corresponding to that statute.
 - b. If a violation of subsection (c)(1), MCL 436.1703(1), or other local ordinance substantially corresponding to that statute, occurs after one prior judgment for an alcohol or controlled substance violation identified in subsection (c)(1)f., the minor is guilty of a misdemeanor, which is punishable by imprisonment for not more than 30 days if the court finds that the person violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction, a fine of not more than \$200.00, or both, and may be subject to the court orders described in subsections (c)(1)d. and (c)(4). A minor who pleads guilty, or admits in a juvenile delinquency proceeding to a violation of this subsection (c)(1)b., may request deferral of proceedings and placement on probation under subsection (c)(3).
 - c. If a violation of subsection (c)(1) of this section, MCL 436.1703(1), or other local ordinance substantially corresponding to that statute, occurs after two or more prior judgments for an alcohol or controlled substance violation identified in subsection (c)(1)f., the minor is guilty of a misdemeanor which is punishable by imprisonment for not more than 60 days if the court finds that the person violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, a fine of not more than \$500.00, or both, as applicable, and may be subject to the court orders described in subsections (c)(1)d. and (c)(4).
 - d. The court may order a minor that is responsible for or guilty of a violation under this subsection (c) to: (i) participate in substance use disorder services as defined in MCL 333.6230, and designated by the administrator of the office of substance abuse services; (ii) perform community service; and (iii) to undergo substance abuse screening and assessment as provided in MCL 436.1703(5) and subsection (d), all of which shall be at the minor's own expense.
 - e. A minor that is subject to a misdemeanor conviction or juvenile adjudication of, or placed on probation regarding, a violation of subsections (c)(1)b. or (c)(1)c., may be ordered by the court to submit to random or regular preliminary chemical breath analysis, which may be requested by the minor's parent, guardian, or custodian as provided in MCL 436.1703(5).
 - f. For purposes of subsections (c)(1)b. and (c)(1)c., "prior judgment" means a conviction, juvenile adjudication, or finding or admission of responsibility for a violation of the statutes listed in this subsection, or any federal or state law or local ordinance that substantially corresponds to any of those listed statutes:
 1. This subsection (c)(1) or MCL 436.1703(1).
 2. A misdemeanor violation that is dismissed under subsection (c)(3), MCL 436.1703(3), or other local ordinance substantially corresponding to that statute.
 3. MCL 436.1701 (Sale/furnish alcohol to minors.)

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4. MCL 436.1707 (Sale/service/furnish alcohol to intoxicated persons.)
 5. MCL 257.624a (Transport/possess open alcohol in motor vehicle.)
 6. MCL 257.624b (Transport/possess open alcohol in motor vehicle by minor.)
 7. MCL 257.625 (Operating motor vehicle while intoxicated/impaired.)
 8. MCL 324.80176 (Operating boat while under influence.)
 9. MCL 324.81134 (Operating off-road vehicle while under influence.)
 10. MCL 324.82127 (Operating snowmobile while under influence.)
 11. MCL 750.167a (Hunting with firearm/weapon while intoxicated.)
 12. MCL 750.237(Carry/possess/use/discharge firearm while under influence.)
- (2) A person who furnishes fraudulent identification to a minor, or notwithstanding subsection (c)(1) of this section, a minor who uses fraudulent identification to purchase alcoholic liquor is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.
- (3) If a minor pleads guilty, or admits in a juvenile delinquency proceeding to a violation of subsection (c)(1)b., the court may defer further proceedings and place the minor on probation under MCL 436.1703(3), which provides for dismissal of the proceedings upon the terms and conditions of probation being fulfilled. Upon violation of a term or condition of probation or upon a finding that the individual is utilizing this subsection in another court, the court may enter an adjudication of guilt, or a determination in a juvenile delinquency proceeding that the individual has committed the offense, and proceed as otherwise provided by law. Upon fulfillment of the terms and conditions of probation, the court shall discharge the individual and dismiss the proceedings. Discharge and dismissal under this section shall be without adjudication of guilt or without a determination in a juvenile delinquency proceeding that the individual has committed the offense and is not a conviction or juvenile adjudication for purposes of subsection (c)(1) of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. There may be only one discharge and dismissal under MCL 436.1703(3) as to an individual. The court shall maintain a nonpublic record of the matter while proceedings are deferred and the individual is on probation and if there is a discharge and dismissal under this subsection. The Secretary of State shall retain a nonpublic record of a plea and of the discharge and dismissal under this subsection. These records shall be furnished to any of the following:
- a. To a court, prosecutor, or police agency upon request for the purpose of determining if an individual has already utilized this subsection.
 - b. To the department of corrections, a prosecutor, or a law enforcement agency, upon the department's, a prosecutor's, or a law enforcement agency's request, subject to all of the following conditions:
 1. At the time of the request, the individual is an employee of the department of corrections, the prosecutor, or the law enforcement agency, or an applicant for employment with the department of corrections, the prosecutor, or the law enforcement agency.
 2. The record is used by the department of corrections, the prosecutor, or the law enforcement agency only to determine whether an employee has violated the conditions of employment or whether an applicant meets criteria for employment.
- (4) The court may order the person found responsible for or convicted of violating subsection (c)(1) of this section to undergo screening and assessment to determine whether the person is likely to benefit from

rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs as provided in MCL 436.1703(5).

- (5) The Secretary of State shall suspend the operator's or chauffeur's license of an individual convicted of violating subsections (c)(1)b., (c)(1)c., or (c)(2) of this section as provided in section 319 of the Michigan Vehicle Code, Public Act No. 300 of 1949 (MCL 257.319).
- (6) A peace officer who has reasonable cause to believe a minor has consumed alcoholic liquor or has any bodily alcohol content may request that the minor voluntarily submit to a preliminary chemical breath analysis. If a minor does not consent to a preliminary chemical breath analysis, the analysis shall not be administered without a court order, but a peace officer may seek to obtain a court order. A peace officer may initiate municipal civil infraction or misdemeanor charges for a violation of subsection (c)(1) based in whole or in part upon the results of a preliminary chemical breath analysis. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a civil infraction proceeding or criminal prosecution to determine whether the minor has consumed or possessed alcoholic liquor or had any bodily alcohol content.
- (7) A law enforcement agency, upon determining that a person less than 18 years of age who is not emancipated under Public Act No. 293 of 1968 (MCL 722.1 et seq.), allegedly consumed, possessed, or purchased alcoholic liquor, attempted to consume, possess, or purchase alcoholic liquor, or had any bodily alcohol content in violation of subsection (c)(1) of this section shall notify the parent or parents, custodian, or guardian of the person as to the nature of the violation if the name of a parent, guardian, or custodian is reasonably ascertainable by the law enforcement agency. The notice required by this subsection shall be made not later than 48 hours after the law enforcement agency determines that the person who allegedly violated subsection (c)(1) of this section is less than 18 years of age and not emancipated under Public Act No. 293 of 1968 (MCL 722.1 et seq.). The notice may be made by any means reasonably calculated to give prompt actual notice including, but not limited to, notice in person, by telephone, or by first class mail. If an individual less than 17 years of age is incarcerated for violating subsection (c)(1) of this section, parents or legal guardian of that individual shall be notified immediately as provided in this subsection.
- (8) This section does not prohibit a minor from possessing alcoholic liquor during regular working hours and in the course of the minor's employment if employed by a person licensed under the Michigan Liquor Control Code of 1998, Public Act 58 of 1998, as amended, by the state liquor control commission, or by an agent of that commission, if the alcoholic liquor is not possessed for the minor's personal consumption.
- (9) This section does not limit the civil or criminal liability of the vendor or the vendor's clerk, servant, agent, or employee for a violation of this section.
- (10) The consumption of alcoholic liquor by a minor who is enrolled in a course offered by an accredited postsecondary educational institution in an academic building of the institution under the supervision of a faculty member is not prohibited by this section if the purpose of the consumption is solely educational and is a requirement of the course.
- (11) The consumption by a minor of sacramental wine in connection with religious services at a church, synagogue, or temple is not prohibited by this section.
- (12) Subsection (c)(1) of this section does not apply to a minor who participates in either or both of the following:
 - a. An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the minor's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.

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- b. An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the state police, the commission, or a local police agency as part of an enforcement action unless the initial or contemporaneous purchase or receipt of alcoholic liquor by the minor was not under the direction of the state police, the commission, or the local police agency and was not part of the undercover operation.
- (13) The state police, the commission, or a local police agency shall not recruit or attempt to recruit a minor for participation in an undercover operation at the scene of a violation of subsection (c)(1) of this section.
- (14) In a municipal civil infraction proceeding or criminal prosecution for the violation of subsection (c)(1) of this section concerning a minor having any bodily alcohol content, it is an affirmative defense that the minor consumed the alcoholic liquor in a venue or location where that consumption is legal.
- (15) As used in this section, "any bodily alcohol content" means either of the following:
- a. An alcohol content of 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
 - b. Any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.

(Ord. No. 178, §§ 2—5, 1-22-79 eff.; Ord. No. 231-067, §§ 1—3, 11-15-01; Ord. No. 231-212, § 1, 3-5-18)

Sec. 50-251. Prohibition of minors in place where liquor is sold.

It shall be unlawful for any minor child under 17 years of age to be permitted to remain in any dancehall, 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 liquor is sold, given or furnished for a beverage, unless such minor is accompanied by his parent or guardian. It shall be unlawful for any proprietor, keeper or manager of any such place to permit such minor child to remain in any such place, and it shall be unlawful for any person to knowingly encourage or induce in any way such minor child to enter such place or to remain therein.

(Ord. No. 154, § 38, 4-24-72 eff.)

Sec. 50-252. Open house parties; responsibility of adult having control of residence.

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

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

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

Drug means a controlled substance as defined by the Public Acts of Michigan. Currently, such controlled substances are defined by Act No. 196 of the Public Acts of Michigan of 1971 (MCL 335.301 et seq.), as amended.

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

Open house party means a social gathering of persons at a residence, other than the owner or those with rights of possession or their immediate family members.

Residence means a home, apartment, condominium or other dwelling unit and includes the curtilage of such dwelling unit.

- (b) *Responsibility of adult.* No adult having control of any residence shall allow an open house party to take place at such residence if any alcoholic beverage or drug is possessed or consumed at such residence by any minor where the adult knew or reasonably should have known that an alcoholic beverage or drug was in the possession of or being consumed by a minor at such residence, and where the adult failed to take reasonable steps to prevent the possession or consumption of the alcoholic beverage or drug at such residence.
- (c) *Exception.* The provisions of subsection (b) of this section shall not apply to legally protected religious observances or legally protected educational activities.
- (d) *Penalty for violation.* Any person found guilty of violating this section is deemed responsible for committing a municipal civil infraction.

(Ord. No. 198, §§ 1—4, 3-10-86 eff.)

Sec. 50-253. Furnishing obscene materials or crime publications to children.

It shall be unlawful for any person to sell, give away or in any way furnish to any minor child any book, pamphlet, or other printed paper or other thing containing obscene language, or obscene prints, pictures, figures or descriptions tending to the corruption of the morals of youth, or any newspaper, pamphlets or other printed paper devoted to the publication of criminal news, police reports, or criminal deeds, and it shall be unlawful for any person to in any manner hire, use or employ any minor child to sell, give away, or in any manner distribute such books, pamphlets or printed papers, and it shall be unlawful for any person having the care, custody or control of any minor child to permit such minor to engage in any such employment.

(Ord. No. 154, § 43, 4-24-72 eff.)

Sec. 50-254. Exhibition of obscene matter or crime publications within view of children.

It shall be unlawful for any person to exhibit upon any public street or highway, or in any other place within the view of children passing on any public street or highway, any book, pamphlet or other printed paper or thing containing obscene language or obscene prints, figures, or descriptions, tending to the corruption of the morals of youth, or any newspaper, pamphlets, or other printed paper or thing devoted to the publication of criminal news, police reports or criminal deeds.

(Ord. No. 154, § 44, 4-24-72 eff.)

Sec. 50-255. Curfew.

- (a) *Minors under 12 years of age.* It shall be unlawful for any minor under the age of 12 years to loiter, idle or congregate in or on any public street, highway, alley or park between the hours of 10:00 p.m. and 6:00 a.m. unless such minor is accompanied by a parent or guardian, or some adult delegated by the parent or guardian to accompany such child.
- (b) *Minors under 16 years of age.* It shall be unlawful for any minor under the age of 16 years to loiter, idle or congregate in or on any public street, highway, alley or park between the hours of 12:00 midnight and 6:00 a.m. immediately following, except where the minor is accompanied by a parent or guardian, or some adult

over the age of 18 years delegated by the parent or guardian to accompany such minor child, or where such minor is upon an errand or other legitimate business directed by his parent or guardian.

(Ord. No. 154, §§ 46, 47, 4-24-72 eff.)

Sec. 50-256. BB guns.

It shall be unlawful for any person under 18 years of age to use or possess any handgun designed and manufactured exclusively for propelling BBs not exceeding .177 caliber by means of spring, gas, or air, outside the curtilage of his domicile, unless he is accompanied by a person 18 years of age or over.

(Ord. No. 154, § 34, 4-24-72 eff.)

Sec. 50-257. Sale of tobacco, vapor and alternative nicotine delivery products to person less than 21 years of age.

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

Alternative nicotine delivery product means a noncombustible product containing nicotine that is intended for human consumption whether chewed, absorbed, dissolved or ingested by any other means.

Tobacco product means a product that contains tobacco and is intended for human consumption including, but not limited to, cigarettes, cigars, non-cigarette smoking tobacco, or smokeless tobacco as those terms are defined in Section 2 of the Tobacco Products Tax Act, 1993 PA 327, MCL 205.422.

Vapor product means a noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electric, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine or in a solution or other form. Vapor products include an electronic cigarette (E cigarette), electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and a vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette (E cigarette), electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

- (b) A person shall not sell, give, or furnish any tobacco products, vapor products, or alternative nicotine delivery products to a person under 21 years of age. For purposes of this section, a person under the age of 21 is deemed a "minor". A person who violates this section is guilty of a misdemeanor punishable by a fine as follows:

- (1) For a first offense, not more than \$100.00.
- (2) For a second offense, not more than \$500.00.
- (3) For a third or subsequent offense, not more than \$2,500.00.

- (c) A person who sells tobacco products, vapor products, or alternative nicotine products at retail shall post, in a place close to the point of sale and conspicuous to both employees and customers, a sign that includes the following statement:

"The purchase of a tobacco product, vapor product, or alternative nicotine product by a minor under 21 years of age and the provision of a tobacco product, vapor product, or alternative nicotine product to a minor are prohibited by law. A minor who unlawfully purchases or uses a tobacco product, vapor product, or alternative nicotine product is subject to criminal penalties."

(Ord. No. 231-015, § 1, 9-21-98; Ord. No. 231-215, § 1, 6-18-18; Ord. No. 231-234, § 1, 1-6-20; Ord. No. 231-235, § 1, 3-2-20)

Sec. 50-258. Use or possession of tobacco, vapor and alternative nicotine delivery products by minor in public.

- (a) A person under 21 years of age shall not purchase or attempt to purchase, possess or attempt to possess, present or offer to an individual a purported proof of age that is false, fraudulent, or not actually his or her own proof of age for the purpose of purchasing, attempting to purchase, possessing, or attempting to possess a tobacco product, consume or otherwise use tobacco products on a public highway, street, alley, park or other lands used for public purposes, or any public place of business or amusement, or on school property within the village. For purposes of this section, a person under the age of 21 is deemed a "minor".
- (b) A person who violates subsection (a) is guilty of a misdemeanor punishable by a fine of not more than \$50.00 for each offense. Pursuant to a probation order, the court may require a person who violates this section to participate in a health promotion and risk reduction assessment program, if available. A probationer who is ordered to participate in a health promotion and risk reduction assessment program under this section is responsible for the cost of participating in the program. In addition, a person who violates this section may be subject to the court ordering community service and other appropriate legal sanctions.
- (c) A person under 21 years of age shall not purchase or attempt to purchase, possess or attempt to possess, present or offer to an individual a purported proof of age that is false, fraudulent, or not actually his or her own proof of age for the purpose of purchasing, attempting to purchase, possessing, or attempting to possess a vapor or alternative nicotine product, consume or otherwise use vapor products or alternative nicotine delivery products on a public highway, street, alley, park or other lands used for public purposes, or any public place of business or amusement, or on school property within the village.
- (d) A person who violates subsection (c) is responsible for a municipal civil infraction or guilty of a misdemeanor as follows:
 - (1) For the first violation, the person is responsible for a municipal civil infraction and shall be fined not more than \$50.00. The court may order the individual to participate in a health promotion and risk reduction assessment program, if available. In addition, the court may order the individual to perform not more than 16 hours of community service.
 - (2) For the second violation, the person is responsible for a municipal civil infraction and shall be fined not more than \$50.00. The court may order the individual to participate in a health promotion and risk reduction assessment program, if available. In addition, the court may order the individual to perform not more than 32 hours of community service.
 - (3) If a violation of subsection (c) occurs after two or more prior judgments, the person is guilty of a misdemeanor punishable by a fine of not more than \$50.00 for each violation. Pursuant to a probation order, the court may also require the individual to participate in a health promotion and risk reduction assessment program, if available. In addition, the court may order the individual to perform not more than 48 hours of community service.

(Ord. No. 231-015, § 2, 9-21-98; Ord. No. 231-215, § 1, 6-18-18; Ord. No. 231-234, § 1, 1-6-20; Ord. No. 231-235, § 1, 3-2-20)

Sec. 50-259. Unattended child in motor vehicle.

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

Child means an individual less than six years of age.

Risk of harm or injury means only a possible risk of harm or injury. It can include, but does not require, actual harm or injury to the child. Only the unreasonable risk of harm or injury to the child needs to be established by the prosecution.

Unattended means alone or without the supervision of an individual 13 years of age or older who is not legally incapacitated.

Vehicle means that terms as defined in section 79 of the Michigan Vehicle Code, 1949 PA 300, MCL 257.79.

- (b) *Prohibition.* A person who is responsible for the care or welfare of a child shall not leave that child unattended in a vehicle for a period of time that poses an unreasonable risk of harm or injury to the child or under circumstances that pose an unreasonable risk of harm or injury to the child.
- (c) *Penalty for violation.* A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

(Ord. No. 231-157, § 1, 6-18-12)

ARTICLE IX. CONTROLLED SUBSTANCES

Sec. 50-260. Possession, sale and use prohibited.

It shall be unlawful for any person to possess, use, sell, offer for sale, distribute, administer, dispense, prescribe or give away any controlled substance as defined in Act No. 368 of the Public Acts of Michigan of 1978 (MCL 333.7101 et seq., as amended; provided, however, that nothing contained in this section shall be deemed to prohibit the possession, sale, offer for sale, distributing, administering, dispensing or prescribing of any of the drugs or their derivatives mentioned in this section in the manner and under such circumstances authorized in statute.

(Ord. No. 231-176, § 1, 12-2-13)

Sec. 50-261. Dispensing by authorized persons.

A manufacturer, wholesaler, apothecary, medical doctor, osteopathic physician, dentist, veterinarian, chiropractor, public or private hospital, sanitarium or institution maintained or conducted in whole or in part for the treatment of disability, disease, inebriety or drug addiction, may purchase, receive, possess, sell, distribute, prescribe, administer or dispense any controlled substance referred to in section 50-260, provided that they shall have complied with all provisions as required by Public Act No. 368 of 1978 (MCL 333.7101 et seq.); provided further that no medical doctor, osteopathic physician or other person specified in this section in any manner authorized to prescribe any controlled substance shall prescribe such controlled substance for his own use, nor shall any druggist honor such a prescription; and provided further that all controlled substances obtained pursuant to this section shall be kept in the original package or container in which they were received, provided that this requirement should not be construed to apply to any duly licensed medical doctor, osteopathic physician, dentist, veterinarian, chiropractor or to any authorized person acting directly under their supervision or control.

Sec. 50-262. Possession, manufacture and sale of drug paraphernalia.

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

Controlled substance means any drug, substance, or immediate precursor enumerated in article 7 of Act No. 368 of the Public Acts of Michigan of 1978 (MCL 333.7101 et seq.), as amended.

Drug paraphernalia means and includes all equipment, products and materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. The term includes but is not limited to the following:

- (1) Kits used or intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
- (2) Kits used or intended for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
- (3) Isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled substance;
- (4) Testing equipment used or intended for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;
- (5) Scales and balances used or intended for use in weighing or measuring controlled substances;
- (6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or intended for use in cutting controlled substances;
- (7) Separation gins and sifters used or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;
- (8) Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled substances;
- (9) Capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of controlled substances;
- (10) Containers and other objects used or intended for use in storing or concealing controlled substances;
- (11) Hypodermic syringes, needles and other objects used or intended for use in injecting controlled substances into the human body;
- (12) Objects used or intended for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:
 - a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes, with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - b. Water pipes;
 - c. Carburetion tubes and devices;
 - d. Smoking and carburetion masks;
 - e. Cocaine vials;

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- f. Chamber pipes;
 - g. Carburetor pipes;
 - h. Electric pipes;
 - i. Air-driven pipes;
 - j. Chillums;
 - k. Bongs;
 - l. Ice pipes or chillers.

Intent or *intended* means the intent of the person charged with violation of this section.

- (b) *Determining factors.* In determining whether an object is drug paraphernalia, in addition to all other relevant factors, the following factors shall be considered.
 - (1) Statements by an owner or by anyone in control of the object concerning its use;
 - (2) The proximity of the object to controlled substances;
 - (3) The existence of any residue of controlled substances on the object;
 - (4) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he knows intend to use the object to violate any provision of this section;
 - (5) Instructions, oral or written, provided with the object concerning its use;
 - (6) Descriptive materials accompanying the object which explain or depict its use;
 - (7) National and local advertising concerning its use known to the defendant;
 - (8) The manner in which the object is displayed for sale;
 - (9) The existence and scope of legitimate uses for the object in the community;
 - (10) Expert testimony concerning its use.
- (c) It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this section.
- (d) It is unlawful for any person to deliver, sell, possess with intent to deliver or sell, or manufacture with intent to deliver or sell, drug paraphernalia, knowing it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this section.
- (e) No person 18 years of age or over shall deliver drug paraphernalia to a person under 18 years of age.
- (f) This section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with state law. This section shall not be construed to prohibit any possession, manufacture or use of hypodermics made lawful by city ordinances.
- (g) Any drug paraphernalia used in violation of this section shall be seized and forfeited to the village.

(Ord. No. 231-176, § 1, 12-2-13)

Sec. 50-263. Fraudulent prescriptions and procurement of controlled substances.

- (a) Any fraud, deceit, misrepresentation, subterfuge, concealment of a material fact, or the use of a false name or the giving of a false address for the purpose of obtaining any controlled substances or barbituric acid or any derivative, compound, preparation or mixture thereof, or any hypodermic syringe, needle or other instrument, implement or empty gelatin capsules or any false statement on any prescription blank shall be deemed a violation of this section. No person who shall have obtained the possession of controlled substances, hypodermic syringes, needles or other instruments or implements adapted for the use of such substances or empty gelatin capsules pursuant to the terms of this division shall use the same or permit or authorize their use for any purpose other than that specifically authorized in the prescription or order by means of which such possession was obtained.
- (b) Any fraud, scheme, device, trick, deceit, misrepresentation, subterfuge or any other form of concealment for the purpose of obtaining money or any other thing of value by the sale, furnishing, supplying or giving away of any substance represented to be a controlled substance as described in section 50-260, when the same may or may not be the same, shall be deemed a violation of this section.

(Ord. No. 231-176, § 1, 12-2-13)

Sec. 50-264. Exemption for common carriers, public officers, etc. while engaged in lawful transportation or performance of duties, etc.

The provisions of this article restricting the possession of controlled substances or barbituric acid or any derivative, compound, preparation or mixture thereof, or any hypodermic syringes, needles or other implements or instruments adapted to the use of such substances by means of subcutaneous injection, introcutaneous injection or any other manner or method of introduction or empty gelatin capsules shall not apply to common carriers, warehouses or their employees engaged in the lawful transportation or storage of such drugs, syringes, needles or capsules, or to public officers or employees while engaged in the performance of their official duties, nor to temporary incidental possession on the part of employees or agents of persons lawfully entitled to possession thereof.

(Ord. No. 231-176, § 1, 12-2-13)

Sec. 50-265. Transportation or possession of usable marihuana.

A person shall not transport or possess usable marihuana as defined in section 26423 of the public health code, 1978 PA 368, MCL 333.26423, in or upon a motor vehicle or any self-propelled vehicle designed for land travel unless the usable marihuana is one or more of the following:

- (1) Enclosed in a case that is carried in the trunk of the vehicle.
- (2) Enclosed in a case that is not readily accessible from the interior of the vehicle, if the vehicle in which the person is traveling does not have a trunk.

(Ord. No. 231-176, § 1, 12-2-13)

Sec. 50-266. Keeping or maintaining a place of unlawful use prohibited.

It is unlawful for any person to knowingly keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft or other structure or place, which is resorted to by persons using controlled substances in violation of this article for the purpose of using these substances, or which is used for keeping them.

(Supp. No. 23)

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(Ord. No. 231-176, § 1, 12-2-13)

Sec. 50-267. Nonmedical habitual users loitering prohibited.

It shall be unlawful for any nonmedical habitual user of controlled substances, other than legalized recreational marijuana, to loiter about, frequent or live in any building, apartment, store, automobile, boat or boathouse, or airplane or other place of any description whatsoever where controlled substances, hypodermic syringes, needles, or other instruments or implements or empty gelatin capsules are sold, dispensed, furnished, given away, stored, or kept.

(Ord. No. 231-176, § 1, 12-2-13; Ord. No. 231-227, § 1, 2-4-19)

Sec. 50-268. Toxic chemicals.

- (a) As used in this article, "chemical agent" means any substance containing a toxic chemical or organic solvent, or both, and having the property of releasing toxic vapors. The term includes, but is not limited to, glue, acetone, toluene, carbon tetrachloride, hydrocarbons and hydrocarbon derivatives.
- (b) The introduction of toxic chemicals into the respiratory or circulatory system is prohibited. No person shall, for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction or dulling of the senses or nervous system, intentionally smell or inhale the fumes of any chemical agent or intentionally drink, eat or otherwise introduce any chemical agent into his respiratory system. This shall not prohibit the inhalation of any anesthesia for medical or dental purposes.

(Ord. No. 231-176, § 1, 12-2-13)

Sec. 50-269. Aiding and abetting.

No person shall assist, aid, abet or encourage any person to violate the provisions of this article.

(Ord. No. 231-176, § 1, 12-2-13)

Sec. 50-270. Penalty for violation.

Any person who violates or fails to comply with any provision of this article shall be guilty of a misdemeanor and, upon conviction, be punished as prescribed by law.

(Ord. No. 231-176, § 1, 12-2-13)

Chapter 54 PARKS AND RECREATION¹⁹

ARTICLE I. IN GENERAL

¹⁹Cross reference(s)—Alcoholic liquors, ch. 6; animals, ch. 14; fire prevention and protection, ch. 46; offenses and miscellaneous provisions, ch. 50; zoning, ch. 94.

State law reference(s)—Authority to operate recreation areas and playgrounds, MCL 123.51 et seq.

Sec. 54-1. Penalty for violation of chapter.

Any person violating any provisions of this chapter shall, upon conviction thereof, be subject to a penalty as prescribed in section 1-12.

(Ord. No. 170, § 5, 5-9-77 eff.)

Sec. 54-2. Use.

The use of village parks and recreational facilities shall be open to the public.

(Ord. No. 129, § 1, 6-25-64 eff.; Ord. No. 231-165, § 1, 5-20-13)

Sec. 54-3. Closing parks or portions thereof.

Any section or part of any park may be declared closed to the public by village authorities at any time, and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise), and either entirely or merely to certain uses, as village authorities shall find reasonably necessary. During such time, it shall be unlawful to enter upon or occupy such closed areas contrary to posted regulations.

(Ord. No. 129, § 4, 6-25-64 eff.; Ord. No. 231-166, § 1, 5-20-13)

Sec. 54-4. Traffic.

The maximum speed limit for all vehicles in parks shall be 15 miles per hour, except where otherwise posted. Motor vehicles will be driven only on designated park roads and in designated parking areas.

(Ord. No. 129, § 9, 6-25-64 eff.)

Sec. 54-5. Parking.

All vehicles in parks shall be parked in areas or places provided and designated therefor. Parking in places contrary to posted regulations is prohibited.

(Ord. No. 129, § 10, 6-25-64 eff.)

Sec. 54-6. Dogs and pets.

Dogs or other pets are permitted in parks only in accordance with the following regulations:

- (1) Dogs or other pets are permitted in in parks except for Janowski Park, the LaFontaine Family Amphitheater during performances and events, the Milford Skatepark, and the Milford Mountain Bike Trail.
- (2) Except for designated off-leash areas in the Milford Dog Park, dogs or other pets permitted in parks must be leashed at all times.
- (3) Anyone bringing a dog or other pet to a park must maintain control of the animal and must clean up and properly dispose of any pet waste.

(Ord. No. 129, § 6, 6-25-64 eff.; Ord. No. 231-238, § 1, 3-1-21)

Sec. 54-7. Reserved.

Editor's note(s)—Ord. No. 231-238, § 1, adopted Mar. 1, 2021, repealed § 54-7 entitled "Picnicking," which derived from Ord. No. 129, § 14, adopted June 25, 1964.

Sec. 54-8. Boating, fishing, hiking, dog park, skate park, other activities.

Conduct of activities such as fishing, boating, swimming, horseback riding, games, hiking, etc., in parks and parkways shall be governed by posted signs. Additionally, conduct of activities in the Dog park and skate park shall be governed by rules set forth by posted signs.

(Ord. No. 129, § 15, 6-25-64 eff.; Ord. No. 231-238, § 1, 3-1-21)

Sec. 54-9. Fires.

Fires may be built in parks and parkways only in picnic stoves or in other equipment or space approved by the village manager, and only in such areas as designated by the village manager. It shall be unlawful to start or to cause to be started any other fire whatsoever in any park or parkway.

(Ord. No. 129, § 3, 6-25-64 eff.)

Sec. 54-10. Swimming.

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

"Body of water" means any lake, river, pond, stream, creek or drain.

"Lands" means any real estate owned or controlled by the village and improvements thereon, including, but not limited to, roadways, sidewalks and bridges.

"Public park" means any property owned by the village and open to the public for recreational use.

- (b) *Prohibitions.* Except for the activities set forth in article IV of this chapter related to watercraft liveries, it shall be unlawful at any time for any person to swim in any public park area owned by the village or to swim in any body of water abutting any lands owned or controlled by the village. Any person violating this section is deemed responsible for committing a municipal civil infraction.

(Ord. No. 169, §§ 2, 3, 5-9-77 eff.; Ord. No. 231-211, § 1, 2-20-18; Ord. No. 231-238, § 1, 3-1-21)

Sec. 54-11. Preservation of property, natural resources and wildlife.

No person shall injure, deface, disturb, befoul nor in any manner destroy or cause to be destroyed any part of any park or parkway, nor any building, sign, structure, equipment, utility or other property found therein. It shall be unlawful to remove, injure or destroy any tree, flower, shrub, plant or growing thing, or any rock or other mineral. It shall be unlawful to kill, trap, hunt, pursue or in any manner disturb or cause to be disturbed any wild bird or animal within the park areas.

(Ord. No. 129, § 2, 6-25-64 eff.)

Sec. 54-12. Disposal of refuse.

No person shall deposit or abandon in any park, parkway or public street any garbage, sewage, refuse, trash, waste or other obnoxious material except in receptacles or pits provided for such purpose.

(Ord. No. 129, § 11, 6-25-64 eff.)

Sec. 54-13. Public gatherings, speeches.

Public meetings, assemblies, sermons, discussions, and speeches on any subject, religion, social, political, or otherwise, are prohibited in parks and parkways, except when a written permit from the village manager has first been granted.

(Ord. No. 129, § 16, 6-25-64 eff.)

Sec. 54-14. Peddling and advertising.

Peddling, hawking, soliciting, begging, advertising, or the carrying on of any business or commercial enterprise in parks without written permission of the village manager is strictly prohibited.

(Ord. No. 129, § 7, 6-25-64 eff.)

Sec. 54-15. Posting signs.

No person shall post, paste, fasten, paint or affix any placard, bill, notice or sign upon any structure, tree, stone, fence, thing or enclosure along or within any park or parkway.

(Ord. No. 129, § 8, 6-25-64 eff.)

Sec. 54-16. Firearms.

No firearms, inflammable or explosive material or other dangerous substance will be permitted in any park or parkway, unless carried by officers of the law, employees or officers of the village manager.

(Ord. No. 129, § 5, 6-25-64 eff.)

Sec. 54-17. Camping.

Camping is not permitted in parks and parkways.

(Ord. No. 129, § 12, 6-25-64 eff.)

Secs. 54-18—54-45. Reserved.

ARTICLE II. ADMINISTRATION

Sec. 54-46. Department created.

There is hereby created for the village a department to be known as the Milford Parks and Recreation Department.

(Ord. No. 157, § 1, 1-28-74 eff.)

Sec. 54-47. Powers of village.

The village shall have the power to acquire by purchase, gift, bequest or otherwise, and to improve, protect and equip for the benefit of the people of the village, real property, improved or unimproved, and to employ personnel to maintain, improve and supervise such real properties and to organize park and recreation activities using such properties and/or other public or private properties by the consent of the owners and directors.

(Ord. No. 157, § 2, 1-28-74 eff.)

Sec. 54-48. Recreation advisory board.

- (a) *Created; members; meetings; election of chairperson.* There shall be created an advisory board consisting of nine members, being electors of the village, with four members allowed to be electors of the Charter Township of Milford outside of the village limits, and all members being qualified by experience and having evidence of interest in the development of parks and recreation services within the village for public use. The members of the recreation board shall be appointed by the president for a term of three years or until a successor is appointed and has qualified for the position; thereafter, any appointments shall be made at the first regular meeting following the regular village election. Members of such board shall serve without compensation; shall meet at the instigation of the chairperson or three or more voting members of the board and shall elect a chairperson at the first meeting after March 15 of each calendar year.
- (b) *Filing of minutes.* A copy of the minutes of all recreation board meetings shall be filed with the village clerk for transmittal to the council.
- (c) *Rules of procedure.* The recreation board shall adopt its own rules of order and procedure not inconsistent with the provisions of this section.
- (d) *Quorum.* Four voting members of the recreation board shall constitute a quorum and a lesser number may adjourn any meeting at which a quorum is not present.
- (e) *Duties.* The recreation board shall act solely in a factfinding, recommendatory and advisory capacity to the village council, and it shall be its duty to consider and study the reasonable needs of recreational facilities and activities in which the village might properly participate, to formulate and to report to the council estimates of public requirements for recreational facilities and for the costs thereof and the amounts which might properly be appropriated by the council to provide and maintain such recreational facilities.
- (f) *Expenditures.* Neither the recreation board nor any member thereof may incur any expense or create any obligation or liability upon the village. In the event of any expenditure of village funds as may be required in connection with the functioning of the recreation board, before such funds shall be expended, approval of such expenditure shall first be obtained from the village council.

(Ord. No. 157, §§ 3—8, 1-28-74 eff.; Ord. No. 157-A, 7-31-85 eff.; Ord. No. 231-020, § 1, 5-6-99)

Secs. 54-49—54-70. Reserved.

ARTICLE III. ALCOHOLIC BEVERAGES²⁰

Sec. 54-71. Definitions.

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

"Alcoholic beverages" means any and all beverages containing any alcoholic content whatsoever.

(Ord. No. 231-237, § 1, 3-1-21)

Sec. 54-72. Prohibition.

Except for Central Park, no person shall at any time have in his possession, custody or control any alcoholic beverage while in any park located in the village. Any person violating this provision shall be deemed responsible for committing a municipal civil infraction.

(Ord. No. 231-237, § 1, 3-1-21)

Sec. 54-73. Central Park.

The sale, consumption or possession of alcoholic beverages may be allowed in Central Park in situations wherein the village council by resolution permits such activities in conjunction with community-wide functions and/or festivals. In all other cases it shall be unlawful for any person to consume, possess or control any type of alcoholic beverage in Central Park in the village. Any person violating this provision shall be deemed responsible for committing a municipal civil infraction.

(Ord. No. 231-237, § 1, 3-1-21)

Secs. 54-74—54-155. Reserved.

ARTICLE IV. COMMERCIAL WATERCRAFT

Sec. 54-156. Purpose.

Pursuant to its powers for the management and control of municipal property, the village recognizes that it must regulate the operation of canoe, kayak and other watercraft livery activities occurring in village parks in order to protect and minimize any disturbance to the public health, safety or general welfare.

²⁰Editor's note(s)—Ord. No. 231-237, § 1, adopted Mar. 1, 2021, amended Art. III in its entirety to read as herein set out. Former Art. III, §§ 54-71—54-137, pertained to similar subject matter, and derived from: Ord. No. 168, §§ 1, 2, Mar. 30, 1977; Ord. No. 170, §§ 2, 3, May 9, 1977; Ord. No. 170-A, June 26, 1978; Ord. No. 177, §§ 2, 3, June 26, 1978; Ord. No. 170-B, Mar. 24, 1986; and Ord. No. 231-059, § 1, July 12, 2001.

(Ord. No. 231-210, § 1, 2-20-18)

Sec. 54-157. Definitions.

"*Watercraft livery*" means a place of business or any location where a person or other entity rents or offers for rent any vessel to the public for recreational or other noncommercial use on the waters within the Village of Milford. Such rentals may include transportation for the pickup of customers and rented vessels from various locations.

"*Watercraft livery operator*" means the person or other entity owning and operating the watercraft livery.

(Ord. No. 231-210, § 1, 2-20-18)

Sec. 54-158. Permit required.

No watercraft livery operator shall conduct its business upon village park property without first obtaining a permit from the village.

(Ord. No. 231-210, § 1, 2-20-18)

Sec. 54-159. Permit application and issuance.

Applications for an annual watercraft livery permit must be submitted to the village clerk in the form, and along with the payment of a non-refundable application fee, as set forth by resolution of village council, which may be amended from time to time.

The village manager shall review such applications and issue a permit in accordance with such requirements. Any applicant wishing to appeal the decision of the village manager in denying a watercraft livery permit, may file said appeal to village council within 14 days of the issuance of a written denial from the village manager. The appeal shall be considered by village council at the next regular meeting of village council, allowing for sufficient time to meet all filing, publication and distribution deadlines.

The following information shall be contained in the permit applications and issued permit:

- (1) Name and address of person or entity submitting the application.
- (2) Statement that the watercraft livery shall comply with any state licensing, safety and other regulatory requirements.
- (3) Statement that the applicant shall be responsible for the removal of any trash deposited by its customers.
- (4) Verification of insurance in an amount acceptable to the village for coverage of personal injury or property damage resulting from the watercraft livery operations, naming the village as an insured party.
- (5) Agreement from the applicant that applicant shall indemnify and hold the village harmless in connection with any claims arising from the watercraft livery operation on village park property.
- (6) Specifics regarding the location of watercraft livery operations.
- (7) List of hours of operation.
- (8) Specifics regarding the number of public parking spaces to be used.
- (9) Verification that the \$25.00 watercraft livery permit fee has been submitted with the application.

(Supp. No. 23)

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(Ord. No. 231-210, § 1, 2-20-18)

Sec. 54-160. Restrictions.

While in a park, no livery operators, patrons of the livery or other person shall:

- (1) Keep any boat or trailer in any park during times that it is closed.
- (2) Damage, deface or destroy any signage, shrub, tree, flower or other public property, or throw or deposit litter in the park other than in designated containers.
- (3) Post or erect any watercraft livery signage. Signage owned and posted by the village does not apply.
- (4) Swim, dive or jump from any watercraft.
- (5) Possess or consume alcohol in violation of village ordinances.
- (6) Drive or park any motor vehicle except in roads and parking areas designated for the public. No more than two watercraft livery vehicles and/or trailers may be parked upon village property at one time.
- (7) Obstruct public access to the water or any park walk or drive.

(Ord. No. 231-210, § 1, 2-20-18)

Sec. 54-161. Violations and penalties.

Any person violating any provisions of this article shall be responsible for a civil infraction. The penalty for the first offense shall be \$50.00, and \$100.00 for the first repeat offense. For any second or subsequent repeat offense, the fine shall be no more than \$250.00.

(Ord. No. 231-210, § 1, 2-20-18)

Secs. 54-162—54-185. Reserved.

Chapter 58 ROADS AND BRIDGES²¹

ARTICLE I. IN GENERAL

Secs. 58-1—58-30. Reserved.

ARTICLE II. PRIVATE ROADS

²¹Cross reference(s)—Administration, ch. 2; buildings and building regulations, ch. 18; community development, ch. 30; engineering design and construction standards, ch. 38; soil erosion and sedimentation control, § 42-141 et seq.; streets, sidewalks and other public places, ch. 70; subdivisions and land division, ch. 74; vegetation, ch. 86; zoning, ch. 94.

Sec. 58-31. Purpose.

The purpose of this article is to uniformly provide for the development of private roads and interior private road networks within the village and to ensure adequate access for police and fire protection, emergency response and public safety vehicles, and for safe ingress and egress to public roads for the health, safety and general welfare of the residents.

(Ord. No. 207, 3-26-90 eff.)

Sec. 58-32. Definitions.

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

Applicant means a natural person, firm, association, partnership, corporation, or any combination thereof, which may hold any ownership interest in land, whether recorded or not, that is applying for a permit and approval for the installation of a private road pursuant to the terms of this article.

Building official means the person designated by the village to issue building and private road permits, review building and construction plans, inspect buildings and construction including private roads, issue certificates of occupancy or completion, and perform similar activities.

Ditch means a long narrow excavation dug in the earth used for drainage purposes.

Driveway means any private area of land used for ingress and egress and which serves no more than one parcel of land.

Easement means the right of an owner of property, by reason of such ownership, to use the property of another for purposes of ingress, egress, utilities, drainage and similar uses.

Parcel or tract means a continuous area of land under the ownership or control of the same person, firm, association, partnership, corporation, or any combination thereof.

Permanent soil erosion control measures means those measures and facilities which are installed or constructed to control soil erosion and which are maintained after completion of development, as required by local ordinance or state law.

Person means a natural person, firm, association, partnership, corporation, or any combination thereof, who or which may hold an ownership interest in land, whether recorded or not.

Private road means an area of land used for ingress and egress (including vehicular traffic, emergency response and public safety vehicles) and for private and public utilities to serve more than one parcel of land, which is under private ownership and not maintained at public expense.

Public street or right-of-way means a public or dedicated right-of-way, other than an alley, which affords the principal means of vehicular access (including emergency response and public safety vehicles) to abutting property, and which is under public ownership or control.

Zoning ordinance means the village zoning ordinance, as amended.

Zoning ordinance administrator means the person designated to review and approve zoning matters administratively as authorized by ordinance and by the planning commission, and who also has the authority to enforce zoning and ordinance violations.

(Ord. No. 207, § A(1), 3-26-90 eff.)

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

Sec. 58-33. Permit required.

No private road easement shall be created, nor shall any private road be constructed, nor shall use of any existing driveway or private road easement, or other means of ingress and egress for vehicular traffic, be increased to serve two or more parcels, from and after March 26, 1990, unless and until a private road permit is obtained pursuant to this article; and if such private road, driveway or other means of ingress and egress for vehicular traffic abuts or intersects a public right-of-way, a permit to work in such right-of-way shall also be obtained, if necessary.

(Ord. No. 207, § B(1), 3-26-90 eff.)

Sec. 58-34. Application for installation or extension.

Applications for installation or extensions of private roads shall include the following:

- (1) Complete plans and specifications drawn and scaled by a registered civil engineer or registered land surveyor, and shall be sealed. The size, color, number of copies and other requirements for such plans and specifications shall be developed by the building official, and shall be in written form.
- (2) The plans shall include a vicinity map of a minimum scale of one inch equals 2,000 feet, showing the location of the private road in the village, any access roads and cross streets, road names, a scale and a north arrow.
- (3) All elevations shall be USGS datums. Benchmarks for the construction shall also be indicated on the plans.
- (4) The proposed improvements, including, but not limited to, roads, sewers and ditches, shall be shown in plan and profile. The profile shall indicate the existing elevation at the centerline and 30 feet on either side of the centerline, and the same elevations for the proposed improvements. The plans shall also show all existing and proposed grades, the location of all existing and proposed drainage facilities, the location of existing and/or proposed utilities and structures, and other structures or physical conditions existing adjacent to such improvements.
- (5) The legal description of all parcels being served or benefited by the private road, and the legal description of the easement, together with a survey showing all such descriptions if the same are not contained in the plans and specifications.
- (6) Copies of the documentation for the declaration, grant or reservation of any private road easement, together with an easement maintenance agreement, as specified in this article.
- (7) Written proof of any required land division approval and variances, if necessary.

(Ord. No. 207, § B(6), 3-26-90 eff.)

Sec. 58-35. Easements.

- (a) All private road easements created after March 26, 1990 shall be a minimum of 60 feet in width; shall be in conformity to the design standards as established by the village council by resolution; and shall be separately described. A declaration, grant or reservation of any such easement and an easement maintenance agreement shall be provided in the form required in this section and shall be recorded with the county register of deeds prior to the issuance of any certificate of completion for such private road.

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- (b) Any declaration, reservation or grant of a private road easement shall set forth the description of the easement, the descriptions of the parcels which are benefited by the easement, and the types of uses permitted in such easement, including but not limited to ingress, egress, public and private utilities.
 - (c) An easement maintenance agreement shall set forth the rights and duties of all parcels benefited by the private road easement for construction, maintenance, snow removal, signage and other similar activities and shall contain the following:
 - (1) *Financing improvements and/or maintenance.* A method of initiating and financing necessary improvements and/or maintenance in order to keep the road in a reasonable and usable condition.
 - (2) *Method of apportioning costs.* A viable method for apportioning the costs of such improvements and maintenance, which may include lien provisions.
 - (3) *Public and private utility easements.* Such easements shall contain language for the benefit of the public welfare for emergency response and other safety vehicles and for public service vehicles. Provisions shall also be included therein for the installation of any public and private utilities, including, but not limited to, water, sanitary and storm sewers, electrical, natural gas, telephone, and cable services, if necessary.
 - (4) *Noninterference covenant.* A provision that the owners of all property benefited by such private road easement shall refrain from restricting, prohibiting, limiting or in any manner interfering with the normal ingress and egress and use by any other owner of the rights of such owner in such easement, or by any other person possessing rights in such easement.

If such maintenance agreement is not contained in the same document as the declaration, grant or reservation of the easement, such easement maintenance agreement shall contain a full legal description of the easement, and shall be signed by the owners of all of the parcels benefited by such easement, and shall also be recorded with the county register of deeds prior to the issuance of any certificate of completion of such private road as set forth in this article.

- (d) The declaration, grant or reservation of the private road easement, and any maintenance agreement, shall contain a notice provision that such private road is not maintained by the village or by the board of county road commissioners.
- (e) Copies of the documents containing the declaration, grant or reservation of the private road easement and any easement maintenance agreement shall be provided to the village building official or such other person as may be designated in writing by the village manager. Such copies shall be provided by the applicant at the time of filing an application for a private road permit as provided in this article, and thereafter if such documentation is later amended or changed. The information regarding the recording of such documents with the county register of deeds office shall be provided by the applicant prior to issuance of a certificate of approval for any private road.

(Ord. No. 207, § B(2), 3-26-90 eff.)

Sec. 58-36. Road or street names.

Proposed names for any street, road or drive shall be submitted at the time of application for any permit required under this article. Proposed names are subject to the approval of the building official, who shall consult with the postmaster for the area in which the road, street or drive is located. No road, street or drive shall have a name which might cause confusion with names of existing roads, streets or drives in the Village or Township of Milford, or in the ZIP codes for the mailing areas serving the Village or Township of Milford. Signage for such road, street or drive shall be as provided in section 58-37.

(Ord. No. 207, § B(3), 3-26-90 eff.)

Sec. 58-37. Signs.

All roads, streets or other means of ingress or egress for vehicular traffic shall have such signage as may be required by the building official, or by the department of public services, including but not limited to: name sign, stop sign, and traffic control signs. All such signs shall be to specifications of size, color, mounting, location and material as specified by the building official or by the department of public services. Costs for all road and traffic signs shall be at the cost of the person installing such road, and such signs shall be installed and inspected prior to the issuance of a certificate of completion. Any signs installed after the installation of a private road shall be at the expense of the person installing such signage or at the expense of the owners of the parcels which are benefited by such private road.

