

VILLAGE OF HESPERIA, MICHIGAN

CODE OF ORDINANCES

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§ 10.01 HOW CODE DESIGNATED AND CITED.

This code shall constitute and be designated as the “Hesperia Village Code.”

Statutory reference:

Codification authority, see M.C.L.A. § 117.5b, M.S.A. § 5.2084(2)

§ 10.02 DEFINITIONS.

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

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

CODE. The Hesperia Village Code as designated in § 10.01.

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

shall be excluded; and when the time is expressed in hours, the whole of Sunday or a legal holiday, from midnight to midnight, shall be excluded.

COUNTY. Counties of Newaygo and Oceana, Michigan.

JUVENILE. Any person under 17 years of age.

MINOR. A person under 21 years of age.

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

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

ORDINANCES. The ordinances of the Village of Hesperia and all amendments thereto.

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

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

§ 10.03 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 the sections, nor as any part of the sections, nor, unless expressly so provided, shall they be so deemed when any sections, including the catchlines, are amended or reenacted. No provision of this code shall be held invalid by reason of deficiency in any catchline or in any heading or title to any chapter, article or division.

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§ 10.04 CERTAIN ORDINANCES NOT AFFECTED BY CODE.

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

(A) Promising or guaranteeing the payment of money for the village, or authorizing the issuance of any bonds of the village or any evidence of the village's indebtedness, or any contract or obligations assumed by the village;

(B) Containing any administrative provisions of the Trustees;

(C) Granting any right or franchise;

(D) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating and the like, any street or public way in the village;

(E) Making any appropriation;

(F) Levying or imposing taxes;

(G) Establishing or prescribing grades in the village;

(H) Providing for local improvements and assessing taxes therefor;

(I) Dedicating or accepting any plat or subdivision in the village;

(J) Extending or contracting the boundaries of the village;

(K) Prescribing the number, classification or compensation of any village officers or employees;

(L) Prescribing specific parking restrictions, no-parking zones; specific speed zones; parking meter zones; and specific stop or yield intersections or other traffic ordinances pertaining to specific streets;

(M) Pertaining to rezoning;

(N) Any other ordinance, or part thereof, which is not of a general and permanent nature; and

(O) All ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this code. Ordinances are on file in the Village Clerk's office.

§ 10.05 CONTINUATION OF ORDINANCES.

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

§ 10.06 PRIOR RIGHTS, OFFENSES AND THE LIKE.

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

§ 10.07 ORDINANCES REPEALED NOT REENACTED.

No ordinance or part of any ordinance heretofore repealed shall be considered reordained or reenacted by virtue of this code, unless specifically reenacted. The repeal