(Ord. No. 207, § B(4), 3-26-90 eff.)

Sec. 58-38. Design and construction standards.

All private roads, or any extensions of any existing private roads, shall be constructed in accordance with specifications as set forth in this section. In addition, such construction shall be in conformity with the soil erosion prevention article, as set forth in article V of chapter 42, and a permit thereunder shall be obtained, if necessary.

- (1) *Pavement structure.* Road pavements shall consist of either a minimum thickness of seven-inch concrete or three-inch asphalt on eight inches of aggregate base. Both types of pavement shall be constructed over a suitable subbase as approved by the village engineers.
- (2) *Pavement width.*
 - a. Pavements utilizing a curb and gutter drainage system shall be 27 feet wide from back-of-curb to back-of-curb.
 - b. Pavements utilizing an open ditch drainage system shall have a pavement width of 22 feet plus six-foot-wide aggregate shoulders six inches in depth on each side.
- (3) *Drainage.*
 - a. *Enclosed drainage.* Pavements utilizing curb and gutter drainage shall be served by an enclosed storm drainage system designed in compliance with chapter 38, pertaining to engineering design and standards. The pavement curb and gutter shall be constructed of concrete in accordance with current village standards and details.
 - b. *Open drainage.* Pavements utilizing open drainage shall be served by an open ditch system meeting the following minimum design criteria:
 1. Longitudinal ditch grades shall have a minimum longitudinal grade of one-half of one percent. Longitudinal grades exceeding four percent shall have special provisions made to avoid erosion as approved by the village engineers.
 2. Ditches shall be a minimum of two feet deep measured from the edge of road and shall not exceed a maximum of three feet deep.
 3. Ditch front slope shall not exceed a slope of one foot rise on four-foot run.
 4. Ditch back slope shall not exceed a slope of one foot rise on three-foot run.
 5. Ditch bottoms shall be a minimum of two feet in width.
 6. Driveway culverts shall be a minimum of 12 inches in diameter.
 7. Ditch bottoms and slopes shall be restored with topsoil, seed and mulch, or sod.

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- (4) *Additional design items.* Section 38-246 et seq. of this Code is hereby incorporated by reference in this article.
- (5) *General requirements.*
- a. All dead-end private roads shall terminate in a cul-de-sac.
 - b. All private roads shall intersect with a public road at a 90-degree angle. The minimum pavement radius at the intersection shall be 30 feet.
 - c. Intersections with public roads shall meet requirements as determined by the village to ensure safe operation of the intersection.
 - d. The village reserves the right to require construction to higher standards where warranted by special topographic or soil conditions.
 - e. The radius of all intersections shall include concrete curb and gutter as specified by the village engineers.
- (6) *Variance.* The village council may authorize a variance from these engineering design standards when it determines that undue hardship may result from strict compliance. In granting any variance, the council shall prescribe other conditions that it deems necessary or desirable for the public interest. No variance shall be granted unless the village council finds:
- a. There are special circumstances or conditions affecting the subdivision or project improvement such that a strict application of the provisions of this article would deprive the applicant of reasonable use of his property.
 - b. That the variance is necessary for the preservation and enjoyment of the substantial property right of the applicant.
 - c. That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the area in which such property is situated.

Application for any such variance shall be submitted in writing by the proprietor at the time the preliminary plans are submitted, stating fully and clearly all facts relied upon by the proprietor, and shall be supplemented with maps, plans, or other additional data which may aid in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions or other legal provisions necessary to guarantee the full achievement of the plan.

(Ord. No. 207, § B(5), (7), 3-26-90 eff.; Ord. No. 231-038, § 1, 3-6-00)

Sec. 58-39. Applications generally.

- (a) *Form; contents.* An application for a private road permit shall be developed by the building official and shall be in such form and contain such information as is required under this article.
- (b) *Submission of application.* All applications for a private road permit, together with the required application fees, shall be submitted to the village building official.

(Ord. No. 207, § B(8.1), 3-26-90 eff.)

Sec. 58-40. Issuance of permits.

The building official shall issue a permit for construction of a private road if the information submitted, together with the plans and specifications, is in conformity with this article. Upon completion of a private road, a

certificate of inspection and completion shall be issued by the building official. The building official shall require such other interim inspections as may be necessary to ensure the proper construction of such private road in conformity with this article.

(Ord. No. 207, § B(8.2), 3-26-90 eff.)

Sec. 58-41. Inspections.

The building official shall require such minimum interim inspections during the construction of the private road as may be necessary to ensure the proper construction of such private road in conformity with this article and any other applicable ordinances. Procedures for minimum interim inspections shall be in writing and included with the application form. The building official may require additional interim inspections as part of the permit, and such additional interim inspections shall be specified in writing as part of the permit.

(Ord. No. 207, § B(8.3), 3-26-90 eff.)

Sec. 58-42. Certificate of inspection and approval.

A certificate of inspection and approval shall be issued by the building official upon completion of construction of the private road and upon satisfaction of any conditions of the permit issued.

(Ord. No. 207, § B(8.4), 3-26-90 eff.)

Sec. 58-43. Building permits and certificates of occupancy.

No building permit for the construction of any structure shall be issued by the village for property fronting on any private road until a private road permit has been issued. No final certificate of occupancy shall be issued for any building or structure until or at such time as a certificate of inspection and completion of the private road has been issued.

(Ord. No. 207, § B(8.5), 3-26-90 eff.)

Sec. 58-44. Fees.

The village council by resolution shall establish a schedule of fees for the application for and issuance of permits for private roads and for certificates of inspection and completion, and for the administration, review and inspection of private roads. All application fees shall be paid in advance at the time of submittal of the application. All other fees shall be paid prior to the issuance of a certificate of inspection and completion.

(Ord. No. 207, § C(1), 3-26-90 eff.)

Sec. 58-45. Bonds.

The village council may authorize the building official to require surety deposits or bonds to assure completion of private roads and payment of any additional fees which have not been paid in advance. Such bond or surety shall be in the form required by the council, and shall be filed with the village clerk.

(Ord. No. 207, § C(2), 3-26-90 eff.)

Sec. 58-46. Insurance.

The applicant shall furnish to the building official evidence of satisfactory liability insurance for construction of any private road and for inspections thereof. Such insurance shall be in an amount and form acceptable to the building official. Such evidence shall be provided prior to the issuance of a permit for construction of a private road.

(Ord. No. 207, § C(3), 3-26-90 eff.)

Sec. 58-47. Appeals.

An applicant may appeal the decision of the building official regarding a private road permit, and such appeal shall be to the village council.

(Ord. No. 207, § D(1), 3-26-90 eff.)

Secs. 58-48—58-70. Reserved.

ARTICLE III. BRIDGES

Sec. 58-71. Definitions.

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

Bridges, roadways and shoulders of roadways means all those bridges, roadways and shoulders of roadways open to the general public and located within the village.

Fishing means and includes any and all activities undertaken, the end purpose of which is the capture or killing of fish and/or other aquatic life.

(Ord. No. 171, § 2, 6-13-77 eff.)

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

Sec. 58-72. Prohibition.

It shall be unlawful at any time for any person within the village to fish from any bridge, roadway or shoulders of roadways open to the general public.

(Ord. No. 171, § 3, 6-13-77 eff.)

Sec. 58-73. Penalty for violation of article.

Any person violating any provisions of this article shall, upon conviction thereof, be deemed responsible for committing a municipal civil infraction.

(Ord. No. 171, § 4, 6-13-77 eff.)

Chapter 62 SOLID WASTE²²

Sec. 62-1. Definitions.

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

Ashes means the solid residue of combustion of 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.

Bulk items means large items of furniture, bedsprings, refrigerators, stoves, large appliances and other large items incidental to housekeeping for and in single-family residences and condominiums as defined under the definition of premises. Such term does not include discarded appliances resulting from an appliance replacement program in a multiple-family residential building and/or multiple-family residential complex.

Commercial rubbish means miscellaneous waste and materials resulting from business and industrial operations of any kind but excludes construction and trade wastes which have been abandoned as worthless and having no property value or which would constitute a nuisance when allowed to accumulate.

Compostables or yard waste means garden, lawn, or tree trimmings, leaves and dead garden plants from the normal household. Such term shall not include rubbish from the work of landscape gardeners or private companies such as landscaping firms and nurseries.

Construction waste means miscellaneous waste and materials resulting from construction, alterations, repairs, demolition, and renovation, and includes earth, offensive dirt and fill dirt from excavation which has been abandoned as worthless and having no property value or which would constitute a nuisance when allowed to accumulate.

Domestic rubbish means waste material and refuse of every character from normal household or living conditions, including but not limited to house dirt and trash, except garbage.

Garbage means rejected food waste and all refuse of animal, fruit or vegetable matter including that used or intended for food or that attends the preparation, use, cooking, handling, processing or storing of meat, fish, fowl, fruit and/or vegetables.

Hazardous waste means any material or substance which by reason of its composition or characteristics is:

- (1) Hazardous waste as defined in the Solid Waste Disposal Act, 42 USC 6907 et seq., as amended, and the regulations implementing the same;
- (2) Material, the disposal of which is regulated by the Toxic Substances Control Act, 15 USC 2601 et seq., as amended, and the regulations implementing the same;
- (3) Special nuclear or byproducts material within the meaning of the Atomic Energy Act of 1954; or
- (4) Hazardous waste as defined in Act No. 64 of the Public Acts of Michigan of 1979 (MCL 13.30(1) et seq.), as amended, and as identified in the reasonable rules and regulations promulgated by the village manager and/or by regulations adopted by the department of natural resources.

²²Cross reference(s)—Environment, ch. 42; fire prevention and protection, ch. 46.

Industrial special waste means nonhazardous wastes generated by industrial users, which due to the size or composition of such waste require special handling and/or disposal procedures. Such term includes but is not limited to foundry sand, incinerator/boiler bottom ash, fly ash, sludge, scrap pallets and other wastes from manufacturing processes which require special handling and/or disposal procedures.

Mixed waste means a mixture of rubbish and garbage.

Premises means any property used for single-family residential purposes as defined in the village zoning ordinance, to which a separate street address, postal address or box or tax roll description or other similar identification has been assigned.

Recyclables means presorted materials that are separated from solid waste prior to collection. Such materials may include, but are not limited to, newspaper, tin cans, glass bottles and jars, and plastic containers or any other materials designated in the reasonable rules and regulations promulgated and published by the village manager.

Rubbish means miscellaneous materials including, but not limited to, paper, magazines, ashes, glassware, dishes and other items incidental to the usual routine of housekeeping but not including dirt, gravel, sand or construction debris.

Solid waste means garbage, rubbish, compostables, yard wastes and recyclables, or any combination thereof. Solid waste does not include hazardous waste and/or industrial special waste.

Village manager means the village manager or authorized deputy agent or representative.

(Ord. No. 220, § 1, 3-2-92)

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

Sec. 62-2. Penalty for violation of chapter.

Any person who violates or fails to comply with any provision of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished as prescribed in section 1-12 of this Code.

(Ord. No. 220, § 12, 3-2-92)

Sec. 62-3. Enforcement of chapter.

Authorized employees and representatives of the police department, the department of public services and the building department are hereby authorized to issue citations to any person violating the provisions of this chapter. Such enforcement officials shall be set forth by position in the rules and regulations described in this chapter.

(Ord. No. 220, § 11, 3-2-92)

Sec. 62-4. Unlawful accumulations, dumping, disposal and scavenging; special collection by village.

- (a) It shall be unlawful for any person to accumulate, permit or allow to be accumulated, to place, dump or permit to be placed or dumped, or to scatter, bury or permit to be scattered or buried, in or on property or premises owned by or under the control of such person, on private property, with or without the owner's permission, or in any public place, any garbage, domestic, commercial, or compostables/yard waste, ashes, construction waste, manure, or any other form of waste having no property value or constituting a nuisance

when so accumulated, except where such substances are placed in proper receptacles for removal or composting, and except where such substances are dumped in a place designated by the village council for such purpose, or except where such substance is sold pursuant to a commercial arrangement for its commercial value and a permit is issued from the village upon a showing that such disposal method will not constitute a nuisance and upon the village setting forth conditions of the permit which will ensure that a nuisance will not occur if the permit is issued. When any such permit is issued, a violation of the conditions attached to it will cause the permit to be terminated immediately.

- (b) No special waste, hazardous waste, or industrial special waste shall be disposed of into a lake, stream or other body of water. A person shall not place hazardous waste, industrial special waste or hot ashes at curbside or at other designated locations for collection.
- (c) It shall be unlawful for any person, other than the owner or occupant of a property, his employees or agents, village employees and/or the village's contractor to tamper or meddle with, take, carry away, pick through, or scavenge any container, bundle or approved container for recyclables and remove the contents thereof from the location where the same has been properly placed for collection.
- (d) When any owner, occupant, or other person in charge of any premises permits any rubbish or combustible material to accumulate in any public alley, street or other public place, or in any private place, outside of a storage or other approved building, after the last regularly scheduled time for collection in any week, the village shall have the authority to cause to have collected such rubbish or other material at any time between the last scheduled collection at the end of such week and the first scheduled regular collection in the following week. The cost of such special collections shall be charged to the owners or occupants of the property permitting such rubbish or other material to accumulate. The village council shall by resolution establish a schedule of charges sufficient to cover the cost of such special collections.

(Ord. No. 220, § 2, 3-2-92)

Sec. 62-5. Containers; maintenance of commercial premises.

- (a) No person shall be permitted to accumulate upon his premises any solid waste unless it is placed and maintained in containers which are tightly covered and also animalproof and rodentproof. Containers for solid waste shall be of reasonably substantial construction to permit handling and shall also be large enough and secured to prevent the scattering of materials.
 - (1) Residential refuse and garbage shall be placed in standard containers or plastic or waterproof paper bags of a capacity and quality for the storage and disposal of refuse. Multiple-family residential refuse and garbage shall be placed in either two-yard containers or cans which will be placed in an accessible location designed for pickup. The size and weight of such containers shall be as further outlined in the rules and regulations promulgated by the village manager.
 - (2) Every commercial establishment shall provide for the proper storage of solid waste in receptacles as provided in this section, and shall place such receptacles in a location approved by the village. Commercial establishments shall be limited to four 30-gallon containers.
- (b) It shall be the duty of the owner or occupant of any lot or premises on which a commercial establishment is operated to keep the premises in a clean, neat and orderly condition, and provide for the weekly collection of all its refuse. Every commercial establishment shall be responsible for wind-blown refuse and all other refuse on its premises, and shall further be responsible for escaping refuse emanating from its premises onto neighboring premises.

(Ord. No. 220, § 3, 3-2-92)

Sec. 62-6. Unlawful use of dumpsters.

It shall be unlawful for any person to place or deposit, or permit another to place or deposit, any garbage, ashes or rubbish, either domestic, compostables/yard waste, or commercial, in any refuse dumpster, either publicly or privately owned, within the village unless the refuse is from the premises served by the refuse dumpster, or with the express consent of the person or organization served by such dumpsters.

(Ord. No. 220, § 4, 3-2-92)

Sec. 62-7. Contract for collection.

The village may grant an exclusive contract to the village contractor for the collection of garbage and rubbish from premises within the village. The terms, provisions and conditions of such agreement or contract shall be within the discretion of the village council.

(Ord. No. 220, § 5, 3-2-92)

Sec. 62-8. Disposal fees.

The fees to be charged for solid waste disposal and other services provided pursuant to this chapter shall be established by resolution of the village council. The fees shall be billed as provided in the rules and regulations to be promulgated by the village manager and adopted by resolution of the village council.

(Ord. No. 220, § 6, 3-2-92)

Sec. 62-9. Collection charges constitute lien on property.

Charges for solid waste collection and disposal shall constitute a lien on the property served. On or before March 1 of each year, the officer in charge of collection of such charges shall prepare a statement of all charges then six months past due and unpaid. The village treasurer shall then place such charges on the next general tax roll and the same shall be collected as part of the general village taxes.

(Ord. No. 220, § 7, 3-2-92)

Sec. 62-10. Discontinuing collection service.

The village shall have the right to discontinue solid waste collection service to any customer.

(Ord. No. 220, § 8, 3-2-92)

Sec. 62-11. Promulgation of rules.

The village manager shall have the authority to promulgate rules and regulations concerning the implementation of this chapter, which rules and regulations shall be adopted by resolution of the village council.

(Ord. No. 220, § 9, 3-2-92)

Sec. 62-12. Authority to delegate administration of collection services.

The village may by resolution of the village council transfer, assign and/or delegate the administration and/or implementation of the collection and disposal of solid waste and the collection of fees and billings to a private company, contractor, or authority as deemed appropriate by the village council.

(Ord. No. 220, § 10, 3-2-92)

Sec. 62-13. Elimination of illicit discharges and connections.

All illicit discharges and connections are to be eliminated within 120 days of notification or be subject to penalties as identified in this chapter.

(Ord. No. 231-177, § 1, 4-7-14)

Chapter 66 SPECIAL ASSESSMENTS²³

Sec. 66-1. Definitions.

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

Cost, when referring to the cost of any improvement, means and includes the cost of surveys, plans, land, rights-of-way, spreading of rolls, notices, advertising, financing and construction and all other costs incident to the making of such improvement, the special assessments therefor and the financing thereof.

Improvement means any public improvement, the whole or any part of the cost of which is to be assessed against one or more lots or parcels of land to be especially benefited thereby, in proportion to the benefit to be derived therefrom.

(Ord. No. 121, § 2, 8-24-61 eff.)

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

Sec. 66-2. Determination by council.

The village council shall have power to determine that the whole or any part of the cost of any improvement shall be defrayed by special assessments upon the property specially benefited, but such determination shall not be made until the preliminary proceedings provided for in section 66-4 shall have been completed.

(Ord. No. 121, § 3, 8-24-61 eff.; Ord. No. 121-A, 2-28-66 eff.; Ord. No. 121-B, 8-20-75 eff.)

²³Cross reference(s)—Administration, ch. 2; streets, sidewalks and other public places, ch. 70; vegetation, ch. 86.

State law reference(s)—Notices and hearings, MCL 211.741 et seq.; deferment for older persons, MCL 211.761 et seq.; powers re special assessments, MCL 117.4a, 117.4b, 117.4d, 117.5.

Sec. 66-3. Petitions.

The village council, in order to ascertain whether or not a reasonable number of property owners to be assessed desire any particular improvement to be made, may request and receive a petition therefor, or may receive such a petition voluntarily presented, but, in either event, such petition shall be advisory only and shall not be jurisdictional, except in cases where such a petition is specifically made jurisdictional by the statutes of the state. Such petition shall be submitted on forms approved by the village manager and shall be furnished by the village. The village shall not be required to construct any improvement petitioned for, and the village may proceed to construct an improvement without a petition having been filed.

(Ord. No. 121, § 4, 8-24-61 eff.)

Sec. 66-4. Preliminary proceedings.

- (a) Before determining to make any improvement, any part of the cost of which is to be defrayed by special assessment, the council shall, by resolution, require the village manager to prepare, or cause to be prepared, plans and specifications therefor, an estimate of the cost thereof, and to file the same with the village clerk together with his recommendation as to what proportion of the cost should be paid by special assessment and what part, if any, should be a general obligation of the village, the number of installments in which assessments may be paid and the land which should be included in the special assessment district. After the report is filed with the clerk it shall be presented to the council, and such report shall be available for public examination.
- (b) Whenever any land which should be included in the special assessment district may not be assessed because it is owned by a public agency, a written agreement may be reached providing for the payment of such agency's benefiting share of the cost of the improvement. This agreement, or advice that such agreement cannot be reached, shall be presented to the council prior to the adoption by the council of the resolution provided for by section 66-5.
- (c) Whenever any property is acquired by condemnation or otherwise for the purpose of any improvement, the cost thereof and the proceedings required to acquire such property may be added to the cost of such improvement.

(Ord. No. 121, § 5, 8-24-61 eff.)

Sec. 66-5. Action by council.

- (a) After the report prepared pursuant to section 66-4(a) is presented to the council, the council may, by resolution, approve the plans and specifications and estimate of cost, and determine to make the improvement and to defray the whole or any part of the cost of the improvement by special assessment upon the property especially benefited in proportion to the benefits thereto. By such resolution the council shall:
 - (1) Approve the plans and specifications for the improvement;
 - (2) Determine the estimated cost thereof;
 - (3) Determine the estimated life of such improvement;
 - (4) Determine what proportion of such cost shall be paid by special assessment upon the property especially benefited and what part, if any, shall be a general obligation of the village;
 - (5) Designate the district or land and premises upon which special assessments shall be levied;

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- (6) Determine the interest to be charged on deferred installments, not to exceed eight percent per annum, except that if bonds are issued in anticipation of such installments, interest may be charged at a rate not in excess of one percent above the average rate borne by the bonds; and
 - (7) Direct the assessor to prepare a special assessment roll in accordance with the council's determination.
- (b) Notwithstanding any provision of this chapter, the village council may, in its discretion, delay the preparation of a special assessment roll until after the completion of the improvement, in which case the actual cost thereof shall be reported to the council and a special assessment roll shall then be made, based upon such actual cost, in accordance with the procedure set forth in this chapter.
- (Ord. No. 121, § 6, 8-24-61 eff.; Ord. No. 121-B, 8-20-75 eff.)

Sec. 66-6. Special assessment roll.

- (a) *Preparation of roll.* The village assessor shall, upon direction by the council as provided in section 66-5(a), prepare a special assessment roll including all lots and parcels of land within the special assessment district designated by the council, and shall assess to each such lot or parcel of land such relative portion of the whole sum to be levied against all the lands in the special assessment district as the benefit to such lot or parcel of land bears to the total benefits to all lands in such district. There shall also be entered upon such roll the amount which has been assessed to the village at large, if any.
- (b) *Certificate of assessor; filing.* When the assessor shall have completed the assessment roll the assessor shall attach thereto or endorse thereon his certificate to the effect that such roll has been made by him pursuant to a resolution of the village council, giving the date of the adoption of such resolution, and that in making the assessments therein he has, as near as may be, according to his best judgment, conformed in all respects to the directions contained in such resolution and to the Village Charter and the provisions of this chapter. Thereupon, the assessor shall file in the office of the village clerk a copy of such certificate, which certificate shall certify that such special assessment roll is on file in the assessor's office and available for public inspection.
- (c) *Public hearing.*
 - (1) Upon receipt of the assessor's certificate as provided in subsection (b) of this section, the council shall fix a time and place when it will meet and review the assessment roll, and shall direct the village clerk to give notice of such hearing. Such notice shall specify the time and place of such hearing and shall be published once in a newspaper circulated in the village, not less than ten days prior to the date of such hearing. A like ten-day notice shall also be sent by the village clerk to each owner of property subject to assessment, as indicated by the records of the village assessor's office, by first class mail. The hearing required by this subsection may be adjourned from time to time and may be held at any regular, adjourned or special meeting of the village council. At such hearing all interested persons or parties shall be given an opportunity to be heard.
 - (2) The notice of hearing shall include a statement that appearance and protest at the hearing in the special assessment proceedings is required in order to appeal the amount of the special assessment to the state tax tribunal, and that an owner or party in interest, or his agent, may appear in person at the hearing to protest the special assessment or may file his appearance or protest by letter and his personal appearance shall not be required. The notice shall further include a statement that the owner or any party having an interest in the real property may file a written appeal of the special assessment with the state tax tribunal within 30 days after the confirmation of the special assessment roll if that special assessment was protested at the hearing held for the purpose of confirming the roll.
- (d) *Objections to roll.* Persons deeming themselves aggrieved by a special assessment roll shall file their objections thereto in writing with the village clerk prior to the close of the hearing thereon or any

adjournments thereof, which written objections shall specify in detail in what respect such persons deem themselves aggrieved. No assessment roll shall be confirmed except by the affirmative vote of five members of the village council if written objections to the proposed improvement have been filed in accordance with this subsection by the owners of property which will be required to bear over 50 percent of the amount to be specially assessed for such improvement.

- (e) *Confirmation of roll.* The village council shall meet and review the special assessment roll at the time and place appointed as provided in this section, or at an adjourned date therefor, and shall consider any written objections thereto. The council may correct such roll as to any assessment or description of any lot or parcel of land, or other errors appearing therein. Any changes made in such roll shall be noted in the council's minutes. After such hearing and review, the council may confirm such special assessment roll with such corrections as it may have made, if any, or may refer it back to the assessor for revision, or may annul it and any proceedings in connection therewith. Upon confirmation of any special assessment roll the council shall determine the number of installments in which the assessment may be paid, which in no case shall exceed 20 in number, the due date of the first and subsequent installments, and shall finally determine the rate of interest to be charged on unpaid assessments and installments, which shall in no case exceed eight percent per annum, except that if bonds are issued in anticipation of such installments, interest may be charged at a rate not in excess of one percent above the average rate borne by the bonds. The village clerk shall endorse the date of confirmation upon each special assessment roll.

(Ord. No. 121, §§ 7—11, 8-24-61 eff.; Ord. No. 121-B, 8-20-75 eff.)

Sec. 66-7. Attachment of lien.

All special assessments contained in any special assessment roll, including any part thereof deferred as to payment, shall, from the date of confirmation of such roll, constitute a lien upon the respective lots or parcels of land assessed and until paid shall be a charge against the respective owners of the several lots and parcels of land. Such lien shall be of the same character and effect as the lien created for village taxes and shall include accrued interest and penalties. No judgment or decree, nor any act of the village council vacating a special assessment, shall destroy or impair the lien of the village upon the premises assessed for such amount of the assessment as may be equitably charged against such premises, or as by a regular mode of proceeding might be lawfully assessed thereon.

(Ord. No. 121, § 12, 8-24-61 eff.)

Sec. 66-8. Assessing single lots.

- (a) *Procedure.* When any expense shall have been incurred by the village upon or in respect to any single premises, which expense is chargeable against such premises and the owner thereof under the provisions of the Charter, or any ordinance of the village or law of the state, and is not of that class required to be prorated among several lots and parcels of land in a special assessment district, an account of the labor, material or services for which such expense was incurred, verified by the village manager with a description of the lot 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. Such bill shall be sent by first class mail to the owner of the property to be assessed and such bill shall notify such owner of the time of the meeting of the council, not sooner than 30 days thereafter, when the council will meet for the purpose of adopting a resolution placing a special assessment upon such property for such charges unless such charges are paid prior to the date of such meeting. At such meeting the council shall adopt a special assessment resolution covering each parcel of land for which such charges have not been theretofore paid in full. As many parcels may be included in a single resolution as shall be convenient. Upon adoption of such resolution, the council may authorize installment payments, and if installment payments are authorized, shall determine the number of

installments and the rate of interest to be charged thereon, which shall not exceed six percent per annum. Immediately after the adoption of such resolution, the village treasurer shall give notice of the several amounts so determined to the several persons chargeable therewith. Such notice shall be sent by first class mail to the last known addresses of such persons as shown on the assessment roll of the village, or by publication. Such notice shall state the basis of the assessment, and the amount thereof, and shall give a reasonable time, not less than 30 days, within which payment shall be made to the treasurer. In all cases where payment is not made within the time set, the fact shall be reported by the treasurer to the assessor, who shall charge such amounts against the persons or real property chargeable therewith, on the next tax roll.

- (b) *General procedure inapplicable.* The special assessment resolution referred to in subsection (a) of this section shall be treated as a special assessment roll and the adoption of such resolution shall correspond to the confirmation of a special assessment roll. The provisions of sections 66-1 through 66-6 with reference to special assessments generally and proceedings necessary to be had before making improvements shall not apply to assessments made pursuant to subsection (a) of this section. All other sections of this chapter and provisions for collection of special assessments set forth in this chapter shall apply to assessments made pursuant to subsection (a) of this section.

(Ord. No. 121, §§ 13, 14, 8-24-61 eff.)

Sec. 66-9. Handling of assessment roll.

The assessment roll shall be transmitted by the assessor to the village treasurer for collection immediately after its confirmation. The treasurer shall divide the assessments into installments when so ordered by the village council; provided, that if such division operates to make any installment less than \$10.00, then the treasurer shall reduce the number of installments so that each installment shall be above and as near \$10.00 as possible. The treasurer shall mail statements of the several assessments to the respective owners, as indicated by the records of the treasurer, of the several lots and parcels of land assessed, stating the amount of the assessment and the manner in which it may be paid; provided, however, that failure to mail any such statement shall not invalidate the assessment or entitle the owner to an extension of time within which to pay the assessment.

(Ord. No. 121, § 15, 8-24-61 eff.)

Sec. 66-10. Due date.

Unless otherwise provided in the resolution confirming the assessment roll, the assessment or the first installment thereof, if divided into installments, shall be due and payable on confirmation of the roll. The whole or any part of any special assessment may be paid during the period of 60 days immediately following the date of confirmation of a special assessment without interest or penalty being charged. Upon the expiration of such 60-day period, the village treasurer shall transmit the special assessment roll with all payments upon such assessments noted thereon to the village assessor. The assessor shall spread such assessments, or the first installment thereof if divided into installments, upon either the first or second annual village tax roll which is prepared subsequent to the date of confirmation of such assessment, as shall be provided for in the resolution of the village council confirming such assessment. Thereafter, one installment of each special assessment which has been divided into installments shall be spread upon each annual village tax roll until the full amount of the special assessment has been paid. After expiration of the 60-day period provided in this section, any assessment or installment may be discharged by paying the face amount thereof, plus interest to the date of such payment; provided, however, the village council may, in the resolution confirming any special assessment, provide for a collection fee to be charged which shall not exceed five percent of the amount of any special assessment or, when divided into installments, shall not exceed five percent of the amount of each installment, which collection fee shall be collected by the village treasurer. The village treasurer shall collect all interest and penalties provided for

in this chapter or in any resolution confirming a special assessment, and shall have the same rights and remedies with respect to the collection of special assessments, together with interest thereon and collection fees, as provided for in the Charter and the statutes of the state for the collection of village taxes.

(Ord. No. 121, § 16, 8-24-61 eff.)

Sec. 66-11. Determining actual cost of improvements.

Upon completion of the improvement and payment of the cost thereof, the village manager shall certify the total cost of such improvement to the council, together with the amount of the original roll for such improvement.

(Ord. No. 121, § 17, 8-24-61 eff.)

Sec. 66-12. Deficiency assessments and refunds.

Should the assessments in any special assessment roll, including the amount assessed to the village at large, prove insufficient for any reason to pay the cost of the improvement for which they were made, then the council may make additional assessments against the village and the several lots and parcels of land within the special assessment district, in the same ratio as the original assessments, to supply the deficiency; or the council may determine that such deficiency shall be paid by the village, but the total amount assessed against any lot or parcel of land shall not exceed the value of the benefits received from the improvement. Should the assessments levied prove to be more than necessary to defray the cost of the improvement, then the council may, by resolution, order the excess to be applied to the unpaid installments of such special assessment against each lot or parcel of land, in the inverse order in which they are payable. Any amount of such excess as to any lot or parcel of land which cannot be applied as aforesaid shall be refunded in cash where such excess exceeds five percent of the amount necessary.

(Ord. No. 121, § 18, 8-24-61 eff.)

Sec. 66-13. Reassessment in event of illegality.

Whenever any special assessment shall, in the opinion of the council, be invalid by reason of irregularity or informality in the proceedings, or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the council shall, whether the improvement has been made or not, or whether any part of the assessment has been paid or not, have power to cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for in the original assessment, and whenever the assessment, or any part thereof, levied upon any premises has been so set aside, if the same has been paid and not refunded, the payment so made shall be applied upon the reassessment and the reassessment shall, to that extent, be deemed satisfied.

(Ord. No. 121, § 19, 8-24-61 eff.)

Sec. 66-14. Collection by court action.

In addition to any other remedies and without impairing the lien therefor, any delinquent special assessment, together with interest and penalties thereon, may be collected in an action in assumpsit in the name of the village against the person assessed, in any court having jurisdiction of the amount. If in any such action it shall appear that by reason of any irregularities or informalities the assessment has not been properly made against the defendant or upon the premises sought to be charged, the court may, nevertheless, on satisfactory

proof that expense has been incurred by the village which is a proper charge against the defendant or the premises in question, render judgment for the amount properly chargeable against such defendant or upon such premises.

(Ord. No. 121, § 20, 8-24-61 eff.)

Chapter 70 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES²⁴

ARTICLE I. IN GENERAL

Sec. 70-1. Bicycles, skateboards, skates.

- (a) With the exception that bicycles may be ridden on any public street, it shall be unlawful for any person to operate or ride a bicycle, tricycle, skateboard, roller skates, roller blades, in-line skates, roller skis or play vehicles in any of the following places within the village:
- (1) On any sidewalk or street in the business district of the village, all that part of the village described as follows:
Main Street between Commerce and Canal.
 - (2) On any public property where signs are posted prohibiting such use.
 - (3) On any private property where a sign prohibiting such items has been approved by the village police department and posted by the owner, lessee or person in charge of such property.
- (b) Bicyclists and operators of tricycles, skateboards, roller skates, roller blades, in-line skates, roller skis or play vehicles shall yield the right-of-way to other pedestrians using public sidewalks, and shall not otherwise endanger or interfere with pedestrian traffic on those sidewalks.
- (c) Any juvenile who is in violation of this section shall be issued a warning citation and any bicycle, tricycle, skateboard, roller skates, roller blades, in-line skates, roller skis or other play vehicle utilized by the juvenile in such violation shall be impounded by the village police department. The bicycle, tricycle, skateboard, roller skates, roller blades, in-line skates, roller skis and/or play vehicle will be released to the juvenile only when accompanied to the village police department by a parent or guardian, who will be handed a copy of this section.
- (d) A juvenile who is in violation of this section for the second time will suffer the loss of the subject bicycle, tricycle, skateboard, roller skates, roller blades, in-line skates, roller skis or play vehicle for a period of time not exceeding 30 days. For a second offense, such vehicle will be released to the juvenile only when that juvenile is accompanied after the 30-day period by a parent or a guardian to the village police department.
- (e) Any parent or guardian who knowingly allows a juvenile to utilize a bicycle, tricycle, skateboard, roller skates, roller blades, in-line skates, roller skis or play vehicle in violation of this section shall himself or herself be a violator of this section and shall be fined upon conviction thereof in an amount of not less than \$50.00, nor more than \$500.00 for each offense. A presumption is hereby created that if a parent or guardian has been

²⁴Cross reference(s)—Administration, ch. 2; cable communications, ch. 26; community development, ch. 30; engineering design and construction standards, ch. 38; environment, ch. 42; roads and bridges, ch. 58; special assessments, ch. 66; subdivisions and land division, ch. 74; traffic and vehicles, ch. 78; utilities, ch. 82; vegetation, ch. 86; zoning, ch. 94.

previously handed a copy of this section in relation to a first or second offense of a juvenile, that the parent or guardian knowingly allowed the juvenile to use the vehicle in a prohibited manner.

- (f) Police bikes being utilized as part of police bike patrols are exempted from the prohibitions contained within the provisions of this section.

(Ord. No. 210, 5-3-90 eff.; Ord. No. 210-A, § 1, 9-5-95; Ord. No. 231-013, § 1, 8-3-98)

Secs. 70-2—70-28. Reserved.

ARTICLE II. OUTDOOR CAFES AND DINING PLATFORMS²⁵

Sec. 70-29. Purpose.

The outdoor cafe and dining platform regulations, as established in this article, are designed to allow sidewalk cafes or outdoor seating on public property in locations where they are determined to be appropriate by the village manager or designee, and to promote and protect the public health, safety, and general welfare of the community. These general goals include, among others, the following specific purposes:

- (1) To attract residents and nonresidents to downtown Milford;
- (2) To provide an additional way for restaurants or food establishments to expand their operations;
- (3) To promote outdoor cafes and dining platforms as useful and properly planned visual amenities;
- (4) To provide adequate space for pedestrians on the sidewalk adjacent to outdoor cafes and to insure access to adjacent commercial and retail uses;
- (5) To promote the most desirable use of land and buildings and thereby protect the village's tax revenues;
- (6) To provide penalties for violations of this article.

(Ord. No. 231-239, § 1, 6-21-21)

Sec. 70-30. Definitions.

Dining platform means a platform operated by an existing restaurant or food establishment which sells food, beverages or alcoholic beverages for immediate consumption, subject to design guidelines and policy set forth in this article and as may otherwise be adopted by the village council. Dining platforms shall be located on a public sidewalk and the abutting parking space in front of the establishment, and their use shall be for patrons of the restaurant or food establishment.

Outdoor cafe means an outdoor dining area, other than a platform, operated by an existing restaurant or other food establishment which sells food, beverages, or alcoholic beverages for immediate consumption, located

²⁵Editor's note(s)—Ord. No. 231-239, § 1, adopted June 21, 2021, amended Art. II in its entirety to read as herein set out. Former Art. II, §§ 70-31—70-35 was entitled "Sidewalk Restaurants," and derived from: Ord. No. 225, §§ 1—5, adopted May 2, 1994; Ord. No. 231-036, § 1, adopted Jan. 18, 2000; Ord. No. 231-093, § 1, adopted July 1, 2004; and Ord. No. 231-190, § 1, adopted Mar. 16, 2015.

Cross reference(s)—Businesses, ch. 22.

on a public sidewalk, or other public property, which is public through dedication or easement or public right-of-way.

Quadrants means four distinct areas of parallel parking spaces on Main Street between Liberty and Commerce, arranged by east and west and divided by Center Street, so that:

- (1) Quadrant 1 (Q1) is the east side of Main Street between Center Street and Commerce.
- (2) Quadrant 2 (Q2) is the east side of Main Street between Center Street and Liberty.
- (3) Quadrant 3 (Q3) is the west side of Main Street between Liberty and Center Street.
- (4) Quadrant 4 (Q4) is the west side of Main Street between Center Street and Commerce.

Dining platforms are limited to 25 percent of the existing on-street parallel parking spaces in each quadrant.

(Ord. No. 231-239, § 1, 6-21-21)

Sec. 70-31. Application.

An established restaurant within the village may request temporary use of a village sidewalk or abutting parking space for outdoor café or dining platform purposes by filing an application for such use with the village manager. Such application must provide the village manager with sufficient information to ascertain that each of the requirements set forth in section 70-32 have been or will be satisfied. Additionally, a one-time, non-refundable application fee in an amount as determined by resolution of the village council must accompany the application. Subsequent annual permit applications shall not require an additional application fee.

(Ord. No. 231-239, § 1, 6-21-21)

Sec. 70-32. Conditions for approval.

The village manager may grant a permit for temporary use of a village sidewalk for an outdoor café and/or village right-of-way for a dining platform by an established restaurant if each of the following conditions or requirements is satisfied by the applicant:

- (1) For outdoor cafes on the public sidewalk:
 - a. The use must be for outdoor dining in conjunction with the indoor dining operation of the applicant.
 - b. The sidewalk to be used must be immediately adjacent to the applicant restaurant, abutting the facility's front wall. The sidewalk area in front of an adjacent property may also be used, provided that the adjacent property is vacant, and the outdoor dining operator obtains written approval from the adjacent property owner indicating the property is not currently in use or leased. In the event the adjacent property is leased or sold or is otherwise used by the property owner, the outdoor dining operations must be removed.
 - c. The use of the sidewalk must allow a minimum pedestrian right-of-way of five feet. Such right-of-way cannot be used in any way by the applicant in the conduct of the dining operation.
- (2) For dining platforms in the abutting parking space(s) of the food establishment located in any quadrant:
 - a. The use must be for outdoor dining in conjunction with the indoor dining operation of the applicant.

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- b. Each applicant shall be limited to one dining platform, as long as the addition of such platform does not result in more than two contiguous platforms, and further provided:
 - 1. The platform(s) occupy the right-of-way adjacent to the establishment and within the property lines of the establishment;
 - 2. The platform is either contiguous with another platform or allows space for at least two parallel parking spaces between platforms;
 - 3. The applicant obtains written permission from the property owner and business owner of an adjacent property if a portion of the platform(s) lie outside of the property lines of the applicant's establishment;
 - 4. The applicant's request does not exceed the total amount of platforms already approved in the quadrant in which the establishment is located.
 - c. The village manager may approve the use of up to 25 percent of parking spaces in each quadrant for dining platforms. The village manager may "round up" that percentage for uneven numbers.
 - d. Single dining platforms shall not straddle two parking spaces.
 - e. The village manager may approve an application that complies with dining platform guidelines adopted by the village council, which shall include:
 - 1. No equipment shall extend over vehicular drive lanes.
 - 2. Dining platforms shall not interfere with any village utility and shall provide for unobstructed storm water to flow.
 - 3. Dining platforms shall conform to building code requirements.
 - 4. Dining platforms shall maintain ADA compliance.
 - 5. Dining platforms shall be level with the top of the curb and sidewalk.
 - 6. Dining platforms shall not exceed eight feet in width, or more than 18 feet in length for a single platform or 40 feet in length for a double platform and shall be contained within existing parking spaces.
 - 7. Dining platforms shall not be located less than two feet from an adjacent parking space.
 - 8. All equipment shall be removable.
 - 9. Access to the dining platforms must be from the sidewalk.
 - 10. Applicants shall provide a safe barrier around the platforms, subject to approval by the village manager and public safety officials. All barriers shall be secured and provide sufficient ballast to withstand horizontal load.
 - 11. The maintenance of dining platforms shall be the responsibility of the establishment, including, but not limited to, surface treatment and cleaning, litter control, sweeping, and snow and ice removal.
 - (3) No equipment, including, but not limited to, umbrellas, shall extend into or over the five-foot pedestrian right-of-way defined in subsection 70-32(1)c, or into or over vehicular lanes, and no barriers to pedestrian visibility shall be allowed.
 - (4) Outdoor cafes and dining platform dining operations may be allowed year-round between the hours of 9:00 a.m. and 12:00 a.m., subject to the provisions set forth in subsection (6) of this section.

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- (5) Proof of liability insurance coverage in an amount of at least \$1,000,000.00, with the village being listed as an additional insured, must accompany each application for an outdoor café or dining platform.
 - (6) All tables, chairs, workstations, barriers or other equipment associated with an outdoor café or dining platform must be removed and stored out of the public right-of-way at the end of each day. The village manager may waive this requirement during the period beginning April 1 and ending November 15 in circumstances where, all tables and chairs are made primarily of metal, wood or other sturdy materials of comparable quality, and the use of such material inhibits daily removal. The applicant must provide the village manager a statement regarding how such materials shall be secured.
 - a. During the off-season, chairs, railings, posts, the dining platform structure, planters, table umbrellas, and other items shall be removed and shall be stored off-site. It shall be the responsibility of the establishment to secure adequate storage of these items.
 - b. The village manager reserves the right to deny an extension of an existing permit or a new permit for dining platforms between a November 15 and April 1 and may consult with the village department of public works to create additional requirements for on-street use due to inclement weather during this period.
 - (7) If alcohol is to be served in conjunction with the proposed outdoor café or dining platform, barriers designating the service area as required by the state liquor control commission must be utilized. If no alcohol is to be served, a barrier approved by the village manager must be utilized between the service area and the pedestrian right-of-way.
 - (8) Other than existing approved signs on the requesting restaurant's building, no additional signs or advertising shall be allowed.
 - (9) All proposed outdoor café and dining platform operations shall be serviced by a full-time waitstaff and shall be conducted in a fashion substantially similar to the interior dining operation, with non-disposable utensils and accoutrements.
 - (10) The number, size and location of tables, chairs and equipment shall be subject to the approval of the village manager.
 - (11) Additional water or sewer tap fee calculations may be charged on a pro-rata basis for each seat in excess of 16, as determined by the village manager.

(Ord. No. 231-239, § 1, 6-21-21)

Sec. 70-33. Notice to adjacent property owners.

Before granting a permit for an outdoor cafe or dining platform, the village manager shall cause a notice to be mailed by regular mail to adjacent property owners or occupants, giving such persons notice of the proposed use and an opportunity to provide comments concerning the proposed operation to the village manager.

(Ord. No. 231-239, § 1, 6-21-21)

Sec. 70-34. Duration of permit.

Any permit for an outdoor café or dining platform shall be valid for one season only. Permits must be requested on an annual basis for each described season.

(Ord. No. 231-239, § 1, 6-21-21)

Sec. 70-35. Revocation of permit.

Permission to utilize village sidewalks or parking spaces for dining purposes may be immediately revoked by the village manager if the operation for any reason creates a nuisance or hazard, or if the applicant violates any of the conditions set forth in section 70-32. The village council on its own motion may, without cause, revoke an outdoor café or dining platform permit upon 30 days' written notice to the permittee.

(Ord. No. 231-239, § 1, 6-21-21)

Sec. 70-36. Appeal.

If the village manager denies a request for a permit for an outdoor café or dining platform, a written denial, including the reasons for such action, shall be provided to the applicant. The applicant may appeal the decision of the village manager to the village council in writing, in which case he or she shall be given a hearing before, and a decision by, the village council at a meeting within 30 days after notice of appeal is received by the village clerk.

(Ord. No. 231-239, § 1, 6-21-21)

Secs. 70-37—70-55. Reserved.

ARTICLE III. CONSTRUCTION AND MAINTENANCE OF SIDEWALKS; OPENINGS IN RIGHTS-OF-WAY

Sec. 70-56. Purpose.

The purpose of this article is to establish regulations and standards governing the construction and maintenance of sidewalks and driveway approaches, as well as regulate the removal or opening of sidewalks, streets, curbs and gutters within all rights-of-way and all private road or pedestrian easements within the village.

(Ord. No. 212, § 101, 4-15-91)

Sec. 70-57. Definitions.

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

Building material means sand, gravel, stone, brick, block, concrete, dimensional lumber, steel, glass and all other similar materials utilized in residential and commercial construction.

Building, principal means the building or structure that is utilized for the main use for which the property is devoted.

Construction deposit means the cash deposit placed with the village to be used to rectify any damage to the health, safety and welfare of the community arising from construction, excavating, filling or grading.

Construction season means, generally, April 1 through November 1.

Culvert means metal, plastic or concrete drainpipe suitable for placement under a road or driveway approach.

Curb means the concrete or asphalt raised portion of a road pavement that defines the edge of a roadway and directs stormwater runoff to water drains or ditches.

Curb cut means the removal of a portion of a curb for construction of a driveway approach or handicapped ramp for a sidewalk.

Ditch or drainage course means an earthen, gravel, stone or concrete area shaped and utilized for surface stormwater drainage.

Excavation means the act of creating an opening in a right-of-way or in or under any street, sidewalk or driveway approach.

Private road easement means an area of land used for ingress and egress, including vehicular traffic, pedestrian traffic, emergency response and public safety vehicles, and for private and public utilities to serve more than one parcel of land, which is under private ownership and not maintained at public expense. A private road easement for the purposes of this article shall be defined as a right-of-way.

Prohibited materials means all materials such as, but not limited to, construction debris, broken concrete, rocks, tree limbs and excess dirt.

Property means any parcel, lot or tract of land occupied or intended to be occupied by a principal building.

Right-of-way means an area dedicated to public use, whether improved or unimproved, which may comprise streets, road shoulders, curb and gutters, ditches, sidewalks, parking areas, lawns and public or private utilities. This definition shall include private road easements.

Right-of-way opening. See "Excavation."

Road means an established vehicular travel way or parking lane that is unimproved, or improved with concrete or asphalt pavement with or without curb and gutters, also known as a street.

Sidewalk means a concrete pedestrian pathway within a public right-of-way or private easement.

Sidewalk construction fund means a fund established by the village council for the purpose of constructing sidewalks or bike paths.

Street. See "Road."

Street openings. See "Excavation."

(Ord. No. 212, § 200, 4-15-91)

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

Sec. 70-58. Requirements for new sidewalk construction.

Sidewalks shall be constructed along the frontage of a property that borders a right-of-way in the following instances:

- (1) Where a new principal building is erected.
- (2) When an existing principal building is altered, partially rebuilt or remodeled at a cost that meets or exceeds 100 percent of its recorded state equalized value.
- (3) When a building or site use change requiring site plan review is approved administratively or by the planning commission.
- (4) Existing sidewalk sections shall be replaced when a hazard is deemed to exist as set forth in section 70-63.

(Ord. No. 212, § 300, 4-15-91)

Sec. 70-59. Sidewalk construction standards.

- (a) Sidewalks shall be five feet wide and extend from side lot line to side lot line and shall be placed within the right-of-way one foot from the property line. If a conflict with existing trees, utilities or structures is apparent, an alternate location must be approved by the village building official.
- (b) Where new sidewalks adjoin existing sidewalks that are not five feet in width, the new sidewalk shall taper on each side over a five-foot length to meet the existing condition.
- (c) A site plan or plot plan indicating the location of the sidewalk shall be submitted to the village building official for review and approval.
- (d) The sidewalk design, construction material and installation shall conform to the criteria set forth in chapter 38, pertaining to engineering design standards.

(Ord. No. 212, § 301, 4-15-91)

Sec. 70-60. Waiver of sidewalk requirement.

A waiver to construct a required sidewalk may be granted when a property owner can prove there is physical difficulty in complying with this article or that the requirement for a sidewalk is not practical. The village council may grant a waiver upon presentation of a written request by the property owner to the village clerk. If a waiver is granted, it will be conditioned upon the property owner making a contribution to the sidewalk construction fund equal to the typical construction cost for the sidewalk area that is waived as established by the building official.

(Ord. No. 212, § 302, 4-15-91)

Sec. 70-61. Requirements for completion of sidewalk.

Prior to issuance of a certificate of occupancy, sidewalk construction must be completed. If cold weather conditions do not permit sidewalk installation, the sidewalk shall be installed no later than June 30 of the following construction season. If construction is not completed by May 30, the building official shall send a notice to the property owner stating that work is to be completed by June 30 or the village will undertake completion of the work at a cost to be set forth in such notice. Credit will be given for the construction deposit held by the village.

(Ord. No. 212, § 303, 4-15-91)

Sec. 70-62. Sidewalk maintenance.

All property owners or occupants of property fronting upon a sidewalk shall keep such sidewalk free from all ice, snow, earth and other substances. Failure to remove such substances within 48 hours shall result in a violation of this article as set forth in section 70-102.

(Ord. No. 212, § 304, 4-15-91)

Sec. 70-63. Repair and replacement of hazardous sidewalks.

- (a) *Determination of hazardous condition.* The building official, or his designee, or the director of public services, shall determine a sidewalk hazard exists when one or more of the following conditions exist:

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- (1) Vertical cracks, upheaval or settlement greater than one inch.
 - (2) Horizontal cracks or joint separation greater than one inch.
 - (3) Tilted sections, if tilted greater than two inches in any direction of a five-foot by five-foot section.
 - (4) Spalled or pitted sections of greater than 25 percent of the surface or holes that are greater than three-inch diameter.
- (b) *Notice to property owner.* A notice of the hazardous sidewalk condition will be given or sent to the responsible property owner. Such notice shall indicate the location and nature of the hazard and a time limit for repair or replacement. Thereafter, it shall be the duty of the owner to place the sidewalk in a safe condition. Such notice shall specify a reasonable time, not less than 14 days, within which such work shall be completed with due diligence.
- (c) *Methods for serving notice.* Notice regarding sidewalk repairs shall be served in the following manner:
- (1) By delivering the notice to the owner personally or by leaving such notice at the owner's residence, office or place of business with some person of suitable age and discretion;
 - (2) By mailing the notice by certified or registered mail to such owner at his last known address; or
 - (3) If the owner is unknown, by posting the notice in some conspicuous place on the premises at least 15 days before the required work shall be completed.

No person shall interfere with, obstruct, mutilate, conceal or tear down any official notice or placard posted by any village official, unless permission is given by such official to remove the notice.

- (d) *Recourse for noncompliance.* If the property owner does not repair the sidewalk within the time limit specified in the notice or in a manner otherwise than in accordance with this article, the village manager shall have the sidewalk repaired. If the village manager determines that an emergency exists and that immediate repair is necessary to protect the public, he may dispense with the notice and institute the repairs immediately. In any event, the cost of repairs under this section shall be charged against the property which adjoins the sidewalk and shall be paid by the owner of the property. If not paid, the cost of repairs shall be collected as provided for in chapter 66, pertaining to special assessments.

(Ord. No. 212, §§ 400—403, 4-15-91)

Sec. 70-64. Driveway approaches.

- (a) *Requirements.* Driveway approaches within a right-of-way shall be paved between a street and sidewalk in those instances set forth in subsections 70-58(1), (2) and (3), where curb and gutter exist.
- (b) *Construction standards.*
- (1) A site plan or plot plan indicating the location of the proposed driveway approach shall be submitted to the village building official for review and approval.
 - (2) The driveway approach design, construction material and installation shall conform to the criteria set forth in chapter 38, pertaining to engineering design standards.
- (c) *Requirements for completion.* Prior to issuance of a certificate of occupancy, driveway approach construction must be completed. If cold weather conditions do not permit installation, the driveway approach shall be installed no later than June 30 of the following construction season. If construction is not completed by May 30, the building official shall send a notice to the property owner stating that work is to be completed by June 30 or the village will undertake completion of the work at a cost to be set forth in such notice. Credit will be given for the construction deposit held by the village.

(Ord. No. 212, §§ 500—502, 4-15-91)

Sec. 70-65. Drainage courses and culverts.

- (a) *Installation of drainage courses.* Where required, the building contractor shall provide a roadside ditch across the entire frontage of the site that borders a right-of-way, except where culverts are necessary for access or there is interference from utilities or trees. The requirements for ditch construction shall be in accordance with the standards and specifications set forth in chapter 38, pertaining to engineering design standards.
- (b) *Installation of culverts.* Prior to commencement of a building project, the building contractor shall construct an access drive and install a culvert as necessary from the public or private road to the subject property. Access to property shall only be over established driveways. A permit, as specified in section 70-69, is required for culvert installation or replacement. The requirements for culvert construction shall be in accordance with the standards and specifications set forth in chapter 38, pertaining to engineering design standards.

(Ord. No. 212, §§ 600, 601, 4-15-91)

Sec. 70-66. Installations within right-of-way.

- (a) *Installations permitted within right-of-way.* In addition to the items described in sections 70-58 through 70-65, the following items may be installed within a right-of-way:
 - (1) Mailboxes, when constructed of material designed to break away when struck by a vehicle, and placed out of the travel portion of a street and positioned so as not to interfere with sight distance.
 - (2) Utility poles may be placed in a right-of-way by a public or privately licensed utility company subject to the location of such poles being approved by the director of public services. Such poles shall be subject to removal or relocation at the direction of the director of public services as conditions dictate.
 - (3) Trees, shrubs and other landscape features may be installed within a right-of-way in accordance with the standards set forth in the village zoning ordinance.
- (b) *Permit required.* The owner of property bordering a right-of-way who desires to install such items in the right-of-way must first be licensed by the village department of public services, upon application and without fee. Any application for such permission shall be signed by the owner of the premises and by any tenant in exclusive possession thereof, and shall set forth a detailed description of the improvement, together with an agreement to maintain it at no expense to the village and to defend and hold the village harmless from any and all liability incidental to its construction, use and maintenance. Any such license shall be subject to revocation at any time by the village, and any improvement so licensed shall be removed by the applicant or his successor in interest upon termination of the license.
- (c) *Maintenance of installations.* Regardless of whether a permit has been issued under subsection (b) above, the owner of property bordering a right-of-way shall be responsible for the maintenance of any and all installations installed or caused to be installed by the owner, including any tree, shrub, post, pole, sign, awning, wire, conduit and gas, water or electrical box or other structure in, under, over or upon such right-of-way. These items shall be kept in good repair and condition at all times. If a hazardous condition is found to exist by the director of public services, a notice in the manner set forth in section 70-63 shall be given or sent to the property owner.
- (d) *Indemnification.* Regardless of whether a permit has been issued under subsection (b) above, owners of property bordering a right-of-way shall indemnify and save harmless the village against all damages or

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actions at law that may arise or be brought by reason of any excavation or structure being under, over, in or upon the right-of-way or being unfastened, out of repair or defective during such ownership or control.

(Ord. No. 212, §§ 700—702, 4-15-91; Ord. No. 231-189, § 1, 11-3-14)

Sec. 70-67. Street and sidewalk openings.

- (a) *Requirements generally.* Street and sidewalk cuts for driveway, sidewalk or utility installation must be made with a concrete power saw or air spade in such a way as to provide a smooth and uniform pavement cut. Street openings shall be backfilled with sand or stone and power tamped in layers not to exceed 12 inches or, at the discretion of the director of public services, it may also be water settled. The permit holder shall cause to be replaced all pavement removed according to the standards and specifications of chapter 38, engineering design standards. Pavement replacement shall not take place until inspection of the backfill is made by the director of public services or persons designated by the village manager.
- (b) *Backfilling trenches.* All trenches dug in a right-of-way shall be backfilled in accordance with regulations adopted pursuant to this article. Any settlement shall be corrected within eight hours after notification to do so.
- (c) *Emergency openings.* The director of public services may, if the public safety requires immediate action, grant permission to make a necessary right-of-way opening in an emergency, provided that a permit shall be obtained on the following business day and the provisions of this article shall be complied with.

(Ord. No. 212, §§ 800—802, 4-15-91)

Sec. 70-68. Street, sidewalk and drainage course obstructions.

- (a) *Damage and obstructions prohibited.* No person shall make any excavation in a right-of-way or cause any damage to any street, sidewalk or drainage course in the village except under the conditions and in the manner permitted in this article. No person shall place anything that constitutes an obstruction within any right-of-way except under the conditions and in the manner permitted in this article. However, this provision shall not prohibit the following:
 - (1) Such temporary obstructions as may be incidental to the expeditious movement of items to and from abutting premises.
 - (2) The lawful parking of vehicles within the part of the street reserved for vehicular parking.
- (b) *Prohibition against depositing materials in a drainage course.*
 - (1) Dirt, sand, gravel, clay or any other type of soil shall not be deposited in any roadside ditch, drainage course or gutter.
 - (2) Builders' materials of any kind or nature, or debris from any building operation, shall not be moved into or deposited in any roadside ditch, drainage course or gutter.
- (c) *Prohibition against depositing materials in rights-of-way.* No building materials of any sort shall be unloaded or deposited or stored in a right-of-way.
- (d) *Removal of encroachments; recovery of expense.* Encroachments and obstructions in a right-of-way may be removed and excavations refilled and the expense of such removal or refilling charged to the abutting landowner when made or permitted by or suffered to remain by such landowner other than in accordance with the terms and conditions of this article.

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- (e) *Determination of drainage course obstruction or diversion.* Any owner of property over which a drain is alleged to exist, or of property within the drainage area served by an alleged drain, who claims that such alleged drain has been or is being obstructed or diverted in violation of this article may petition the village manager to investigate such claim.

(Ord. No. 212, §§ 900—904, 4-15-91)

Sec. 70-69. Permits and deposits; insurance; preconstruction meetings.

- (a) It shall be illegal to commence any work in the right-of-way prior to issuance of a permit by the village. Application shall be made to the building department for excavation or grading of soil for installation or replacement of sidewalk, driveway, sewer and/or water utilities, culvert and ditch. Plans and specifications are a required part of the process. The village council shall by resolution establish appropriate permit and inspection fees. Such permits shall be revoked for failure to comply with any section of this article or pertinent sections of chapter 38, engineering design and construction standards. A permit shall be valid only for the time specified.
- (b) Application for a permit under the provisions of this article shall be deemed an agreement by the applicant to promptly complete the work permitted, observe all pertinent laws and regulations of the village in connection therewith, repair all damage done to the street surface and installations on, over or within such street or sidewalk, including trees, and protect and save harmless the village from all damages or actions at law that may arise or may be brought on account of injury to persons or property resulting from the work done under the permit or in connection therewith.
- (c) Cash deposits are required as set forth in chapter 18, with any permit required under this article. Deposits shall be used to defray all expenses to the village arising out of the granting of the permit and work done under the permit. The amount of deposit shall be as established by resolution of the council.
- (d) When a permit under this article is issued to someone other than a single-family owner-occupant, proof of liability insurance shall be required at the time of application. The policy amount shall be equal to or greater than the amounts established by resolution of the council. A duplicate executed copy or photostatic copy of the original of such insurance policy shall be filed with the building department.
- (e) Preconstruction meetings will be scheduled when deemed necessary prior to commencement of excavation, cutting or construction within a right-of-way.

(Ord. No. 212, § 1000, 4-15-91)

Sec. 70-70. Inspections.

Full-time or part-time inspections will be required and performed by the village engineer or director of public services or his designee.

(Ord. No. 212, § 1001, 4-15-91)

Sec. 70-71. Tracking materials onto right-of-way.

The property owner or permit holder shall be responsible for cleanup and removal of all materials tracked onto a paved right-of-way.

(Ord. No. 212, § 1002, 4-15-91)

Sec. 70-72. Responsibility for violations.

The building contractor shall be held prima facie responsible for the existence of any prohibited materials in roadside ditches, after the same are cut, within the area of the roadside ditch in front of the lot upon which the building contractor is conducting his operation. Such area shall be determined by the continuation of the side lot lines of their same direction until they will cross the roadside ditch, and the areas between such extended lines will be the roadside ditch area of such adjoining lot.

(Ord. No. 212, § 1100, 4-15-91)

Sec. 70-73. Notice to correct violation; stop work order.

Upon the discovery by a village inspector of the existence of any prohibited materials in roadside ditches, or access across areas not designated as driveways, the inspector shall thereupon notify the building contractor of such violation by posting a notice on or in the house or structure being built upon the adjoining land, or by nailing such notice to a stake placed in the ground in a conspicuous position. At the same time that such notice is posted, the village inspector shall, in a like manner, post a stop work order on the building or premises, which will prohibit any further building operations being carried on. If, within 24 hours after the posting of the first notice as provided in this section, the building contractor shall have removed all prohibited materials from roadside ditches, and deposited such materials on private lands adjoining, and shall have replaced the roadside ditch in the same condition as before, then the village inspector shall authorize the withdrawal of the notice of violation, and shall authorize the withdrawal of the stop work order as provided in this section. If such prohibited material is not removed from the roadside ditch and deposited upon adjoining private lands, and the roadside ditch is not replaced to its previous condition, within 24 hours after the posting of such notice, the building contractor shall be guilty of a violation of this section. In such event, the stop work order shall continue in effect and all building operations shall be prohibited until the violation is cured.

(Ord. No. 212, § 1101, 4-15-91)

Sec. 70-74. Enforcement of article.

The building official or his designee is hereby designated the enforcing agency under this article and it shall be that official's duty to enforce this article.

(Ord. No. 212, § 1102, 4-15-91)

Sec. 70-75. Penalty for violation of article.

Any person violating any of the provisions of this article shall be deemed responsible for committing a municipal civil infraction.

(Ord. No. 212, § 1103, 4-15-91)

Secs. 70-76—70-100. Reserved.

ARTICLE IV. SNOW REMOVAL

Sec. 70-101. Definitions.

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

Person shall not include the state or a political subdivision of the state, or an employee of the state or a political subdivision of the state operating within the scope of his duties.

Roadway means that portion of a highway improved, designed, or ordinarily used for vehicular travel. If a highway includes two or more separate roadways, such term shall refer to any such roadway separately, but not to all such roadways collectively.

Safety vision means an unobstructed line of sight enabling a driver to travel upon, enter, or exit a roadway in a safe manner.

Sidewalk shall mean a paved pedestrian pathway.

Street or *highway* means 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.

(Ord. No. 179, § 2, 1-22-79 eff.; Ord. No. 231-126, § 1, 2-19-08)

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

Sec. 70-102. Prohibitions.

It shall be unlawful at any time for any person within the village to:

- (1) Remove, or cause to be removed, snow, ice or slush onto or across streets, highways or roadways or the shoulder of streets, highways, or roadways in a manner which obstructs the safety vision of the driver of a motor vehicle other than off-road vehicles.
- (2) Deposit, or cause to be deposited, snow, ice or slush onto or across streets, highways or roadways or the shoulders of streets, highways or roadways in a manner which obstructs the safety vision of the driver of a motor vehicle.
- (3) Deposit, or cause to be deposited, snow, ice or slush on any street, highway or roadway.

(Ord. No. 179, § 3, 1-22-79 eff.)

Sec. 70-103. Clearing of sidewalks required.

The occupant of every lot or parcel of land adjoining any sidewalk or the owner of such lot or parcel of land, if not occupied, shall clear all ice and snow from the entire width and length of any sidewalk adjoining such lot or parcel of land within the time required by this section. When any snow falls or drifts upon any sidewalk, the owner or occupant of the lot or the parcel of land adjoining the sidewalk shall remove such snow as shall have fallen or accumulated within 48 hours after the cessation of the fall of any snow, sleet or freezing rain. When any ice forms on any sidewalk, the owner or occupant of the lot or parcel of land adjoining such sidewalk shall, if practicable, immediately remove the ice and when immediate removal is impracticable, shall spread sand, sifted coal ashes, salt, or other chemicals produced for the purpose of snow removal upon the ice in such manner and in such quantity as to prevent the sidewalk from being slippery and dangerous to pedestrians, and shall remove the ice as soon thereafter as practicable.

(Ord. No. 179, § 4, 1-22-79 eff.; Ord. No. 231-126, § 2, 2-19-08)

Sec. 70-104. Failure to clear sidewalks.

If any occupant or owner neglects or fails to clear ice or snow from the entire width and length of sidewalk adjoining his or her lot or parcel of land within the time limited and required by this section or otherwise permits ice or snow to accumulate on such sidewalk, the village may have the accumulated ice or snow cleared and the expense of removal shall become a debt to the village from the occupant or owner of such lot or parcel of land, and may be collected as a single lot assessment. In the event the owner or occupant fails to reimburse the village for its costs associated with said removal within 30 days of notice of billing, the village may further assess a sum of 20 percent to cover any related administrative expense and attorney fees in servicing the delinquent account. Any assessment not paid within 30 days shall bear interest at the rate of one and one-half percent per month until paid. In the event said account, plus penalties and interest accrued thereon, remains delinquent six months or more, the amount shall serve as a lien against the property and the village treasurer shall place said lien on the next tax roll against the subject premises. The delinquency shall be collected and the lien shall be enforced in the same manner as provided in respect to taxes assessed upon the roll.

(Ord. No. 231-126, § 3, 2-19-08)

Sec. 70-105. Violation and penalty.

Any person violating any provisions of this article shall be deemed responsible for committing a municipal civil infraction and shall be responsible for a civil fine, as set forth in section 1-17(2) of the Code. 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, this Code. Each day on which any violation of this Code or any ordinance continues is a separate offense and shall be subject to penalties or sanctions as a separate offense. In addition to any penalties provided for in this Code, any equitable or other remedies available may be sought.

(Ord. No. 231-126, § 3, 2-19-08)

Secs. 70-106—70-119. Reserved.**Sec. 70-120. Purpose.**

[The purpose of this article is] to provide businesses in the pedestrian-oriented special downtown district overlay zone an opportunity to provide high quality creative signage which expresses the unique character of a business or building. Such signs shall be designed and constructed so as to promote and not visually obscure the significant architectural and urban design of the district. Sign owners are encouraged to consult with the Village of Milford's Downtown Development Authority. Plastic, generic changeable copy signs are prohibited, as are changeable letters on tracks; a sturdy material such as wood, metal or substantially supported chalkboard is allowable.

(Ord. No. 231-095, § 2, 12-30-04)

Sec. 70-121. Application.

An established business within the special downtown district overlay zone may request a use permit of a village sidewalk for a sidewalk sign under this section by filing an application for such use with the village manager. Such application must provide the village manager with sufficient information to ascertain that each of the requirements set forth in section 70-123 have been or will be satisfied.

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(Ord. No. 231-095, § 2, 12-30-04)

Sec. 70-122. Definitions.

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

Sidewalk signs means a temporary sign placed within the right-of-way. These types of signs may include "A" frame, "T" frame, with or without chalkboards or other temporary styles that are not permanently affixed to the ground and are not illuminated.

(Ord. No. 231-095, § 2, 12-30-04)

Sec. 70-123. Conditions for approval.

Portable sidewalk signs may be placed within the downtown district overlay zone at the principle public entrances to businesses, on the public sidewalk, subject to the following requirements:

- (1) There shall be only one sign at each principle entrance, regardless of the number of tenants on the premises.
- (2) Sidewalk signs shall not have moving parts, or be illuminated, animated, or electrically powered in any way.
- (3) Each sign shall be placed outside only during the hours when the business is open to the general public, and shall be stored indoors at all other times.
- (4) Each sign shall not exceed an overall height of 42 inches and an overall width of 24 inches. A sign may be a silhouette cut into a shape. Protruding sections that could cause a hazard to pedestrian traffic will not be allowed.
- (5) Sidewalk signs shall not have more than two sign faces.
- (6) Signs must be properly anchored (temporarily) or weighted against the wind.
- (7) A minimum clear sidewalk width of 60 inches shall be maintained.
- (8) No interchangeable letter copy on tracks may be used.
- (9) Chalkboards may be considered a sidewalk sign and can be used for daily changing messages.
- (10) Signs shall be placed within one foot of the adjacent building wall.
- (11) All such signs shall be constructed of durable materials that complement the materials of the building where the proposed sign is located. The primary colors of such signs shall be compatible with the colors of the building where the proposed sign is located.
- (12) All such signs permitted under this section shall be maintained in good condition.
- (13) All temporary signs permitted for public special events sponsored or approved by the Village of Milford are exempt from this article, including municipal signs deemed necessary for pedestrian or vehicular safety.
- (14) The village manager may consider any recommendation made by the downtown development authority board and/or director regarding the appropriateness of applications pursuant to this section.

(Ord. No. 231-095, § 2, 12-30-04)

Sec. 70-124. Revocation of permit.

Permission to utilize village sidewalks for the purposes of this section may be immediately revoked by the village manager if the applicant violates any of the conditions set forth in section 70-123. The village council on its own motion may, without cause, revoke a sidewalk sign permit upon 30 days' written notice to the permittee.

(Ord. No. 231-095, § 2, 12-30-04)

ARTICLE V. SPECIAL EVENTS

Sec. 70-125. Purpose.

The village recognizes that special events can be valuable to the village. In supporting such events, the village recognizes that it must also regulate special events in order to minimize any disturbance to the public health, safety or general welfare. Due to limited time and locations available in the village to hold such events, the village must also establish a special events policy.

(Ord. No. 231-154, § 1, 4-2-12)

Sec. 70-126. Definitions.

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

Special event means a) an organized activity, held on public property, specific to an identifiable place, and occurring for a limited period of time, such as a fair, concert, carnival, festival, performance, or other similar activity, or b) an organized activity, taking place on a designated route on public right-of-ways, occurring for a limited period of time, for the purpose of walking, running, jogging, biking, racing, conducting a parade, or engaging in a similar activity. An activity shall not be deemed a special event unless it is different or greater than the usual use of the public property by the general public. The decision as to whether an event falls within the criteria of this article shall be made by the village manager. An activity sponsored by a local neighborhood association in a neighborhood park primarily serving the residents of that particular neighborhood shall not be considered to be a special event. However, the village's park permit procedures must be followed prior to conducting such an activity.

(Ord. No. 231-154, § 1, 4-2-12)

Sec. 70-127. Permit required.

No person, group or organization shall hold or conduct a special event on village owned property or public rights-of-way without first obtaining a permit from the village. Permits shall authorize their holder to conduct a special event on the dates and times indicated on the permit. A special event shall not be held on a date or at a time not authorized by the permit

(Ord. No. 231-154, § 1, 4-2-12)

Sec. 70-128. Permit application.

Applications for a special event permit must be submitted to the village clerk. The information required on such permits may vary depending on the size and nature of the event. Applications shall contain the following information:

- (1) Name and address of person or organization submitting the application.
- (2) Names and addresses of additional organizations planning to take part in the special event.
- (3) The type, legal status and tax status of the organization or organizations seeking a permit.
- (4) A detailed description of the event for which a permit is sought including the following information:
 - a. The precise location of the proposed event.
 - b. The date or dates of the proposed event.
 - c. The time that the proposed event is scheduled to begin and end.
 - d. An estimate of the number of people who will be taking part in the event.
 - e. A statement regarding the impact that the event will have on existing facilities in the village including, but not limited to residences, businesses, public buildings and churches.
- (5) A statement regarding whether previous events have been held by the applicant in the village or in other municipalities, including the number of such events held, a description of the events, where they were held, and the dates of the events.
- (6) Any other information requested by the village in order to determine whether a special event permit should be issued.
- (7) Applications shall be signed and dated by the applicant.

(Ord. No. 231-154, § 1, 4-2-12)

Sec. 70-129. Issuance of a permit.

The village manager shall have sole and complete discretion in deciding whether to issue a permit. Nothing contained in this article shall be construed to require the manager to issue a permit to an applicant and no applicant shall have any interest or right to receive a permit merely because the applicant has received a permit in the past.

(Ord. No. 231-154, § 1, 4-2-12)

Sec. 70-130. Policies and procedures.

Applications shall be reviewed and permits shall be issued in accordance with policies and procedures established by the village manager.

(Ord. No. 231-154, § 1, 4-2-12)

Sec. 70-131. Permit fee.

A permit fee may be assessed prior to the issuance of a permit. The fee shall be in an amount to be determined by the village administration to reimburse the village for the costs it incurs in providing services for the

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event including, but not limited to, police, fire, sanitation services, or arranging for traffic alterations. In the event that the actual costs exceed the permit fee, a bill shall be delivered to the event sponsor for this excess amount and payment by the sponsor shall be made within seven days after the bill is received.

(Ord. No. 231-154, § 1, 4-2-12)

Sec. 70-132. Permit conditions and restrictions.

Permits issued shall be subject to reasonable restrictions and conditions as determined by the village manager or his designee in order to protect the public health, safety and general welfare and to ensure that the special event is conducted in an orderly and beneficial fashion including, but not limited to, the following:

- (1) The obtainment of insurance coverage for the event as set forth by the special events policy.
- (2) The implementation of various health and safety precautions to minimize the risk of injury to participants.
- (3) Providing a bond or cash deposit to the village to ensure that all costs and fees associated with the event are paid and to reimburse the village for its expense in providing village services which were not anticipated when the permit was issued.
- (4) Restrictions as to the times and locations that the event will be held.

(Ord. No. 231-154, § 1, 4-2-12)

Sec. 70-133. Condition of the event site.

Upon the conclusion of a special event, the event site must be completely cleaned-up, all personal property must be removed and the site must be returned to the condition in which it existed prior to the special event. The persons or organizations holding or conducting a special event shall be responsible for and shall reimburse the village for any damage to village property and public rights-of-way, and for the costs of removing any garbage, litter or personal property left at the event site, as a result of the special event.

(Ord. No. 231-154, § 1, 4-2-12)

Sec. 70-134. Unlawful interference in a special event.

Unless otherwise permitted by law, it shall be unlawful for any person to intentionally interfere with, impede, enter into, disrupt or to attempt to interfere with, to attempt to impede, to attempt to enter into or to attempt to disrupt any special event as defined in section 70-126 for purposes other than that for which the special event permit was issued without expressed permission of the permittee granted approval pursuant to this article.

(Ord. No. 231-154, § 1, 4-2-12)

Sec. 70-135. Revocation of permit.

A permit may be revoked by the village manager or his designee at any time for any of the following reasons:

- (1) Providing false information or failing to disclose information on the application.
- (2) Violation of a term, condition or restriction of the permit.

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- (3) The persons, organizations, or a member of an organization conducting a special event violates a village ordinance, policy rule, or any state law.
 - (4) The special event poses a health or safety hazard and terminating the event is necessary to protect the public health, safety or general welfare

(Ord. No. 231-154, § 1, 4-2-12)

Sec. 70-136. Expiration and transferability of permit.

Permits shall expire on the date and time indicated on the permit, regardless of whether the event actually takes place. Permits are nontransferable and nonassignable. Any attempt to transfer or assign a permit shall render the permit void.

(Ord. No. 231-154, § 1, 4-2-12)

Sec. 70-137. Penalty of violation.

Any person violating any provisions of this article shall be deemed responsible for committing a municipal civil infraction and shall be responsible for a civil fine, as set forth in chapter 1 of this Code. 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, this Code. Each day on which any violation of this Code or any ordinance continues is a separate offense and shall be subject to penalties or sanctions as a separate offense. In addition to any penalties provided for in this Code, any equitable or other remedies available may be sought

(Ord. No. 231-154, § 1, 4-2-12)

Chapter 74 SUBDIVISIONS AND LAND DIVISION²⁶

ARTICLE I. IN GENERAL

Secs. 74-1—74-30. Reserved.

ARTICLE II. SUBDIVISIONS

DIVISION 1. GENERALLY

²⁶Cross reference(s)—Administration, ch. 2; buildings and building regulations, ch. 18; community development, ch. 30; engineering design and construction standards, ch. 38; environment, ch. 42; fire prevention and protection, ch. 46; roads and bridges, ch. 58; streets, sidewalks and other public places, ch. 70; utilities, ch. 82; zoning, ch. 94.

State law reference(s)—Subdivision control act, MCL 560.101 et seq.

Sec. 74-31. Purposes.

The purposes of this article are to provide for the orderly growth and harmonious development of the community; to secure adequate traffic circulation through coordinated street systems with relation to major thoroughfares, adjoining subdivisions, and public facilities; to achieve individual property lots of maximum utility and livability; to secure adequate provisions for water supply, drainage and sanitary sewerage, and other health requirements; to secure adequate provision for recreational areas, school sites and other public facilities; and to provide logical procedures for the achievement of these purposes.

(Ord. No. 140, § 101, 12-9-68 eff.)

Sec. 74-32. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. All terms as defined in the Subdivision Act shall control in this article unless indicated to the contrary in this section.

Block means property abutting one side of a street and lying between the two nearest intersecting streets, or between the nearest such street and railroad right-of-way, unsubdivided acreage, river or live stream; or between any of the foregoing and any other barrier to the continuity of development.

Commission means the planning commission of the village.

Easement means a grant by the owner of the use of a strip of land by the public, a corporation, or persons, for specific uses and purposes, to be designated as a public or private easement depending on the nature of the use.

Filing date means the initial meeting date at which the plan for preliminary plat (stage 1), preliminary plat (stage 2), tentative or final, and final plat review appears on the planning commission or village council's regular meeting agenda.

Governing body means the village council.

Improvements means grading, street surfacing, curb and gutter, sidewalks, crosswalks, water mains and lines, sanitary sewers, storm sewers, culverts, bridges, utilities, and other additions to the natural state of land which increases its value, utility or habitability.

Lot means a measured portion of a parcel or tract of land, which is described or fixed in a recorded plat.

Master plan means the comprehensive land use plan for the village, including graphic and written proposals indicating the general locations recommended for the streets, parks, schools, public buildings, zoning districts, and all physical developments of the village, and includes any unit or part of such plan separately adopted, and any amendments to such plan or parts thereof duly adopted by the planning commission.

Master street or thoroughfare plan means the part of the master plan which sets forth the location, alignment and dimensions of existing and proposed streets and thoroughfares.

Parcel or tract means a continuous area or acreage of land which can be described as provided for in the Subdivision Act.

Plat means a map or chart of a subdivision of land, sequenced as follows:

- (1) *Preliminary plat (stage 1)* means a map indicating the proposed layout of the subdivision in sufficient detail to provide adequate basis for review and to meet the requirements and procedures set forth in this article.

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- (2) *Preliminary plat (stage 2)* means a map showing the salient features of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration, prepared in conformance with the Subdivision Act and this article.
 - (3) *Final plat* means a map of all or part of a subdivision providing substantial conformance to the preliminary plat of the subdivision, prepared in conformance with the requirements of the Subdivision Act and this article, and suitable for recording by the county register of deeds.

Proprietor means a natural person, firm, association, partnership, corporation or combination of any of them which may hold any ownership interest in land, whether recorded or not.

Street means any street, avenue, boulevard, road, lane, parkway, viaduct, alley or other way which is an existing state, county, or municipal roadway; or a street or way shown in a plat approved pursuant to law or approved by official action; or a street or way on a plat duly filed and recorded in the office of the county register of deeds. A street includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, sidewalks, parking areas, and lawns.

- (1) *Major thoroughfare* means an arterial street of great continuity which is intended to serve as a large volume trafficway for both the immediate village area and region beyond, and may be designated in the village's major thoroughfare plan as a major thoroughfare, parkway, expressway, or equivalent term to identify those streets comprising the basic structure of the street plan.
- (2) *Collector street* means a street intended to serve as a major means of access from minor streets to major thoroughfares which has considerable continuity within the framework of the major thoroughfare plan.
- (3) *Minor street* means a street of limited continuity used primarily for access to abutting residential properties.
- (4) *Marginal access street* means a minor street paralleling and adjacent to a major thoroughfare which provides access to abutting properties and protection from through traffic.
- (5) *Boulevard street* means a street developed to two two-lane, one-way pavements separated by a median.
- (6) *Turnaround* means a short boulevard street permanently terminated by a vehicular turnaround.
- (7) *Cul-de-sac street* means a short minor street having one end permanently terminated by a vehicular turnaround.
- (8) *Alley* means a minor service street used primarily to provide secondary vehicular access to the rear or side of properties otherwise abutting upon a street.

Subdivision means the partitioning or dividing of a parcel or tract of land by the proprietor thereof or by his heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale, or lease of more than one year, or building development, where the act of division creates five or more parcels of land, each of which is ten acres or less in area; or five or more parcels of land, each of which is ten acres or less in area, which are created by successive divisions within a period of ten years.

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

Village engineer or engineer means the staff engineer or consulting engineer of the village.

Village planner or planner means the staff planner or consulting planner of the village.

Zoning ordinance means the village zoning ordinance, as contained in chapter 94 of this Code.

(Ord. No. 140, § 200, 12-9-68 eff.)

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

Sec. 74-33. Interpretation.

The provisions of this article shall be held to be the minimum requirements adopted for the promotion and preservation of public health, safety and general welfare of the village. The regulations set out in this article are not intended to repeal, abrogate, annul or in any manner interfere with existing regulations or laws of the village, nor conflict with any statutes of the state or the county, except that these regulations shall prevail in cases where these regulations impose a greater restriction than is provided by existing statutes, laws or regulations.

(Ord. No. 140, art. VII, 12-9-68 eff.)

Sec. 74-34. Penalty for violation of article.

Any person, or anyone acting in behalf of such person, violating any of the provisions of this article shall be deemed responsible for committing a municipal civil infraction. Each day that a violation is permitted to exist shall constitute a separate violation.

(Ord. No. 140, art. IX, 12-9-68 eff.)

Sec. 74-35. Compliance standards.

The approvals required under the provisions of this article shall be obtained prior to the installation of any subdivision or project improvements within the village, in public streets, public alleys, public rights-of-way, and public easements, and/or under the ultimate jurisdiction of the village. All subdivision or project improvements within the village installed in public streets, public alleys, public rights-of-way, or public easements, and/or under the ultimate jurisdiction of the village, shall comply with all of the provisions and requirements of this article or any other related ordinance.

(Ord. No. 140, art. VI, 12-9-68 eff.)

Sec. 74-36. Review fees.

Preliminary plat (stages 1 and 2) and final plat review fees, planning fees, engineering fees, attorney fees, inspection fees, water and sewer connection charges and other applicable development charges shall be paid by the proprietor as may be provided for in this article or by ordinance of the village.

- (1) *Planning review fees.* Fees charged for the review of subdivision plats shall be in accordance with fees established by resolution of the village council and shall cover all anticipated costs for review of such subdivision plats.
- (2) *Engineering review fees.* At time of submittal of plans and specifications and detailed estimate of cost of the proposed subdivision, and project improvements, the proprietor shall pay the village clerk a fee for review thereof equal to 1½ percent of the estimated cost of the improvements. Further, prior to the construction of subdivision and project improvements, the proprietor shall deposit with the village clerk, at least 24 hours prior to the start of construction, a percentage of the total contract price for inspection as follows:

Contract amount	Deposit amount or percentage
\$ 0—\$ 5,000.00	\$1,000.00
5,000.00— 50,000.00	12% but not less than \$1,000.00

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50,000.00— 100,000.00	10% but not less than \$6,000.00
100,000.00 and up	6% but not less than \$10,000.00

At the completion of the project, if the deposit made toward the cost of a total inspection fee, as provided in this subsection, is insufficient, then the contractor or owner shall pay such additional amount as may be required to pay the village for the total inspection costs prior to the final acceptance of the project. If, at the completion of the project, it is ascertained that the total inspection cost to the village was less than the amount deposited, then the surplus shall be returned to the contractor or owner upon final acceptance of the project. The fees and charges contained in this subsection shall be in addition to those charged for debt service, service charges, connection charges, and other charges or fees imposed for sanitary sewer and water supply.

(Ord. No. 140, art. VIII, 12-9-68 eff.; Ord. No. 140-A-1, 1-24-77 eff.; Ord. No. 140-A-2, 3-2-77 eff.)

Sec. 74-37. Variances.

- (a) *Variance for hardship.* The village council may authorize a variance from this article when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the village council shall prescribe only conditions that it deems necessary to or desirable for the public interest. In making its findings, as required in this subsection, the village council shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the village council finds that:
 - (1) There are special circumstances or conditions affecting such property such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of his land.
 - (2) The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.
 - (3) The granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which such property is situated.

- (b) *Variance for complete neighborhood.*
 - (1) *Conditions.* The village council may authorize a variance from this article in case of a plan for a complete community or neighborhood where such development is permitted by the zoning ordinance and which, in the judgment of the village council, and after a recommendation is had from the commission, provides adequate public spaces and includes provision for efficient circulation, light and air and other needs. In making its findings, as required in this subsection, the village council shall take into account the nature of the proposed use of and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed development upon traffic conditions in the vicinity. The village council shall find that:
 - a. There is adequate acreage and population in the proposed plan so as to support at least one elementary school.
 - b. The standards and requirements of the zoning ordinance are met.
 - c. The planning commission has reviewed the plan and recommends its approval as having met the standards and intent of the master plan of land use as it relates to facility needs.

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- d. In granting the variance, it shall be valid only as long as the plan for the complete neighborhood is carried out as approved. Any departure from the plan shall immediately rescind any variance granted.
 - e. The village council shall establish a time schedule to be met on the various aspects of the complete neighborhood plan.
- (2) *Application.* Application for any such variance shall be submitted in writing by the proprietor at the time the preliminary plat (stage 1) is filed, stating fully and clearly all facts relied upon by the proprietor, and shall be supplemented with maps, plans, or other additional data which may aid in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions or other legal provisions necessary to guarantee the full achievement of the plan.

(Ord. No. 140, §§ 1200, 1201, 12-9-68 eff.)

Secs. 74-38—74-55. Reserved.

DIVISION 2. SUBDIVISION PROCEDURE

Sec. 74-56. Generally.

The preparation of a subdivision for platting shall be carried out through three phases: pre-preliminary plat investigation, preliminary plat (stages 1 and 2), and final plat, all in accordance with the procedure set out in this division.

(Ord. No. 140, art. III, 12-9-68 eff.)

Sec. 74-57. Pre-preliminary plat investigation.

Prior to the preparation and filing of a preliminary plat, the proprietor may meet informally with the planning commission in order that he may become familiar with the procedures and standards of the village with reference to this subdivision regulations ordinance and with the proposals of the master plan as they affect the area in which the proposed subdivision is located. The proprietor should concern himself with the following factors:

- (1) The proprietor shall secure a copy of the zoning ordinance, subdivision regulations, engineering specifications, and other similar ordinances or controls relative to the subdivision and improvement of land so as to make himself aware of the requirements of the village.
- (2) The area for the proposed subdivision shall be properly zoned for the intended use.
- (3) An investigation of adequacy of existing schools and the adequacy of public open spaces including parks and playgrounds to serve the proposed subdivision shall be made by the proprietor.
- (4) The relationship of the proposed subdivision with respect to major thoroughfares and plans for widening of thoroughfares shall be investigated by the proprietor.
- (5) Standards for sewage disposal, water supply and drainage of the village shall be investigated by the proprietor.

(Ord. No. 140, § 300, 12-9-68 eff.)

Sec. 74-58. Preliminary plat procedure (stage 1).

The procedure under stage 1 for preparation and submittal of a preliminary plat of the land area to be subdivided shall be as follows:

- (1) *Filing:*
 - a. Ten copies of the preliminary plat (stage 1) of the proposed subdivision, together with written application in triplicate, shall be submitted to the clerk for the planning commission.
 - b. Submittal to the clerk shall be at least ten days prior to the regular commission meeting (which meeting shall be considered as the date of filing) at which the proprietor will be scheduled to appear. Should any of the data required in this section be omitted, the clerk shall notify the proprietor of the additional data required and commission action shall be delayed until the required data is received. The commission shall act on the preliminary plat (stage 1) within 30 days after the date of filing unless the proprietor agrees to an extension of time in writing.
- (2) *Identification and description.* The preliminary plat (stage 1) shall include:
 - a. Proposed name of subdivision.
 - b. Location by section, township and range, or by other legal description.
 - c. Names and addresses of the proprietor and the planner, designer, engineer or surveyor who designed the subdivision layout. The proprietor shall also indicate his interest in the land.
 - d. Scale of plat, one inch equals 100 feet as minimum acceptable scale.
 - e. Date.
 - f. Northpoint.
- (3) *Existing conditions.* The preliminary plat (stage 1) shall include:
 - a. An overall area map at a scale of not less than one inch equals 2,000 feet, showing the relationship of the subdivision to its surroundings such as section lines and/or major streets or collector streets.
 - b. Boundary line of proposed subdivision, section or corporation lines within or adjacent to the tract and overall property dimensions.
 - c. Property lines of adjacent tracts of subdivided and unsubdivided land shown in relation to the tract being proposed for subdivision including those of areas across abutting roads.
 - d. Location, widths, and names of existing or prior platted streets and private streets, and public easements within or adjacent to the tract being proposed for subdivision, including those located across abutting roads.
 - e. Location of existing sewers, water mains, storm drains and other underground facilities within or adjacent to the tract being proposed for subdivision.
 - f. Topography drawn as contours with an interval of at least five feet. Topography to be based on USGS datum.
 - g. The school board or school board superintendent of the school district having jurisdiction in the area concerned shall be informed and made aware of the proposed preliminary plat (stage 1) by the proprietor. A letter or document from the school board or school board superintendent indicating awareness of the proprietor's intentions shall be submitted to the planning commission as part of the preliminary plat (stage 1).

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- (4) *Proposed conditions.* The preliminary plat (stage 1) shall include:
- a. Layout of streets indicating proposed street names, right-of-way widths, and connections with adjoining platted streets and also the widths and location of alleys, easements and public walkways.
 - b. Layout, numbers and dimensions of lots, including building setback lines showing dimensions.
 - c. Indication of parcels of land intended to be dedicated or set aside for public use or for the use of property owners in the subdivision.
 - d. An indication of the ownership, and existing and proposed use of any parcels identified as "excepted" on the preliminary plat. If the proprietor has an interest or owns any parcel so identified as excepted, the preliminary plat shall indicate how this property could be developed in accordance with the requirements of the existing zoning district in which it is located and with an acceptable relationship to the layout of the proposed preliminary plat.
 - e. An indication of system proposed for sewage by a method approved by the village council and the village engineer.
 - f. An indication of system proposed for water supply by a method approved by the village council and the village engineer.
 - g. An indication of storm drainage proposed by a method approved by the village council and the village engineer and, if involving county drains, the proposed drainage shall be acceptable to the county drain commissioner.
 - h. If the proprietor wishes to subdivide a given area, but wishes to begin with only a portion of the total area, the preliminary plat shall include the proposed general layout for the entire area. The part which is proposed to be subdivided first shall be clearly superimposed upon the overall plan in order to illustrate clearly the method of development which the proprietor intends to follow. Each subsequent plat shall follow the same procedure until the entire area controlled by the proprietor is subdivided.
 - i. If the subdivision is proposed to be developed under the subdivision open space plan, such subdivision shall meet the requirements of section 74-80.
- (5) *Preliminary plat (stage 1) review by planning commission.*
- a. The clerk shall receive and check for completeness the preliminary plat (stage 1) as required under subsections (1) through (4) of this section. If complete and basically in conformance with applicable village requirements, the clerk shall place the proposal on the agenda of the next regular commission meeting.
 - b. The clerk shall transmit a copy of the preliminary plat (stage 1) to the village engineer and the village planner for their technical review and recommendation.
 - c. The commission shall review all details of the proposed subdivision within the framework of the zoning ordinance (chapter 94 of this Code), within the various elements of the master plan and within the standards of this subdivision regulations article.
 - d. The commission shall approve conditionally, disapprove, or approve the preliminary plat (stage 1).
 1. Should the approval be a conditional approval and therefore tentative, the preliminary plat (stage 1) shall not be forwarded to the village council until such conditions have been satisfied by the proprietor.

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2. Should the commission disapprove the preliminary plat, it shall record the reasons in the minutes of the regular meeting. A copy of the minutes shall be sent to the proprietor and the school board or superintendent of the school district having jurisdiction in the area concerned.
 3. Should the commission find that all conditions have been satisfactorily met, it may give approval to the preliminary plat. The chairman shall make a notation to that effect on each copy of the preliminary plat and distribute copies of such plat as follows:
 - i. Return one copy to the proprietor;
 - ii. Retain one copy which shall become a matter of permanent record in the commission files;
 - iii. Forward one copy to the school board or superintendent of the school district having jurisdiction in the area concerned;
 - iv. Forward the remaining four copies to the village council via the clerk's office for informational purposes.
 - e. The approval of the planning commission shall be effective for a period of 12 months. Should the preliminary plat (stage 1), in whole or in part, not be submitted within this time limit, a preliminary plat (stage 1) must again be submitted to the commission for approval.
 - f. No installation or construction of any improvements shall be made on the basis of preliminary plat (stage 1) approval.

(Ord. No. 140, § 301, 12-9-68 eff.)

Sec. 74-59. Preliminary plat procedure (stage 2).

The procedure under stage 2 for the preparation and review of a preliminary plat requires tentative and final approval as follows:

- (1) *Preliminary plat (stage 2) tentative approval.*
 - a. *Filing.*
 1. Ten copies of a valid and complete preliminary plat (stage 2) of the proposed subdivision, together with written application in triplicate and any other information required to be submitted under the Subdivision Act, shall be filed with the clerk.
 2. The preliminary plat (stage 2) shall conform substantially to the preliminary plat (stage 1) as approved, and it may constitute only that portion of the approved preliminary plat (stage 1) which the proprietor proposed to record and develop at the time; provided, however, that such portion conforms to this subdivision regulations article.
 3. The clerk shall check the proposed plat for completeness. Should any of the data required in the Subdivision Act, or section 74-58(1)—(4), be omitted, the clerk shall be directed to inform the proprietor of the data required, and that the application will be delayed until the required data is received.
 4. The clerk shall transmit a copy of the valid and complete preliminary plat (stage 2) to the village engineer and village planner for their technical review and recommendation.
 - b. *Planning commission review, tentative approval.*

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1. The clerk shall place the preliminary plat (stage 2) on the next regular planning commission agenda, at which meeting the proprietor will be scheduled to appear. The planning commission shall act on the preliminary plat (stage 2) within 30 days after the date of filing unless the proprietor agrees to an extension, in writing, of the time required for approval by the village council and planning commission.
 2. It shall be the duty of the clerk to send a notice by registered or certified mail to the owners of land immediately adjoining the property to be platted of the presentment of the preliminary plat (stage 2) and the time and place of the meeting of the commission to consider such preliminary plat; such notice shall be sent not less than seven days before the date fixed therefor.
 3. The preliminary plat (stage 2) shall be reviewed by the village engineer as to compliance with the approved preliminary plat (stage 1) and plans for utilities and other improvements.
 4. The village engineer shall notify the commission of his recommendation for either approval or rejection of the preliminary plat (stage 2).
 5. The preliminary plat (stage 2) documents shall be reviewed by the commission as to compliance with the approved preliminary plat (stage 1).
 6. Should the commission find that the preliminary plat (stage 2) is in close agreement with the preliminary plat (stage 1), it shall approve such plat and notify the village council of this action in its official minutes and forward such plat, together with all accompanying data, to the village council for its review.
 7. Should the commission find that the preliminary plat (stage 2) does not conform substantially to the previously approved preliminary plat (stage 1) and that it is not acceptable, the commission shall record its reason in its official minutes and forward such plat together with all accompanying data to the village council, and recommend that the village council disapprove the preliminary plat (stage 2) until the objections causing disapproval have been changed to meet with the approval of the commission.
- c. *Village council tentative approval.*
1. The village council will not review a preliminary plat (stage 2) until it has received the review and recommendations of the commission. Following the receipt of such recommendations, the village council shall consider the preliminary plat (stage 2) at such meeting that the matter is placed on the regularly scheduled agenda. The village council shall take action on the preliminary plat (stage 2) within 15 days of the filing date of the plat.
 2. Should the village council tentatively approve the preliminary plat (stage 2), it shall record its approval on the plat and return one copy to the proprietor.
 3. Tentative approval shall not constitute final approval of the preliminary plat (stage 2).
 4. Tentative approval of the village council shall be effective for a period of 12 months. Should the preliminary plat (stage 2) in whole or in part not be submitted for final approval within this time limit, the preliminary plat (stage 1) must again be submitted to the commission for approval unless an extension is applied for by the proprietor, and such request is granted in writing by the village council.
- (2) *Preliminary plat (stage 2) review by village council, final approval.*

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- a. The proprietor shall file a valid preliminary plat (stage 2) with the clerk together with a certified list of all authorities required for approval in sections 112 to 119 of the Subdivision Act. The proprietor shall also provide approved copies of plats from each of the required authorities.
 - b. The village council shall take action on the preliminary plat within 15 days of the filing date.
 - c. If the preliminary plat (stage 2) conforms substantially to the plat tentatively approved by the village council and meets all conditions laid down for tentative approval, the village council shall give final approval to the preliminary plat (stage 2).
 - d. The clerk shall promptly notify the proprietor of approval or rejection in writing; if rejected, reasons shall be given.
 - e. Final approval shall be effective for a period of two years from the date of final approval. The two-year period may be extended if applied for by the proprietor and granted by the village council in writing.
 - f. No installation or construction of any improvements shall be made before the preliminary plat (stage 2) has received final approval of the village council, engineering plans have been approved by the village engineer, and any deposits required under division 4 of this article have been received by the village. Where improvements which are to be owned and/or maintained by the village, such as sewer and water supply facilities, are to be installed prior to the recording of the final plat, acceptable easements running to the village must be filed with the clerk covering all proposed street rights-of-way and other places in which such installations are located.

(Ord. No. 140, § 302, 12-9-68 eff.)

Sec. 74-60. Final plat.

The procedure for preparation and review of a final plat shall be as follows:

(1) *Preparation.*

- a. The final plat shall comply with the provisions of the Subdivision Act.
- b. The final plat shall conform substantially to the preliminary plat (stage 2) as approved, and it may constitute only that portion of the approved preliminary plat which the proprietor proposed to record and develop at the time; provided, however, that such portion conforms to this subdivision regulations article.
- c. The proprietor shall submit as evidence of title an abstract of title certified to date with the written opinion of an attorney-at-law thereon, or at the option of the proprietor, a policy of title insurance for examination in order to ascertain as to whether or not the proper parties have signed the plat.

(2) *Final plat review.*

- a. Five mylar copies and three paper prints of the final plat shall be filed by the proprietor with the clerk and the proprietor shall deposit such sums of money as the village council may require in this article or by other ordinances.
- b. The final plat shall be reviewed by the village engineer as to compliance with the approved preliminary plat and plans for utilities and other improvements.
- c. The village engineer shall notify the village council of his recommendation for either approval or rejection of the final plat.

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- d. The village council shall review all recommendations and take action on the final plat within 20 days of its date of filing.
 - e. Upon the approval of the final plat by the village council, the subsequent approvals shall follow the procedure set forth in the Subdivision Act. The three prints of the final plat shall be forwarded, one to the clerk, one to the planning commission, and one to the building department. The five mylar copies shall be forwarded to the clerk of the county plat board.

(Ord. No. 140, § 303, 12-9-68 eff.)

Secs. 74-61—74-75. Reserved.

DIVISION 3. DESIGN LAYOUT STANDARDS

Sec. 74-76. Applicability.

The subdivision design layout standards set forth under this division are development guides for the assistance of the proprietor. All final plans must be reviewed and approved by the village council.

(Ord. No. 140, art. IV, 12-9-68 eff.)

Sec. 74-77. Streets.

Streets shall conform to at least all minimum requirements of the general specifications and typical cross sections as set forth in this division, and other conditions set forth by the village council.

(1) *Location and arrangement.*

- a. The proposed subdivision shall conform to the various elements of the master plan and shall be considered in relation to the existing and planned major thoroughfares and collector streets, and such part shall be platted in the location and width indicated on such plan.
- b. The street layout shall provide for continuation of collector streets in the adjoining subdivisions or of the proper projection of streets when adjoining property is not subdivided; or conform to a plan for a neighborhood unit drawn up and adopted by the commission.
- c. The street layout shall include minor streets so laid out that their use by through traffic shall be discouraged.
- d. Should a proposed subdivision border on or contain an existing or proposed major thoroughfare, the commission may require marginal access streets, reverse frontage or such other treatment as may be necessary for adequate protection of residential properties and to afford separation and reduction of traffic hazards.
- e. Should a proposed subdivision border on or contain a railroad, expressway or other limited access highway right-of-way, the commission may require the location of the street approximately parallel to and on each side of such right-of-way at a distance suitable for the development of an appropriate use of the intervening land such as for parks and residential districts. Such distances shall be determined with due consideration of the minimum distance required for approach grades to future grade separation.
- f. Half streets shall be prohibited, except where absolutely essential to the reasonable development of the subdivision in conformity with the other requirements of this article, and

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where the commission finds it will be practicable to require the dedication of the other half when the adjoining property is developed. Wherever there exists adjacent to the tract to be subdivided a dedicated or platted and recorded half street, the other half shall be platted.

- (2) *Street grades.* For adequate drainage, the minimum street grade shall not be less than one-half of one percent. The maximum street grade shall be five percent, except that the commission may make an exception to this standard on the recommendation of the engineer.
- (3) *Street geometrics.* Standards for maximum and minimum street grades, vertical and horizontal street curves and sight distances shall be established by ordinances or published rules of the village council, and shall in no case be less restrictive than the standards of the county road commission.
- (4) *Street intersections.* Streets shall be laid out so as to intersect as nearly as possible to 90 degrees. Curved streets intersecting with major thoroughfares and collector thoroughfares shall do so with a tangent section of centerline 50 feet in length, measured from the right-of-way line of the major or collector thoroughfare.
- (5) *Grading and centerline gradients.* Grading and centerline gradients shall be according to plans and profiles approved by the village engineer.
- (6) *Street jogs.* Street jogs with centerline offsets of less than 125 feet shall be avoided.
- (7) *Other requirements.*
 - a. Maximum length for residential cul-de-sac streets shall generally be 500 feet. Maximum length for industrial and other cul-de-sac streets may exceed 500 feet subject to the approval of the commission.
 - b. Access to streets across all ditches shall be provided by the proprietor in a standard method approved by the village council.

(Ord. No. 140, § 400, 12-9-68 eff.; Ord. No. 231-039, § 1, 3-6-00)

Sec. 74-78. Blocks.

Blocks within subdivisions shall conform to the following standards:

- (1) *Sizes.*
 - a. Maximum length for blocks shall not exceed 1,300 feet in length, except where, in the opinion of the commission, conditions may justify a greater distance.
 - b. Widths of blocks shall be determined by the condition of the layout and shall be suited to the intended layout.
- (2) *Public walkways.*
 - a. Location of public walkways or crosswalks may be required by the commission to obtain satisfactory pedestrian access to public or private facilities such as, but not limited to, schools and parks.
 - b. Widths of public walkways shall be at least 12 feet and shall be in the nature of an easement for this purpose.
- (3) *Easements.*
 - a. Location of utility line easements shall be provided along the rear or side lot lines as necessary for utility lines. Easements shall give access to every lot, park or public grounds. Such easements shall be a total of not less than 12 feet wide, six feet from each parcel.

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- b. Recommendations on the proposed layout of telephone and electric company easements should be sought from all of the utility companies serving the area. It shall be the responsibility of the proprietor to submit copies of the preliminary plat to all appropriate public utility agencies.
 - c. Easements six feet in width, three feet from each parcel, shall be provided where needed along side lot lines so as to provide for streetlight dropouts. Prior to the approval of the final plat for a proposed subdivision, a statement shall be obtained from the appropriate public utility indicating that easements have been provided along specific lots. A notation shall be made on the final plat indicating: "The side lot lines between lots (indicating lot numbers) are subject to streetlight dropout rights granted to (name of utility company)."

(Ord. No. 140, § 401, 12-9-68 eff.)

Sec. 74-79. Lots.

Lots within subdivisions shall conform to the following standards:

(1) *Sizes and shapes.*

- a. The lot size, width, depth and shape in any subdivision proposed for residential uses shall be appropriate for the location and the type of development contemplated.
- b. Lot areas and widths shall conform to at least the minimum requirements of the zoning ordinance for the district in which the subdivision is proposed.
- c. Building setback lines shall conform to at least the minimum requirements of the zoning ordinance.
- d. Corner lots in residential subdivisions shall be platted at least ten feet wider than the minimum width permitted by the zoning ordinance.
- e. Excessive lot depth in relation to width shall be avoided. A depth-to-width ratio of three to one shall normally be considered a maximum.
- f. Lots intended for purposes other than residential use shall be specifically designed for such purposes, and shall have adequate provision for off-street parking, setbacks, and other requirements in accordance with the zoning ordinance.

(2) *Arrangement.*

- a. Every lot shall front or abut on a street.
- b. Side lot lines shall be at right angles or radial to the street lines.
- c. Residential lots abutting major thoroughfares or collector streets, where marginal access streets are not desirable or possible to attain, shall be platted with reverse frontage lots, or with side lot lines parallel to the major traffic streets, or shall be platted with extra depth to permit generous distances between buildings and such trafficway.
- d. Lots shall have a front-to-front relationship across all streets where possible.
- e. Where lots border upon bodies of water, the front yard may be designated as the waterfront side of such lot provided the lot has sufficient depth to provide adequate setback on the street side to maintain a setback for all structures equal to the front setback on the street side as well as on the waterfront side.

(Ord. No. 140, § 402, 12-9-68 eff.)

Sec. 74-80. Subdivision open space plan (planned unit development).

The following requirements apply in addition to all other requirements of this article where a preliminary plat (stage 1) is filed for approval under the subdivision open space plan (planned unit development) section of the zoning ordinance.

- (1) Statement of principles. Consideration by the commission and the village council of proposed optional use of subdivision open space plan shall reflect the following basic principles:
 - a. The subdivision open space section of the zoning ordinance provides an optional method of subdividing property, and approval of any subdivision open space plan is subject to the discretion of the village council.
 - b. Particular attention shall be given to the effect of a subdivision open space plan upon the immediate area, where the character of that area has been established by previous development. Major attention shall be given by the commission and the village council to the benefits to be derived by the residents of the proposed subdivision and the village because of the subdivision open space plan with minor consideration to be given to the proprietor.
 - c. The following objectives shall govern the approval or disapproval of the proposed subdivision open space plan:
 1. To provide a more desirable living environment by preserving the natural character of the terrain features;
 2. To encourage developers to use a more creative approach in the development of residential areas;
 3. To encourage a more efficient, aesthetic and desirable use of the land while recognizing a reduction in development costs and by allowing the developer to bypass natural obstacles;
 4. To encourage the provision of open space so benefits may accrue directly to residents of the subdivision and to further encourage the development of recreational facilities.
- (2) The application for approval of subdivision open space plan shall contain the following in addition to the information required by other sections of this article:
 - a. A complete description of the land proposed to be dedicated to the village or to the common use of lot owners (referred to in this section as "open land") shall be provided, including the following as a minimum:
 1. Legal description of open land;
 2. Topographical survey of open land;
 3. Type of soil in open land;
 4. Description of natural features on open land (stands of trees or other vegetation, streams or other bodies of water, etc.); and
 5. Other relevant factors.
 - b. The proposed plan of development of the open land shall be contained in the application and shall include the following as a minimum:
 1. The proposed manner in which the title to land and facilities is to be held by the owners of land in the subdivision;

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2. The proposed manner of collection of maintenance costs, financing costs or assessments so that nonpayment will constitute a lien on the property, thus avoiding village responsibility in the future;
 3. The proposed manner of regulating the use of the common facilities and areas so as to eliminate possible nuisances to other property owners and cause for enforcement by the governing unit;
 4. The proposed method of notifying the village when any change is contemplated in plans that would affect the original specifications approved by the village;
 5. The proposed method of setting up assessments to cover contingencies, insurance against casualty and liability and payment of taxes relating to these properties; and
 6. The proposed uses of open land and the proposed improvements which are to be constructed by the proprietor.
- c. The application shall contain a statement of the benefits to be realized by the residents of the proposed subdivision and the village by approval of the proposed subdivision open space plan with particular reference to the objectives stated in the zoning ordinance.
- (3) If the commission is satisfied that the proposed subdivision open space plan meets the letter and spirit of the zoning ordinance and should be approved, it shall recommend such approval to the village council with the conditions upon which such approval should be based. Thereafter, the village council shall take action upon such application in accordance with section 74-58.
 - (4) If the commission is not satisfied that the proposed subdivision open space plan meets the letter and spirit of the zoning ordinance or finds that the approval of such subdivision open space plan will be detrimental to existing development in the general area and should not be approved, it shall communicate such disapproval to the village council with the reasons therefor. The proprietor shall be entitled to a hearing upon such proposal before the village council upon written request therefor filed with the clerk.
 - (5) If the village council gives approval to the proposed subdivision open space plan, it shall instruct the village attorney to prepare a contract setting forth the conditions upon which such approval is based, which contract, after approval by the village council, shall be entered into between the village and the proprietor prior to the approval of any preliminary plat based upon the approved prepreliminary plat.

(Ord. No. 140, § 403, 12-9-68 eff.)

Sec. 74-81. Natural features.

The natural features and character of lands must be preserved wherever possible. Due regard must be shown for all natural features such as large trees, natural groves, watercourses and similar community assets that will add attractiveness and value to the property if preserved. The preservation of drainage and natural stream channels must be considered by the proprietor and the dedication and provision of adequate barriers, where appropriate, shall be required.

(Ord. No. 140, § 404, 12-9-68 eff.)

Sec. 74-82. Floodplains.

Any areas of land within the proposed subdivision which lie either wholly or in part within the floodplain of a river, stream, creek or lake, or any other areas which are subject to flooding or inundation by stormwater, shall

require specific compliance with the Subdivision Act and its review by the water resources commission of the department of conservation.

(Ord. No. 140, § 405, 12-9-68 eff.)

Secs. 74-83—74-100. Reserved.

DIVISION 4. IMPROVEMENTS

Sec. 74-101. Generally.

- (a) The improvements set forth under this division are to be considered as the minimum acceptable standard. All those improvements for which standards are not specifically set forth shall have such standards set by ordinance or published rules of the village council. All improvements must meet the approval of the village council.
- (b) Prior to the undertaking of any improvements, the proprietor shall deposit with the village clerk cash, a certified check or irrevocable bank letter of credit running to the village, whichever the proprietor selects, to insure faithful completion of all improvements within the time specified. The amount of the deposit shall be set by the village council based on an estimate by the engineer. All improvements shall be constructed and approved by the village within a length of time agreed upon from the date of approval of the final plat by the village council. The village council shall release funds for the payment of work as it is completed and approved by the village. Prior to the acceptance by the village of improvements, a two-year maintenance bond in an amount set by the village council shall be posted by the proprietor.
- (c) Improvements shall be provided by the proprietor in accordance with the standards and requirements established in this division and/or any other such standards and requirements which may from time to time be established by ordinance or published rules of the village.

(Ord. No. 140, art. V, 12-9-68 eff.)

Sec. 74-102. Streets.

All streets and appurtenances thereto shall be constructed in accordance with current village standards and specifications as set forth in section 38-279 of the Code of Ordinances for the Village of Milford. All pavements, except as noted in section 38-279 of the Code of Ordinances for the Village of Milford, shall be concrete pavement with concrete curb and gutter on each side, or, at the approval of the village council, asphaltic pavement with concrete curb and gutter on each side.

(Ord. No. 140, § 500, 12-9-68 eff.; Ord. No. 140-A-2, 3-2-77 eff.; Ord. No. 231-040, § 1, 3-6-00)

Sec. 74-103. Utilities.

- (a) *Requirements for underground wiring.* The proprietor shall make arrangements for all lines for telephone, electric, television and other similar services distributed by wire or cable to be placed underground entirely throughout a subdivided area, except for major thoroughfare rights-of-way, and such conduits or cables shall be placed within private easements provided to such service companies by the developer or within dedicated public ways, provided only that overhead lines may be permitted upon written recommendation of the engineer, planner, commission, and the approval of the village council at the time of final plat approval where it is determined that overhead lines will not constitute a detriment to the health, safety,

general welfare, plat design and character of the subdivision. All such facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All such facilities shall be constructed in accordance with standards of construction approved by the state public service commission. All drainage and underground utility installations which traverse privately owned property shall be protected by easements granted by the proprietor.

- (b) *Sewage disposal.* A sanitary sewer system including all appurtenances shall be required in all subdivisions which shall connect and outlet into a village sanitary sewer system.
- (c) *Water supply.* A water supply system including appurtenances shall be required in all subdivisions which shall be connected to a village water supply system.
- (d) *Storm drainage system.* An adequate storm drainage system including necessary storm sewers, catchbasins, manholes, culverts, bridges, and other appurtenances shall be required in all subdivisions. Adequate provision shall be made for proper drainage of stormwater runoff from residential rear yards. Each yard shall be self-contained and shall be drained from rear to front except where topography or other natural features require otherwise.

(Ord. No. 140, § 501, 12-9-68 eff.)

Sec. 74-104. Other improvements.

- (a) *Sidewalks.* Sidewalks shall be provided along the following types of streets as provided in this subsection.
 - (1) *Major thoroughfares.* A five-foot-wide concrete sidewalk located one foot from the property line on the side or sides of the roadway abutting the subdivision shall be provided. In those instances where no good purpose would be served by the provision of sidewalks, the village council may waive this requirement.
 - (2) *Collector streets.* A five-foot-wide concrete sidewalk located one foot from the property line on each side of the roadway shall be provided. In those instances where no good purpose would be served by the provision of sidewalks, the village council may waive this requirement.
 - (3) *Minor streets.* A five-foot-wide concrete sidewalk located one foot from the property line on each side of the roadway shall be provided. In those instances where no good purpose would be served by the provision of sidewalks, the village council may waive this requirement.
 - (4) *Marginal access streets.* A five-foot-wide concrete sidewalk located one foot from the property line on the private property side of the roadway shall be provided. In those instances where no good purpose would be served by the provision of sidewalks, the village council may waive this requirement.
- (b) *Public walkways.* The surface of public walkways shall be developed in concrete. Planting pockets shall be provided in public walkways for tree and shrub planting. The planting plan and surface treatment shall meet the approval of the commission. Fences and/or other improvements may also be required if the commission and/or village council determines they are necessary to protect the adjacent property owners.
- (c) *Street trees.* Existing trees near street rights-of-way shall be preserved by the proprietor. At least one street tree shall be provided per lot in the street right-of-way between sidewalk and curb.
- (d) *Street signs.* Street name signs shall be placed at all street intersections and shall be of a permanent weather-resistant construction with street name visible from two directions in accordance with details and specifications prescribed by the village council.
- (e) *Monuments.* Monuments shall be placed at all block corners, angle points, points of curves in streets, and at intermediate points as shall be required by the village engineer. The monuments shall be of such material, size and length as may be approved by the village engineer.

(Ord. No. 140, § 502, 12-9-68 eff.)

Secs. 74-105—74-120. Reserved.

ARTICLE III. LAND DIVISION

Sec. 74-121. Definitions.

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

Acreage tracts or acreage land means any legal description of land or real estate which is either an acreage description or a metes and bounds description of the parcel, and is not described as a numbered lot in an approved subdivision.

Applicant means a natural person, firm, association, partnership, corporation, or any combination thereof, which may hold an ownership interest in land, whether recorded or not, that is petitioning for approval to divide or partition land pursuant to the terms of this article.

Condominium subdivision plan means the drawings and information prepared pursuant to the Condominium Act, being MCL 559.101 et seq., and as defined therein.

Divide or partition means the splitting or separating of a tract of land, lot or outlot into parts by a change or changes in boundaries and/or legal description, for purposes of sale, transfer or assignment, or for obtaining separate tax statements, and which is done pursuant to the exclusion to the platting procedures as specified in the Subdivision Control Act, being MCL 560.101 et seq., as amended, and which is not part of an approved condominium plan pursuant to the Condominium Act, being MCL 559.101 et seq.

Easement means the right of an owner of property, by reason of such ownership, to use the property of another for purposes of ingress, egress, utilities, drainage and similar uses.

Lot means a measured portion of a parcel or tract of land, which is legally described and fixed in a recorded plat.

Outlot means a parcel of land included within the boundary of a recorded plat which is set aside for purposes other than a residential building site, park or other land dedicated to public use or reserved to private use, or a parcel of land designated as an outlot within an approved subdivision plat.

Parcel or tract means a continuous area of land under the ownership of the same person, firm, association, partnership, corporation, or combination thereof.

Parcel division board means a board composed of the zoning administrator, or designee thereof, and representatives of each of the following boards or commissions as appointed by such: the planning commission and the zoning board of appeals. The representative of the planning commission shall not be a member of the zoning board of appeals.

Partition. See: "*Divide.*"

Person means a natural person, firm, association, partnership, corporation, or combination thereof, which may hold an ownership interest in land, whether recorded or not.

Plat means a map or chart of a recorded subdivision of land.

Private road means an area of land used for ingress and egress (including vehicular traffic, emergency response and public safety vehicles) and for private and public utilities to serve more than one parcel of land or more than one use of a parcel of land, which is under private ownership and is not maintained at public expense.

Public street or right-of-way means a public or dedicated right-of-way, other than an alley, which affords the principal means of vehicular access to abutting property, including emergency response and public safety vehicles.

Zoning lot means a single or continuous tract of land which may include one or more lots or parcels of record, which is designated by the owner or developer thereof to be used, developed or built upon as a single unit, under single ownership or control.

Zoning ordinance means the village zoning ordinance, as amended as contained in chapter 94 of this Code.

Zoning/ordinance administrator means that person designated to review and approve zoning matters administratively as authorized by ordinance or by the planning commission, and who also has the authority to enforce the provisions of zoning and other ordinances of the village.

(Ord. No. 206, § A, 2-1-90 eff.)

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

Sec. 74-122. Requirements generally.

- (a) It shall be unlawful for any person to sell, divide or partition any lot, outlot or other parcel of land in a recorded plat, or sell, divide or partition any unplatted parcel or tract of land, or zoning lot, for purposes of sale, transfer or assignment, except in accordance with the provisions of this article, unless the division or partition is approved as a part of a subdivision plat at the time of plat approval or is part of a condominium subdivision plan under the laws of the state, or such division or partition is pursuant to an order of a court of competent jurisdiction. A zoning lot shall not be divided except in conformity with the zoning ordinance with respect to area, size, dimension and frontage as required in the district in which the zoning lot is located.
- (b) All divisions of property in the village which are not part of a subdivision plat at the time of plat approval nor part of an approved condominium plan shall be in accordance with the following requirements:
 - (1) The minimum area, setback, frontage, dimensions and other applicable requirements set forth in the zoning ordinance.
 - (2) Lot depths of parcels created as a result of division of land shall not be greater than three times the lot width. The parcel division board may permit lots with proportions that vary from the lot depth standards where:
 - a. Strict application of this requirement would result in practical difficulties or undue hardship to the applicant due to exceptional topographic or physical conditions existing with respect to the parcel to be divided.
 - b. The proposed lot depth proportions are compatible with those of existing lots in the area.
 - c. Such action would reduce existing nonconformance with the standards set forth in this subsection or other zoning requirements.
 - d. Variance from required lot depth standards may only be granted in cases where the result is not a substantial detriment to the public good and does not impair the intent and purpose of the chapter.
 - (3) All other requirements of the ordinances of the village as to access, either by means of an abutting public street, driveway or private road easement.

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- (4) The requirements of the applicable ordinances of the village and the county health department, or other applicable government agency, as to provisions for sewage disposal and water.

(Ord. No. 206, § B(1), (2), 2-1-90 eff.; Ord. No. 206-A, 4-26-90 eff.; Ord. No. 231-213, § 1, 6-18-18)

Sec. 74-123. Application—Contents.

Applications for proposed land divisions shall include the following:

- (1) A plan showing all property lines, dimensions, and easements, along with the legal descriptions of the existing parcel or parcels and the legal descriptions of the parcels proposed to be created. If a private road easement is included, a separate proposed legal description of such private road easement shall be provided. Such plan or drawing shall be in the form and size required by the parcel division board. An application shall not be initially required to have a certified survey submitted.
- (2) When the land being divided has improvements or easements located on some or all of the parcels, all such improvements or easements shall be shown as to their relationship to the new property lines in order to assure compliance with the requirements of the zoning ordinance.
- (3) The addresses, if any, and the tax identification numbers of the existing parcel or parcels.
- (4) A brief statement as to the purpose of the proposed land division, indicating whether or not it is for sale, transfer or assignment, and if for residential or commercial development or construction.
- (5) The status of payment of all real property taxes for the existing parcel or parcels.
- (6) The names and addresses of any persons having an interest in the title of the existing parcel or parcels, and the type of interest held.

(Ord. No. 206, § B(3), 2-1-90 eff.)

Sec. 74-124. Same—Review.

All information submitted for a proposed land division shall be reviewed by the parcel division board. The parcel division board shall consult with the building inspector, the planning consultant, the department of public services and the engineering consultant to receive their recommendations, if necessary. The parcel division board shall receive and review all applications for land divisions as submitted pursuant to this article, and shall act thereon as provided in this article. The board shall grant preliminary approval if the proposed division:

- (1) Meets or exceeds the requirements of this article and of the zoning ordinance as to parcel size and dimensions;
- (2) Is in compliance with the Subdivision Control Act (Act No. 288 of the Public Acts of Michigan of 1967 (MCL 560.101 et seq.), as amended, if applicable; and
- (3) If any private road meets or exceeds the requirement provided in the private road ordinance, as set out in chapter 58, article II, of this Code; however, nothing contained herein shall require the parcel division board to review and approve the engineering, design or construction standards for such private road.

The board may deny or grant preliminary approval for the proposed land division, or it may table action upon the request therefor pending receipt of additional information as specified in this article. Any such action shall be by a simple majority of all members of the parcel division board.

(Ord. No. 206, § B(4), 2-1-90 eff.)

Sec. 74-125. Same—Processing and approval.

- (a) Applications for land division shall be processed by action of the parcel division board to deny, grant preliminary approval or table the request, within 30 calendar days after submittal of the application with all necessary information and payment of the required fees. Preliminary approval of such applications may be granted upon submittal of the information required by this article and may be contingent upon granting of any necessary variances from other applicable ordinances. Preliminary approvals shall be in writing and shall state specifically the items and information required for final approval.

In the event that insufficient information is submitted, the parcel division board shall table the request and the applicant shall be notified to submit any additional information required, and any approval or denial shall occur within 30 days of submittal of such additional information. All approvals, denials and requests for additional information shall be in writing and shall specifically set forth the reasons for approval or denial, or specifically itemize any additional information required to be submitted.

- (b) Final approval of an application for proposed land division under this article shall be upon submittal of the following:
- (1) A complete survey by a registered land surveyor or registered civil engineer, which shall be in recordable form, showing all property lines, directional calls, dimensions, easements and rights-of-way, and a complete legal description of the resulting parcels. If a private road easement is included, a separate and complete legal description shall be provided for such easement and included in the survey. The requirement for such a survey may be waived by the parcel division board if submittal of the survey would provide no reasonable purpose, including but not limited to the proposed division of two or more platted lots having a single tax identification number, and each individual platted lot otherwise meets the requirements of this article.
 - (2) Compliance with all conditions established by the parcel division board at the time of preliminary approval.
 - (3) Proof of payment of all real property taxes which have been levied against the existing parcel or parcels and which have become due.
 - (4) The written consent to the division of the existing parcel or parcels by all parties having an interest in the title thereof.
 - (5) Granting of all necessary variances from other applicable ordinances.
 - (6) A copy of a current, valid PERC permit issued by the county health department if the proposed parcel or parcels will not be served by the municipal sanitary sewer system.
- (c) In all applications for land division under this article, final approval or denial shall be granted within 30 days of submittal of all the items required in this section. Approval or denial shall be in writing, and shall state with specificity the reasons for approval or denial. The zoning administrator shall promptly forward to the local assessor a copy of the notification of any final approval, together with the legal descriptions of the resulting parcels, and a copy of the survey, if required to be submitted. The zoning administrator shall forward to the local assessor a copy of any notification of denial.

(Ord. No. 206, § B(5.6), 2-1-90 eff.; Ord. No. 206-A, 4-26-90 eff.)

Sec. 74-126. Fees, forms and permits.

The following provisions as to fees, forms and permits pursuant to this article shall apply:

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- (1) *Fees.* By resolution, the village council shall establish a schedule of fees for land divisions, which may include professional review fees. Application fees shall be paid in advance at the time of making application, and any additional fees shall be paid prior to final approval of a land division.
 - (2) *Forms.* The written forms for application for land division, preliminary approval and final approval, denial, and requests for additional information shall be in such form as required by the parcel division board. The board may develop such other forms as it may reasonably require for use under this article.
 - (3) *Building permits.* No building permit shall be issued by the village for any property on a parcel or tract of land which has been divided and for which final approval has not been obtained pursuant to this article.

(Ord. No. 206, § C, 2-1-90 eff.)

Sec. 74-127. Appeals.

Any appeal from a decision of the parcel division board shall be to the village council.

(Ord. No. 206, § D, 2-1-90 eff.)

Sec. 74-128. Penalty for violation.

Any person who violates or fails to comply with any provision of this article shall be deemed responsible for committing a municipal civil infraction.

(Ord. No. 206, § E, 2-1-90 eff.)

Chapter 75 TELECOMMUNICATIONS

ARTICLE I. IN GENERAL

Secs. 75-1—75-30. Reserved.

ARTICLE II. PUBLIC RIGHTS-OF-WAY

Sec. 75-31. Purposes of article.

The purposes of this article are to regulate access to and ongoing use of public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety, and welfare and exercising reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002) ("act") and other applicable law, and to ensure that the village qualifies for distributions under the act by modifying the fees charged to providers and complying with the act.

(Ord. No. 231-085, § 1, 3-17-03)

Sec. 75-32. Conflict with other law.

Nothing in this article shall be construed in such a manner as to conflict with the act or other applicable law.

Sec. 75-33. Terms defined.

The terms used in this article shall have the following meanings:

Act means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002), as amended from time to time.

Permit means a nonexclusive permit issued pursuant to the act and this article to a telecommunications provider to use the public rights-of-way in the village for its telecommunications facilities.

Village means the village of Milford.

Village council means the village council of the Village of Milford or its designee. This section does not authorize delegation of any decision or function that is required by law to be made by the village council.

Village manager means the village manager or his or her designee.

All other terms used in this article shall have the same meaning as defined or as provided in the act, including without limitation the following:

Authority means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to section 3 of the act.

MPSC means the Michigan Public Service Commission in the Department of Consumer and Industry Services, and shall have the same meaning as the term "commission" in the act.

Person means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

Public right-of-way means the area on, below, or above a public roadway, highway, street, alley, easement or waterway. Public right-of-way does not include a federal, state, or private right-of-way.

Telecommunication facilities or facilities means the equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunication services or signals. Telecommunication facilities or facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in section 332(d) of part I of title III of the communications act of 1934, chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communication device.

Telecommunications provider, provider and telecommunications services mean those terms as defined in section 102 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2102. Telecommunication provider does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in section 332(d) of part I of the communications act of 1934, chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the act and this article only, a provider also includes all of the following:

- (a) A cable television operator that provides a telecommunications service.
- (b) Except as otherwise provided by the act, a person who owns telecommunication facilities located within a public right-of-way.

(c) A person providing broadband internet transport access service.

(Ord. No. 231-085, § 1, 3-17-03)

Sec. 75-34. Permit to use public rights-of-way—Required.

- (a) *Permit Required.* Except as otherwise provided in the act, a telecommunications provider using or seeking to use public rights-of-way in the village for its telecommunications facilities shall apply for and obtain a permit pursuant to this article.
- (b) *Application.* Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with section 6(1) of the act. A telecommunications provider shall file one copy of the application with the village clerk, one copy with the village manager, and one copy with the village attorney. Upon receipt, the village clerk shall make sufficient copies of the application and distribute a copy to additional recipients as mandated by statute and regulations. Applications shall be complete and include all information required by the act, including without limitation a route map showing the location of the provider's existing and proposed facilities in accordance with section 6(5) of the act.
- (c) *Confidential information.* If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary, or confidential information, which is exempt from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, pursuant to section 6(5) of the act, the telecommunications provider shall prominently so indicate on the face of each map.
- (d) *Application fee.* Except as otherwise provided by the act, the application shall be accompanied by a one-time nonrefundable application fee in the amount of \$500.00.
- (e) *Additional information.* The village manager may request an applicant to submit such additional information which the village manager deems reasonably necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the village manager. If the village and the applicant cannot agree on the requirement of additional information requested by the village, the village or the applicant shall notify the MPSC as provided in section 6(2) of the act.
- (f) *Previously issued permits.* Pursuant to section 5(1) of the act, authorizations or permits previously issued by the village under section 251 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2251 and authorizations or permits issued by the village to telecommunications providers prior to the 1995 enactment of section 251 of the Michigan Telecommunications Act but after 1985 shall satisfy the permit requirements of this article.
- (g) *Existing providers.* Pursuant to section 5(3) of the act, within 180 days from November 1, 2002, the effective date of the act, a telecommunications provider with facilities located in a public right-of-way in the village as of such date, that has not previously obtained authorization or a permit under section 251 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2251, shall submit to the village an application for a permit in accordance with the requirements of this article. Pursuant to section 5(3) of the act, a telecommunications provider submitting an application under this subsection is not required to pay the \$500.00 application fee required under subsection (d) above. A provider under this subsection shall be given up to an additional 180 days to submit the permit application if allowed by the authority, as provided in section 5(4) of the act.

(Ord. No. 231-085, § 1, 3-17-03)

Sec. 75-35. Same—Issuance of permit.

- (a) *Approval or denial.* The authority to approve or deny an application for a permit is hereby delegated to the village manager. Pursuant to section 15(3) of the act, the village manager shall approve or deny an application for a permit within 45 days from the date a telecommunications provider files an application for a permit under section 75-34(b) of this article for access to a public right-of-way within the village. Pursuant to section 6(6) of the act, the village manager shall notify the MPSC when the village manager has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied. The village manager shall not unreasonably deny an application for a permit.
- (b) *Form of permit.* If an application for a permit is approved, the village manager shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with sections 6(1), 6(2) and 15 of the act.
- (c) *Conditions.* Pursuant to section 15(4) of the act, the village manager may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the public right-of-way.
- (d) *Bond requirement.* Pursuant to section 15(3) of the act, and without limitation on subsection (c) above, the village manager may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use.

(Ord. No. 231-085, § 1, 3-17-03)

Sec. 75-36. Construction/engineering permit required.

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 the Codified Ordinances of the Village of Milford, as amended, for construction within the public rights-of-way. No fee shall be charged for such a construction or engineering permit.

(Ord. No. 231-085, § 1, 3-17-03)

Sec. 75-37. Conduit or utility poles.

Pursuant to section 4(3) of the act, obtaining a permit or paying the fees required under the act or under this article does not give a telecommunications provider a right to use conduit or utility poles.

(Ord. No. 231-085, § 1, 3-17-03)

Sec. 75-38. Route maps.

Pursuant to section 6(7) of the act, a telecommunications provider shall, within 90 days after the substantial completion of construction of new telecommunications facilities in the village, submit route maps showing the location of the telecommunications facilities to both the MPSC and to the village. The route maps should be in paper format unless and until the MPSC determines otherwise, in accordance with section 6(8) of the act.

(Ord. No. 231-085, § 1, 3-17-03)

Sec. 75-39. Repair of damage.

Pursuant to section 15(5) of the act, a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in the village, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below, or within the public right-of-way and shall promptly restore the public right-of-way to its pre-existing condition.

(Ord. No. 231-085, § 1, 3-17-03)

Sec. 75-40. Establishment and payment of maintenance fee.

In addition to the nonrefundable application fee paid to the village set forth in subsection 75-34(d) above, a telecommunications provider with telecommunications facilities in the village's public rights-of-way shall pay an annual maintenance fee to the authority pursuant to section 8 of the act.

(Ord. No. 231-085, § 1, 3-17-03)

Sec. 75-41. Modification of existing fees.

In compliance with the requirements of section 13(1) of the act, the village hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the act, relating to access and usage of the public rights-of-way, to an amount not exceeding the amounts of fees and charges required under the act, which shall be paid to the authority. In compliance with the requirements of section 13(4) of the act, the village also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of-way within the village's boundaries, so that those providers pay only those fees required under section 8 of the act. The village shall provide each telecommunications provider affected by the fee with a copy of this article, in compliance with the requirement of section 13(4) of the act. To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the act, or which are otherwise inconsistent with the act, such imposition is hereby declared to be contrary to the village's policy and intent, and upon application by a provider or discovery by the village, shall be promptly refunded as having been charged in error.

(Ord. No. 231-085, § 1, 3-17-03)

Sec. 75-42. Savings clause.

Pursuant to section 13(5) of the act, if section 8 of the act is found to be invalid or unconstitutional, the modification of fees under section 75-41 above shall be void from the date the modification was made.

(Ord. No. 231-085, § 1, 3-17-03)

Sec. 75-43. Use of funds.

Pursuant to section 10(4) of the act, all amounts received by the village from the authority shall be used by the village solely for rights-of-way related purposes. In conformance with that requirement, all funds received by the village from the authority shall be deposited into the major street fund and/or the local street fund maintained by the village under Act No. 51 of the Public Acts of 1951.

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(Ord. No. 231-085, § 1, 3-17-03)

Sec. 75-44. Annual report.

Pursuant to section 10(5) of the act, the village manager shall file an annual report with the authority on the use and disposition of funds annually distributed by the authority.

(Ord. No. 231-085, § 1, 3-17-03)

Sec. 75-45. Cable television operators.

Pursuant to section 13(6) of the act, the village shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of this act, a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services.

(Ord. No. 231-085, § 1, 3-17-03)

Sec. 75-46. Existing rights.

Pursuant to section 4(2) of the act, except as expressly provided herein with respect to fees, this article shall not affect any existing rights that a telecommunications provider or the village may have under a permit issued by the village or under a contract between the village and a telecommunications provider related to the use of the public rights-of-way.

(Ord. No. 231-085, § 1, 3-17-03)

Sec. 75-47. Compliance.

The village hereby declares that its policy and intent in adopting this article is to fully comply with the requirements of the act, and the provisions hereof should be construed in such a manner as to achieve that purpose. The village shall comply in all respects with the requirements of the act, including but not limited to the following:

- (a) Exempting certain route maps from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, as provided in section 75-34(c) of this article;
- (b) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with Sec. 75-34(f) of this article;
- (c) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the \$500 application fee, in accordance with section 75-34(g) of this article;
- (d) Approving or denying an application for a permit within 45 days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the village, in accordance with section 75-35(a) of this article;
- (e) Notifying the MPSC when the village has granted or denied a permit, in accordance with section 75-35(a) of this article;
- (f) Not unreasonably denying an application for a permit, in accordance with section 75-35(a) of this article;

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- (g) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in section 75-35(b) of this article;
 - (h) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider's access and usage of the public right-of-way, in accordance with section 75-35(c) of this article;
 - (i) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider's access and use, in accordance with section 75-35(d) of this article;
 - (j) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with section 75-36 of this article;
 - (k) Providing each telecommunications provider affected by the village's right-of-way fees with a copy of this article, in accordance with section 75-41 of this article;
 - (l) Submitting an annual report to the authority, in accordance with section 75-44 of this article; and
 - (m) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with section 75-45 of this article.

(Ord. No. 231-085, § 1, 3-17-03)

Sec. 75-48. Reservation of police powers.

Pursuant to section 15(2) of the act, this article shall not limit the village's right to review and approve a telecommunication provider's access to and ongoing use of a public right-of-way or limit the village's authority to ensure and protect the health, safety, and welfare of the public.

(Ord. No. 231-085, § 1, 3-17-03)

Sec. 75-49. Severability.

The various parts, sentences, paragraphs, sections, and clauses of this article are hereby declared to be severable. If any part, sentence, paragraph, section, or clause of this article is adjudged unconstitutional or invalid by a court or administrative agency of competent jurisdiction, the unconstitutionality or invalidity shall not affect the constitutionality or validity of any remaining provisions of this article.

(Ord. No. 231-085, § 1, 3-17-03)

Sec. 75-50. Authorized village officials.

The village manager or his or her designee is hereby designated as the authorized village official to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the municipal violations bureau) for violations under this article as provided by the Village Code.

(Ord. No. 231-085, § 1, 3-17-03)

Sec. 75-51. Municipal civil infraction.

A person who violates any provision of this article or the terms or conditions of a permit is responsible for a municipal civil infraction, and shall be subject to municipal civil infraction fines as set forth in the codified

ordinances of the Village of Milford. Nothing in this section 75-51 shall be construed to limit the remedies available to the village in the event of a violation by a person of this article or a permit.

(Ord. No. 231-085, § 1, 3-17-03)

Chapter 78 TRAFFIC AND VEHICLES²⁷

ARTICLE I. IN GENERAL²⁸

Sec. 78-1. Code and amendments and revisions adopted.

The Michigan Vehicle Code, 1949 PA 300, MCL 257.1 to 257.923, and all amendments and revisions to the Michigan Vehicle Code when they are effective in this state are incorporated and adopted by reference.

(Ord. No. 231-098, §§ 1, 2, 2-22-05)

Sec. 78-2. References in code.

References in the Michigan Vehicle Code to "local authorities" shall mean the Village of Milford.

(Ord. No. 231-098, §§ 1, 2, 2-22-05)

Sec. 78-3. Penalties.

The penalties provided by the Michigan Vehicle Code are adopted by reference, provided, however, that the village may not enforce any provision of the Michigan Vehicle Code for which the maximum period of imprisonment is greater than 93 days, except that Pursuant to Public Act No. 7 of 2012, section 625(1)(c) of the Michigan Vehicle Code is hereby adopted by reference and a violation of this provision shall be a misdemeanor punishable by one or more of the following:

- (1) Community service for not more than 360 hours.
- (2) Imprisonment of not more than 180 days.
- (3) A fine of not less than \$200.00 or more than \$700.00.

(Ord. No. 231-098, §§ 1, 2, 2-22-05; Ord. No. 231-155, § 1, 6-4-12)

²⁷Cross reference(s)—Administration, ch. 2; offenses and miscellaneous provisions, ch. 50; streets, sidewalks and other public places, ch. 70; vehicles for hire, ch. 90.

State law reference(s)—Michigan Vehicle Code, MCL 257.1 et seq.; regulation by local authorities, MCL 257.605, 257.606, 257.610.

²⁸Editor's note(s)—Section 1 of Ord. No. 231-098, adopted Feb. 22, 2005, rescinded art. I, which consisted of §§ 78-1—78-4, in its entirety. Section 2 of said ordinance enacted new provisions to read as herein set out. Former art. I pertained to similar subject matter and derived from Ord. No. 231-068, §§ 1—4, adopted June 3, 2002.

Secs. 78-4—78-30. Reserved.

ARTICLE II. UNIFORM TRAFFIC CODE²⁹

Sec. 78-31. Code and amendments and revisions adopted.

The Uniform Traffic Code for Cities, Townships, and Villages as promulgated by the director of the Michigan Department of State Police pursuant to the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328 and made effective October 30, 2002, and all amendments and revisions to the Uniform Traffic Code when they are promulgated and effective in this state are incorporated and adopted by reference.

(Ord. No. 231-099, §§ 1, 2, 2-22-05)

State law reference(s)—Authority to adopt uniform traffic code by reference, MCL 257.951.

Sec. 78-32. References in code.

References in the Uniform Traffic Code for Cities, Townships, and Villages to a "governmental unit" shall mean the Village of Milford.

(Ord. No. 231-099, §§ 1, 2, 2-22-05)

Sec. 78-33. Penalties.

The penalties provided by the Uniform Traffic Code for Cities, Townships, and Villages are adopted by reference.

(Ord. No. 231-099, §§ 1, 2, 2-22-05)

State law reference(s)—Similar provisions, MCL 257.682.

Secs. 78-34—78-60. Reserved.

ARTICLE III. VIOLATIONS BUREAUS

DIVISION 1. GENERALLY

Secs. 78-61—78-75. Reserved.

²⁹Editor's note(s)—Section 1 of Ord. No. 231-099, adopted Feb. 22, 2005, deleted in its entirety art. II, which consisted of §§ 78-31—78-33. Section 2 of said ordinance enacted new provisions to read as herein set out. Former art. II pertained to similar subject matter and derived from Ord. No. 187, effective Aug. 19, 1981; Ord. No. 231-006, adopted Oct. 6, 1997; Ord. Nos. 033—035, adopted Oct. 18, 1999.

DIVISION 2. TRAFFIC

Sec. 78-76. Bureau established.

There is hereby established a traffic violations bureau of the village. The object of such bureau shall be to relieve the congestion of the court and to save the time of both the violator and the police officer making the complaint.

(Ord. No. 142, § 1, 12-23-68 eff.)

Sec. 78-77. Traffic violation notice.

Each violator shall be presented by the complaining officer with a traffic violations notice, giving the time and date of violation, nature of violation, name of officer, car make and license number, or a violation notice may be placed on a conspicuous spot on the vehicle. Each notice shall require the violator to appear in the district court within ten days from the date of the violation. Provided however, that in those cases where the violation is settled in person by the violator or his representative, or by mail, in the traffic violations bureau, in accordance with this division, no such appearance in court shall be necessary.

(Ord. No. 142, § 2, 12-23-68 eff.)

Sec. 78-78. Settling violation.

Any person who has received a traffic violation notice for a violation of an ordinance of the village which may be settled in the traffic violations bureau may, within the time for appearance in court set forth in such notice, settle such violation in the violations bureau, either in person or by a representative or by mail, by paying the prescribed fine and by signing and dating the following appearance by representation, waiver and plea form:

APPEARANCE BY REPRESENTATION, WAIVER, PLEA

The undersigned hereby authorizes the Clerk or such other person as is designated by the Judge of the District Court to APPEAR on his behalf at the hearing on the complaint issued in the above entitled cause; WAIVES issuance of and arraignment on warrant, trial by jury, right to retain counsel, to challenge accusers, to present or decline to give evidence, in his favor; PLEADS GUILTY: requests the entry of such plea in the files and records of this Court; and herewith pays the prescribed fine and costs for the offense charged.

	Signature
	Date

Acceptance of the prescribed fine by the traffic violations bureau shall be deemed complete satisfaction for the violation and the violator shall be given a receipt which so states.

(Ord. No. 142, § 3, 12-23-68 eff.)

Sec. 78-79. Fine schedule.

The following violations may be satisfied at the traffic violations bureau upon payment of the fine respectively ascribed to each (such fine may be changed by resolution of the village council from time to time), and in compliance with all other applicable provisions of this division:

Blocking:

Alley, crosswalk or driveway\$ 5.00

Traffic5.00

Driving:

Against traffic, on one-way street10.00

Against traffic, left center of street10.00

Backing around corner, without assistance10.00

Backing more than 60 feet5.00

Cutting in and out of traffic10.00

Driving over fire hose10.00

Exceeding one-half the legal rate of speed on turns5.00

Failure to give right-of-way to fire or police15.00

Failure to observe drive to right signs5.00

Failure to signal on turns or on leaving curb5.00

Failure to stop at stop street or on leaving alley5.00

Four in front seat3.00

Improper signal5.00

Lap driving or one-arm driving5.00

Right of traffic5.00

Sidewalk, on or over5.00

Slow cars not driving to the right5.00

Starting on amber light5.00

Straddling line marked as edge of traffic lane5.00

Through funeral procession15.00

Through private property5.00

Through red signal light7.00

Towing more than one disabled car5.00

Turn against red or amber light5.00

Turn, prohibited or improper U-turns5.00

Equipment:

Defective equipment, each item listed5.00
Chains, none or improper, truck or trailer3.00
Improper horn2.00
No red flag or light on projection5.00
Improper noisemaking equipment, first offense only5.00
No mirror on commercial car2.00
No white flag on tow line2.00
Police whistle15.00
All light violations5.00
Licenses:
Allowing an unlicensed driver to drive car10.00
No license plates on trailer5.00
Plates dirty or obscured2.00
Operator's or chauffeur's license expired less than 60 days5.00
Plates improper or expired5.00
Student driver unaccompanied by licensed driver5.00
Parking:
All violations, except where car is impounded and metered violations2.00
Where car is impounded5.00
Metered violations within 48 hours1.00
Metered violations over 48 hours2.00
Speeding:
Minimum10.00
Per mile for second ten miles over limit2.00
Per mile for third ten miles over limit3.00
(Over 30 miles over limit requires court appearance.)
Miscellaneous:
Abandoned car parked on street over 48 hours5.00
Coasting3.00
Driving on play streets25.00
Entering intersection when traffic is blocked5.00
Excessive noise, muffler, whistle, horn or exhaust, first offense only5.00
Excessive smoke2.00
Failure to move disabled car5.00

Failure to identify self when striking an unattended vehicle25.00
No registration on person or vehicle2.00
Bicycle violations2.00
Horseback riding on sidewalk5.00
Garagekeeper's report of accident5.00
Interfering with traffic signs15.00
Illegal carrying of passengers10.00
Illegally following fire apparatus10.00
Illegal towing5.00
More than two trailers5.00
Motor running unattended2.00
Moving another vehicle to an illegal position5.00
Obscured vision3.00
Passing at an intersection5.00
Improper overtaking and passing5.00
Passing on marked curve10.00
Parked cars for sale on streets of city property5.00
Riding on outside of car5.00
Vehicle not within required dimensions3.00
Washing, greasing, or repairing on street2.00
(Ord. No. 142, § 4, 12-23-68 eff.)

Sec. 78-80. Court appearance.

No violations other than those listed in section 78-79 may be settled in the traffic violations bureau, and in all other cases the violator shall be required to appear in court. In those cases in which violations may be settled in the violations bureau, such settlement is purely voluntary, and any violator shall have the right to full and impartial trial, if he so chooses, regardless of the nature of the violation.

(Ord. No. 142, § 5, 12-23-68 eff.)

Sec. 78-81. Failure to settle violation; arrest warrant.

If any violator fails to settle a violation in the traffic violations bureau, in those cases where such settlement is permissible, or if such violator fails to appear in court on or before the court appearance date, the complaining officer may make a complaint to the district judge, who may thereupon issue a warrant for the arrest of the violator, and the same proceedings in the matter shall then be taken as are provided in the general laws of the state.

(Ord. No. 142, § 6, 12-23-68 eff.)

Secs. 78-82—78-100. Reserved.

DIVISION 3. PARKING VIOLATIONS

Sec. 78-101. Bureau established.

There is hereby established a parking violations bureau for the village. Such bureau is established pursuant to the authorization of Act No. 154 of the Public Acts of Michigan of 1968 (MCL 600.8395), as amended.

(Ord. No. 150-C, § 2, 12-12-79 eff.)

Sec. 78-102. Parking violation notice.

Each alleged violator of a parking violation in the village shall be presented by the complaining officer with a parking violation notice giving the time and date of the alleged violation, the nature of such violation, the name of the officer, the make of the automobile in question and its license number. In place of a personal presentation of a violation notice, such notice may be placed in a conspicuous spot on the vehicle in question. Each such notice shall require the alleged violator, within ten days of the date of the alleged violation, to settle such violation in person or through a representative or through the United States mail, with the violations bureau for the village, in accordance with this division.

(Ord. No. 150-C, § 3, 12-12-79 eff.)

Sec. 78-103. Settling violation.

Any person who has received a parking violation notice for an alleged violation of a parking ordinance of the village may, within the time set forth on the notice, settle such violation with the violations bureau, either in person or through a representative or by means of the United States mail, by paying the prescribed civil fines, and by signing and dating the following civil infraction admission:

CIVIL INFRACTION ADMISSION

The undersigned hereby admits responsibility to a civil parking infraction in the above entitled cause and waives any and all right to contest the civil complaint and hereby pays the prescribed civil fine for the infraction alleged.

	Signature
	Date

Acceptance of the prescribed civil fine by the violations bureau for the village shall be deemed complete satisfaction for the infraction.

(Ord. No. 150-C, § 4, 12-12-79 eff.)

Sec. 78-104. Schedule of civil fines.

The following civil fines are ascribed to parking infractions within the village:

Expired meter:

Within ten days\$5.00

After ten days20.00

Parked over two hours:

Within ten days10.00

After ten days20.00

The following fines will be reduced by 50 percent if paid on or before ten days of the issuance of the citation:

No parking\$40.00

No parking, winter weather, 3:00 to 6:00 a.m40.00

Parked 12 inches or more from curb40.00

Parked facing traffic40.00

Double parked40.00

Parked 20 feet or less from crosswalk40.00

Improperly parked at meter40.00

Parked in intersection40.00

Parked 15 feet or less from hydrant40.00

Parked on bridge60.00

Obstructing traffic60.00

Blocking drive60.00

Blocking crosswalk60.00

Parked on sidewalk60.00

Parked in fire lane60.00

Parked over 48 hours60.00

Parked on private property40.00

Handicapped violation100.00

Electric charging station violation40.00

These fines may be amended by resolution of the village council from time to time.

(Ord. No. 150-C, § 5, 12-12-79 eff.; Ord. No. 150-D, 9-28-88 eff.; Ord. No. 150-E, 6-7-90 eff.; Ord. No. 231-185, § 1, 10-6-14)

Sec. 78-105. Supervision of bureau.

The parking violations bureau shall be under the direction and supervision of the chief of police of the village.

(Ord. No. 150-C, § 6, 12-12-79 eff.; Ord. No. 150-D, 9-28-88 eff.)

Sec. 78-106. Impounding vehicles.

A vehicle parked in the streets or municipal parking lots within the village which has accumulated five or more unpaid parking infractions is hereby declared to be a nuisance, which may be abated by any police officer by impounding such vehicle and conveying it to the vehicle pound.

(Ord. No. 150-C, § 7, 12-12-79 eff.; Ord. No. 150-D, 9-28-88 eff.)

Secs. 78-107—78-125. Reserved.

ARTICLE IV. STOPPING, STANDING AND PARKING

DIVISION 1. GENERALLY

Secs. 78-126—78-140. Reserved.

DIVISION 2. MUNICIPAL PARKING LOT

Sec. 78-141. Time limit.

It shall be unlawful for any person to park a motor vehicle on any municipal parking lot for more than 24 consecutive hours.

Sec. 78-142. Ticketing, impounding vehicles.

A vehicle parked in excess of the period specified in section 78-141, or occupying any portion of a municipal parking lot, is hereby declared to be a nuisance which may be abated by any police officer by impounding such vehicle, either by placing a ticket thereon which shall plainly indicate the nature of the violation, or by removing and conveying such vehicle to the vehicle pound.

Sec. 78-143. Electric vehicle charging.

It shall be unlawful for any person to park or stand a non-electric vehicle in any municipal parking space that has been designated as a public electric vehicle charging station. Further, it shall be unlawful for any person to park or stand an electric vehicle in a municipal parking space that has been designated as a public electric vehicle charging station when not electrically charging or parked beyond the days and hours designated on the regulatory signs posted. For purposes of this section, "charging" means an electric vehicle is parked at an electric vehicle charging station and is connected to the charging station equipment.

(Ord. No. 231-184, § 1, 10-6-14)

Sec. 78-144. Penalties for violation.

A vehicle parked in violation of the provisions specified in section 78-143 is hereby declared to be a nuisance which may be abated by any police officer by impounding such vehicle, either by placing a ticket thereon which

shall plainly indicate the nature of the violation, or by removing and conveying such vehicle to the vehicle pound. Tickets for parking violations shall be issued in accordance with division 3 of this article, and shall be subject to the civil fines set forth therein.

(Ord. No. 231-184, § 1, 10-6-14)

Secs. 78-145—78-160. Reserved.

DIVISION 3. HANDICAPPER PARKING

Sec. 78-161. Definitions.

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

Handicap only zone means a clearly identified parking space or spaces designated as such by means of an official sign stating that its use is reserved for use by handicappers.

Handicapper means a person who, for the purposes of this division, has a physical characteristic categorized as a handicap, which limits ambulation or necessitates the use of a wheelchair for mobility.

(Ord. No. 173, § 2, 10-24-77 eff.)

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

Sec. 78-162. Display of certificate of identification.

It shall be unlawful for any vehicle to be parked in a handicap only zone unless such vehicle displays a certificate of identification issued to such vehicle by the secretary of state designating such vehicle as being owned or operated by a handicapped person.

(Ord. No. 173, § 3, 10-24-77 eff.)

Sec. 78-163. Enforcement on private property.

For this division to be enforced on private property within the village, it shall be necessary for the owner of the property, or agent of such owner, to authorize in writing the chief of police to enforce this division on such private property. In any prosecution under this division, production of such letter of authorization, or a true copy thereof, may be presented as satisfactory evidence of the private property owner's authorization for enforcement of this division.

(Ord. No. 173, § 4, 10-24-77 eff.)

Sec. 78-164. Ownership of vehicle in violation of division.

In any proceeding for a violation of this division, proof that the vehicle described in the complaint was parked in violation of this division, together with proof that the defendant named in the complaint was at the time of such parking the registered owner of such vehicle, shall constitute in evidence a presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred.

(Ord. No. 173, § 5, 10-24-77 eff.)

Sec. 78-165. Penalty for violation of division.

Any person violating any provisions of this division shall, upon conviction thereof, be subject to a penalty as prescribed in section 1-12 of this Code.

(Ord. No. 173, § 6, 10-24-77 eff.)

Secs. 78-166—78-180. Reserved.

ARTICLE V. MOTOR CARRIER SAFETY³⁰

Sec. 78-181. Adopted.

The Motor Carrier Safety Act, Act No. 181 of the Public Acts of Michigan of 1963 (MCL 480.11 et seq.), as amended, is adopted by reference. A copy of such Act shall be on file in the village offices.

Secs. 78-182—78-205. Reserved.

ARTICLE VI. OFF-ROAD VEHICLES

DIVISION 1. GENERALLY

Sec. 78-206. Definitions.

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

ATV means an all-terrain vehicle.

Operate means to ride in or on and be in actual physical control of the operation of a snowmobile or ATV.

Operator means any person who operates or is in actual physical control of a snowmobile or ATV.

Owner means any of the following:

- (1) A person who holds the legal title to a snowmobile.
- (2) A vendee or lessee of a snowmobile which is subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in an agreement and with an immediate right of possession vested in the conditional vendee or lessee.
- (3) A person renting a snowmobile for more than 30 days.

³⁰State law reference(s)—Motor Carrier Safety Act of 1963, MCL 480.11 et seq.

Person means any individual, partnership, corporation, the state and any of its agencies or subdivisions, and any body of persons whether incorporated or not.

Snowmobile means any motor-driven vehicle, designed for travel primarily on snow or ice, of a type which utilizes sled type runners, skis, or an endless belt tread or any combination of these or other similar means of contact with the ground surface.

(Ord. No. 153, § 2, 2-28-72 eff.)

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

Sec. 78-207. Registration not required for special events.

Registration is not required for a snowmobile which is exclusively operated in a special event of limited duration which is conducted according to a prearranged schedule under a permit from the governmental unit having jurisdiction.

(Ord. No. 153, § 3a, 2-28-72 eff.)

Sec. 78-208. Certificate of registration; identification number.

- (a) The owner of any snowmobile having been issued a certificate of registration for the snowmobile shall paint on or attach in a permanent manner to each side of the forward half of the snowmobile the identification number 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 under this division, or granted reciprocity under this division, shall be attached or otherwise displayed on the snowmobile.
- (b) There may be issued, not more than 90 days prior to the expiration date of a certificate of registration, a registration decal or other device indicating that the certificate of registration is in full force and effect. Display of the decal or other device shall be as prescribed by rule adopted by the department of natural resources.

(Ord. No. 153, § 4, 2-28-72 eff.)

Sec. 78-209. Dealers renting or leasing snowmobiles.

- (a) *Maintenance; leasing requirements.* A dealer shall maintain in safe operating condition all snowmobiles rented, leased or furnished by him. The dealer, his agents or employees shall explain the operation of the snowmobile being rented, leased, or furnished, and if such dealer, his agent or employee believes the person to whom the snowmobile is to be rented, leased, or furnished is not competent to operate such snowmobile with competency to himself and to the safety of others he shall refuse to rent, lease or furnish such snowmobile.
- (b) *Liability insurance.* Any dealer renting, leasing or furnishing any snowmobile shall carry a policy of liability insurance subject to limits, exclusive of interests and costs with respect to such snowmobiles, as follows: \$100,000.00 because of bodily injury or death of one person in any one accident and subject to such limit for one person, \$300,000.00 because of bodily injury to or death of two or more persons in any one accident, and \$250,000.00 because of injury to or destruction of property of others in any one accident; or in the alternative, such dealer shall demand and be shown proof that the persons renting, leasing, or being furnished a snowmobile carry liability policy of at least the type and coverage as specified in this subsection.

(Ord. No. 153, § 5, 2-28-72 eff.)

Sec. 78-210. Operation on streets, highways, parking lots.

A person shall not operate a snowmobile or ATV upon a public highway, land used as an airport or street, or on a public or private parking lot not specifically designed for the use of snowmobiles and ATVs, except under the following conditions and circumstances:

- (1) When it is impracticable to gain immediate access to an area adjacent and parallel to the roadway for the sole purpose of gaining access to and from the area of operation by the most direct route. Loading or unloading of the snowmobile or ATV shall be accomplished with due regard to safety at the nearest possible point to the area of operation.
- (2) A snowmobile may be operated across a public highway, other than a limited access highway, at the right angles to the highway for the purpose of getting from one area to another when the operation can be done in safety and another vehicle is not crossing the highway at the same time in the general area. The operator shall bring his snowmobile to a complete stop before proceeding across any public highway and shall yield the right-of-way to all oncoming traffic.
- (3) A village police officer may authorize use of a snowmobile or ATV on a public highway or street within his jurisdiction when an emergency occurs and conventional motor vehicles cannot be used for transportation due to snow or other extreme highway conditions.
- (4) A snowmobile or ATV may be operated on a street or highway for a special event of limited duration conducted according to a prearranged schedule only under permit from the village. The event may be conducted on the frozen surface of public waters only under permit from the department of natural resources.

(Ord. No. 153, § 6, 2-28-72 eff.)

Sec. 78-211. Operation by minors.

- (a) A parent or legal guardian shall not permit his child who is under 12 years of age to operate a snowmobile or ATV without the direct supervision of an adult except on land owned or under the control of the parent or legal guardian.
- (b) A person who is at least 12 years of age but less than 16 years of age may operate a snowmobile if:
 - (1) He is under the direct supervision of a person who is 18 years of age or older;
 - (2) He has in his immediate possession a snowmobile safety certificate; or
 - (3) He is on land owned or under the control of his parent or legal guardian.

A person who operates a snowmobile pursuant to section 78-210(4) shall present the snowmobile safety certificate to any peace officer on demand.

- (c) Notwithstanding the provisions of section 78-210, an operator who is under 12 years of age shall not cross a highway or street. An operator who is at least 12 years of age but less than 16 years of age may cross a highway or street only if he has a valid snowmobile safety certificate in his immediate possession.
- (d) The owner of a snowmobile or ATV shall not permit his snowmobile to be operated contrary to this section.

(Ord. No. 153, § 6a, 2-28-72 eff.)

Sec. 78-212. Hunting prohibited.

A snowmobile or ATV shall not be used to hunt, pursue, worry or kill a wild bird or animal.

(Ord. No. 153, § 6b, 2-28-72 eff.)

Sec. 78-213. Headlight; taillight; brakes.

A snowmobile or ATV shall not be operated unless it has at least one headlight, one taillight and adequate brakes capable of one of the following while the machine travels on packed snow and carries an operator who weighs 175 pounds or more:

- (1) Stopping the machine in not more than 40 feet from the initial steady speed of 20 miles per hour; or
- (2) Locking the machine's traction belt or belts or wheels.

(Ord. No. 153, § 7, 2-28-72 eff.)

Sec. 78-214. Prohibited operation.

A snowmobile or ATV shall not be operated:

- (1) At a rate of speed greater than is reasonable and proper having due regard for conditions then existing.
- (2) While the operator is 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 without displaying a lighted headlight and a lighted taillight.
- (4) In any forest nursery, planting area, or public lands posted or reasonably identifiable as an area of forest reproduction when growing stock may be damaged or as a natural dedicated area which is in zone 2 or zone 3.
- (5) On the frozen surface of public waters within 100 feet of any person, including but not limited to a skater, not in or upon a snowmobile or ATV, or within 100 feet of a fishing shanty or shelter except at the minimum speed required to maintain forward movement of the snowmobile or ATV, or on an area which has been cleared for skating purposes unless the area is necessary for access to the public waters.
- (6) Unless it is equipped with a muffler in good working order and in constant operation from which noise emission at 50 feet at right angles from vehicle path under full throttle does not exceed 86 dBA (decibels on the "A" scale) on a sound meter having characteristics defined by American Standards Association SL, 4-1966, general purpose sound meter. All snowmobiles manufactured after February 1, 1972, and sold or offered for sale in this state, shall not exceed 82 dBA of the 1970 Society of Automotive Engineers Code J-192.
- (7) Within 100 feet of a dwelling between 12:00 midnight and 6:00 a.m. at a speed greater than the minimum required to maintain forward movement of the snowmobile or ATV.
- (8) In or upon, or remain unlawfully on, premises which are fenced, otherwise enclosed in a manner to exclude intruders, posted in a conspicuous manner or when notice against trespass is personally communicated to the operator by the owner or an authorized person. A person shall not operate a snowmobile or ATV in or upon farmlands, farm woodlots or platted property without permission of the landowner.

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- (9) On or across a cemetery or burial ground.
 - (10) Within 100 feet of a slide, ski or skating area. A snowmobile or ATV may enter such an area for the purpose of servicing the area for medical emergencies.
 - (11) In any areas except the frozen waters within the village limits between the hours of 11:00 p.m. and 7:00 a.m., Sunday through Thursday, and 1:00 a.m. through 7:00 a.m., Friday and Saturday.

(Ord. No. 153, § 8, 2-28-72 eff.)

Sec. 78-215. Violations, appearance tickets; proof of ownership.

- (a) A peace officer or police officer may issue appearance tickets for violations of this division pursuant to sections 9a to 9e of chapter 4 of Act No. 175 of the Public Acts of Michigan of 1927 (MCL 764.9a et seq.), as amended.
- (b) In a proceeding for a violation of this division involving prohibited operation or conduct, the registration number displayed on a snowmobile constitutes prima facie evidence that the owner of the snowmobile was the person operating the snowmobile or ATV at the time of offense.

(Ord. No. 153, § 8a, 2-28-72 eff.)

Secs. 78-216—78-230. Reserved.

DIVISION 2. OPERATION ON PRIVATE LANDS

Sec. 78-231. Definitions.

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

ORV or vehicle means a motor-driven off-road recreational vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marshes, swampland, or other natural terrain. Such term includes, but is not limited to, a multitrack or multiwheel drive or low pressure tire vehicle, a motorcycle or related two-wheel or three-wheel vehicle, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation deriving motive power from a source other than muscle or wind. Such term does not include a registered snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a construction or logging vehicle used in performance of its common function, or a registered aircraft.

Snowmobile means any motorized conveyance designed for and primarily capable of operating immediately over snow, slush and/or ice covering natural terrain.

Trenched means alteration of the natural configuration of land by digging, ditching or moving topsoil in such a manner that entry onto such land is either prevented or made more difficult than in the land's natural condition.

(Ord. No. 181, § 2, 5-29-79)

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

Sec. 78-232. Consent of owner, when required.

It shall be unlawful at any time for any person to enter into or remain upon the lands of another within the village for the purpose of operating an off-road vehicle, snowmobile or other motorized vehicle without the written consent of the owner of the lands, his lessee and/or agent under either of the following conditions:

- (1) The lands are fenced, trenched or enclosed and maintained in a manner to exclude intruders; or
- (2) The lands are posted in a conspicuous manner against entry. The minimum letter height on the posting signs shall be two inches and the signs shall be so spaced as will enable a person to observe at least one sign at any point of entry upon the lands.

(Ord. No. 181, § 3, 5-29-79)

Sec. 78-233. Posting or enclosing land without authority.

A person shall not, without due authority for posting, trenching or enclosing lands from the owner, his lessee or agent, erect posters, trench or enclose lands; however, for purposes of prosecution under this division, the fact of such posting, trenching or enclosing such lands shall constitute prima facie evidence of the owner's intent to so post, trench or enclose such lands and thereby exclude intruders.

(Ord. No. 181, § 4, 5-29-79)

Sec. 78-234. Evidence of unlawful entry and trespass.

In a proceeding for a violation of this division, the presence of a person on the enclosed, trenched, fenced or posted premises of another without the written consent of the owner of such lands, his lessee and/or agent shall constitute prima facie evidence of unlawful entry and trespass.

(Ord. No. 181, § 5, 5-29-79)

Sec. 78-235. Authority of peace officer to enforce.

Any duly sworn peace officer is authorized to enter onto private lands and enforce this division when written authority to do so is filed by the owner of the land, his lessee and/or agent with the village clerk. In a proceeding for a violation of this division, production at trial of such written permission shall constitute prima facie evidence of authority of a peace officer to enforce this division on such private land.

(Ord. No. 181, § 6, 5-29-79)

Sec. 78-236. Penalty for violation of division.

Any person violating any provisions of this division shall, upon conviction thereof, be deemed responsible for committing a municipal civil infraction.

(Ord. No. 181, § 7, 5-29-79)

Secs. 78-237—78-299. Reserved.

ARTICLE VII. GOLF CARTS

Sec. 78-300. Purpose.

These regulations are intended to secure the public peace, health and safety of the residents and property owners of the Village of Milford for the regulation of the use of golf carts on public roads within the corporate limits of the village, to provide for the issuance of decals in connection with the registration of golf carts, and to provide penalties for the violation of these provisions.

(Ord. No. 231-205, § 1, 2-21-17)

Sec. 78-301. Definitions.

Decal means the sticker displayed on the front of every registered golf cart within the village, which are obtained by completing and submitting the proper registration form to the Milford Police Department.

Driver license means an operator's or chauffeur's license or permit issued to an individual by the Secretary of State under Chapter III of the Michigan Vehicle Code, 1949 PA 300, MCL 257.301 to MCL 257.329, as amended, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.

Golf cart means a vehicle designed for transportation while playing the game of golf.

Maintained portion means that portion of a road improved, designated or ordinarily used for vehicular traffic.

Operate means to ride in or on, or be in actual physical control of the operation of the golf cart.

Operator means a person who operates or is in actual physical control of the operation of a golf cart.

Registration means the process through which every person intending to operate a motorized golf cart on roads or streets within the village must follow.

Street means a road, roadway, street or right-of-way within the Village of Milford street system, but does not include a private road. The terms road, roadway, street and right-of-way are interchangeable.

Sunset and *sunrise* mean that time determined by the National Weather Service on any given day.

Village means the Village of Milford, County of Oakland, State of Michigan.

(Ord. No. 231-205, § 1, 2-21-17)

Sec. 78-302. Operation of golf carts on village streets.

A person may operate a golf cart on village streets, subject to the following restrictions:

- (1) A person shall not operate a golf cart on any street unless he or she is at least 16 years old and is licensed to operate a motor vehicle.
- (2) The operator of a golf cart shall comply with the signal requirements of MCL 257.648, as amended, that apply to the operation of a vehicle.
- (3) All golf carts are required to have a red reflector on the rear of the golf cart that shall be visible from all distances up to 500 feet when in front of lawful low beams of headlamps on a motor vehicle.
- (4) The operator of a golf cart shall obey by all sections pertaining to traffic in the Michigan Vehicle Code and the Uniform Traffic Code.

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- (5) A person operating a golf cart 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.
 - (6) A person shall not operate a golf cart on a state trunk line highway. This subsection does not prohibit a person from crossing a state trunk line highway when operating a golf cart on a street of the village, using the most direct line of crossing.
 - (7) Where a usable and designated path for golf carts is provided adjacent to a road or street, a person operating a golf cart shall be required to use that path. A golf cart shall not be operated on a sidewalk constructed for the use of pedestrians.
 - (8) A person operating a golf cart shall not 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 an unoccupied lane, in the case of a one-way street.
 - (9) A golf cart shall be operated at a speed not to exceed 15 miles per hour and shall not be operated on a roadway or street with a speed limit of more than 30 miles per hour except to cross that roadway or street. The village may designate roads or classifications of roads for use by golf carts.
 - (10) A golf cart shall not be operated on the streets of the village during the time period from one-half hour before sunset to one-half hour after sunrise.
 - (11) A person operating a golf cart or who is a passenger in a golf cart is not required to wear a crash helmet.
 - (12) A golf cart shall not be used to carry more persons at one time than the number for which it is designed and equipped.
 - (13) A golf cart operated on a street of the village is not required to be registered under this Act for purposes of Section 3101 of the Insurance Code of 1956, 1956 PA 218, MCL 500.3101, as amended.
 - (14) A golf cart shall not be operated during inclement weather or with snow and/or ice on the ground.
 - (15) Golf carts shall not be operated on a road or street in a negligent manner, endangering any person or property, or obstructing, hindering, or impeding the lawful course of travel of any motor vehicle or the lawful use by any pedestrian of public streets, sidewalks, paths, trails, walkways or parks.
 - (16) Off-road vehicles, such as Gators, all-terrain vehicles (ATVs), a multitrack or multi-wheel drive vehicle, dune buggy, or like-vehicles are not considered golf carts.
 - (17) This section does not apply to a police officer, village officials, employees, contractors or volunteers in the performance of village duties.

(Ord. No. 231-205, § 1, 2-21-17)

Sec. 78-303. Parking regulations.

The parking, stopping, and standing regulations provided in the village Code, which may be adopted by reference therein, shall also apply to golf carts operated in the village, as if they are motor vehicles under those provisions.

(Ord. No. 231-205, § 1, 2-21-17)

Sec. 78-304. Registration and decals.

- (a) Golf cart owners shall register each golf cart on an annual basis by making application to the Milford Police Department. Such application shall include proof of insurance as a rider to a homeowner's or renter's policy, or in any other form of policy selected by the applicant, for coverage of personal injury or property damage resulting from operation of the subject golf cart. The minimum amount of coverage shall be no less than \$300,000.00, and the Village of Milford shall be named as an additional insured. The police department shall review and approve or deny each application, and provide a list of registered golf carts to the village manager.
- (b) There shall be no charge for the registration of a golf cart, and each approved golf cart shall be issued a registration decal. The golf cart owner shall affix each decal provided by the Milford Police on the front of the golf cart. The decal shall be valid for one year.
- (c) Failure to register a golf cart or renew an existing registration shall constitute a violation of this article.
- (d) The Milford Police Department retains the right to refuse to issue and/or revoke any registration decal from any golf cart for any reason that is felt appropriate to ensure the safety and well-being of the citizens of village.
- (e) Any police officer may temporarily suspend any registration decal, and ban further access on any public street or public property by any golf cart, when in the opinion of that officer the golf cart is being used in a manner to cause damage to public property or members of the public.

(Ord. No. 231-205, § 1, 2-21-17)

Sec. 78-305. Violations and penalties.

- (a) Any person violating any provisions of this article shall be responsible for a civil infraction. The penalty for the first offense shall be \$50.00, and \$100.00 for the first repeat offense. For any second or subsequent repeat offense, the fine shall be no more than \$250.00.
- (b) A court may order a person who causes damage to the environment, a road, or other public property as a result of the operation of a golf cart to pay full restitution for that damage above and beyond the penalties paid for civil infractions.

(Ord. No. 231-205, § 1, 2-21-17)

Secs. 78-306—78-330. Reserved.

Chapter 82 UTILITIES³¹

ARTICLE I. IN GENERAL

³¹Cross reference(s)—Administration, ch. 2; buildings and building regulations, ch. 18; community development, ch. 30; engineering design and construction standards, ch. 38; streets, sidewalks and other public places, ch. 70; subdivisions and land division, ch. 74; zoning, ch. 94.

Secs. 82-1—82-30. Reserved.

ARTICLE II. WATER

DIVISION 1. GENERALLY

Sec. 82-31. Prohibition on use of groundwater.

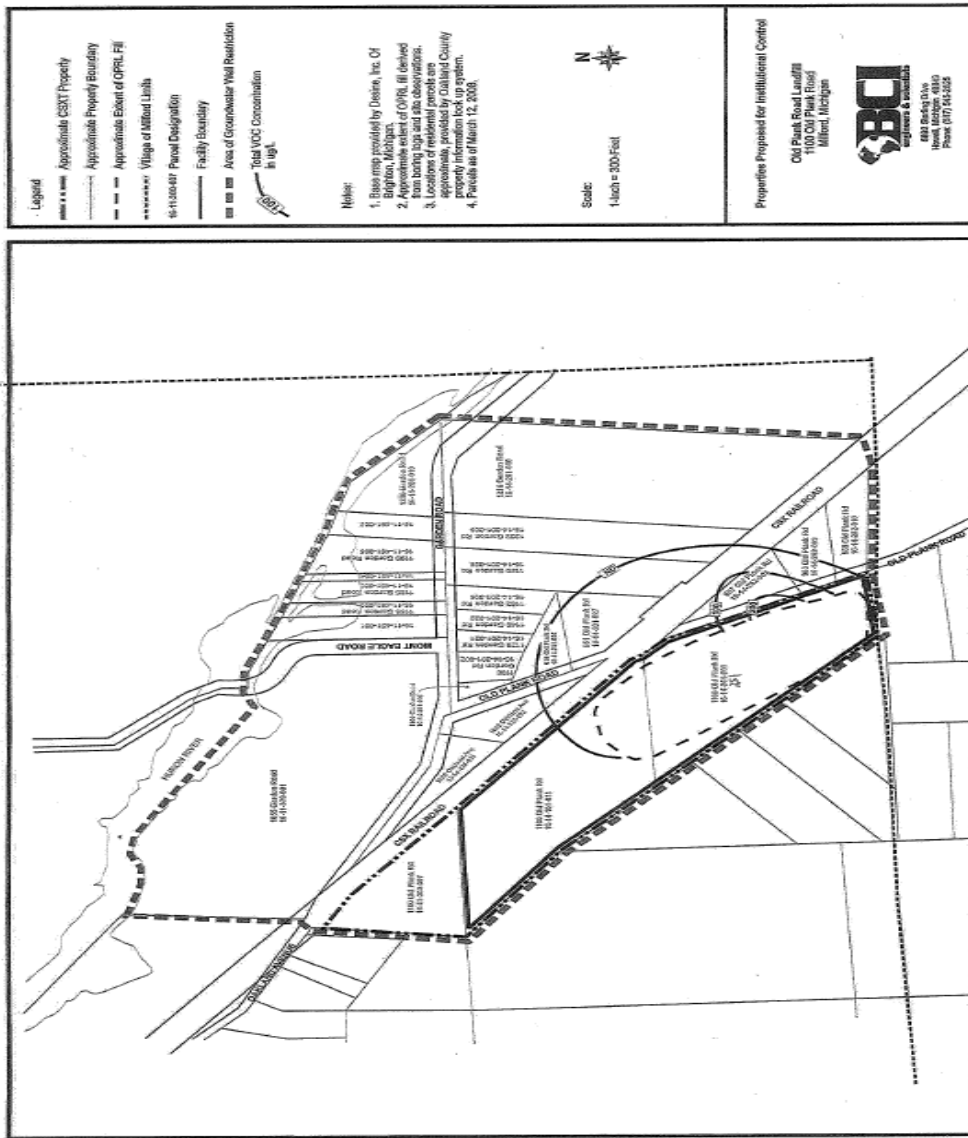
- (a) *Purpose.* The village council finds that the use of wells for water for human consumption and the use of wells that may influence the movement of contaminated groundwater constitute a potential public health risk. This section is intended to protect the public health, safety and welfare. This section is intended to address, in part, the presence of contaminated groundwater within an impacted area of the village. This section requires all water users within the impacted areas, as depicted in exhibit "A", to use the municipal city water service as their sole source of water, requires the Village of Milford to notify the Michigan Department of Environmental Quality ("MDEQ") at least 30 days prior to amending and/or repealing this section, requires the Village of Milford to file this section with the Oakland County Register of Deeds, and provides enforcement mechanisms for violations of this section.
- (b) *Definitions.* For purposes of this section, the following definitions shall apply:
- (1) *Contaminated groundwater* means groundwater having concentrations of chemical compounds that exceed the residential drinking water criteria established by the MDEQ by rule or operational memoranda pursuant to part 201 of Michigan's Natural Resources and Environmental Protection Act, 1994 P.A. 451, as amended.
 - (2) *WB* means the water bureau of the MDEQ, or its successor agency.
 - (3) *Groundwater* means underground water within the zone of saturation.
 - (4) *MDEQ* means the Michigan Department of Environmental Quality, or its successor agency.
 - (5) *Well* means an opening in the surface of the earth for the purpose of removing water through nonmechanical or mechanical means for any purpose.
 - (6) A reference to any village official shall be deemed a reference to the individual duly appointed to such position and that individual's designee.
- (c) *Prohibition.* Except as provided in subsection (d), no person shall install or utilize, or allow, permit, or provide for the installation or utilization of, a well in the areas of the Village of Milford as described on exhibit "A".
- (d) *Exceptions.* A person may install or utilize, or allow, permit, or provide for the installation or utilization of, a well within the areas described on exhibit "A" if any of the following exceptions applies and the requirements of the exceptions are complied with (note that the person requesting such exception is responsible for developing and providing all of the information necessary for the village and the MDEQ to consider the request for exception, which may include but is not limited to a groundwater flow study or chemical analytical data):
- (1) *Proof of no influence.* A well determined by MDEQ to not be influenced or potentially influenced by contaminated groundwater and further determined that the use of that well will remain permanently unaffected by contaminated groundwater or the future migration of contaminated groundwater. Proof of such determinations must be delivered to the village, and notice of the waiver shall be provided to

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- the person seeking the waiver, the Oakland County Health Department, and the MDEQ. The village manager then may execute a waiver allowing the use of the well.
- (2) *Groundwater monitoring.* A well used for groundwater monitoring and/or remediation as part of response activity approved by the MDEQ or the United States Environmental Protection Agency, or as part of an emergency response action.
 - (3) *Construction de-watering.* A well used for construction de-watering, if the following conditions are satisfied: (i) the use of the de-watering well will not result in unacceptable exposure to contaminated groundwater, possible cross-contamination between saturated zones, or hydrogeological effects on contaminated groundwater plumes and (ii) the water generated by that activity is properly handled and disposed of in compliance with all applicable laws, rules, regulations, permit and license requirements, and orders and directives of any governmental entity or agency of competent jurisdiction. Any exacerbation caused by the use of the well under this exception shall be the responsibility of the person operating the de-watering well, as provided in part 201 of the Natural Resources and Environmental Protection Act, being MCL 324.20101 to 324.20142.
 - (4) *Processing activities.* A well for noncontact heating, cooling or processing activities that is determined by the MDEQ will not cause unacceptable exposures or the future migration of contaminated groundwater. Proof of that determination must be delivered to the village and the village manager then may execute a waiver allowing the use of the well for the permitted purposes subject to any terms and conditions that the MDEQ requires. Notice of the waiver shall be provided to the person seeking the waiver, the Oakland County Health Department, and the MDEQ.
 - (e) *Sources of water supplied for human consumption.* Except as provided in subsection (d)(1), water supply for human consumption in the areas described in exhibit "A" shall be delivered only from the village water system or by the use of bottled water delivered or purchased in containers under conditions approved by the WB or other appropriate agency. For the purposes of this subsection, the term "human consumption" means use in food or drink intended for human ingestion, use in food preparation or food service, use in the interior of a dwelling or dwelling unit for household purposes, use in any building for personal washing or ingestion by irrigation.
 - (f) *Wells affecting contaminated groundwater.* No well may be used or installed at any place in the village if the use, operation or placement of the well will have the effect of causing the migration of contaminated groundwater located within the areas described in exhibit "A" to previously unimpacted groundwater, or adversely impacting any groundwater treatment system, unless the well is part of an MDEQ or United States Environmental Protection Agency approved groundwater monitoring or remediation system.
 - (g) *Nonconforming wells.* Once the areas described in exhibit "A" are provided with water from the village water system, any existing well, the use of which is prohibited by subsection (c), shall be plugged or abandoned in conformance with all applicable laws, rules, regulations, permit and license requirements, orders and directives of any governmental entity or agency of competent jurisdiction, or, in the absence of an applicable law, rule, regulation, requirement, order, directive, in conformance with the protocol developed consistent with the American Standards for Testing and Materials Standard #D5299-92.
 - (h) *Enforcement.* The village manager or the village engineer, or the designee of either, shall be responsible for the enforcement of this section. The MDEQ and Oakland County Health Department may also enforce this section.
 - (i) *Penalty, permit denial, remedies.*
 - (1) *Misdemeanor.* Any violation of this section shall be a misdemeanor punishable by a fine not to exceed \$500.00 and costs of prosecution or by imprisonment in the county jail for not to exceed 90 days, or by both such fine and imprisonment in the discretion of the court. Each act of violation and each day upon which such violation shall occur or shall continue shall constitute a separate offense.

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- (2) *Building or improvement permit.* No permit for building, alteration, or other required permit for a premises or improvement thereon shall be issued by the village for any premises found in violation of this section, or where it is proposed to install or use a well in violation of this section. In the event of a split or conveyance of property located within the area described in exhibit "A", no occupancy or building permit shall be issued without the use of the village water system.
- (3) *Injunctive relief.* The village, the MDEQ and Oakland County Health Department may further enforce this section by action seeking injunctive relief. Any well in violation of this section shall be deemed a nuisance subject to abatement.
- (j) *Miscellaneous.*
- (1) *Modification or repeal.* At least 30 days prior to any amendment or repeal in whole or in part of this section, the village shall notify the MDEQ of its intent to so act. Notification shall be sent by registered mail to the director of the MDEQ.
- (2) *Severability.* If any subsection, sentence, clause, phrase, or portion of this section is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this section. The village shall promptly notify the MDEQ upon the occurrence of any event described in this subsection.
- (3) *Notice to Oakland County and filing with the register of deeds.* The Village of Milford shall notify the Oakland County Department of Environmental Health of the area covered by this section as described in exhibit "A", by delivery of a copy of Ordinance No. 231-132, with attachments and all amendments, to the said department. The Village of Milford also shall file a copy of Ordinance No. 231-132 with the Oakland County Register of Deeds as an ordinance affecting multiple properties no more than 30 days after it becomes effective.

(Ord. No. 231-132, § 1, 1-20-09)

Exhibit A



Secs. 82-32—82-45. Reserved.

DIVISION 2. SUPPLY SYSTEM

Sec. 82-46. Determination of necessity.

It is hereby determined to be necessary for the public health and welfare of the people of the village to impose and collect charges upon the premises served by the water supply system of the village.

(Ord. No. 184-F, § 2, 9-12-88 eff.)

Sec. 82-47. Definitions.

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

Connection means the physical joining of a water supply or plumbing system to the village water supply system.

Consumption means the actual water volume, in gallons, which has passed through the service meter.

Curb box means the location of the underground valve which acts as the shutoff for individual service lines.

Debt service charge means the charge which shall recover the cost of financing the water supply system, including, but not limited to, the repayment of bond principal and interest, bond reserve costs and other related costs.

Readiness to serve charge means the charge for accessing an available water supply system through a service line, whether the system is used or not.

Service line means the line from the village water main to the curb box which connects the user to the water supply system.

Service line, building means the line from the curb box to the building water distribution system excluding the service meter.

Service meter means the device which measures the flow of water in gallons from the service line to the user.

Unit means the basis for water service charges and water access fees as determined in accordance with the table of unit factors as set forth in the village sewer and water table of unit factors, with the proviso that there shall be a minimum of one full unit for each connection.

User class means a designation assigned to each user of the water supply system based upon the size of the service line.

Village manager means the village manager or his authorized deputy, agent or representative.

Water access fee means that fee charged by the village to permit a physical connection to the village's water supply system, with each connection to be calculated in units as specified in the village sewer and water table of unit factors.

Water supply system means any devices and systems for the storage, treatment or delivery of the municipal water supply, including water mains, service lines (to the property line), meters, stop boxes, shutoff valves, pumping, storage and treatment facilities and their appurtenances; extensions, improvements, remodeling, additions and alterations thereof; and any works, including site acquisition of the land that will be an integral part of the system.

(Ord. No. 184-F, § 3, 9-12-88 eff.; Ord. No. 184-G, 2-13-89 eff.)

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

Sec. 82-48. Access fee—Payment prerequisite to connection.

Before an initial connection is made or additional usage resulting from building alteration is added to the village water supply system, a fee known as the water access fee shall be paid to the village treasurer. This fee shall be established by village council resolution upon recommendation of the village manager presented during the budget process.

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- (1) Payment of the village water access fee shall be made at the time a building permit is obtained in conjunction with such connection or at the time administrative action has occurred to allow or permit change in use or alteration resulting in change in units. Fees paid in advance shall be considered estimated only.
 - (2) Payments made without actual approved connection being made to the village water supply system shall not grant a right of connection to or reservation in the village water supply system.

(Ord. No. 184-F, § 4, 9-12-88 eff.; Ord. No. 184-G, 2-13-89 eff.)

Sec. 82-49. Same—Disposition of accounts.

The total water access fee shall be reserved for capital improvements to the water supply system, unless otherwise designated by the village council.

(Ord. No. 184-F, § 5, 9-12-88 eff.; Ord. No. 184-G, 2-13-89 eff.)

Sec. 82-50. User charges.

- (a) *Generally.* User charges equal to 100 percent of metered water consumption shall be charged to each unit serviced by the water supply system.
- (b) *Establishment of rates.*
 - (1) User charge rates shall be established by resolution of the village council upon recommendation from the village manager during the budget review process or at any other time when it becomes apparent that it is necessary to ensure that adequate revenues are generated to pay the cost of operation, maintenance, and replacement of the water supply system. User rates shall be based upon metered flow.
 - (2) The village manager shall annually cause each user to be notified by publication in a newspaper of general circulation in the village of the separate rate being charged for operation, maintenance and replacement costs of the water supply system.
 - (3) Other charges of the system, including but not necessarily limited to repair and testing charges, shall be established by the village council resolution upon recommendation from the village manager during the budget review process, or at any other time that such charges need to be amended to meet the actual requirements of the village.

(Ord. No. 184-F, §§ 6, 7, 9-12-88 eff.)

Sec. 82-51. Debt service charges.

- (a) Debt service charges shall be developed and established by the village council.
- (b) The village shall review the debt service charges at least annually and revise the charges and rates as necessary to ensure that adequate revenues are generated to pay the costs of the debt service for the water supply system.
- (c) The village manager shall annually cause each user to be notified by publication in a newspaper that serves the village of the separate rate being charged for debt service for the water supply system.

(Ord. No. 184-F, §§ 8, 9, 9-12-88 eff.)

Sec. 82-52. Service charges constitute lien on property.

Charges for water supply system plant service shall constitute a lien on the property served. On or before March 1 of each year, the officer in charge of collection of such charges shall prepare a certified statement of all charges then six months past due and unpaid. The treasurer shall then place such charges on the next general tax roll and the charges shall be collected as part of the general village taxes.

(Ord. No. 184-F, § 11, 9-12-88 eff.)

Sec. 82-53. Discontinuing service; shutoff, turn-on charges.

The village shall have the right to discontinue the water service for nonpayment of the service charges or for refusal of the owner or occupant of premises to install a meter. Where the owner or occupant of premises subject to the installation of a meter refuses to install a meter, the village may, at the discretion of the village manager, charge a flat rate for water service as established by the village and if such sum is not paid, it shall constitute a lien on the premises and shall be added to the tax rolls. If water service is shut off pursuant to the terms of this division, a shutoff charge and a turn-on charge as established by the village shall be collected in addition to the amount of the delinquent water service charge before the water service is turned on. The village water/sewer appeal board's power of review shall not be changed by this section.

(Ord. No. 184-F, § 12, 9-12-88 eff.)

Sec. 82-54. User charge appeal procedure.

- (a) An appeal by any water service customer may be made for relief regarding billing or flow. An appeal is initiated by making written application to the water/sewer board of appeals requesting a review of the customer's grievance. The written request shall, where necessary, provide data supporting the appeal.
- (b) Review of the request for an appeal under this section shall be made by the water/sewer board of appeals. If the appeal is substantiated, the proper adjustment to the user shall be made. If the adjustment involves user billings, such billings shall be recomputed based on appropriate data and the new charges shall be applicable to the next billing period.

(Ord. No. 184-F, § 13(a), (b), 9-12-88 eff.)

Sec. 82-55. Water/sewer board of appeals.

- (a) *Composition.* The water/sewer board of appeals shall be comprised of three village residents, and shall consist of one chairperson and two members as appointed by the village council, all of whom shall serve three-year terms.
- (b) *Timely disputes.* It is understood that the water/sewer board of appeals will consider current disputes only and will make no adjustments in any matters in which disputes concerned situations which predate the date of hearing by 12 months, and in no circumstance shall the board make any adjustments to any water or sewer billings which will extend beyond 12 months of the date of the hearing.
- (c) *Meetings.* The water/sewer board of appeals shall meet at least every six months with meeting dates to be established by the board. If no appeals are received one week prior to the scheduled meeting, a meeting of the board may be canceled. Additional meetings of the board may be scheduled as required.

(Ord. No. 184-F, § 13(c), (d), 9-12-88 eff.; Ord. No. 184-G, 2-13-89 eff.; Ord. No. 231-070, § 1, 9-16-02; Ord. No. 231-182, § 1, 9-15-14)

Sec. 82-56. Free service prohibited.

- (a) No free service shall be furnished by the water supply system to any person, firm or corporation, public or private, or to any public agency or instrumentality.
- (b) A water access fee expires on a seven-year break in service and must be paid again if service is to be supplied.

(Ord. No. 184-F, § 14, 9-12-88 eff.)

Sec. 82-57. Operating year.

The water supply system shall be operated on an operating year coincident with the village fiscal year.

(Ord. No. 184-F, § 15, 9-12-88 eff.)

Sec. 82-58. Disposition of funds; annual audit.

- (a) The funds received as user charges for operation, maintenance, and replacement of the water supply system authorized by this division shall be deposited with the village treasurer and shall be accounted for and be known as the water fund, and shall be available for the payment of the cost and expense of operation, maintenance and replacement as defined in this division.
- (b) An annual independent audit shall be made of the water supply system.

(Ord. No. 184-F, § 16, 9-12-88 eff.)

Sec. 82-59. Protection from damage.

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the water supply system works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

(Ord. No. 184-F, § 17, 9-12-88 eff.)

Sec. 82-60. Right of entry.

Duly authorized employees of the village bearing proper credentials and identification shall be permitted to enter upon all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this division.

(Ord. No. 184-F, § 18, 9-12-88 eff.)

Sec. 82-61. Notice of violations; liability for damages.

- (a) Any person found to be violating any provision of this division shall be served by the village with 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 such notice, permanently cease all violations.
- (b) Any person violating any of the provisions of this division shall become liable to the village for any expense, loss or damage occasioned the village by reason of such violation.

(Ord. No. 184-F, § 19, 9-12-88 eff.)

Sec. 82-62. Penalty for violation.

Any person violating any of the provisions of this division, upon conviction thereof, shall be deemed responsible for committing a municipal civil infraction.

(Ord. No. 184-F, § 26, 9-12-88 eff.)

Sec. 82-63. Responsibility for payment.

Property owners shall be responsible for the payment of all charges under this division.

(Ord. No. 184-F, § 21, 9-12-88 eff.)

Sec. 82-64. Readiness to serve charges established.

All users of the water supply system connected to the system by an intact building service line shall pay a readiness to serve fee on a quarterly basis. This fee shall be established by resolution of the village council within this division, upon recommendation of the village manager presented during the budget review process.

(Ord. No. 184-F, § 22, 9-12-88 eff.)

Sec. 82-65. Schedule of fees and charges.

Fees and charges for customers of the water supply system are established by resolution of the village council and shall be on file in the village hall.

(Ord. No. 184-F, § 23, 9-12-88 eff.)

Sec. 82-66. Outside village rates.

Each user of the village water supply system whose property is located outside the village limits and whose property is connected either directly or indirectly to the water system of the village shall pay 125 percent of all charges assessed to users in the village. Except for the non-village properties currently being serviced by the village water supply system, no additional properties will be added to the system which are located outside of the village.

(Ord. No. 184-F, § 20, 9-12-88 eff.)

Sec. 82-67. Discontinuance, restoration of service.

The village shall have the right to cut off a building sewer line for nonpayment of water service charges, and the cost of excavating and capping of the building sewer line and the cost of uncapping and reconnecting the building sewer line to the trunk line, together with any delinquent water service bill due, shall be paid to the village prior to restoration of service.

(Ord. No. 184-F, § 24, 9-12-88 eff.)

Sec. 82-68. Delinquent bills, penalty; notice.

If a bill for water service becomes delinquent because the bill is not paid by the 20th of the month it is rendered, a penalty shall be charged in an amount equal to ten percent of the unpaid bill, except where provisions have been made to authorize an alternative payment plan as authorized by this division, in which case no penalty shall be added. A one percent per month interest charge shall be added to delinquencies of more than 30 days. When a water bill becomes delinquent, the village may shut off or disconnect the service 30 days after a notice by first class mail, addressed to the last known address of the owner or occupant of the premises, has been deposited in the U.S. mail.

(Ord. No. 184-F, § 25, 9-12-88 eff.; Ord. No. 231-060, § 1, 7-26-01; Ord. No. 231-145, § 1, 4-5-10)

Secs. 82-69—82-85. Reserved.

DIVISION 3. CROSS CONNECTIONS

Sec. 82-86. Definitions.

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

Air gap means the obstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet conveying water or waste to a tank, plumbing fixture, receptor, or other assembly and the flood level rim of the receptacle. These vertical, physical separations must be at least twice the diameter of the water supply outlet, never less than one inch (25 mm).

Approved means accepted by the authority responsible as meeting an applicable specification stated or cited in this division or as suitable for the proposed use.

Auxiliary water supply means any water supply on or available to the premises other than the purveyor's approved public water supply. These auxiliary waters may include water from another purveyor's public potable water supply or any natural source, such as a well, spring, river, stream, harbor, and so forth; used waters; or industrial fluids. These waters may be contaminated or polluted, or they may be objectionable and constitute an unacceptable water source over which the water purveyor does not have sanitary control.

Backflow means the undesirable reversal of flow in a potable water distribution system as a result of a cross connection.

Backflow preventer means an assembly or means designed to prevent backflow.

Backpressure means a pressure, higher than the supply pressure, caused by a pump, elevated tank, boiler or any other means that may cause backflow.

Backsiphonage means backflow caused by negative or reduced pressure in the supply piping.

Contamination means an impairment of a potable water supply by the introduction or admission of any foreign substance that degrades the water quality and creates a health hazard.

Controlled cross connection means a connection between a potable water system and a nonpotable water system with an approved backflow prevention assembly properly installed and maintained so that it will continuously afford the protection commensurate with the degree of hazard.

Cross connection means a connection or potential connection between any part of a potable water system and any environment containing other substances in a manner that, under any circumstances, would allow such substances to enter the potable water system. Other substances may include gases, liquids, or solids, such as chemicals, waste products, steam, waters from other sources (potable or nonpotable), or any matter that may change the color or add odor to the water.

Cross connection control by containment means the installation of an approved backflow prevention assembly at the water service connection to any customer's premises, where it is physically and economically unfeasible to find and permanently eliminate or control all actual or potential cross connections within the customer's water system; or it shall mean the installation of an approved backflow prevention assembly on the service line leading to and supplying a portion of a customer's water system where there are actual or potential cross connections that cannot be effectively eliminated or controlled at the point of the cross connection.

Double checkvalve assembly means an approved double checkvalve assembly consisting of two internally loaded checkvalves, either spring loaded or internally weighed, installed as a unit between two tightly closing resilient-seated shutoff valves and fittings with properly located resilient-seated test cocks. This assembly shall only be used to protect against a non-health hazard (that is, a pollutant).

Hazard. The following terms shall apply:

- (1) *Degree of hazard.* This term is derived from an evaluation of the potential risk to public health and the adverse effect of the hazard upon the potable water system.
- (2) *Health hazard* means a cross connection or potential cross connection involving any substance that could, if introduced in the potable water supply, cause death, illness, spread disease, or have a high probability of causing such effects.
- (3) *Non-health hazard* means a cross connection or potential cross connection involving any substance that generally would not be a health hazard but would constitute a nuisance or be aesthetically objectionable if introduced into the potable water supply.
- (4) *Plumbing hazard* means a plumbing type cross connection in a customer's potable water system that has not been properly protected by an approved air gap or an approved backflow prevention assembly.
- (5) *System hazard* means an actual or potential threat of severe damage to the physical properties of the public potable water system or the customer's potable water system or of a pollution or contamination that would have a protracted effect on the quality of the potable water in the system.

Industrial fluids system means any system containing a fluid or solution that may be chemically, biologically, or otherwise contaminated or polluted in such form or concentration as would constitute a health, system, pollution, or plumbing hazard, if introduced into an approved water supply. This may include, but not be limited to, polluted or contaminated waters; all types of process waters and used waters originating from the public potable water system that may have deteriorated in sanitary quality; chemicals in fluid form; plating acids and alkalis; circulating cooling waters connected to an open cooling tower, and/or cooling towers that are chemically or biologically treated or stabilized with toxic substances; contaminated natural waters, such as wells, springs, streams, rivers, bays, harbors, seas, irrigation canals or systems, and so forth; oils, gases, glycerine, paraffins, caustic and acid solutions, and other liquid and gaseous fluids used in industrial or other purposes for firefighting purposes.

Nonpotable water means water that is not safe for human consumption or that is of questionable quality.

Pollution means the presence of any foreign substance in water that tends to degrade its quality so as to constitute a non-health hazard or impair the usefulness of the water.

Potable water means water that is safe for human consumption as described by the public health authority having jurisdiction.

Reduced pressure principle backflow prevention assembly means an assembly consisting of two independently acting approved checkvalves together with a hydraulically operating, mechanically independent pressure differential relief valve located between the checkvalves and below the first checkvalve. These units are located between two tightly closing resilient-seated shutoff valves as an assembly and equipped with properly located resilient-seated test cocks.

Service connection means the terminal end of a service from the public potable water system, that is, where the water purveyor loses jurisdiction and sanitary control over the water at its point of delivery to the customer's water system. If a meter is installed at the end of the service connection, then the service connection shall mean the downstream end of the meter. Maintenance responsibilities for the service connection from the public water main to the curb stop, generally located at the property line, is the village's. There should be no unprotected takeoffs from the service line ahead of any meter or backflow prevention assembly located at the point of delivery to the customer's water system. Service connection shall also include water service connection from a fire hydrant and all other temporary or emergency water service connections from the public potable water system.

Used water means any water supplied by a water purveyor from a public potable water system to a consumer's water system after it has passed through the point of delivery and is no longer under the sanitary control of the water purveyor.

(Ord. No. 223, § 4(2)—(25), 4-19-93)

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

Sec. 82-87. Water system described.

The water system shall be considered as made up of two parts: the utility system and the customer system.

- (1) *Utility system.* The utility system shall consist of the source facilities and the distribution system, and shall include all those facilities of the water system under the complete control of the utility, up to the point where the customer's system begins.
 - a. The source shall include all components of the facilities utilized in the production, treatment, storage, and delivery of water to the distribution system.
 - b. The distribution system shall include the network of conduits used for the delivery of water from the source to the customer's system.
- (2) *Customer system.* The customer's system shall include those parts of the facilities beyond the termination of the utility distribution system that are utilized in conveying utility delivered domestic water to points of use.

(Ord. No. 223, § 5, 4-19-93)

Sec. 82-88. Purpose.

The purpose of this division is to:

- (1) Protect the public potable water supply of the village from the possibility of contamination or pollution by isolating within the customer's internal distribution system or the customer's internal distribution system or the customer's private water system such contaminants or pollutants that could backflow into the public water system;
- (2) Promote the elimination or control of existing cross connections, actual or potential, between the customer's in-plant potable water system and nonpotable water systems, plumbing fixtures, and industrial piping systems; and

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- (3) Provide for the maintenance of a continuing program of cross connection control that will systematically and effectively prevent the contamination of all potable water systems.

(Ord. No. 223, § 1, 4-19-93)

Sec. 82-89. Policy.

No water service connection to any premises shall be installed or maintained by the water purveyor unless the water supply is protected as required by state laws and regulations and this division. Service of water to any premises shall be discontinued by the water purveyor if a backflow prevention assembly required by this division is not installed, tested, removed, bypassed, or if an unprotected cross connection exists on the premises. Service will not be restored until such conditions or defects are corrected.

(Ord. No. 223, § 6, 4-19-93)

Sec. 82-90. Cross connection control rules adopted.

The village adopts by reference the water supply cross connection rules of the state department of public health.

(Ord. No. 223, § 2, 4-19-93)

Sec. 82-91. Responsibility for protection of water system; notice to install backflow prevention assembly.

The village water department shall be responsible for the protection of the public water distribution system from contamination or pollution due to the backflow of contaminants or pollutants through the water service connection. If, in the judgment of the water department, an approved backflow prevention assembly is required at the customer's water service connection, or within the customer's private water system, for the safety of the water system, the water department or its designated agent shall give notice in writing to such customer to install an approved backflow prevention assembly at a specific location on his premises. The customer shall immediately install such approved assembly at his own expense; and the failure, refusal, or inability on the part of the customer to install, have tested, and maintain such assembly shall constitute grounds for discontinuing water service to the premises until such requirements have been satisfactorily met.

(Ord. No. 223, § 3, 4-19-93)

Sec. 82-92. Responsibility of director of public services.

The director of public services in charge of the village water department is vested with the authority and responsibility for the implementation of an effective cross connection control program and for the enforcement of the provisions of this division.

(Ord. No. 223, § 4(1), 4-19-93)

Sec. 82-93. Penalty for violation of division.

Any person violating this division shall be deemed responsible for committing a municipal civil infraction.

(Ord. No. 223, § 9, 4-19-93)

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Sec. 82-94. Inspections, right of access.

The customer's system shall be open for inspection at all reasonable times to authorized representatives of the village to determine whether cross connections or other structural or sanitary hazards, including violations of this division, exist. When such a condition becomes known, the director of public services shall deny or immediately discontinue services to the premises by providing for a physical break in the service line until the customer has corrected the condition in conformance with state and village laws relating to plumbing and water supplies and the regulations adopted pursuant thereto.

(Ord. No. 223, § 7(1), 4-19-93)

Sec. 82-95. Installation of backflow prevention assembly.

An approved backflow prevention assembly shall be installed on each service line to a customer's water system at or near the property or immediately inside the building being served; but in all cases, before the first branch line leading off the service line, wherever the following conditions exist:

- (1) In the case of premises having an auxiliary water supply that is not or may not be of safe bacteriological or chemical quality and that is not acceptable as an additional source by the director of public services, the public water system shall be protected against backflow from the premises by installing an approved backflow prevention assembly in the service line, appropriate to the degree of hazard.
- (2) In the case of premises on which any industrial fluids or any other objectionable substances are handled in such a fashion as to create an actual or potential hazard to the public water system, the public system shall be protected against backflow from the premises by installing an approved backflow prevention assembly in the service line, appropriate to the degree of hazard. This shall include the handling of process waters and waters originating from the utility system that have been subject to deterioration in quality.
- (3) In the case of any premises having internal cross connections that cannot be permanently corrected and controlled, or intricate plumbing and piping arrangements, or where entry to all portions of the premises is not readily accessible for inspection purposes, making it impracticable or impossible to ascertain whether or not dangerous cross connections exist, the public water system shall be protected against backflow from the premises by installing an approved backflow prevention assembly in the service line.
- (4) The type of protective assembly required under subsections (1), (2) and (3) of this section shall depend upon the degree of hazard that exists, as follows:
 - a. In the case of any premises where there is an auxiliary water supply as stated in subsection (1) of this section and it is not subject to any of the following rules, the public water system shall be protected by an approved air gap separation or an approved reduced pressure principle backflow prevention assembly.
 - b. In the case of any premises where there is water or any substance that would be objectionable but not hazardous to health if introduced into the public water system, the public water system shall be protected by an approved double checkvalve assembly.
 - c. In the case of any premises where there is any material dangerous to health that is handled in such a fashion as to create an actual or potential hazard to the public water system, the public water system shall be protected by an approved air gap separation or an approved reduced pressure principle backflow prevention assembly. Examples of premises where these conditions

will exist include sewage treatment plants, sewage pumping stations, chemical manufacturing plants, hospitals, mortuaries, and plating plants.

- d. In the case of any premises where there are uncontrolled cross connections, either actual or potential, the public water system shall be protected by an approved air gap separation or an approved reduced pressure principle backflow prevention assembly at the service line connection.
 - e. In the case of any premises where, because of security requirements or other restrictions, it is impossible or impractical to make a complete in-plant cross connection survey, the public water system shall be protected against backflow from the premises by either an approved air gap separation or an approved reduced pressure principle backflow prevention assembly on each service line to the premises.
 - f. In the case of any premises where, in the opinion of the director of public services, an undue health threat is posed because of the presence of extremely toxic substances, the director of public services may require an air gap at the service line connection to protect the public water system. This requirement will be at the discretion of the director of public services and is dependent on the degree of hazard.
- (5) Any backflow prevention assembly required by this division shall be of a model and size approved by the director of public services. The term "approved backflow prevention assembly" shall mean an assembly that has been manufactured in full conformance with the standards established by the American Water Works Association as follows:
- a. AWWA C510-89 Standard for Double Checkvalve Backflow Prevention Assembly.
 - b. AWWA C511-89 Standard for Reduced Pressure Principle Backflow Prevention Assembly, and have met completely the laboratory and field performance specifications of the Foundation For Cross Connection Control and Hydraulic Research of the University of Southern California.
 - c. Specifications of Backflow Prevention Assemblies, section 10, of the most current issue of the Manual of Cross Connection Control.

Such AWWA and FCCHR standards and specifications have been or are hereby adopted by the village. Final approval shall be evidenced by a certificate of approval issued by an approved testing laboratory certifying full compliance with such AWWA standards and FCCHR specifications.

- (6) The following testing laboratory has been qualified by the village to test and certify backflow preventers: Foundation for Cross Connection Control and Hydraulic Research, University of Southern California.
- (7) Testing laboratories, other than the laboratory listed in subsection (6) of this section, will be added to an approved list as they are qualified by the village. Backflow preventers that may be subjected to backpressure or backsiphonage that have been fully tested and have been granted a certificate of approval by such qualified laboratory and are listed on the laboratory's current list of approved backflow prevention assemblies may be used without further testing or qualifications.

(Ord. No. 223, § 7(2), 4-19-93)

Sec. 82-96. Reinspections and tests.

- (a) It shall be the duty of the customer-user at any premises where backflow prevention assemblies are installed to have certified inspections and operational tests made at least once every three years. In those instances where the director of public services deems the hazard to be great enough, certified inspections may be

required at more frequent intervals. These inspections and tests shall be at the expense of the water user and shall be performed by the assembly manufacturer's representative, village personnel, or by a certified tester approved by the director of public services. It shall be the duty of the director of public services to see that these tests are made in a timely manner. The customer-user shall notify the director of public services in advance when the tests are to be undertaken so that the customer-user may witness the test if so desired. The backflow prevention assemblies shall be repaired, overhauled, or replaced at the expense of the customer-user whenever such assemblies are found to be defective. Records of such tests, repairs, overhaul, or replacements shall be kept and made available to the director of public services.

- (b) All presently installed backflow prevention assemblies that do not meet the requirements of this division but were approved assemblies for the purpose described in this division at the time of installation and that have been properly maintained shall, except for the inspection and maintenance requirements under subsection 82-95(5)a, be excluded from the requirements of this division so long as the director of public services is assured that they will satisfactorily protect the utility system. Whenever the existing assembly is moved from the present location, requires more than minimum maintenance, or when the director of public services finds that the maintenance constitutes a hazard to health, the unit shall be replaced by an approved backflow prevention assembly meeting the requirements of this division.

(Ord. No. 223, § 8, 4-19-93)

DIVISION 4. REVENUE ADMINISTRATION AND BOND COLLECTION

Sec. 82-97. Definitions.

Whenever used in this division, except when otherwise indicated by the context, the following terms shall have the following meanings:

Act 94 means Act 94, Public Acts of Michigan, 1933, as amended.

Additional bonds shall mean bonds issued pursuant to section 82-112 and subject to the terms of this division.

Adjusted net revenues means for any operating year the excess of revenues over expenses for the system determined in accordance with generally accepted accounting principles, to which shall be added depreciation, amortization, interest expense on bonds and payments to the issuer in lieu of taxes, to which may be made the following adjustments:

- (1) Revenues may be augmented by the amount of any rate increases adopted prior to the issuance of additional bonds or to be placed into effect before the time principal or interest on the additional bonds becomes payable from revenues as applied to quantities of service furnished during the operating year or portion thereof that the increased rates were not in effect.
- (2) Revenues may be augmented by amounts which may be derived from rates and charges to be paid by new customers of the system.

The adjustment of revenues and expenses by the factors set forth in subsections (1) and (2) above shall be reported upon by professional engineers or certified public accountants or other experts not in the regular employment of the issuer.

Authority means the Michigan Municipal Bond Authority.

Authorized officers means the president, village manager, village clerk, or the village treasurer.

Bond or bonds means the series 2008 bonds, together with any additional bonds of equal standing hereafter issued.

Engineers means Wade Trim, Taylor, Michigan.

Issuer means the Village of Milford, County of Oakland, State of Michigan.

MDEQ means the Michigan Department of Environmental Quality.

Outstanding bonds means the series 2001 bonds and the series 2002 bonds.

Prior resolutions means Resolution No. 01-007 adopted by the village council of the issuer on May 21, 2001 and Resolution No. 02-007 adopted by the village council of the issuer on March 4, 2002.

Project means the acquisition and construction of improvements to the system consisting generally of iron removal facilities, replacement of existing water mains and construction of new water mains together with all necessary appurtenances and attachments thereto.

Revenues and net revenues mean the revenues and net revenues of the system and shall be construed as defined in section 3 of Act 94, including with respect to revenues, the earnings derived from the investment of moneys in the various funds and accounts established by this division, and other revenues derived from or pledged to operation of the system.

Series 2001 bonds means the Water Supply System Revenue Bonds, Series 2001, dated June 28, 2001, issued pursuant to Resolution No. 01-007.

Series 2002 bonds means the Water Supply System Revenue Bonds, Series 2002, dated March 28, 2002, issued pursuant to Resolution No. 02-007.

Series 2008 bonds means the Water Supply System Revenue Bonds, Series 2008, of the issuer in the principal amount of not to exceed \$1,950,000.00 authorized by this division.

Sufficient government obligations means direct obligations of the United States of America or obligations the principal and interest on which is fully guaranteed by the United States of America, not redeemable at the option of the issuer, the principal and interest payments upon which, without reinvestment of the interest, come due at such times and in such amounts as to be fully sufficient to pay the interest as it comes due on the bonds and the principal and redemption premium, if any, on the bonds as it comes due whether on the stated maturity date or upon earlier redemption. Securities representing such obligations shall be placed in trust with a bank or trust company, and if any of the bonds are to be called for redemption prior to maturity, irrevocable instructions to call the bonds for redemption shall be given to the paying agent.

Supplemental agreement means the supplemental agreement among the issuer, the authority and MDEQ relating to the series 2008 bonds.

System means the water supply system of the issuer, including such facilities thereof as are now existing, are acquired and constructed as the project, and all enlargements, extensions, repairs and improvements thereto hereafter made.

(Ord. No. 231-129, § 1, 7-21-08)

Sec. 82-98. Necessity; approval of plans and specifications.

It is hereby determined to be a necessary public purpose of the issuer to acquire and construct the project in accordance with the plans and specifications prepared by the issuer's engineers, which plans and specifications are hereby approved. The project qualifies for the State of Michigan Drinking Water Revolving Fund financing program being administered by the MDEQ and the authority, whereby bonds of the issuer are sold to the authority and bear interest at a fixed rate of two and one-half percent per annum.

(Ord. No. 231-129, § 1, 7-21-08)

Sec. 82-99. Costs; useful life.

The total cost of the project is presently estimated not to exceed \$2,205,000.00 including the payment of incidental expenses as specified in section 82-100 of this division, which estimate of cost is hereby approved and confirmed, and the period of usefulness of the project is estimated to be not less than 20 years.

(Ord. No. 231-129, § 1, 7-21-08)

Sec. 82-100. Payment of cost; bonds authorized.

To pay part of the cost of acquiring and constructing the project, including payment of legal, engineering, financial and other expenses incident thereto and incident to the issuance and sale of the series 2008 bonds, the issuer shall borrow the sum of not to exceed \$1,950,000.00 and issue the series 2008 bonds therefor pursuant to the provisions of Act 94. The remaining cost of the project shall be defrayed from funds of the issuer on hand and other funds legally available for such use.

(Ord. No. 231-129, § 1, 7-21-08)

Sec. 82-101. Issuance of series 2008 bonds; details.

The series 2008 bonds of the issuer, to be designated Water Supply System Revenue Bonds, Series 2008 are authorized to be issued in the aggregate principal sum of not to exceed \$1,950,000.00 or as otherwise finally determined by order of the MDEQ for the purpose of paying part of the cost of the project, including the costs incidental to the issuance, sale and delivery of the series 2008 bonds. The series 2008 bonds shall be payable out of the net revenues, as set forth more fully in section 82-103. The series 2008 bonds shall be in the form of a single fully-registered, nonconvertible bond of the denomination of the full principal amount thereof, dated as of the date of delivery of the series 2008 bonds, payable in principal installments serially as set forth in section 82-111, or as finally determined by the order of the MDEQ at the time of sale of the series 2008 bonds and approved by the authority and an authorized officer. Final determination of the principal amount and the payment dates and amounts of principal installments of the series 2008 bonds shall be evidenced by execution of a purchase contract (the "purchase contract") between the issuer and the authority providing for sale of the series 2008 bonds, and each of the authorized officers are individually authorized and directed to execute and deliver the purchase contract when it is in final form and to make the determinations set forth above.

The series 2008 bonds shall bear interest at a rate of two and one-half percent per annum on the par value thereof or such other rate as evidenced by execution of the purchase contract, but in any event not to exceed the rate permitted by law, and the president and village clerk are authorized to execute and deliver the series 2008 bonds in accordance with the delivery instructions of the authority. The bonds shall be signed with the manual or facsimile signatures of the president and village clerk and shall have the issuer's seal impressed or printed thereon. The series 2008 bonds bearing the manual or facsimile signatures of the president and the village clerk sold to the authority shall require no further authentication.

The series 2008 bonds principal amount is expected to be drawn down by the issuer periodically, and interest on the principal amount shall accrue from the date such principal amount is drawn down by the issuer.

The series 2008 bonds shall not be convertible or exchangeable into more than one fully-registered bond. Principal of and interest on the series 2008 bonds shall be payable as provided in the series 2008 bond form in this division.

The series 2008 bonds or principal installments thereof will be subject to prepayment prior to maturity with the prior written approval of the authority in the manner and at the times as provided in the series 2008 bond form in this division.

The village clerk shall record on the registration books payment by the issuer of each installment of principal or interest or both when made and the cancelled checks or other records evidencing such payments shall be returned to and retained by the village clerk.

Upon payment by the issuer of all outstanding principal of and interest on the series 2008 bonds, the authority shall deliver the series 2008 bonds to the issuer for cancellation.

(Ord. No. 231-129, § 1, 7-21-08)

Sec. 82-102. Registration and transfer.

The bond may be transferred upon the books required to be kept pursuant to this section by the person in whose name it is registered, in person or by the registered owner's duly authorized attorney, upon surrender of the bond for cancellation, accompanied by delivery of a duly executed written instrument of transfer in a form approved by the transfer agent. Whenever any bond or bonds shall be surrendered for transfer, the issuer shall execute and the transfer agent shall authenticate and deliver a new bond or bonds, for like aggregate principal amount. The transfer agent shall require payment by the bondholder requesting the transfer of any tax or other governmental charge required to be paid with respect to the transfer. The transfer agent shall not be required (i) to issue, register the transfer of or exchange any bond during a period beginning at the opening of business 15 days before the day of the giving of a notice of redemption of bonds selected for redemption as described in the form of the series 2008 bond contained in section 82-111 of this division and ending at the close of business on the day of that giving of notice, or (ii) to register the transfer of or exchange of any bond so selected for redemption in whole or in part, except the unredeemed portion of bonds being redeemed in part. The issuer shall give the transfer agent notice of call for redemption at least 20 days prior to the date notice of redemption is to be given.

The transfer agent shall keep or cause to be kept, at its principal office, sufficient books for the registration and transfer of the bonds, which shall at all times be open to inspection by the issuer; and, upon presentation for such purpose, the transfer agent shall, under such reasonable regulations as it may prescribe, transfer or cause to be transferred, on said books, bonds as hereinbefore provided.

If any bond shall become mutilated, the issuer, at the expense of the holder of the bond, shall execute, and the transfer agent shall authenticate and deliver, a new bond of like tenor in exchange and substitution for the mutilated bond, upon surrender to the transfer agent of the mutilated bond. If any bond issued under this division shall be lost, destroyed or stolen, evidence of the loss, destruction or theft may be submitted to the transfer agent and, if this evidence is satisfactory to both and indemnity satisfactory to the transfer agent shall be given, and if all requirements of any applicable law including Act 354, Public Acts of Michigan, 1972, as amended ("Act 354"), being MCL 129.131 to 129.135, inclusive, have been met, the issuer, at the expense of the owner, shall execute, and the transfer agent shall thereupon authenticate and deliver, a new bond of like tenor and bearing the statement required by Act 354, or any applicable law hereafter enacted, in lieu of and in substitution for the bond so lost, destroyed or stolen. If any such bond shall have matured or shall be about to mature, instead of issuing a substitute bond the transfer agent may pay the same without surrender thereof.

(Ord. No. 231-129, § 1, 7-21-08)

Sec. 82-103. Payment of bonds; security.

The series 2008 bonds and the interest thereon shall be payable solely from the net revenues, and to secure such payment, there is hereby created a statutory lien upon the whole of the net revenues which shall be a first lien equal in standing and priority of lien to the lien created in the prior resolutions in favor of the outstanding bonds to continue until payment in full of the principal of and interest on the series 2008 bonds payable from the net revenues, or, until sufficient cash or sufficient government obligations have been deposited in trust for payment in full of the series 2008 bonds then outstanding, principal and interest, to maturity, or, if called for

redemption, to the date fixed for redemption together with the amount of the redemption premium, if any. Upon deposit of cash or sufficient government obligations, as provided in this section, the statutory lien shall be terminated with respect to the series 2008 bonds, the holders of the series 2008 bonds shall have no further rights under this division except for payment from the deposited funds, and the series 2008 bonds shall no longer be considered to be outstanding under this division.

(Ord. No. 231-129, § 1, 7-21-08)

Sec. 82-104. Bondholders' rights; receiver.

The holder or holders of the bonds representing in the aggregate not less than 20 percent of the entire principal amount thereof then outstanding, may, by suit, action, mandamus or other proceedings, protect and enforce the statutory lien upon the net revenues of the system, and may, by suit, action, mandamus or other proceedings, enforce and compel performance of all duties of the officers of the issuer, including the fixing of sufficient rates, the collection of revenues, the proper segregation of the revenues of the system and the proper application thereof. The statutory lien upon the net revenues, however, shall not be construed as to compel the sale of the system or any part thereof.

If there is a default in the payment of the principal of or interest on the bonds, any court having jurisdiction in any proper action may appoint a receiver to administer and operate the system on behalf of the issuer and under the direction of the court, and by and with the approval of the court to perform all of the duties of the officers of the issuer more particularly set forth herein and in Act 94.

The holder or holders of the bonds shall have all other rights and remedies given by Act 94 and law, for the payment and enforcement of the bonds and the security therefor.

(Ord. No. 231-129, § 1, 7-21-08)

Sec. 82-105. Management; fiscal year.

The operation, repair and management of the system and the acquiring of the project shall continue to be under the supervision and control of the village council. The village council may employ such person or persons in such capacity or capacities as it deems advisable to carry on the efficient management and operation of the system. The village council may make such rules and regulations as it deems advisable and necessary to assure the efficient management and operation of the system. The system shall be operated on the basis of an operating year which shall coincide with the village's fiscal year.

(Ord. No. 231-129, § 1, 7-21-08)

Sec. 82-106. Rates and charges.

The rates and charges for service furnished by and the use of the system and the methods of collection and enforcement of the collection of the rates shall be those in effect on the date of adoption of this division.

(Ord. No. 231-129, § 1, 7-21-08)

Sec. 82-107. No free service or use.

No free service or use of the system, or service or use of the system at less than cost, shall be furnished by the system to any person, firm or corporation, public or private, or to any public agency or instrumentality, including the issuer.

(Ord. No. 231-129, § 1, 7-21-08)

Sec. 82-108. Revising rates; rate covenant.

The rates now in effect for service by the system and the rate increases to be placed into effect for service by the system are estimated to be sufficient to provide for the payment of the expenses of administration and operation and such expenses for maintenance of the system as are necessary to preserve the system in good repair and working order, to provide for the payment of the principal of and interest on the bonds and the outstanding bonds as the same become due and payable, and the maintenance of the reserve therefor, if required, and to provide for all other obligations, expenditures and funds for the system required by law, the prior resolutions and this division. The rates shall be revised from time to time as may be necessary to produce these amounts and it is hereby covenanted and agreed to maintain or cause to be maintained rates for services furnished by the system at all times sufficient to provide for the foregoing.

(Ord. No. 231-129, § 1, 7-21-08)

Sec. 82-109. Funds and accounts; flow of funds.

The funds and accounts and the flow of funds established by the prior resolutions are hereby continued, and the applicable sections of the prior resolutions setting forth the funds and accounts and flow of funds are hereby incorporated in full by reference.

(Ord. No. 231-129, § 1, 7-21-08)

Sec. 82-110. Bond proceeds.

The proceeds of the sale of the bonds as received by the issuer from the authority shall be deposited in a bank or banks, designated by the village council, qualified to act as depository of the proceeds of sale under the provisions of section 15 of Act 94, in an account designated 2008 construction fund (the "construction fund"). Moneys in the construction fund shall be applied solely in payment of the costs of the project, including any engineering, legal and other expenses incident thereto and to the financing thereof. Payments for construction, either on account or otherwise, shall not be made unless the registered engineer in charge of such work shall file with the village council a signed statement to the effect that the work has been completed in accordance with the plans and specifications therefor; that it was done pursuant to and in accordance with the contract therefor (including properly authorized change orders), that such work is satisfactory and that such work has not been previously paid for.

Any unexpended balance of the proceeds of sale of the bonds remaining after completion of the project in the construction fund may, at the discretion of the issuer, be used for further improvements, enlargements and extension to the system, if, at the time of such expenditures, such use is approved by the Michigan Department of Treasury, if such permission is then required by law. Any remaining balance after such expenditure shall be paid to the redemption fund and may be used for the purpose of purchasing bonds on the open market at not more than the fair market value thereof, but not more than the price at which the bonds may next be called for redemption, or used for the purpose of paying principal of the bonds upon maturity or calling bonds for redemption.

(Ord. No. 231-129, § 1, 7-21-08)

Sec. 82-111. Bond form.

The bonds shall be in substantially the following form:

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UNITED STATES OF AMERICA
STATE OF MICHIGAN
COUNTY OF OAKLAND
VILLAGE OF MILFORD
WATER SUPPLY SYSTEM REVENUE BOND, SERIES 2008

REGISTERED OWNER: Michigan Municipal Bond Authority

PRINCIPAL AMOUNT: One Million Nine Hundred Fifty Thousand Dollars (\$1,950,000.00)

DATE OF ORIGINAL ISSUE: September 22, 2008

The VILLAGE OF MILFORD, County of Oakland, State of Michigan (the "Village"), for value received, hereby promises to pay, but only out of the hereinafter described net revenues of the Village's water supply system (hereinafter defined), to the Michigan Municipal Bond Authority (the "Authority"), or registered assigns, the principal amount shown above, or such portion thereof as shall have been advanced to the Village pursuant to a purchase contract between the Village and the Authority and a supplemental agreement by and among the Village, the Authority and the State of Michigan acting through the department of environmental quality, in lawful money of the United States of America, unless prepaid prior thereto as hereinafter provided.

During the time the principal amount is being drawn down by the Village under this bond, the Authority will periodically provide to the Village a statement showing the amount of principal that has been advanced and the date of each advance, which statement shall constitute prima facie evidence of the reported information; provided that no failure on the part of the Authority to provide such a statement or to reflect a disbursement or the correct amount of a disbursement shall relieve the Village of its obligation to repay the outstanding principal amount actually advanced, all accrued interest thereon, and any other amount payable with respect thereto in accordance with the terms of this bond.

The principal amount shall be payable on the dates and in the annual principal installment amounts set forth in schedule A attached hereto and made a part hereof, as such schedule may be adjusted if less than \$1,950,000.00 is disbursed to the Village or if a portion of the principal amount is prepaid as provided below, with interest on said principal installments from the date each said installment is delivered to the holder hereof until paid at the rate of two and one-half percent per annum. Interest is first payable on April 1, 2009, and semiannually thereafter and principal is payable on the first day of April commencing April 1, 2009 (as set forth in the purchase contract) and annually thereafter.

The bonds may be subject to redemption prior to maturity by the issuer only with the prior written consent of the Authority and on such terms as may be required by the Authority.

Notwithstanding any other provision of this bond, as long as the Authority is the owner of this bond; (a) this bond is payable as to principal, premium, if any, and interest at the designated office of The Bank of New York Trust Company, N.A. or at such other place as shall be designated in writing to the Village by the Authority (the "Authority's Depository"); (b) the Village agrees that it will deposit with the Authority's depository payments of the principal of, premium, if any, and interest on this bond in immediately available funds at least five business days prior to the date on which any such payment is due whether by maturity, redemption or otherwise; and (c) written notice of any redemption of this bond shall be given by the Village and received by the Authority's depository at least 40 days prior to the date on which such redemption is to be made.

Additional Interest

In the event of a default in the payment of principal or interest hereon when due, whether at maturity, by redemption or otherwise, the amount of such default shall bear interest (the "additional interest") at a rate equal to the rate of interest which is two percent above the Authority's cost of providing funds (as

determined by the Authority) to make payment on the bonds of the Authority issued to provide funds to purchase this bond but in no event in excess of the maximum rate of interest permitted by law. The additional interest shall continue to accrue until the Authority has been fully reimbursed for all costs incurred by the Authority (as determined by the Authority) as a consequence of the Village's default. Such additional interest shall be payable on the interest payment date following demand of the Authority. In the event that (for reasons other than the default in the payment of any municipal obligation purchased by the Authority) the investment of amounts in the reserve account established by the Authority for the bonds of the Authority issued to provide funds to purchase this bond fails to provide sufficient available funds (together with any other funds which may be made available for such purpose) to pay the interest on outstanding bonds of the Authority issued to fund such account, the Village shall and hereby agrees to pay on demand only the Village's pro rata share (as determined by the Authority) of such deficiency as additional interest on this bond.

For prompt payment of principal and interest on this bond, the Village has irrevocably pledged the revenues of the Water Supply System of the Village, including all appurtenances, extensions and improvements thereto (the "system"), after provision has been made for reasonable and necessary expenses of operation, maintenance and administration (the "net revenues"), and a statutory lien thereon is hereby recognized and created that is of equal standing and priority with the lien in favor of the Village's Water Supply System Revenue Bonds, Series 2001, dated June 28, 2001, and Water Supply System Revenue Bonds, Series 2002, dated March 28, 2002.

This bond is a single, fully-registered, nonconvertible bond in the principal sum indicated above issued pursuant to Resolution No. 01-007, Resolution No. 02-007, and Ordinance No. 231-129 duly adopted by the Village council of the Village, and under and in full compliance with the constitution and statutes of the State of Michigan, including specifically Act 94, Public Acts of Michigan, 1933, as amended, for the purpose of paying part of the cost of acquiring and constructing additions, extensions and improvements to the system.

For a complete statement of the revenues from which and the conditions under which this bond is payable, a statement of the conditions under which additional bonds of superior and equal standing may hereafter be issued and the general covenants and provisions pursuant to which this bond is issued, reference is made to the above-described ordinance.

This bond is a self-liquidating bond, payable, both as to principal and interest, primarily from the net revenues of the system. The principal of and interest on this bond are secured by the statutory lien hereinbefore mentioned.

The Village has covenanted and agreed, and does hereby covenant and agree, to fix and maintain at all times while any bonds payable from the net revenues of the system shall be outstanding, such rates for service furnished by the system as shall be sufficient to provide for payment of the interest upon and the principal of the bonds of this issue, as and when the same shall become due and payable, and to maintain a bond redemption fund therefore, to provide for the payment of expenses of administration and operation and such expenses for maintenance of the system as are necessary to preserve the same in good repair and working order, and to provide for such other expenditures and funds for the System as are required by said ordinance.

This bond is transferable only upon the books of the Village by the registered owner in person or the registered owner's attorney duly authorized in writing, upon the surrender of this bond together with a written instrument of transfer satisfactory to the transfer agent, duly executed by the registered owner or the registered owner's attorney duly authorized in writing, and thereupon a new bond or bonds in the same aggregate principal amount and of the same maturity shall be issued to the transferee in exchange therefore as provided in the ordinance authorizing the bonds, and upon payment of the charges, if any, therein prescribed.

It is hereby certified and recited that all acts, conditions and things required by law to be done precedent to and in the issuance of this bond and the series of bonds of which this is one have been done and performed in regular and due time and form as required by law.

IN WITNESS WHEREOF, the Village of Milford, County of Oakland, State of Michigan, by its Village council, has caused this bond to be executed with the manual signatures of its president and its clerk and the corporate seal of the Village to be impressed hereon, all as of the date of original issue.

VILLAGE OF MILFORD

By

Thomas Nader, Village President

(Seal)

Countersigned:

By

Ann Collins, CMC Village Clerk

SCHEDULE A

Based on the schedule provided below unless revised as provided in this paragraph, repayment of the principal of the bond shall be made until the full amount advanced to the village is repaid. In the event the order of approval issued by the department of environmental quality (the "order") approves a principal amount of assistance less than the amount of the bond delivered to the authority, the authority shall only disburse principal up to the amount stated in the order. In the event (1) that the payment schedule approved by the village and described below provides for payment of a total principal amount greater than the amount of assistance approved by the order or (2) that less than the principal amount of assistance approved by the order is disbursed to the village by the authority, the authority shall prepare a new payment schedule which shall be effective upon receipt by the village.

<u>Principal Installment Due on April 1</u>		<u>Amount of Principal Installment</u>
2009		\$ 80,000
2010		80,000
2011		80,000
2012		80,000
2013		90,000
2014		90,000
2015		90,000
2016		90,000
2017		100,000
2018		100,000
2019		100,000
2020		100,000
2021		100,000
2022		105,000
2023		105,000
2024		105,000
2025		105,000
2026		110,000

2027		120,000
2028		120,000

Interest on the bond shall accrue on principal disbursed by the authority to the issuer from the date principal is disbursed, until paid, at the rate of 2.5% per annum, payable April 1, 2009, and semi-annually hereafter.

The issuer agrees that it will deposit with the authority's depository, or such other place as shall be designated in writing to the issuer by the authority payments of the principal of, premium, if any, and interest on this bond in immediately available funds by 12:00 noon at least five business days prior to the date on which any such payment is due whether by maturity, redemption or otherwise. In the event that the authority's depository has not received the issuer's deposit by 12:00 noon on the scheduled day, the issuer shall immediately pay to the authority as invoiced by the authority an amount to recover the authority's administrative costs and lost investment earnings attributable to that late payment.

(Ord. No. 231-129, § 1, 7-21-08)

Sec. 82-112. Additional bonds.

So long as any of the series 2001 bonds or series 2002 bonds remain outstanding, the issuer may issue additional bonds of equal standing with the bond only under the conditions provided in section 23 of Resolution No. 01-007 adopted by the village council of the issuer on May 21, 2001.

If none of the series 2001 bonds or series 2002 bonds remain outstanding, then the issuer may issue additional bonds of equal standing with the bond for the following purposes and on the following conditions:

- (1) To complete the project in accordance with the plans and specifications therefor. Such bonds shall not be authorized unless the engineers in charge of construction shall execute a certificate evidencing the fact that additional funds are needed to complete the project in accordance with the plans and specifications therefor and stating the amount that will be required to complete the project. If such certificate shall be so executed and filed with the issuer, it shall be the duty of the issuer to provide for and issue additional revenue bonds in the amount stated in said certificate to be necessary to complete the project in accordance with the plans and specifications plus an amount necessary to issue such bonds or to provide for part or all of such amount from other sources.
- (2) For subsequent repairs, extensions, enlargements and improvements to the system or for the purpose of refunding part of any bonds then outstanding or for both purposes and paying costs of issuing such additional bonds including deposits which may be required to be made to the bond reserve account, if any. Bonds for such purposes shall not be issued pursuant to this subsection unless the adjusted net revenues of the system for the preceding 12-month operating year shall be at least equal 125 percent of the maximum amount of principal and interest thereafter maturing in any operating year on the then outstanding bonds and on the additional bonds then being issued. If the additional bonds are to be issued in whole or in part for refunding outstanding bonds, the annual principal and interest requirements shall be determined by deducting from the principal and interest requirements for each operating year the annual principal and interest requirements of any bonds to be refunded from the proceeds of the additional bonds. For purposes of this subsection, the issuer may elect to use as the last preceding operating year any operating year ending not more than 16 months prior to the date of delivery of the additional bonds. Determination by the issuer as to existence of conditions permitting the issuance of additional bonds shall be conclusive. No additional bonds of equal standing as to the net revenues of the system shall be issued pursuant to the authorization contained in this subsection if the issuer shall then be in default in making its required payments to the operation and maintenance account or the redemption account.

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- (3) For refunding all or a part of the outstanding bonds and paying costs of issuing such additional bonds including deposits which may be required to be made to the bond reserve account. No additional bonds shall be issued pursuant to this subsection unless the maximum amount of principal and interest maturing in any operating year after giving effect to the refunding shall be less than the maximum amount of principal and interest maturing in any operating year prior to giving effect to the refunding.

(Ord. No. 231-129, § 1, 7-21-08)

Sec. 82-113. Negotiated sale; application to MDEQ and authority; execution of documents.

The village council determines that it is in the best interest of the issuer to negotiate the sale of the series 2008 bonds to the authority because the drinking water revolving fund financing program provides significant interest savings to the issuer compared to competitive sale in the municipal bond market. The authorized officers are hereby authorized to make application to the authority and to the MDEQ for placement of the series 2008 bonds with the authority. The actions taken by the authorized officers with respect to the series 2008 bonds prior to the adoption of this division are ratified and confirmed. The authorized officers are authorized to execute and deliver the purchase contract, the supplemental agreement, and the issuer's certificate. Each of the authorized officers is further individually authorized to execute and deliver such contracts, documents and certificates as are necessary or advisable to qualify the series 2008 bonds for the drinking water revolving fund. Prior to the delivery of the series 2008 bonds to the authority, any authorized officer is hereby authorized to make such changes to the form of the series 2008 bonds contained in section 82-111 of this division as may be necessary to conform to the requirements of Act 227, Public Acts of Michigan 1985, as amended ("Act 227"), including, but not limited to changes in the principal maturity and interest payment dates and references to additional security required by Act 227.

(Ord. No. 231-129, § 1, 7-21-08)

Sec. 82-114. Approval of bond details; tax exempt status of the bonds.

- (a) *Approval of bond details.* The authorized officers are each hereby authorized to adjust the final bond details set forth herein to the extent necessary or convenient to complete the transaction authorized herein, and in pursuance of the foregoing is authorized to exercise the authority and make the determinations authorized pursuant to subsection 7a(1)(c) of Act 94, including but not limited to determinations regarding interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights, the place of delivery and payment, and other matters, provided that the principal amount of series 2008 bonds issued shall not exceed the principal amount authorized in this division, the interest rate per annum on the series 2008 bonds shall not exceed two and one-half percent per annum, and the series 2008 bonds shall mature in not more than 20 annual installments.
- (b) *Covenant regarding tax exempt status of the bonds.* The issuer shall, to the extent permitted by law, take all actions within its control necessary to maintain the exclusion of the interest on the bonds from gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended, (the "code") including, but not limited to, actions relating to any required rebate of arbitrage earnings and the expenditure and investment of bond proceeds and moneys deemed to be bond proceeds, and to prevent the bonds from being or becoming "private activity bonds" as that term is used in section 141 of the code.

(Ord. No. 231-129, § 1, 7-21-08)

Sec. 82-115. Reserved.

(Supp. No. 23)

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ARTICLE III. SEWERS

DIVISION 1. GENERALLY

Secs. 82-116—82-130. Reserved.

DIVISION 2. WASTEWATER PRETREATMENT

Sec. 82-131. Definitions and abbreviations.

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

Act or the Act means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

Approval authority means the state department of natural resources or the United States Environmental Protection Agency.

Authorized representative of industrial user means:

- (1) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;
- (2) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;
- (3) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

Biochemical oxygen demand means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in terms of weight and concentration (milligrams per liter).

Building sewer means a sewer conveying wastewater from the premises of a user to the POTW.

Bypass means the intentional diversion of waste streams from any portion of an industrial user's treatment facility.

Categorical standards means national categorical pretreatment standards or pretreatment standard, as promulgated under authority of the Act.

Commercial user means all nondomestic sources of indirect discharge other than industrial users, including but not limited to publicly or privately owned facilities where persons are engaged in the exchange or sale of goods or services, hospitals, retail establishments, schools and facilities operated by local and state governments.

Compatible pollutant means biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus any additional pollutants identified in the NPDES permit if the treatment works was designed to treat such pollutants and in fact can remove such pollutants to a substantial degree.

Control authority means the approval authority, or the superintendent if the village has an approved pretreatment program under the provisions of 40 CFR 403.11.

Cooling water means the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

Direct discharge means the discharge of treated or untreated wastewater directly to the waters of the state.

Domestic sewage study (DSS) means that report promulgated and effective on August 23, 1990, as per 40 CFR 403.

Environmental Protection Agency means the United States Environmental Protection Agency.

Grab sample means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

Holding tank waste means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.

Indirect discharge means the discharge or the introduction of nondomestic pollutants from any source regulated under section 307(b) or (c) of the Act (33 USC 1317) into the POTW, including holding tank waste discharged into the system.

Industrial user means a source of indirect discharge under regulations issued pursuant to section 402 of the act (33 USC 1342), which source originates from, but is not limited to, facilities engaged in industry, manufacturing, business, trade or research, including the development, recovery or processing of natural resources.

Industrial waste means any liquid, solid or gaseous waste or form of energy or combination thereof resulting from any process of industry, manufacturing, business, trade or research, including the development, recovery or processing of natural resources.

Interference means the inhibition or disruption of the POTW treatment processes or operations which contributes to a violation of any requirement of the village's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Act (33 USC 1345), or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria applicable to the method of disposal or use employed by the POTW.

National categorical pretreatment standard or pretreatment standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 USC 1317) which applies to a specific category of industrial user.

National pollutant discharge elimination system or NPDES permit means a permit issued pursuant to section 402 of the Act (33 USC 1342).

National prohibitive discharge standard or prohibitive discharge standard means any regulation developed under the authority of section 307(b) of the Act and 40 CFR 403.5.

New source means any source from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance within that section, provided that the conditions of 40 CFR 403.3(k) are met.

Pass through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation.

Person means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or heir, legal representatives, agents or assigns.

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

Pollutant means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

Pollution means the manmade or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

POTW treatment plant means that portion of the POTW designed to provide treatment to wastewater.

Pretreatment or treatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes or process changes, or by other means, except as prohibited by 40 CFR 403.6(d).

Pretreatment Implementation Review Task Force (PIRT). As per 40 CFR 403, promulgated on October 17, 1988, and effective on November 16, 1988.

Pretreatment requirements means any substantive or procedural requirements related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

Publicly owned treatment works means a treatment works as defined by section 212 of the Act (33 USC 1292), which is owned in this instance by the village. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. Such term shall also include any sewers that convey wastewaters to the POTW from persons outside the village who are, by contract or agreement with the village, users of the village's POTW.

Significant industrial user means any industrial user of the village wastewater disposal system who:

- (1) Is subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N;
- (2) Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW, excluding sanitary, noncontact cooling and boiler blowdown wastewater;
- (3) Contributes a process waste stream which makes up five percent or more of the average hydraulic or organic capacity of the POTW treatment plant;
- (4) Has in its wastes toxic pollutants as defined pursuant to section 307 of the Act or state statutes and rules; or
- (5) Is found by the village, state control agency, or the Environmental Protection Agency to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of the sludge, the system's effluent quality, or air emissions generated by the system, unless the industrial user is determined not to be a significant industrial user in accordance with 40 CFR 403.3(t)(2).

Significant noncompliance. A user shall be in significant noncompliance, and the violation shall be published in the local newspaper, when the violation meets either one or more of the criteria as follows:

- (1) Chronic violations, exceeding 66 percent of the time during a six-month period, of the same pollutant parameters;
- (2) Technical review criteria (TRC) violations (33 percent or more of measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the applicable limit and the TRC value, 1.4 times the limit for BOD, TSS, fats, oil or grease; or 1.2 times the limit for all other pollutants except pH);

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- (3) A violation of pass through or interference;
 - (4) A discharge of imminent endangerment to human health, welfare, or the environment, or which required the POTW to use its emergency authorities under 40 CFR 403.8(f)(1)(vi)(B);
 - (5) Violations of a compliance schedule milestone by 90 days;
 - (6) Violations of report submittal deadlines by 30 days;
 - (7) Failure to report noncompliance;
 - (8) As defined in section 82-152; and
 - (9) Any other violation or group of violations deemed significant by the control authority that may adversely affect the operation or implementation of the pretreatment program (40 CFR 403.8(f)(2)(vii)).

Slug discharge means any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge.

Standard Industrial Classification means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

Stormwater means any flow occurring during or following any form of natural precipitation and resulting therefrom.

Superintendent means the person designated by the village to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this division, or his duly authorized representative.

Suspended solids means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater of other liquids, and which is removable by laboratory filtering.

Toxic pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of the Clean Water Act, section 307(a), 33 USC 1317, or other acts, or included in the Critical Materials Register promulgated by the state department of natural resources or other acts.

User means any person who contributes, causes or permits the contribution of wastewater into the village's POTW.

Village manager means the person appointed by the village council to be the village's chief executive officer, or his authorized deputy, agent or representative.

Wastewater means 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 POTW.

Waters of the state means 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) The following abbreviations when used in this division shall have the meanings designated in this section:

BOD: Biochemical oxygen demand.

CFR: Code of Federal Regulations.

COD: Chemical oxygen demand.

EPA: Environmental Protection Agency.

l: Liter.

mg: Milligrams.

mg/l: Milligrams per liter.

NPDES: National pollutant discharge elimination system.

POTW: Publicly owned treatment works.

SIC: Standard industrial classification.

SIU: Significant industrial user.

SWDA: Solid Waste Disposal Act, 42 USC 6901 et seq.

TSS: Total suspended solids.

USC: United States Code.

(Ord. No. 219, §§ 1.2, 1.3, 3-12-92 eff.)

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

Sec. 82-132. Purpose and objectives; applicability.

- (a) This division sets forth uniform requirements for direct and indirect contributors to the wastewater collection and treatment systems for the village and enables the village to comply with all applicable state and federal laws required by the Clean Water Act of 1977 and the general pretreatment regulations, 40 CFR 403.
- (b) The objectives of this division are to:
 - (1) Prevent the introduction of pollutants into the village wastewater system which will interfere with the normal operation of the system or contaminate the resulting municipal sludge;
 - (2) Prevent the introduction of pollutants into the village wastewater system which do not receive adequate treatment in the POTW, and which will pass through the system into receiving waters or the atmosphere or otherwise be incompatible with the system;
 - (3) Improve the opportunity to recycle and reclaim wastewater and sludge from the system.
- (c) This division provides for the regulation of direct and indirect contributors to the village wastewater system through the issuance of permits to certain nondomestic users and through enforcement of general requirements for the other users; authorizes monitoring and enforcement activities; requires user reporting; assumes that existing customers' capacity will not be preempted; and provides for the setting of fees for the equitable distribution of costs resulting from the program established in this division.
- (d) This division shall apply to the village and to persons outside the village who are, by contract or agreement with the village, users of the village POTW. Except as otherwise provided in this division, the superintendent of the village POTW shall administer, implement, and enforce the provisions of this division.

(Ord. No. 219, § 1.1, 3-12-92 eff.)

Sec. 82-133. General discharge prohibitions.

- (a) No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. A user may not contribute the following substances to any POTW:
- (1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius using the test methods specified in 40 CFR 261.21. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system, or at any point in the system, be more than five percent nor shall any single reading be over ten percent of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides, and any other substances which the village, state or EPA has notified the user is a fire hazard or a hazard to the system.
 - (2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities, 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 grain, spent hops, wastepaper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.
 - (3) Any wastewater having a pH of less than 5.0 or greater than 9.0 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.
 - (4) Any waters or wastes containing compatible or toxic pollutants which, singly or by interaction with other pollutants, exceed limitations established by the village for the following reasons:
 - a. To prevent treatment process pass through of pollutants which violate water quality standards of the receiving stream.
 - b. To prevent injury or inhibition of the treatment process or sludge handling facilities.
 - c. To prevent contamination of the wastewater sludge and interference with the sludge disposal process.
 - d. To comply with federal EPA categorical pretreatment standards.
 - e. Constitute a hazard to humans or animals.
 - f. Create a toxic effect in the receiving waters of the POTW.

Toxic pollutants shall include, but are not limited to, any substance identified in the federal EPA priority pollutant and state critical materials lists. Methods used by the village to establish limitations shall be in accordance with the latest guidelines of the state department of natural resources.
 - (5) 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.

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- (6) 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. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.
 - (7) Any substance which will cause the POTW to violate its NPDES and/or state disposal system permit or the receiving water quality standards.
 - (8) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
 - (9) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40 degrees Celsius (104 degrees Fahrenheit).
 - (10) Any pollutants, including oxygen demanding pollutants (BOD, etc.), released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW. In no case shall a slug load have a flow rate or contain concentration or quantities of pollutants that exceed for any time period longer than 15 minutes more than five times the average 24-hour concentration, quantities, or flow during normal operation.
 - (11) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.
 - (12) Any wastewater which causes a hazard to human life or creates a public nuisance.
 - (13) Any waters or wastes which may contain more than 100 milligrams per liter, by weight, of fat, petroleum, oil or grease, nonbiodegradable cutting oils, or products of mineral oil origin.
 - (14) Any discharge which will violate any statute, rule, regulation, or ordinance of any public agency, including the EPA.
 - (15) Any wastewater containing 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.
 - (16) Any trucked or hauled pollutants, except at discharge points designated by the treatment works.
- (b) When the superintendent determines that a user is contributing to the POTW any of the substances enumerated in subsection (a) of this section in such amounts as to interfere with the operation of the POTW, the superintendent shall:
- (1) Advise the user of the impact of the contribution on the POTW; and
 - (2) Develop effluent limitations for such user to correct the interference with the POTW.

(Ord. No. 219, § 2.1, 3-12-92 eff.)

Sec. 82-134. Specific discharge limitations.

- (a) No user shall discharge wastewater containing in excess of:

Parameter	Discharge limit (mg/l)
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Arsenic	0.01
Cadmium	0.05
Chromium (total)	1.5
Copper	1.0
Cyanide	2.0
Lead	1.0
Mercury	Nondetectable *
Nickel	0.5
Phenol	0.55**
Silver	0.19
Zinc	4.0

* Per EPA analytical method 245.1 at detection level of 0.0005 mg/l

** The limit of 0.55 mg/l is based on discharge of any or all of the following phenolic compounds: 2-Chlorophenol, 4-Chlorophenol, 2,4-Dichlorophenol, 2,4-Dimethylphenol, 2,4-Dinitrophenol, 2-Methylphenol, 4-Methylphenol, 2-Nitrophenol, 4-Nitrophenol, and phenol. Discharge of other phenolic compounds is prohibited, except as specifically authorized.

The following table sets limits for certain compatible pollutants:

Parameter	Discharge limit (mg/l daily avg.)
BOD-5	300
Suspended solids	350
Phosphorous	12
Ammonia	20

(b) No user shall discharge wastewater which exert a total chlorine demand greater than 15 mg/l.

(Ord. No. 219, § 2.2, 3-12-92 eff.; Ord. No. 231-016, § 1, 10-19-98)

Sec. 82-135. Federal categorical pretreatment standards.

- (a) *Generally.* All industrial users subject to federal categorical pretreatment standards shall be subject to the rules, regulations, and requirements of 40 CFR 403.
- (b) *Federal standards supersede limitations under this division.* Any existing or new federal categorical pretreatment standards shall immediately supersede the limitations imposed under this division if more stringent. In such a case, the superintendent shall notify all affected users of the applicable reporting requirements under 40 CFR 403.12.
- (c) *Deadline for compliance with categorical standards.*
 - (1) Existing sources shall comply with federal categorical pretreatment standards within three years of the date the standard is effective, unless a shorter compliance time is specified in 40 CFR chapter I, subchapter N.
 - (2) Direct dischargers with NPDES permits modified or reissued to provide a variance pursuant to section 301(i)(2) of the Act shall be required to meet compliance dates set in any applicable federal categorical pretreatment standard.

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- (3) Existing sources which become industrial users subsequent to promulgation of an applicable categorical standard shall be considered existing industrial users except where such sources meet the definition of a new source as defined in 40 CFR 403.3(k).
 - (4) New sources shall install and have in operating condition, and shall start up, all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time, not to exceed 90 days, new sources must meet all applicable pretreatment standards.
- (d) *Calculation of equivalent mass and concentration limits.*
- (1) When the limits in a federal categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the superintendent may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users.
 - (2) Equivalent limitations shall be deemed pretreatment standards for the purposes of section 307(d) of the Act. Industrial users will be required to comply with the equivalent limitations in lieu of the promulgated categorical standards from which the equivalent limitations were derived.

(Ord. No. 219, § 2.3, 3-12-92 eff.)

Sec. 82-136. Modification of federal categorical pretreatment standards.

Where the village's wastewater treatment system achieves consistent removal of pollutants omitted by federal categorical pretreatment standards, the village may apply to the approval authority for modification of specific limits in the categorical pretreatment standards. Consistent removal shall be determined in accordance with 40 CFR 403.7(b).

- (1) When the limits in a categorical standard are expressed only in terms of mass of pollutant per unit of production, the control authority may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users.
- (2) Equivalent limitations calculated in accordance with paragraphs (c)(3) and (c)(4) of 40 CFR 403.6 shall be deemed pretreatment standards for the purposes of section 307(d) of the Act and 40 CFR 403. Industrial users will be required to comply with the equivalent limitations in lieu of the promulgated categorical standards from which the equivalent limitations were derived.

(Ord. No. 219, § 2.4, 3-12-92 eff.)

Sec. 82-137. State requirements.

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this division.

(Ord. No. 219, § 2.5, 3-12-92 eff.)

Sec. 82-138. Fat, oil and grease interceptors.

- (a) All new restaurants and commercial and industrial facilities which have the potential to discharge wastewater containing fats, oils and grease (FOG) into the Village of Milford wastewater collection and treatment systems shall install, upgrade, operate and maintain a sufficiently-sized oil and grease, water and

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solids separator (hereinafter referred to as FOG interceptor) necessary to achieve and maintain compliance with the limits indicated in section 82-133 of this Code.

- (b) Any owner of any property failing to install, upgrade, operate and maintain a sufficiently-sized FOG interceptor shall be notified in writing by the village department of public services director the time period within which such FOG interceptor shall be installed, upgraded, operated or maintained. Upon expiration of the notice time period, the village department of public services director may cause the installation, operation or maintenance to be done. All expenses incurred in performing such work, including administrative expenses, shall be a debt due the village from the owner of the property. The village treasurer shall forward a statement of the total charges assessed to the owner as shown by the last current assessment or tax roll, and such assessment shall be payable to the village treasurer within 30 days from the date when the statement was forwarded. If not paid within the prescribed 30-day period, such statement shall be filed with the village assessor and shall thereupon be assessed against the land in question and become a lien on such property. The amount so charged may be discharged at any time by the payment of the amount specified in the statement, together with interest at the rate of six percent per year compiled from the time of filing such certificate with the village assessor. Such amount shall be a debt of the person assessed until paid and, in case of delinquency, may be enforced as delinquent property taxes or by a suit against such person.
- (c) FOG interceptors shall be designed, and shall perform, in the manner provided for in Chapter 10 of the Michigan Plumbing Code, governing "traps, interceptors, and separators," as such code is amended from time to time. All FOG interceptors shall be properly installed, upgraded and maintained in working order, and shall be kept free from obstructions, leaks and defects, and shall be capable of performing the function for which such devices are designed, as specified herein. Only kitchen wastewater, or other FOG bearing lines, shall be connected to the FOG interceptor. No domestic wastewater or restroom wastewater should enter the FOG interceptor.
- (d) All FOG interceptors shall be placed in a location that is accessible for cleaning, removal of grease, and acceptable for sampling. The location of the grease interceptor shall meet the approval of the village for sampling and inspection purposes. The sampling box and manhole shall connect directly to the interceptor prior to any domestic wastewater connections. Sampling stations may be used to monitor the efficiency of any interceptor maintenance program. Upon approval from the Village of Milford Department of Public Services, the location of each interceptor shall be in accordance with the manufacturer's instructions. Ready access shall be provided to each interceptor for service and maintenance. Furthermore, each business establishment for which an interceptor is required shall have an interceptor which shall serve only that establishment.
- (e) Each FOG interceptor shall be cleaned and maintained as necessary to insure FOG discharges of less than the limits stated in section 82-133. No FOG interceptor pumpage may be discharged into the village sewer system, and the operator of the establishment shall dispose of the contents in a lawful manner. Such clean out shall be undertaken on a quarterly basis, or on more frequent intervals specified in a written notice provided by the village department of public services to the owner and/or operator of the FOG interceptor based upon the ownership and/or occupancy records of the village. The intervals specified in the notice shall be formulated based upon the type and size of user, prior inspections, and other relevant information. A written certification of the owner and/or operator of the premises, including the date, name of person performing the work, a description of the cleaning undertaken, the amount of solids and grease removed, and an identification of the location of grease disposal, shall be maintained and provided to the village in writing upon request, reflecting all clean out activity in the immediately preceding two quarters.
- (f) Village sampling and inspections of FOG removal systems that result in noncompliance with these aforementioned standards shall receive written notification that the facility(s) has seven days to pump out the FOG removal system and will be reinspected. If after reinspection, the FOG removal system is still in noncompliance, the discharger must clean out the FOG removal system immediately. The village will

reinspect the FOG removal system; if the removal system is still in noncompliance, the village, at its option, may contract for appropriate cleaning and maintenance by a licensed contractor, the cost of which shall be collectable by the village from the owner and/or operator at a charge of actual costs plus a 25 percent administrative fee.

- (g) In all facilities having a FOG interceptor, a maintenance and repair log, showing the date of maintenance and repair, description of maintenance and repair performed, and the identification of the person or persons who performed the maintenance and repairs on each occasion, shall be conspicuously posted on the premises in the immediate vicinity of the grease interceptor facility. Such maintenance log shall be retained by the operator of the establishment for at least one year, and the current and past log records shall be made available to the village inspectors during all reasonable business hours for examination. The failure to maintain such a log shall constitute a violation of this section and the owner and/or operator shall pay the village's actual costs in obtaining the log.

(Ord. No. 219, § 2.6, 3-12-92 eff.; Ord. No. 231-209, § 1, 3-5-18)

Sec. 82-139. Dilution prohibited.

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 federal categorical pretreatment standards, or in any other pollutant specific limitation developed by the village or state.

(Ord. No. 219, § 2.7, 3-12-92 eff.)

Sec. 82-140. Spill prevention and operational upset.

Significant industrial users and all industrial/commercial users with the potential to discharge toxic substances or prohibited pollutants shall provide protection from accidental discharge of prohibited materials or other substances regulated by this division, slug loadings and operational upset of pretreatment facilities.

- (1) *Planning and periodic review.* Every SIU within the authority of the village shall within 180 days of enactment of this division or within 180 days of becoming a new discharger submit a report which reviews the potential for accidental discharges, operational upsets and slug loadings. If the potential for slug loading or other accidental discharge is determined by the village, a plan shall be prepared according to 40 CFR 403.8(f)(2)(v). This plan shall be known as the slug discharge action plan and shall be submitted in accordance with the provisions of subsection 82-146(e) to the village.
- (2) *Operation plans and facilities.* Facilities to prevent accidental discharge of prohibited materials, slug loadings and operational upsets shall be provided and maintained at the owner 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 existing users shall complete such a plan by 180 days after the effective date of this division. No user who commences contribution to the POTW after the effective date of this division shall be permitted to introduce pollutants into the system until accidental discharge and operational upset procedures have been approved by the village. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility necessary to meet the requirements of this division. Copies of the user's spill prevention control and countermeasure (SPCC) plan, the user's pollution incidence prevention plan (PIPP) and the user's slug discharge action plan shall be filed with the village.
- (3) *Notice requirements.*

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- a. *Immediate notice.* In the case of an accidental discharge, slug loading, or operational upset, or any discharge that could cause problems to the POTW, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.
 - b. *Written notice.* Within five days following an accidental discharge, slug loading, or operational upset, the user shall submit to the village a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to persons or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this division or other applicable law.
 - c. *Notice to employees.* A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

(Ord. No. 219, § 2.8, 3-12-92 eff.)

Sec. 82-141. Right of review by village.

Admission into the public sewers of wastewaters containing any of the prohibited discharges in section 82-133 or having an average daily flow rate of 10,000 gallons or more shall be subject to review by the village. All proposed discharges to the sanitary sewers shall be reviewed prior to connection. The discharge of an existing user shall be subject to review if a change in the contribution is anticipated or at the request of the village to demonstrate continued compliance with ordinance requirements. In support of this review, existing or potential users of the sewers shall provide all information necessary to complete the review. This information shall include, but is not limited to, the following:

- (1) File a written statement setting forth the nature of the enterprise, the source and amount of water used, the amount of water to be discharged with its present or expected bacterial, physical, chemical, radioactive, or other pertinent characteristics of the wastes.
- (2) Provide a report on raw materials entering the process or support system, intermediate materials, final product, and waste byproducts as those factors may affect waste control.
- (3) Provide a plan map of the building, works, or complex, with each outfall to the surface waters, sanitary sewer, storm sewers, natural watercourse, or groundwaters noted and described, and the waste stream identified.
- (4) Records and reports on the final disposal of specific liquids, solids, sludges, oils, solvents, radioactive material, and other wastes.
- (5) In the case of existing discharges, sampling and test reports as may be required by the village.

(Ord. No. 219, § 2.9, 3-12-92 eff.)

Sec. 82-142. Village's right of revision.

The village reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in section 82-132.

(Supp. No. 23)

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(Ord. No. 219, § 2.10, 3-12-92 eff.)

Sec. 82-143. Fees.

- (a) It is the purpose of this division to provide for the recovery of costs from users of the village's wastewater disposal system for the implementation of the program established in this division. The applicable charges or fees shall be set forth within the village's schedule of charges and fees.
- (b) The village may adopt, through resolution, charges and fees which may include:
 - (1) Fees for reimbursement of costs of setting up and operating the village's pretreatment program.
 - (2) Fees for monitoring, inspections and surveillance procedures.
 - (3) Fees for reviewing accidental discharge procedures and construction.
 - (4) Fees for filing appeals.
 - (5) Fees for consistent removal by the village of pollutants otherwise subject to federal categorical pretreatment standards.
 - (6) Fees for permit applications.
 - (7) Other fees as the village may deem necessary to carry out the requirements contained in this division.

These fees relate solely to the matters covered by this division and are separate from all other fees chargeable by the village.

(Ord. No. 219, § 3, 3-12-92 eff.)

Sec. 82-144. Wastewater dischargers; compliance required.

- (a) It shall be unlawful to discharge any wastewater to the village sanitary sewer collection system or other natural outlets within the jurisdiction of the village except as authorized by the village in accordance with this division or as approved by an NPDES permit.
- (b) The discharge of all major contributing dischargers shall be subject to review by the village as provided in section 82-141. A wastewater discharge permit shall be obtained for any discharge from a major contributing discharger which is characterized by the village as any one of the following:
 - (1) A discharge from a significant industrial user as defined in 40 CFR 403.3(t).
 - (2) A discharge with potential to cause violation of the village's NPDES permit limitations or water quality standards of the stream receiving the effluent of the treatment works.
 - (3) A discharge with potential to cause interference with the treatment process or wastewater sludge disposal procedures.
 - (4) A discharge regulated by federal EPA categorical pretreatment standards.
 - (5) A discharge from any pretreatment facility.

(Ord. No. 219, § 4.1, 3-12-92 eff.)

Sec. 82-145. Wastewater discharge permits.

- (a) *Required for certain users.* All significant industrial users and any industrial and commercial users, as required by the village, shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing significant industrial users and any industrial and commercial users, as required by the village, connected to or contributing to the POTW shall obtain a wastewater discharge permit.
- (b) *Application.* Users required to obtain a wastewater discharge permit shall complete and file with the village an application in the form prescribed by the village, and accompanied by an application fee as set forth in section 82-143. New significant industrial users shall apply at least 90 days prior to connecting to or contributing to the POTW. In support of the application, the village may require the user to submit, in units and terms appropriate for evaluation, the following information:
- (1) Name, address, and location of the discharger.
 - (2) Standard Industrial Classification number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.
 - (3) Wastewater constituents and characteristics, as determined by the superintendent. Sampling and analysis shall be performed in accordance with procedures established by the EPA contained in 40 CFR 136, as amended; where 40 CFR 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants, April 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the administrator of the EPA. The permit application shall indicate the time, date and place of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
 - (4) Time and duration of discharges.
 - (5) Average daily and instantaneous peak wastewater flow rates, in gallons per day, including daily, monthly and seasonal variations, if any.
 - (6) Site plans, floor plans, mechanical and plumbing plans and details showing all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation.
 - (7) Description of activities, facilities and plant processes on the premises, including all materials which are or may be discharged to the sewers or works of the village.
 - (8) Nature and concentration of any pollutants or materials in the discharge which are limited by any village, state or federal pretreatment standards, together with a statement regarding whether or not compliance is being achieved with the pretreatment standards 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 applicable pretreatment standards.
 - (9) Where additional pretreatment and/or operation and maintenance activities will be required to comply with applicable pretreatment standards, the user shall provide a declaration of the shortest schedule by which the user will provide such additional pretreatment and/or implementation of additional operational and maintenance activities. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:
 - a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional

pretreatment required for the user to comply with the requirements of the applicable pretreatment standards, including but not limited to dates relating to hiring an engineer, hiring other appropriate personnel, completing preliminary plans, completing final plan, executing contract for major components, commencing construction, completing construction, and all other acts necessary to achieve compliance with this division.

- b. Under no circumstance shall the village permit a time increment for any single step directed toward compliance which exceeds nine months.
 - c. Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the village, including no less than a statement as to whether or not it complied with the increment of progress represented by that date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the approved schedule. In no event shall more than nine months elapse between such progress reports to the village.
- (10) Each product produced by type, amount, process or processes and rate of production.
 - (11) Type and amount of raw materials utilized (average and maximum per day).
 - (12) Number and type of employees, hours of operation of plant and proposed or actual hours of operation of pretreatment system.
 - (13) All permit applications shall be signed by a principal executive officer of the discharger (see section 82-146(g)).
 - (14) A listing of all environmental control permits held by or for the village.
 - (15) Any other information as may be deemed by the village to be necessary to evaluate the permit application.

The village will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the village may issue a wastewater contribution permit subject to terms and conditions provided in this division.

- (c) *Permit modifications.* Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standards within the timeframe prescribed by such standard. Where a user subject to a national categorical pretreatment standard has not previously submitted an application for a wastewater discharge permit as required by subsection (b) of this section, the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable national categorical pretreatment standards. In addition, the user with an existing wastewater discharge permit shall submit to the superintendent within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by subsections (b)(8) and (9) of this section.
- (d) *Permit conditions.* Wastewater discharge permits shall be expressly subject to all provisions of this division and all other applicable regulations, user charges and fees established by the village. Permits may contain the following:
 - (1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer.
 - (2) Limits on the average and maximum wastewater constituents and characteristics.
 - (3) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization.
 - (4) Requirements for installation and maintenance of inspection and sampling facilities.

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- (5) Specifications for self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sampling type, based on the applicable general pretreatment standards of 40 CFR 403, this division, categorical pretreatment standards, local limits, and state and local law.
 - (6) Compliance schedules.
 - (7) Requirements for submission of technical reports or discharge reports (see section 82-146).
 - (8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the village, and affording the village access thereto.
 - (9) Requirements for notification of the village 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) Requirements for notification of slug discharges as per section 82-152d.
 - (11) Other conditions as deemed appropriate by the village to ensure compliance with this division.
- (e) *Duration of permit.* Wastewater discharge permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 90 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the village during the term of the permit as limitations or requirements as identified in sections 82-133 and 82-134 are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
 - (f) *Nontransferability.* Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be assigned, transferred or sold to a new owner, new user or different premises.
- (Ord. No. 219, § 4.2, 3-12-92 eff.)

Editor's note(s)—Wastewater discharge permit applications are available in the clerk's office.

Sec. 82-146. Reporting requirements for permittee.

- (a) *Compliance date report.* Within 90 days following the date for final compliance by the user with applicable pretreatment standards or 90 days following commencement of the introduction of wastewater into the POTW by a new source, any user subject to pretreatment standards and requirements shall submit to the village a report containing the information listed in 40 CFR 403.12(b)(4)—(6).
 - (1) For industrial users subject to equivalent mass or concentration limits established by the village, this report shall contain a reasonable measure of the user's long term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period.
 - (2) The report shall state whether the applicable pretreatment standards and requirements are being met on a consistent basis and, if not, what additional operation and maintenance and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards and requirements. This statement shall be signed by an authorized representative of the user and certified to by an engineer licensed to practice in the state.
- (b) *Baseline monitoring report.*

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- (1) Within 180 days after the effective date of a categorical pretreatment standard or 180 days after the final administrative decision made upon a category determination, whichever is later, existing industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to a POTW shall be required to submit to the village a report which contains the information listed in 40 CFR 403.12(b).
 - (2) At least 90 days prior to commencement of discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the village a report which contains the information listed in 40 CFR 403.12(b). New sources shall also include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards.
- (c) *Periodic compliance report.*
- (1) Any user subject to a categorical pretreatment standard, after the compliance date of such pretreatment standard, or in the case of a new source, after the commencement of the discharge into the POTW, shall submit to the village during the months of June and December, unless required more frequently in the pretreatment standard or by the village, a report indicating the nature and concentration of pollutants in the effluent which are limited by such categorical pretreatment standard. In addition, this report shall include a record of all measured or estimated average and maximum daily flows for the reporting period for the discharge reported in subsection (a) of this section, except that the village may require more detailed reporting of flows. Flows shall be reported on the basis of actual measurement; provided, however, that where cost or feasibility considerations justify, the village may accept reports of average and maximum flows estimated by verifiable techniques. The village, for good cause shown considering such factors as local high or low flow rates, holidays, budget cycles, or other extenuating factors, may agree to alter the months during which the reports required by this subsection are to be submitted.
 - (2) If sampling performed by an industrial 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 analysis and submit the results of the repeat analysis to the village within 30 days after becoming aware of the initial violation unless the POTW samples the user's discharge.
 - (3) All analyses shall be performed in accordance with procedures contained in 40 CFR 136 and amendments thereto or with any other test procedure approved by the administrator. Sampling shall be performed in accordance with the techniques approved by the administrator. Where 40 CFR 136 does not include sampling or analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by the POTW or the approval authorities.
 - (4) If an industrial user monitors any pollutant more frequently than required by the village, using the procedures prescribed in subsection (c)(3) of this section, the results of that monitoring shall be included in the report.
- (d) *Slug loading.* A user shall notify the POTW immediately of all discharges that could cause problems at the POTW, including, but not limited to, any slug loading of the prohibitions in section 82-133, and 40 CFR 403.5(b).
- (e) *Reporting requirements for all industrial users.*
- (1) Reporting requirements for industrial users subject to federal categorical pretreatment standards are outlined in subsection (c) of this section.
 - (2) Significant noncategorical industrial users shall submit to the village at least once every six months, on dates specified by the village, a description of the nature, concentration, and flow of the pollutants

required to be reported by the village. All sampling and analysis will be in accordance with section 82-145(d)(5).

- (3) The village has the authority to require appropriate reporting from nonsignificant industrial users. Reporting requirements will be determined on a case-by-case basis.
 - (4) All reports shall be based on sampling and analysis performed in the period covered by the report.
 - (5) All industrial users shall notify the POTW, the EPA Region V waste management division director and the state department of natural resources in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261. Reporting requirements shall be in accordance with 40 CFR 403.12(p).
 - (6) All industrial users shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under subsection (e)(3) of this section and 40 CFR 403.12(p).
 - (7) All users with existing SPCC plans, PIPPs or slug discharge action plans as described in section 82-140(2) shall submit these plans to the village by June 1 of each odd-numbered year for review along with proposed changes and other such information as requested by the village or the control authority required to conduct such a review.
- (f) *Annual reports.* Each person issued a wastewater discharge permit shall submit a signed annual discharge report to the village. The village may require a permit holder to submit more frequent reports if in his judgment the wastes being discharged are possibly in violation of this division. The report shall include, but not be limited to, nature of process, volume, rates of flow, mass emissions, production quantities, hours of operation, personnel or other information that relates to the generation, handling and discharge of wastes. The report may also include the chemical constituents and quantity of liquid or gaseous material stored on site. If insufficient data has been furnished, other information will be provided upon request of the village.
- (g) *Signatory requirements for reports.* Any industrial user submitting a report required by this section shall include the following certification statement as set forth in 40 CFR 403.6(a)(2)(ii):

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.

The report shall be signed by an authorized representative (corporate officer, general partner, proprietor, or duly authorized representative, as noted in 40 CFR 403.12(1)).

(Ord. No. 219, §§ 4.3.1—4.3.7, 3-12-92 eff.)

Sec. 82-147. Bypass; notice.

- (a) Bypassing is prohibited and the village may take enforcement action against a user for a bypass unless:
 - (1) Such bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (2) There was no feasible alternative to the bypass. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent bypass which occurred during periods of equipment downtime or preventive maintenance; and
 - (3) The industrial user submitted proper notice of the bypass.

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- (b) The village may approve an anticipated bypass, after considering its adverse effects, if the village determines that it will meet the three conditions listed under subsection (a) of this section.
 - (c) An industrial user shall submit oral notice of an anticipated bypass that exceeds pretreatment limits to the village within 24 hours from the time the user becomes aware of the bypass. A written submission as described in 40 CFR 403.17(c) shall also be provided within five days of the time the user becomes aware of the bypass.

(Ord. No. 219, § 4.3.8, 3-12-92 eff.)

Sec. 82-148. Monitoring facilities.

- (a) When required by the village, each user shall provide and operate, at the user's own expense, a monitoring facility to allow inspection, sampling, and flow measurement of each sewer discharge to the village. Each monitoring facility shall be situated on the user's premises, except that, where such a location would be impractical or cause undue hardship on the user, the village may concur with the facility being constructed in the public street or sidewalk area provided that the facility is so located that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling 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.
- (b) All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications.

(Ord. No. 219, § 4.4, 3-12-92 eff.)

Sec. 82-149. Inspection and sampling.

- (a) *Access.* The village may inspect the facilities of any user to ascertain whether the purpose of this division is being met and all requirements are within compliance. Persons or occupants of premises where wastewater is created or discharged shall allow the village or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their duties. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the village, state department of natural resources and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities under this division.
- (b) *Sampling and inspection.* The village, state department of natural resources and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations.
- (c) *Annual sampling.* The village shall at its discretion conduct annual, or more frequent if required, independent compliance sampling of effluents generated by users identified as SIUs.

(Ord. No. 219, § 4.5, 3-12-92 eff.)

Sec. 82-150. Pretreatment.

Users shall provide necessary wastewater treatment as required to comply with this division and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat 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 acceptable to the village before construction of the facility. The review of such 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 division. 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.

(Ord. No. 219, § 4.6, 3-12-92 eff.)

Sec. 82-151. Confidential information.

All 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 without restriction, unless the user specifically requests the information be classified confidential on the basis of proprietary processes. When information is classified as confidential, the village clerk shall provide proper and adequate facilities and procedures to safeguard the confidentiality of manufacturing proprietary processes, except that confidentiality shall not extend to waste products discharged to the waters of the state. All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or approval authority by request.

(Ord. No. 219, § 4.7, 3-12-92 eff.)

Sec. 82-152. Enforcement.

- (a) *Affirmative defense.* A user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions in section 82-133 and 40 CFR 403.5(a)(2).
- (b) *Injunctive relief.* The village shall obtain remedies for noncompliance by any industrial user with any pretreatment standard and requirement. All POTWs shall be able to seek injunctive relief for noncompliance by industrial users with pretreatment standards and requirements. All POTWs shall also have authority to seek or assess civil or criminal penalties in at least the amount of \$500.00 per day for each violation by industrial users of pretreatment standards and requirements.
- (c) *Emergency suspension of service or permit.*
 - (1) The village may suspend the wastewater treatment service and/or a wastewater discharge permit when such suspension is necessary, in the opinion of the village, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or to the environment, causes interference to the POTW or causes the village to violate any condition of its NPDES permit.
 - (2) Any person notified of a suspension of the wastewater treatment service and/or the wastewater discharge permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the village shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The village shall reinstate the wastewater discharge permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the village within 15 days of the date of occurrence.
- (d) *Revocation of permit.* Any user who violates the following conditions of this division, or applicable state and federal regulations, is subject to having his permit revoked in accordance with the procedures of this section:

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- (1) Failure of a user to factually report the wastewater constituents and characteristics of its discharge;
 - (2) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;
 - (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or
 - (4) Violation of conditions of the permit.
- (e) *Notification of violation.* Whenever the village finds that any user has violated or is violating this division, its wastewater discharge permit, or any prohibition, limitation or requirements contained within, the village shall serve or cause to be served upon such user a written notice, either personally or by certified or registered mail, return receipt requested, stating the nature of the alleged violation. Within 30 days of the date of receipt of the notice, the discharger shall respond personally or in writing to the village, advising of its position with respect to the allegations. Thereafter, the parties shall meet to ascertain the veracity of the allegations and, where necessary, establish a plan for the satisfactory correction thereof.
- (f) *Show cause hearing.*
- (1) The village may order any user which causes or allows conduct prohibited by subsection (d) of this section to show cause before the village or its duly authorized representative why the proposed service termination action should not be taken. A written notice shall be served on the user by personal service, or by certified or registered mail, return receipt requested, specifying the time and place of a hearing to be held by the village or its designee regarding the violation, the reasons why the enforcement action is to be taken, the proposed enforcement action, and directing the user to show cause before the village or its designee why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail not less than ten days before the hearing. Service may be made on any agent, officer, or authorized representative of a user.
 - (2) The village council may itself conduct the hearing and take the evidence or may designate any of its members or any officer or employee of the assigned department to:
 - a. Issue in the name of the village council notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
 - b. Take the evidence;
 - c. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the village council for action thereon.
 - (3) At any hearing held pursuant to this section, testimony taken must be under oath and recorded stenographically. The transcript so recorded will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor.
 - (4) After the village council has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, and that such devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.
- (g) *Judicial proceedings.* Following the entry of any order by the village with respect to the conduct of a user contrary to the provisions of subsection (d) of this section, the village attorney may, following the authorization of such action by the village, commence an action for appropriate legal and/or equitable relief in the appropriate local court.
- (h) *Publication of violations.*

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- (1) The village shall annually publish in the newspaper a list of users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards or other pretreatment requirements. The notification shall also summarize any enforcement actions taken against the users during the same 12 months.
 - (2) For purposes of this subsection, an industrial user is in significant noncompliance if its violation meets either one or more of the criteria listed in 40 CFR 403.8(f)(2)(vii) or which:
 - a. Remains uncorrected for 30 days after notification of noncompliance.
 - b. Resulted in the village exercising its right to suspend service pursuant to subsection (c) of this section.
- (i) *Right of appeal.* Any user or any interested party shall have the right to request in writing an interpretation or ruling by the village on any matter covered by this division and shall be entitled to a prompt written reply. If such inquiry is by a user and deals with matters of performance or compliance with this division for which enforcement activity relating to an alleged violation is the subject, receipt of a user's request shall stay all enforcement proceedings pending receipt of the aforesaid written reply. Appeal of any final judicial order entered pursuant to this division may be taken in accordance with local and state law.
- (j) *Operations upsets.* An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards.
- (1) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, lack of preventive maintenance, or careless or improper operation.
 - (2) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, that:
 - a. An upset occurred and the user can identify the cause(s) of the upset.
 - b. The facility was at the time being operated in a prudent and workmanlike manner in compliance with applicable operation and maintenance procedures.
 - c. The user submitted the following information to the POTW within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):
 1. A description of the indirect discharge and cause of noncompliance.
 2. The period of noncompliance, including exact dates and times, or, if not corrected, the anticipated time the noncompliance is expected to continue.
 3. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.
 - (3) In any enforcement proceeding the user seeking to establish the occurrence of an upset shall have the burden of proof.

(Ord. No. 219, § 5, 3-12-92 eff.)

Sec. 82-153. Violations; penalties.

- (a) *Violation or noncompliance with division or wastewater discharge permit.* Any user who is found to have violated an order of the village or who willfully or negligently failed to comply with any provision of this

division or any orders, rules, regulations and permits issued under this division shall be fined upon conviction as prescribed in section 1-12 of this Code. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the village may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this division or the orders, rules, regulations, and permits issued hereunder.

- (b) *Falsifying information.* 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 this division, or a wastewater discharge permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this division, shall be fined upon conviction as prescribed in section 1-12 of this Code.

(Ord. No. 219, § 6, 3-12-92 eff.)

Sec. 82-154. Adjustments to categorical standards.

Any industrial user may seek an adjustment in the categorical pretreatment standards to reflect the presence of pollutants in the industrial user's intake water. The village may allow a credit therefor in accordance with 40 CFR 403.15.

(Ord. No. 219, § 7.1, 3-12-92 eff.)

Sec. 82-155. Removal credits.

A credit may be allowed for the reduction in the amount of a pollutant in the POTW's effluent or alteration of the nature of a pollutant during treatment at the POTW. The reduction or alteration can be obtained by physical, chemical or biological means and may be the result of specifically designed POTW capabilities or may be incidental to the operation of the treatment system. Removal as used in this section shall not mean dilution of a pollutant in the POTW. The village may allow a credit in accordance with 40 CFR 403.7.

(Ord. No. 219, § 7.2, 3-12-92 eff.)

Sec. 82-156. Records retention.

All users subject to this division shall retain and preserve, for no less than three years, any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof relating to monitoring, sampling and chemical analyses made by or on behalf of the user in connection with its discharge. A record which pertains to matters which are the subject of administrative adjustment or any other enforcement or litigation activities brought by the village pursuant to this division shall be retained and preserved by the user until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

(Ord. No. 219, § 9, 3-12-92 eff.)

Secs. 82-157—82-175. Reserved.

DIVISION 3. USE AND CHARGES FOR WASTEWATER TREATMENT PLANT

Sec. 82-176. Determination of necessity.

It is hereby determined to be necessary for the public health and welfare of the people of the village to impose and collect user charges upon the premises served by the wastewater treatment plant of the village.

(Ord. No. 199, § 2, 2-22-88 eff.)

Sec. 82-177. Definitions.

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

Biochemical oxygen demand or *BOD* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter.

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

Building sewer means the extension from the building drain to the public sewer or other place of disposal.

Combined sewer means a sewer receiving both surface runoff and sewage.

Debt service charge means that charge which shall recover the cost of financing the wastewater treatment plant, including, but not limited to, the repayment of bond principal and interest, and bond reserve costs and other necessary costs related thereto.

Garbage means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

Industrial wastes means the liquid wastes from industrial and manufacturing processes, trade or business, as distinct from sanitary sewage.

National pollutant discharge elimination system or *NPDES permit* means a permit issued pursuant to section 402 of the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

Natural outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

Normal domestic strength wastewater means wastewater that has a BOD concentration of not more than 375 mg/l, a suspended solids concentration of not more than 375 mg/l, a phosphorus (PO(4)-P) concentration of not more than 6.5 mg/l, and an ammonia (NH(3)-N) concentration of not more than 6.5 mg/l as measured at the user's discharge point to the sewer system.

Operation and maintenance means the control of the unit process and equipment; and the preservation of the functional integrity and efficiency of equipment and structures that make up the facilities. This includes, but is not limited to, the financial and personnel management, records, laboratory control, processing control, safety, emergency operation planning, preventative maintenance, corrective maintenance, and replacement of equipment as necessary.

pH means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Private sewage disposal system means any approved system for the disposal of domestic wastewater which is privately owned and maintained.

Properly shredded garbage means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half-inch in any dimension.

Public sewer means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

Replacement means expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment plant to maintain the capacity and performance for which such works were designed and constructed.

Sanitary sewage means the waste from toilets, urinals, lavatories, sinks, bathtubs, showers, household laundries, cellar and garage floor drains, soda fountains, bars, refrigerator drips, air conditioners, drinking fountains and other domestic or commercial water wastes.

Sanitary sewer means a sewer which carries sewage and to which stormwaters, surface waters and groundwaters are not intentionally admitted. An "available sanitary sewer" shall mean one which is adequate for connection thereto.

Service meter means the device which measures the flow of water from the service line to the user.

Sewage means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such groundwaters, surface waters and stormwaters as may be present.

Sewage service charge means user and debt charges necessary to finance and operate the wastewater treatment plant.

Sewer means a pipe or conduit for carrying sewage.

Sewer access fee means that fee charged by the village to permit a physical connection to the village's wastewater treatment plant, with each connection to be calculated in units as specified in the village sewer and water table of unit factors.

Slug means any discharge of water, sewage or industrial waste which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration of flows during normal operation.

Storm drain or *storm sewer* means a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

Suspended solids means solids that either float on the surface of, or are in suspension in, water, sewage or other liquids, and which are removable by laboratory filtering.

Unit means the basis for computing sewage service charges and sewer access fees, as determined in accordance with the table of unit factors as set forth in the village sewer and water table of unit factors, with the proviso that there shall be a minimum of one full unit for each connection.

Useful life means the estimated period during which a wastewater treatment works will be operated.

User charge means that portion of the total sewage service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance and replacement of the wastewater treatment plant.

User class means the grouping of users into a separate distinct class, based on shared characteristics, as follows:

- (1) *Residential user* means any user whose lot, parcel of real estate, or building is used for domestic dwelling purposes, including multiple dwellings.

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- (2) *Commercial user* means any user whose property is used for retail stores, restaurants, office buildings, laundries, and other private business and service establishments.
 - (3) *Institutional user* means any user whose property is used for social, charitable, religious, or educational activities, such as schools, churches, hospitals, nursing homes, and other similar institutional users.
 - (4) *Governmental user* means any user whose property is used for government activities such as governmental service, administration and maintenance, fire and police services, and other similar governmental users.
 - (5) *Industrial user* means a user which discharges industrial waste from industrial, manufacturing, trade or business processes.
 - (6) *Recreational user* means any user whose property is primarily used for recreational purposes.

Village manager means the village manager or his authorized deputy, agent or representative.

Wastewater treatment plant means any devices and systems for the storage, treatment, recycling and reclamation of municipal sewage, domestic sewage or liquid industrial wastes. These include intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment and their appurtenances; extensions, improvement, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues and resulting from such treatment (including land for composting sludge, temporary storage of such compost and land used for the storage of treated wastewater in land treatment systems before land application); or any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of municipal or industrial waste.

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.

(Ord. No. 199, § 3, 2-22-88 eff.; Ord. No. 199-A, 2-22-89 eff.)

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

Sec. 82-178. Connection fee—Payment prerequisite to service.

- (a) Before an initial connection is made or additional usage resulting from building alterations is added to the village wastewater treatment plant, a fee known as the sewer connection fee shall be paid to the village treasurer. This fee shall be established by village council resolution.
- (b) Payment of the sewer connection fee shall be made at the time a building permit is obtained in conjunction with such connection or at the time administrative action has occurred to allow or permit change in use or alteration resulting in additional units. Payments made without actual approved connection being made to the village wastewater treatment plant shall not grant a right of connection to or reservation in the village wastewater treatment plant.
- (c) The sewer connection fee shall include the charges due the village in accordance with the applicable fees and unit factors in effect at the time that:
 - (1) A connection is made to the village wastewater treatment plant; or
 - (2) A change in use relating to an existing connection results in an increase in units.

Fees paid in advance of the circumstances described in subsection (c)(1) or (2) of this section shall be considered to be estimated only.

(Ord. No. 199, § 4, 2-22-88 eff.)

Sec. 82-179. Same—Disposition of accounts.

The total sewer connection fee shall be reserved for capital improvements to the wastewater treatment system and plant, unless otherwise designated by the village council.

(Ord. No. 199, § 5, 2-22-88 eff.; Ord. No. 231-011, § 1, 5-4-98)

Sec. 82-180. User charges.

- (a) *Generally.* User charges shall be charged to each customer serviced for the privilege of discharging sanitary sewage and industrial wastes into the wastewater treatment plant according to one of the following methods:
- (1) One hundred percent of metered (resident may install at his expense) water consumption, if only village water is used.
 - (2) Where no meter is installed a flat fee for 30,000 gallons shall be charged.
 - (3) Where it can be established to the satisfaction of the village manager that there is a substantial difference in quantity between water entering the premises and water discharged into the wastewater treatment plant, the village will permit the installation of an accurate meter on the outgoing sewer line or water line under the supervision of the village manager or his designee with costs to be borne by the owner.
 - (4) Where nonpolluted metered water is lawfully discharged elsewhere than in the wastewater treatment plant, the user charge shall be based in accordance with the rates set forth pursuant to this subsection (a), except that the sewer bill may be reduced by the difference in gallons between the incoming and the outgoing water as determined by the village manager upon the establishment of a record. In the case of the filling of swimming pools, an interim determination as to possible reduction in gallonage may be made by the village manager for water which will not eventually be discharged into the wastewater treatment plant.
- (b) *Establishment of rates.*
- (1) User charge rates shall be established by the village council. The village manager shall present to the village council appropriate user charge rates during budget preparation to ensure that adequate revenues are generated to pay the costs of operation, maintenance, and replacement for the wastewater treatment plant so that the system continues to provide for the proportional distribution of operation, maintenance, and replacement costs among users and user classes.
 - (2) User rates shall be established by the village council by a separate rate resolution for user charges based on water meter flow or sewer meter flow. Surcharge rates for high strength users shall also be established.
 - (3) The village manager shall annually cause each user to be notified, by publishing such notice in a newspaper of general circulation in the village, of the separate rate being charged for operation, maintenance and replacement costs of the wastewater treatment plant.

(Ord. No. 199, §§ 6, 7, 2-22-88 eff.; Ord. No. 199-A, 2-22-89 eff.)

Sec. 82-181. Debt service charges.

- (a) Debt service charges shall be developed and established by the village council.

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- (b) The village shall review the debt service charges at least annually and revise the charges and rates as necessary to ensure that adequate revenues are generated to pay the costs of the debt service for the wastewater treatment plant.
 - (c) The village manager shall annually cause each user to be notified by publication in a newspaper of general circulation in the village of the separate rate being charged for debt service for the wastewater treatment works.

(Ord. No. 199, §§ 8, 9, 2-22-88 eff.)

Sec. 82-182. Service charges constitute lien on property.

Charges for wastewater treatment plant service shall constitute a lien on the property served. On or before March 1 of each year, the officer in charge of collection of such charges shall prepare a certified statement of all charges then six months past due and unpaid. The treasurer shall then place such charges on the next general tax roll and such charges shall be collected as part of the general village taxes.

(Ord. No. 199, § 11, 2-22-88 eff.)

Sec. 82-183. Discontinuing service; shutoff, turn-on charges.

The village shall have the right to discontinue either the water service or wastewater treatment plant service, or both, for nonpayment of the service charges or for refusal of the owner or occupant of premises to install a meter. Where the owner or occupant of premises subject to the installation of a meter refuses to install a meter, the village may, at the discretion of the village manager, if wastewater service is not discontinued during a particular period of time, charge a flat rate for wastewater service as established by the village, and if such sum is not paid, it shall constitute a lien on the premises and shall be added to the tax rolls. If wastewater service is shut off pursuant to the terms of this division, a shutoff charge and a turn-on charge as established by the village shall be collected in addition to the amount of the delinquent wastewater service charge before the wastewater service is turned on. The village water/sewer appeal board's power of review shall not be changed by this section.

(Ord. No. 199, § 12, 2-22-88 eff.)

Sec. 82-184. Appeal procedure.

- (a) An appeal by any customer may be made for relief regarding billing, flow, flow concentration, rate application and regulatory application. An appeal is initiated by making written application to the water/sewer board of appeals requesting a review of the customer's grievance. The written request shall, where necessary, provide data supporting the appeal.
- (b) Review of the request for relief under this section shall be made by the water/sewer board of appeals. If the appeal is substantiated, the proper adjustment to the user shall be made. If the adjustment involves user billings, such billings shall be recomputed based on appropriate data and the new charges shall be applicable to the next billing period.

(Ord. No. 199, § 13(a), (b), 2-22-88 eff.)

Sec. 82-185. Water/sewer board of appeals.

- (a) *Composition.* The water/sewer board of public appeals shall be comprised of three village residents who are not currently serving in any other elected or appointed village board or committee. The board shall consist of one chairperson and two members as appointed by the village president.
- (b) *Meetings.* The water/sewer board of appeals shall meet at least every six months with meeting dates to be established by the board. If no appeals are received one week prior to the scheduled meeting, a meeting of the board may be canceled. Additional meetings of the board may be scheduled as required.

(Ord. No. 199, §§ 13(c), (d), 2-22-88 eff.; Ord. No. 199-A, 2-22-89 eff.)

Sec. 82-186. Free service prohibited.

No free service shall be furnished by the village sewer system to any person, firm or corporation, public or private, or to any public agency or instrumentality.

(Ord. No. 199, § 14, 2-22-88 eff.)

Sec. 82-187. Operating year.

The wastewater treatment plant shall be operated on an operating year coincident with the village fiscal year.

(Ord. No. 199, § 15, 2-22-88 eff.)

Sec. 82-188. Disposition of funds; annual audit.

- (a) The funds received as user charges for operation, maintenance, and replacement of the wastewater treatment plant authorized by this division shall be deposited with the village treasurer and shall be accounted for and be known as the wastewater treatment operations account (revenue) and shall be available for the payment of the cost and expense of operation, maintenance and replacement of the wastewater treatment plant. All other service charges authorized by this division shall be deposited with the village treasurer and shall be accounted for and be known as the wastewater treatment capital account and, where appropriated by the village council, shall be available for the payment of the cost and expense of the management, maintenance, improvement and repair of the wastewater treatment plant and for the payment of interest and/or principal on bonds which have been or may be issued for improvement or construction of the wastewater treatment plant and to retire such bonds.
- (b) An annual independent audit shall be made of the wastewater treatment operations account (revenue) and the wastewater treatment capital account.

(Ord. No. 199, § 16, 2-22-88 eff.)

Sec. 82-189. Compliance with NPDES permit.

Use and operation of the wastewater treatment plant shall be in compliance with the NPDES permit conditions and requirements.

(Ord. No. 199, § 17, 2-22-88 eff.)

Sec. 82-190. Compliance with pretreatment regulations.

Use of the wastewater treatment plant shall be in compliance with the village pretreatment standard conditions and regulations, as provided in division 2 of this article, and 40 CFR 403 pretreatment standards (Clean Water Act of 1977).

(Ord. No. 199, § 18, 2-22-88 eff.)

Sec. 82-191. Use of public sewers required.

- (a) It shall be unlawful for any person to place, deposit or permit to be deposited in any insanitary 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 unless such deposits are in compliance with a village ordinance.
- (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 or other polluted waters, except where suitable treatment has been provided in accordance with the provisions of this division.
- (c) Except as provided in this division, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage. However, portable privies are allowed at construction sites and other temporary locations by permission of the village officials.
- (d) Structures lying within the village in which sanitary sewage originates shall be connected to the public sanitary sewer as follows:
 - (1) All new structures in which sanitary sewage originates within the village shall be connected to an available public sanitary sewer in the village before a certificate of occupancy shall be issued, if such a sewer exists.
 - (2) Existing structures in which sanitary sewage originates lying within the boundaries of the village shall be connected to an available public sanitary sewer upon the earlier of the following events:
 - a. Within 90 days after the date of mailing or posting of written notice by the village or the Oakland County Health Department that a health hazard exists due to the failure of an existing private sewage disposal system due to soil conditions or for any other reason.
 - b. Where new and/or additional tile fields are necessary in an existing septic system because of the construction of new structures or additions to existing structures.
 - c. Where an existing private system fails or needs to be repaired or expanded to the extent of 50 percent or more of its area.
 - d. Where any addition or alteration to an existing non-residential structure is proposed, whether or not new and/or additional tile facilities are necessary.
 - e. Where any addition or alteration to an existing residential structure adding more than 100 square feet of habitable living space is proposed, whether or not new and/or additional tile facilities are necessary.
 - f. Upon the sale or other transfer of ownership of the property.
 - g. If the village council determines, in its discretion, that compliance with subsections (d)(2)e and (d)(2)f hereof, would pose an undue hardship on the property owner, the council may defer the time period for connection for up to five years. In such event, all persons with any interest in the property shall execute a covenant, in a form suitable for recording at the Oakland County

Register of Deeds, and approved by the village attorney, confirming the requirement to connect to the sanitary sewer system.

- (e) Connection to or extension of an existing sanitary sewer shall not be permitted if it is determined that the receiving sewer or treatment plant cannot handle the additional influent flow.
- (f) A review body, hereinafter known as the sewer connection review board is hereby established, the membership of which shall consist of the village manager as chairperson, a village resident and the village department of public works director. The duties and jurisdiction of the sewer connection review board shall be defined by resolution of council and may be amended from time to time in the same manner. The duties and functions of the review board are separate and distinct from those of the water and sewer board of appeals described in the Village of Milford Code of Ordinances in chapter 82, article II, division 2, section 82-55, and chapter 82, article III, division 3, sections 82-184 and 82-185.

(Ord. No. 199, § 19, 2-22-88 eff.; Ord. No. 199-B, § 1, 3-2-92; Ord. No. 231-086, § 1, 6-16-03; Ord. No. 231-088, § 1, 7-7-03; Ord. No. 231-236, § 1, 12-21-20)

Sec. 82-192. Private sewage disposal; permit, fee.

- (a) Where a sanitary or combined sewer is not available under the provisions of section 82-191, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.
- (b) Before the commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the village manager. The application for such permit shall be made on a form furnished by the village, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the village manager. A permit and inspection fee established by the village council shall be paid to the village treasurer at the time the application is filed.
- (c) The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the state department of public health. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.
- (d) At such time as a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with all terms and conditions of state statutes or pertaining village ordinances.
- (e) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the village.
- (f) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the building official for the village.

(Ord. No. 199, § 20, 2-22-88 eff.)

Sec. 82-193. Building sewers and connections.

- (a) No unauthorized person shall uncover, make any connections with or openings into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the village manager.
- (b) An inspection fee and a connection fee per unit as established by the village council shall be paid to the village treasurer whenever an application is filed to connect any building sewer to a village sewer. Application shall be made on the form provided by the village. The inspection fee shall be deposited in the wastewater treatment operations account (revenue). The payment of inspection and connection fees as

stated in section 82-178 shall be made when a building permit is obtained in conjunction with the connection.

- (c) All costs and expenses incident to the installation, connection and maintenance of the building sewer to its point of connection to the public sewer shall be borne by the owner. The owner shall indemnify the village from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- (d) A separate and independent building sewer shall be provided for every building; except that, where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may, at the discretion of the village manager, be extended to the rear building and the whole considered as one building sewer.
- (e) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the village manager, to meet all requirements of this division.
- (f) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the state and the village. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.E.F. Manual of Practice No. 9 shall apply.
- (g) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- (h) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
- (i) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the state and the village, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.E.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials shall be approved by the village manager before installation.
- (j) The applicant for the building sewer permit shall notify the village manager when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the village manager or his representative.
- (k) All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the village.

(Ord. No. 199, § 21, 2-22-88 eff.)

Sec. 82-194. Use of public sewers.

- (a) No person shall discharge or cause to be discharged into any sanitary sewer any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower or greater shall be subject to the review and approval of the village manager.

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- (b) No person shall discharge or cause to be discharged into any sanitary sewer materials which exert or cause unusual concentrations of inert suspended solids, such as but not limited to fuller's earth, lime slurries and lime residues, or of dissolved solids, such as but not limited to sodium chloride and sodium sulfate.
 - (c) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics which in the judgment of the village manager may have a deleterious effect upon the wastewater treatment plant, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the village manager may:
 - (1) Reject the wastes.
 - (2) Require pretreatment to an acceptable condition for discharge to the public sewers.
 - (3) Require control over the quantities and rates of discharge.
 - (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges.

If the village manager permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the requirements of all applicable codes, ordinances and laws.

- (d) Where preliminary treatment or flow equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
- (e) No statement contained in this section shall be construed as preventing any special agreement or arrangement between the village and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the village for treatment, subject to payment therefor by the industrial concern.

(Ord. No. 199, § 22, 2-22-88 eff.)

Sec. 82-195. Protection from damage.

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the municipal sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

(Ord. No. 199, § 23, 2-22-88 eff.)

Sec. 82-196. Powers and authority of inspectors.

- (a) The village manager and other duly authorized employees of the village bearing proper credentials and identification shall be permitted to enter upon all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this division. The village manager or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for wastewater treatment.
- (b) While performing the necessary work on private properties referred to in subsection (a) of this section, the village manager or duly authorized employees of the village shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the village employees, and the village shall indemnify the company against loss or damage to its property by village employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gaging and sampling operation, except as such may be caused

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by negligence or failure of the company to maintain safe conditions. The owner of the business shall provide required safety equipment.

(Ord. No. 199, § 24, 2-22-88 eff.)

Sec. 82-197. Notice of violations; liability for damages.

- (a) Any person found to be violating any provision of this division, except section 82-195, shall be served by the village with 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 such notice, permanently cease all violations.
- (b) Any person violating any of the provisions of this division shall become liable to the village for any expense, loss or damage occasioned the village by reason of such violation.

(Ord. No. 199, § 25, 2-22-88 eff.)

Sec. 82-198. Users outside village limits.

- (a) *Rates.* Each user of the village sewage system whose property is located outside the village limits and whose property is connected either directly or indirectly to the sewage system of the village and who, as a consequence, is utilizing the flowage of sewage through the village sewage system, shall pay the same user rates and charges as village residents. Except for the non-village properties already being serviced by the village sewage system, no additional properties will be added to the system which are located outside the village.
- (b) *Responsibility for payment.* Property owners shall be responsible for the payment of all charges under this division.
- (c) *Billings.* A minimum user charge rate based on a minimum period of use shall be established by the village council and shall be charged if the minimum period usage is not exceeded.
- (d) *Service meters.* Owners of unmetered business establishments shall install service meters, at no expense to the village. Duly authorized employees of the village shall have access to meters during normal business hours.
- (e) *Discontinuance of service.* The village shall have the right to discontinue water service for nonpayment of the sewage charge in those instances where buildings are supplied with village water, in accordance with substantive due process.
- (f) *Delinquent sewage service bills; discontinuance of service.* The village shall have the right to cut off a building sewer line for nonpayment of sewage service charges and the cost of excavating and capping of the building sewer line and uncapping and reconnecting the building sewer line to the trunk line, together with any delinquent sewage service bill, shall be paid to the village prior to restoration of service.
- (g) *Contracts; council approval.* Contracts negotiated with users outside the village limits pursuant to the provisions of this section shall be approved by the village council before becoming effective.
- (h) *Contracts to provide for rate readjustment.* Contracts executed pursuant to the provisions of this division shall provide for reasonable readjustment of sewage service rates in the event the village wastewater treatment plant is improved or a designated sewage charge is spread on the village tax rolls, or if steps are taken by the village to sell bonds to finance village wastewater treatment facilities.

(Ord. No. 199, §§ 26—33, 2-22-88 eff.)

Sec. 82-199. Delinquent bills; penalty, notice.

If a bill becomes delinquent, a penalty shall be charged in an amount equal to ten percent of the unpaid bill, except where provisions have been made to authorize an alternative payment plan as authorized by this division, in which event no penalty shall be added. A one percent per month interest charge shall be added to delinquencies of more than 30 days. When a sewage bill becomes delinquent, the village may shut off or disconnect the service 90 days after a notice by registered mail, addressed to the last known address of the owner or occupant of the premises, has been deposited in the U.S. mail.

(Ord. No. 199, § 34, 2-22-88 eff.; Ord. No. 231-060, § 2, 7-26-01)

Sec. 82-200. Penalty for violation of division.

Any person violating any of the provisions of this division, upon conviction thereof, shall be deemed responsible for committing a municipal civil infraction.

(Ord. No. 199, § 35, 2-22-88 eff.)

Chapter 86 VEGETATION³²

ARTICLE I. IN GENERAL

Secs. 86-1—86-30. Reserved.

ARTICLE II. TREES

Sec. 86-31. Definitions.

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

Large trees means those trees obtaining a height of 40 feet or more.

Medium trees means those trees obtaining a height of 30 feet to 40 feet.

Park trees means those trees, shrubs, bushes and all other woody vegetation in public parks, on public property, and on all areas owned by the village or to which the public has free access as a park.

Small trees means those trees obtaining a height of 15 feet to 30 feet.

³²Cross reference(s)—Roads and bridges, ch. 58; special assessments, ch. 66; streets, sidewalks and other public places, ch. 70.

State law reference(s)—Care of trees and shrubs, MCL 247.241 et seq.; control and eradication of noxious weeds, MCL 247.61 et seq.

Street trees means those trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or rights-of-way within the village.

(Ord. No. 224, § 1, 11-15-93; Ord. No. 231-104, § 1, 9-6-05)

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

Sec. 86-32. Village tree board.

- (a) *Created; composition.* There is hereby created and established a village tree board for the village which shall consist of three members: two citizens appointed by the village council president with the approval of the village council, and the village department of public services director.
- (b) *Term of office.* Members of the village tree board shall serve a term of three years. The initial terms of the appointed members of the board shall begin effective upon appointment, with one member serving a term which shall expire as of June 30, 2019, and the other member serving a term which shall expire as of June 30, 2020. Any vacancies in office shall be filled by appointment by the village president with the approval of the village council, and such citizen appointed shall serve for the remainder of the term of the vacated office.
- (c) *Compensation.* Members of the village tree board shall serve without compensation.
- (d) *Duties and responsibilities.* It shall be the responsibility of the village tree board to study, investigate, counsel, develop, and periodically update a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of street trees and park trees. Such plan will be presented to the village council and, upon its acceptance and approval, shall constitute the official comprehensive tree plan of the village. The board, when requested by the village council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its duties and responsibilities.
- (e) *Operation.* The village tree board shall choose its own officers, make its own rules and regulations and keep minutes of its proceedings. A majority of the members of the board shall be a quorum for the transaction of business. The meetings of the village tree board shall be subject to the Michigan Open Meetings Act, as amended.

(Ord. No. 224, §§ 2—6, 11-15-93; Ord. No. 231-208, § 1, 11-6-17)

Sec. 86-33. Preferred street trees.

Upon the appointment of a village tree board, its members shall develop a list of preferred street trees to be recommended for approval by resolution of the village council. The list of generally acceptable street trees may be amended periodically, and shall be published on the village website and made available to the public at the village offices. The list shall contain further guidance with respect to the height of each species and where, when, and how frequently each species of tree may be planted as a street tree within the village.

(Ord. No. 224, § 7, 11-15-93; Ord. No. 231-104, § 2, 9-6-05; Ord. No. 231-208, § 2, 11-6-17)

Sec. 86-34. Same—Spacing and distance requirements.

- (a) *Spacing.* The spacing of street trees will be in accordance with the three species size classes listed in section 86-33, and no trees may be planted closer together than the following: Small trees, 20 feet; medium trees, 30 feet; large trees, 40 feet; except as approved in writing by the village tree board.

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- (b) *Distance from curb and sidewalk.* The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in section 86-33, and no trees may be planted closer to any curb or sidewalk than the following: Small trees, three feet; medium trees, three feet; large trees, four feet.
 - (c) *Distance from street corners and fire hydrants.* No street tree shall be planted closer than 35 feet to any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than ten feet to any fire hydrant.

(Ord. No. 224, §§ 8—10, 11-15-93)

Sec. 86-35. Protection of utilities.

No street trees other than those species specifically designated on the preferred tree list as small trees may be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, transmission line or other utility. In all cases MISS DIG shall be called at least 24 hours prior to planting to identify underground utilities at point of excavation.

(Ord. No. 224, § 11(A), 11-15-93; Ord. No. 231-208, § 3, 11-6-17)

Sec. 86-36. Unacceptable and prohibited trees.

Upon the appointment of a village tree board, its members shall develop a list of unacceptable and prohibited street trees to be recommended for approval by resolution of the village council. The list of unacceptable and prohibited street trees may be amended periodically, and shall be published on the village website and made available to the public at the village offices.

(Ord. No. 224, § 11(B), 11-15-93; Ord. No. 231-104, § 3, 9-6-05; Ord. No. 231-208, § 4, 11-6-17)

Sec. 86-37. Trees on private property.

- (a) No person shall plant any tree on private property within the village unless the distance from the center of the trunk of such tree to the nearest street right-of-way line measures six feet or more.
- (b) Reserved.
- (c) Trees should not be planted over or near underground utilities, or under or near overhead utilities. The village is not responsible for damage or removal of trees on private property during maintenance or reconstruction of village utilities when plantings are in these vulnerable locations near existing utilities.

(Ord. No. 224, § 12, 11-15-93; Ord. No. 231-104, § 4, 9-6-05)

Sec. 86-38. Care of street trees and park trees by village.

The village shall have the right to plant, prune, maintain and remove street trees, park trees, plants and other vegetation within the lines of all streets, alleys, avenues, lanes, squares, rights-of-way and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds. In such areas, the village tree board may remove, or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, cable lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This section shall not prohibit the planting of street trees by adjacent property owners provided that the selection and location of such trees is in accordance with sections 86-31 through 86-37.

(Ord. No. 224, § 13, 11-15-93)

Sec. 86-39. Topping of trees.

It shall be unlawful for any person or entity to top any street tree or park tree without the written consent of the village tree board. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions, where other pruning practices are impractical may be exempted from the provisions of this section by a determination of the village tree board.

(Ord. No. 224, § 14, 11-15-93)

Sec. 86-40. Vision clearance; pruning; removal of dead trees.

Every owner of any tree overhanging any street right-of-way within the village shall prune the branches so that such branches shall not obstruct the light from any streetlamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the street or sidewalk. Such owner shall remove all dead, diseased, or dangerous trees, or broken or decayed limbs that constitute a menace to the safety of the public. The village shall have the right to require the pruning of any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight, or interferes with the visibility of any traffic control device or sign. Any owner of any property failing to maintain or remove trees in conformity with this section or section 86-41 shall be notified in writing by the village department of public services director to do so. The notice shall specify the time period within which such maintenance or removal shall be performed. Upon expiration of the notice time period, the village department of public services director may cause the maintenance or removal to be done. All expenses incurred in performing such work, including administrative expenses, shall be a debt due the village from the owner of the property. The village treasurer shall forward a statement of the total charges assessed to the owner as shown by the last current assessment or tax roll, and such assessment shall be payable to the village treasurer within 30 days from the date when the statement was forwarded. If not paid within the prescribed 30-day period, such statement shall be filed with the village assessor and shall thereupon be assessed against the land in question and become a lien on such property. The amount so charged may be discharged at any time by the payment of the amount specified in the statement, together with interest at the rate of six percent per year compiled from the time of filing such certificate with the village assessor. Such amount shall be a debt of the person assessed until paid and, in case of delinquency, may be enforced as delinquent property taxes or by a suit against such person.

(Ord. No. 224, § 15, 11-15-93; Ord. No. 231-208, § 5, 11-6-17)

Sec. 86-41. Diseases and infestations.

For preservation, protection and management of trees in the Village of Milford, any tree growing on private property which is afflicted with a dangerous and communicable insect infestation or tree disease, including, but not limited to, Emerald Ash Borer, Dutch Elm disease, Asian Long-horned Beetle, Oak wilt, or Thousand Cankers Disease, is declared to be a public nuisance. Upon discovery of such an afflicted tree, the village department of public services director shall serve written notice upon the owner or his agent, or the occupant of the property describing the tree, its location and the nature of infestation or tree disease and ordering the owner, agent and occupant to take such measures as may be reasonably necessary to cure such infestation or disease and to prevent the spreading thereof, specifying the measures required to be taken. Such order may require the pruning, spraying or destruction of trees as may be reasonably necessary. Compliance with each notice shall occur within the time period specified in the notice. In the event the owner, agent and occupant of the property refuses to carry out the

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order of the village department of public services director within the time directed, the village shall carry out the pruning, spraying or other treatment, maintenance, removal or destruction of the trees as deemed necessary. All expenses incurred in performing such work, including administrative expenses, shall be recovered in the manner provided in section 86-40.

(Ord. No. 224, § 16, 11-15-93; Ord. No. 231-208, § 6, 11-6-17)

Editor's note(s)—Formerly § 86-41 was entitled "Female box elder trees", which was renamed "Diseases and infestations" by Ord. No. 231-208, as herein set out.

Sec. 86-42. Removal of stumps.

All stumps of street trees and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

(Ord. No. 224, § 17, 11-15-93)

Sec. 86-43. Arborist's license and bond.

It shall be unlawful for any person to engage in the business or occupation of pruning, treating or removing street trees or park trees within the village without first applying for and procuring a permit. The permit fee shall be set by village council resolution and paid in advance; provided, however, that no permit shall be required of any public service company or village employee doing such work in the pursuit of their public service endeavors. Before such permit shall be issued, each applicant shall first file evidence with the village clerk of possession of liability insurance in the minimum amounts of \$500,000.00 for bodily injury and \$500,000.00 for property damages, indemnifying the village or any person injured or damaged from the pursuit of such endeavors as described in this section. After receipt of the required permit fee and acceptable insurance information, the permit shall be issued by the village clerk.

(Ord. No. 224, § 20, 11-15-93)

Sec. 86-44. Interference with village tree board.

It shall be unlawful for any person to prevent, delay, or interfere with the village tree board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees or trees on private grounds, as authorized in this article.

(Ord. No. 224, § 18, 11-15-93)

Sec. 86-45. Damage to street trees or park trees; recovery of value.

- (a) Whenever the village tree board shall determine that any street tree or park tree has been injured, damaged or broken in a manner which will cause immediate or future removal of the tree and that such removal is deemed premature and untimely based on the condition, vigor, location, kind and age of the tree and the board shall have knowledge of the person causing such damage, then the board shall assess against the responsible person the value of the tree as determined by use of the Michigan Forestry and Parks Association Shade Tree Evaluation Chart, or, at the election of the board, by appraisal.
- (b) Whenever the village tree board shall determine that any street tree or park tree has been severed, destroyed or removed, and that such severing, destruction or removal is deemed premature and untimely based on the condition, vigor, location, kind and age of the tree, and the board shall have knowledge of the

person causing such damage, then the board shall assess against the responsible person the value of the tree as determined by use of the Michigan Forestry and Parks Association Shade Tree Evaluation Chart, or, at the election of the board, by appraisal.

- (c) This section shall not be construed in such a way that the value received by the village shall be less than the actual cost of the removal of the tree and replacement with a tree determined comparable by the village tree board, such replacement tree to be not less than three inches in diameter measured at the height of six inches above the ground. The village tree board shall not be restricted in its choice as to the replacement planting site.
- (d) It shall be the duty of the village police department, having knowledge of any such damage or destruction to street trees or park trees and having knowledge of the person causing such damage, to immediately report this information to the village tree board.
- (e) It shall be the duty of the village tree board to notify the village manager of any damage to street trees or park trees for which recovery could be sought under the provisions of the section.

(Ord. No. 224, § 19, 11-15-93)

Sec. 86-46. Appeals.

Any person may appeal from any ruling or order of the village tree board to the village manager, who shall hear the matter and affirm, reverse or amend the decision of the village tree board.

(Ord. No. 224, § 21, 11-15-93)

Sec. 86-47. Penalty for violation of article.

Any person violating this article shall be deemed responsible for committing a municipal civil infraction.

(Ord. No. 224, § 22, 11-15-93)

Secs. 86-48—86-75. Reserved.

ARTICLE III. WEEDS

Sec. 86-76. Nuisance declared.

Any weeds such as jimson, burdock, ragweed, thistle, cocklebur, or other weeds of a like kind, found growing in any lot or parcel in the village are hereby declared to be a nuisance, and it shall be unlawful to permit any such weeds to grow or remain in any such place.

(Ord. No. 188, § 1, 9-23-81 eff.)

Sec. 86-77. Height.

It shall be unlawful for anyone to permit any weeds, grass or plants, other than trees, bushes, flowers or other ornamental plants, to grow to a height exceeding eight inches in any lot or parcel in the village. Any such plants or weeds exceeding such height are hereby declared to be a nuisance.

(Ord. No. 188, § 2, 9-23-81 eff.; Ord. No. 188-A, 10-17-81 eff.)

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Sec. 86-78. Notice to remove.

It shall be the duty of the village manager to serve or cause to be served a notice upon the owner or occupant of any premises on which weeds or plants are permitted to grow in violation of the provisions of this article and to demand the abatement of the nuisance within seven days.

(Ord. No. 188, § 3, 9-23-81 eff.)

Sec. 86-79. Abatement by village.

If the person served by a notice under this article does not abate the nuisance within seven days, the village manager may proceed to abate such nuisance, keeping an account of the expense of the abatement, and such expense shall be charged to and paid by such owner or occupant.

(Ord. No. 188, § 4, 9-23-81 eff.)

Sec. 86-80. Lien—Declared; filing of claim.

Charges for weed removal by the village under this article shall be a lien upon the premises. Whenever a bill for such charges remains unpaid for 60 days after it has been rendered, the village clerk may file with the county recorder of deeds a statement of lien claim. This statement shall contain a legal description of the premises, the expenses and costs incurred and the date the weeds were cut, and a notice that the village claims a lien for this amount. Notice of such lien claim shall be mailed to the owner of the premises if his address is known. Provided, however, that failure of the clerk to record such lien claim or to mail such notice, or the failure of the owner to receive such notice, shall not affect the right to foreclose the lien for such charges as provided in section 86-81.

(Ord. No. 188, § 5, 9-23-81 eff.)

Sec. 86-81. Same—Foreclosure.

Property subject to a lien for unpaid weed cutting charges shall be sold for nonpayment of such charges and the proceeds of such sale shall be applied to pay the charges after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be in equity in the name of the village.

(Ord. No. 188, § 6, 9-23-81 eff.)

Sec. 86-82. Violation; penalty.

A property owner who fails to abate a nuisance as described in this article after notice is furnished as set forth in this article shall be deemed responsible for committing a municipal civil infraction.

(Ord. No. 188, § 7, 9-23-81 eff.)

Chapter 90 VEHICLES FOR HIRE³³

³³Cross reference(s)—Businesses, ch. 22; offenses and miscellaneous provisions, ch. 50; traffic and vehicles, ch. 78.

ARTICLE I. IN GENERAL

Secs. 90-1—90-30. Reserved.

ARTICLE II. TAXICABS

DIVISION 1. GENERALLY

Sec. 90-31. Definitions.

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

Applicant means any person applying for a license under this article, or any person applying for a driver's permit under this article, as the case may be.

Cruising means the movement of unoccupied taxicabs over the public streets in search of, or soliciting, prospective passengers, except that an unoccupied taxicab proceeding to answer a telephone call for taxicab service from an intending passenger, and a taxicab returning by the most direct route after having discarded a passenger to the garage where such taxicab is housed, or to a taxicab stand, shall not be considered cruising.

Driver means any person who drives a taxicab.

Driver's permit means a permit issued by the village clerk permitting the holder thereof to drive a taxicab.

For hire means for remuneration or reward of any kind, paid or promised, or reward of any kind, either directly or indirectly.

License means a taxicab license issued by the village council licensing the operation of a taxicab.

Owner means any person to whom a taxicab license has been issued.

Person means and includes any individual, copartnership, association or corporation and their lessees, trustees or receivers appointed by any court whatsoever.

Rate card means the card issued by the village to a taxicab owner for display within each taxicab for which a license has been issued, describing the schedule of fares charged by such taxicab.

Stand means a space reserved upon the public street for the sole use of taxicabs.

Taxicab means and includes a motor vehicle designed to carry six passengers or less, excluding the driver, operating on the public streets, alleys and quasipublic places of the village, and accepting passengers for transportation for hire on call or demand, between such points as may be directed by the passenger or passengers.

(Ord. No. 149, pt. I, § 1, 6-22-70 eff.)

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

Sec. 90-32. Penalty for violation of article.

Any person, owner, or driver who violates or fails to comply with any provision of this article shall be guilty of a misdemeanor and, upon conviction, shall be punished as prescribed in section 1-12 of this Code.

(Ord. No. 149, pt. VIII, § 1, 6-22-70 eff.)

Sec. 90-33. Rates.

- (a) *Rates of fares.* Rates of fares to be charged for taxicab service within the village shall be as prescribed by resolution of the village council, and no other rates shall be charged by any owner or driver of any taxicab.
- (b) *Rate card and display of rates.* The village clerk shall, at the time of issuing each license, deliver to the owner a rate card stating the prescribed rates of fares. Such rate card shall at all times be plainly displayed within the taxicab so licensed.

(Ord. No. 149, pt. V, §§ 1, 2, 6-22-70 eff.)

Sec. 90-34. Maintenance of equipment.

The owner of each taxicab licensed under this article shall examine and inspect such taxicab as to its mechanical condition, especially as to brakes, power and lights, and dependability to patrons and the public, and each taxicab licensed under this article shall be maintained at all times in a dependable, workable and safe condition. Records of such inspection, defects found and repairs made shall be kept on file by the owner of each taxicab licensed under this article, and such records shall, during ordinary business hours, be open for inspection by the chief of police.

(Ord. No. 149, pt. VI, § 1, 6-22-70 eff.)

Sec. 90-35. Operation to comply with laws and ordinances.

Each taxicab licensed under this article shall be operated in accordance with the laws of this state and the ordinances of this village, and with due regard for the safety of the general public. No taxicab shall be operated at a rate of speed greater than that established by state law or by ordinance of this village.

(Ord. No. 149, pt. VI, § 2, 6-22-70 eff.)

Sec. 90-36. Report of accidents.

All accidents arising from or in connection with the operation of taxicabs which result in death of or injury to any person, or in damage to any property, shall be reported within 20 hours from the time of occurrence to the village chief of police.

(Ord. No. 149, pt. VI, § 3, 6-22-70 eff.)

Sec. 90-37. Lost articles.

Every driver of a taxicab shall search the interior of such taxicab at the termination of each trip for any article of value which may have been left in such taxicab by a passenger. Any article found therein shall immediately be returned to the passenger owning it if he is known; otherwise, it shall be deposited with the owner of the taxicab

at the conclusion of the driver's tour of duty. A report of the finding and deposit of such article shall be made by the owner within 24 hours thereafter to the village chief of police.

(Ord. No. 149, pt. VI, § 4, 6-22-70 eff.)

Sec. 90-38. Cruising prohibited.

No driver shall cruise in search of passengers at any time, and whenever a taxicab is unoccupied the driver shall proceed at once by the most direct route to the garage where the taxicab is housed or to the taxicab stand customarily occupied by such taxicab.

(Ord. No. 149, pt. VI, § 5, 6-22-70 eff.)

Sec. 90-39. Driver's drinking on duty prohibited.

No taxicab driver shall drink or be under the influence of beer, wine, spirits or other alcoholic beverages or liquors while on duty.

(Ord. No. 149, pt. VI, § 7, 6-22-70 eff.)

Sec. 90-40. Immorality.

No owner or driver of a taxicab shall use, or permit the use of, any taxicab for immoral or illegal purposes.

(Ord. No. 149, pt. VI, § 8, 6-22-70 eff.)

Sec. 90-41. Passengers.

- (a) No driver or owner of a taxicab shall refuse or neglect to convey any orderly person upon request by signal or telephone call, unless the taxicab is previously assigned. When a taxicab has been engaged by a passenger, no additional passengers shall be received therein except with the express consent of the first passenger.
- (b) No taxicab shall carry more passengers than its licensed seating capacity and not more than two passengers shall ride in the front seat with the driver. It shall be unlawful to drive or operate any taxicab while any person is riding thereon outside of the body thereof, and it shall be unlawful for any person to ride outside of the body of such taxicab.
- (c) It shall be unlawful to stop any taxicab upon a street for the purpose of taking on or discharging passengers if the side of such taxicab is more than two feet distant from the curb on the right side thereof. All stops for such purposes shall be made at such places and in accordance with such regulations as may be prescribed by the chief of police.

(Ord. No. 149, pt. VI, §§ 6, 9, 10, 6-22-70 eff.)

Sec. 90-42. Railroad crossings.

All taxicabs shall come to a complete stop at all railroad crossings before traversing such crossings.

(Ord. No. 149, pt. VI, § 9, 6-22-70 eff.)

Sec. 90-43. Taxistands.

- (a) *Establishment of.* The city council shall by resolution establish such taxicab stands as it deems necessary and shall specify in such resolution the location of such stands, the number of taxicab spaces allotted, and the name of the taxicab owner to which such stands are assigned.
- (b) *Operation of.* Only public taxicabs in such number as are determined by the chief of police may remain at taxistands while waiting for employment and they must be parked in single file. The public taxicab standing at the head of such parked line shall not be permitted to refuse to carry any orderly person who offers to hire such taxicab and agrees to pay the proper rate of fare; provided, however, that the foregoing provisions shall not be construed to prevent any person from selecting any taxicab he may desire on the stand, whether it be at the head of the line or not. As the taxicab leaves the parked line with passengers, those in the rear shall move up, and any public taxicab seeking space on such stand shall not approach the stand except from the rear thereof and shall move up as closely as possible to the last car on the parked line.

(Ord. No. 149, pt. VII, §§ 1, 2, 6-22-70 eff.)

Sec. 90-44. Soliciting.

No person shall solicit passengers for a public taxicab upon the streets of the village, except the driver of the public taxicab when sitting upon the driver's seat of his vehicle. The chauffeur or driver of any taxicab or automobile kept for hire shall remain in his office or vehicle at all times when such vehicle is standing upon the public stands or when actually engaged in carrying passengers; provided, that nothing in this section shall be held to prohibit such driver from alighting to the street or sidewalk for the purpose of assisting passengers into or out of such vehicle or to take care of the calls of nature while upon a public stand, limiting his absence from such stand to 15 minutes during which time his taxicab or car for hire shall occupy a position at the rear of such public stand.

(Ord. No. 149, pt. VII, § 3, 6-22-70 eff.)

Secs. 90-45—90-60. Reserved.*DIVISION 2. LICENSING***Sec. 90-61. License required.**

No person shall operate, or cause to be operated, any taxicab in the village without having first obtained a license to operate such taxicab.

(Ord. No. 149, pt. II, § 1, 6-22-70 eff.)

Sec. 90-62. Application.

Any person desiring a license to operate a taxicab on the streets of the village shall file with the village clerk a sworn application therefor, on forms to be furnished by the village, which application shall contain the following:

- (1) The name, age, residence, nationality, race and present occupation of the person applying for such license. If the applicant is a partnership, the names, addresses, nationality, race and occupations of all partners shall be given, and if the applicant is a corporation, the names, addresses and occupations of all officers and directors thereof shall be given.

(Supp. No. 23)

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- (2) The make, body style, year, serial and engine number, state license plate number, seating capacity, and weight of the taxicab for which such license is being applied for.
 - (3) Whether there are any unpaid or unbonded judgments of record against the applicant and, if so, the title of all actions and the amounts of all judgments unpaid or unbonded, and the court in which such judgments were rendered.
 - (4) The experience of the applicant, both in the village and elsewhere, in the operation of taxicabs or other common carriers.
 - (5) Whether or not the applicant for such license, or if a partnership or corporation, any of the partners, officers, or directors thereof, has ever been charged with, convicted of or pled guilty to any felony, crime or misdemeanor, and if so, the date, nature of the offense, and the court in which such charge was made, conviction was obtained or plea of guilty was entered.
 - (6) The place or places, within the village or elsewhere, where the person applying for such license proposes to operate such taxicab.
 - (7) The number of taxicabs for which the applicant holds licenses at the date of application.
 - (8) Whether the applicant is the owner of the taxicab for which a license is being applied for and, if not, the name of the owner thereof.
 - (9) Whether there are any liens, mortgages, or other encumbrances, including conditional sales contracts, on such taxicab, and if so, the amount and character thereof and the name of the holder thereof.
 - (10) Such other information as the village council may in its discretion require.

(Ord. No. 149, pt. II, § 2, 6-22-70 eff.)

Sec. 90-63. Investigation of applicant; issuance or denial of license.

- (a) The village clerk shall transmit each application for a license to the chief of police, who shall cause an investigation to be made of the character, fitness and qualifications of the person applying for such license, and the fitness of the proposed taxicab for use as such. The chief of police shall thereupon transmit such application, together with his recommendation thereon, to the village council. If the village council shall determine that the person applying for such license is a suitable person, and the taxicab proposed to be licensed is a suitable vehicle for such purpose, it may grant a license therefor, to be issued upon the filing of the policy of insurance required by section 90-71; provided, that the village council may refuse to grant a license to any applicant when, in the judgment of the village council, there are licensed a sufficient number of taxicabs to adequately serve the public of the village, or when, in the judgment of the council, there are existing transportation facilities reasonably sufficient to serve the public demand, or when, in the judgment of the council, the use of the streets of the village by additional taxicabs would interfere with the public use of the streets or congest traffic.
- (b) Licenses granted by the village council under this division shall be issued by the village clerk upon payments of the fees required in this division; provided, that no license shall be issued until the applicant has deposited with the village the policy of liability insurance required under this division and until such policy has been found by the village attorney to comply with the terms of this division.

(Ord. No. 149, pt. II, §§ 3, 4, 6-22-70 eff.)

Sec. 90-64. Expiration.

All licenses issued under this division shall expire on June 30 following the issuance thereof.

(Ord. No. 149, pt. II, § 5, 6-22-70 eff.)

Sec. 90-65. License fee.

The owner of each taxicab for which a license is granted shall pay to the village the sum of \$25.00 before such license is issued.

(Ord. No. 149, pt. II, § 6, 6-22-70 eff.)

Sec. 90-66. Licenses nontransferable.

Licenses issued under this division shall be nontransferable. Any transfer or attempted transfer thereof to any other person shall automatically revoke the license.

(Ord. No. 149, pt. II, § 7, 6-22-70 eff.)

Sec. 90-67. Transfer of license to another vehicle.

The owner of any taxicab for which a license has been granted may have the license transferred to another vehicle by filing with the village clerk a request therefor, giving the make, year, body style, serial and engine number, state license plate number, seating capacity and weight of the vehicle to which he proposes to have such license transferred; provided, that no transfer of license shall be made until the chief of police has notified the village clerk that the new vehicle is a proper vehicle for taxicab purposes; and provided further, that no transfer of a license shall actually be made unless the original taxicab upon which such license was issued shall be retired from taxicab service.

(Ord. No. 149, pt. II, § 8, 6-22-70 eff.)

Sec. 90-68. Change of ownership.

Change of ownership of or title to any taxicab shall automatically revoke any license previously granted for the operation of such taxicab, and the purchaser thereof shall not operate such taxicab until he has applied for and been granted a license under the terms of the division and has complied with all of the terms of this division.

(Ord. No. 149, pt. II, § 9, 6-22-70 eff.)

Sec. 90-69. Suspension or revocation.

Licenses may be suspended or revoked by the village council at any time if:

- (1) The council finds that the information contained in the application for such taxicab license was false or misleading;
- (2) The council finds that the owner or any driver in his employ has failed to operate any taxicab so licensed in accordance with the provisions of this article;
- (3) The owner shall cease to operate any taxicab for a period of 30 consecutive days without having obtained permission for cessation of such operation from the village council;
- (4) The council finds that the taxicab or taxicabs so licensed are operating at a fare other than that established by the village council and stated on the rate card issued under this article; or

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- (5) The council finds that the owner or any driver in his employ has repeatedly violated any provision of the traffic ordinance of the village, or any state or federal law while operating a taxicab licensed under this division.

(Ord. No. 149, pt. II, § 10, 6-22-70 eff.)

Sec. 90-70. Fees for taxistands.

Any licensee allocated a 20-foot taxicab stand in any area of the village shall pay an additional \$100.00 for each 20-foot space allocated, which shall entitle the licensee to use such taxicab stand for the period corresponding with the license year. The village shall have the power to cancel any taxicab stand permit at any time. However, if such cancellation occurs before the permit has expired, a rebate of \$25.00 for each unexpired three-month period shall be given.

(Ord. No. 149, pt. II, § 11, 6-22-70 eff.)

Sec. 90-71. Insurance policy required.

- (a) No license shall be issued until the person applying therefor shall obtain and file with the village a policy of liability insurance issued by a responsible insurance company authorized to do business in the state providing insurance for each taxicab for which a license is applied for.
- (1) Such policy of insurance shall insure the applicant against liability for personal injuries to passengers in such taxicab, or to members of the general public, resulting from an accident in which such taxicab may be involved through the recklessness or negligence of its driver, operator or owner, as well as against any damage to property.
 - (2) Such policy shall provide minimum insurance protection for each taxicab in the amount of \$500,000.00 for injury to, or death of, one person, and \$1,000,000.00 for injury to, or death of, more than one person resulting from a single accident, and \$100,000.00 for damage to property (including personal belongings or baggage of passengers) as a result of one accident.
 - (3) Such policy of insurance shall provide for continuing liability thereunder to the full amount thereof, notwithstanding any recovery thereon, and that the insolvency or bankruptcy of the insured shall not release the company.
 - (4) Such policy shall further provide that it shall not be cancelled, surrendered or revoked by either party except after ten days' written notice to the village, furnished by the insurance company issuing the policy.
- (b) The cancellation, surrender, or other termination of any insurance policy issued and filed with the village in compliance with this section shall automatically terminate the licenses of all taxicabs covered by such insurance policy unless another policy complying with this section shall be in effect and deposited with the village at the time of such cancellation or termination.
- (c) It shall be unlawful for any person to operate, or cause or permit to be operated, any taxicab on the streets of the village without having fully complied with the terms of this section.

(Ord. No. 149, pt. III, § 1, 6-22-70 eff.)

Secs. 90-72—90-90. Reserved.

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DIVISION 3. DRIVER'S PERMIT

Sec. 90-91. Required.

No person shall drive a taxicab on the streets of the village without first having obtained a driver's permit from the village.

(Ord. No. 149, pt. IV, § 1, 6-22-70 eff.)

Sec. 90-92. Application.

Any person desiring to drive a taxicab upon the streets of the village shall file with the village clerk, on forms to be furnished by the village, a sworn application for a driver's permit, which application shall contain the following:

- (1) The name, age, residence, nationality, race and present occupation of the applicant and his places of residence for five years immediately preceding the date of application.
- (2) The experience which such applicant has had in operating automobiles, taxicabs, or other vehicles used in carrying passengers for hire or on contract.
- (3) Whether or not such applicant has ever been charged with, convicted of, or pled guilty to any felony, crime or misdemeanor, and if so, the date, nature of the offense, and the court in which such charge was made, conviction was obtained, or plea of guilty entered.
- (4) Whether any chauffeur's license or operator's permit issued to such applicant has ever been suspended or revoked, and if so, for what cause.
- (5) Such other information as the village council may, in its discretion, require, including fingerprinting of such applicant by the village police department.

With the application, there shall be submitted to the village clerk two true photographs of the applicant of such size as may be attached to the driver's permit and to the badge described in section 90-95.

(Ord. No. 149, pt. IV, § 2, 6-22-70 eff.)

Sec. 90-93. Physical examination of applicant.

Each applicant for a driver's permit shall, at his own expense, be required to submit to a medical examination by a duly licensed physician of his own choosing, and the results of such examination shall be reduced to writing by such physician on a form to be provided by the village. Such form, completely filled out and signed by the examining physician, shall be attached to the application for a driver's permit before such application shall be received by the village clerk.

(Ord. No. 149, pt. IV, § 3, 6-22-70 eff.)

Sec. 90-94. Investigation of applicant; granting of permit.

Upon the filing of an application for a driver's permit, the village clerk shall transmit such application to the chief of police, who shall cause an investigation to be made of the character and fitness of such applicant. If, in the opinion of the chief of police, the applicant is a proper person to receive a driver's permit the chief shall approve the issuance thereof; provided, however, that no driver's permit shall be issued to any person who has not attained the full age of 21 years and who does not hold a chauffeur's license from the state.

(Ord. No. 149, pt. IV, § 4, 6-22-70 eff.)

Sec. 90-95. Issuance of permit and badge.

If the application for a driver's permit is approved by the chief of police, he shall return the application, together with his approval endorsed thereon, to the village clerk, who shall issue to the applicant a driver's permit and, in addition thereto, a metal badge in such form or style as the chief of police may from time to time prescribe, with the driver's number prominently displayed thereon. Such badge shall be worn in a plainly visible position on the driver's outer garments or cap at all times when he is engaged in driving a taxicab. Such badge shall have thereon a true copy of the driver's photograph.

(Ord. No. 149, pt. IV, § 6, 6-22-70 eff.)

Sec. 90-96. Expiration of permit.

All driver's permits issued under this division shall expire on June 30 following the issuance thereof.

(Ord. No. 149, pt. IV, § 5, 6-22-70 eff.)

Sec. 90-97. Renewal of permit.

The village clerk may renew driver's permits from year to year. A driver applying for a renewal of his driver's permit shall make application therefor on a form furnished by the village, and shall file such application with the clerk, who shall transmit it to the chief of police, who shall make an investigation thereof. If the chief of police is satisfied that the applicant's driver's permit should be renewed, he shall endorse his approval upon such application and return such application to the clerk, who shall issue the renewal; provided, that not more than two such renewals shall be granted without an additional physical examination by a duly licensed physician.

(Ord. No. 149, pt. IV, § 7, 6-22-70 eff.)

Sec. 90-98. Permit fees.

The following fees shall be paid for each driver's permit and renewal thereof:

For each original permit\$3.00

For each renewal permit2.00

(Ord. No. 149, pt. IV, § 8, 6-22-70 eff.)

Sec. 90-99. Transfer of permit prohibited.

Driver's permits issued under this division shall be nontransferable. It shall be unlawful for any person holding a driver's permit to transfer or attempt to transfer such driver's permit, or any badge or card issued under this division, to any other person, and it shall be unlawful for any person holding a driver's permit to knowingly allow any other person to have such permit in his possession; and it shall be unlawful for any person to wear or have in his possession while operating a taxicab in the village a driver's permit, or any badge or card, issued to any other person.

(Ord. No. 149, pt. IV, § 9, 6-22-70 eff.)

Sec. 90-100. Revocation.

- (a) The chief of police shall have the right to revoke any driver's permit issued under the terms of this division in the following cases:
 - (1) If the holder thereof shall be convicted of or plead guilty to any violation of this article or of the traffic ordinance of the village, or any federal law or state statute, whether in relation to the operation of motor vehicles or not.
 - (2) If the holder thereof shall be involved in any accident causing injury to or death of any person, or injury to or destruction of any property.
 - (3) Whenever, in the opinion of the chief of police, the holder thereof shall, by his conduct, demonstrate that the best interests of the public require that his driver's permit be revoked.
- (b) Revocation of driver's permits may be appealed to the village council by appeal in writing filed with the village clerk, and shall be brought up for hearing at the next regular meeting of the village council thereafter.

(Ord. No. 149, pt. IV, § 10, 6-22-70 eff.)

Chapter 94 RESERVED

At the direction of the village, chapter 94 "Zoning" has been removed from this Code. The current zoning provisions can be found at <http://www.villageofmilford.org/clearzoning>.

At the direction of the village, chapter 94 "Zoning" has been removed from this Code. The current zoning provisions can be found here .

APPENDIX A FRANCHISES

The following franchise has been granted by the village:

Ord. No.	Date Adopted	Term	Franchisee
222	1-18-93	30 years	Michigan Consolidated Gas Company
231-066	8-20-01	15 years	Comcast Cablevision of the South, Inc.
231-078	1-21-03	12 years	Comcast Cablevision of the South, Inc.

CODE COMPARATIVE TABLE ORDINANCES

This is a chronological listing of the ordinances of the village used in this Code. Repealed or superseded laws at the time of the codification and any omitted materials are not reflected in this table.

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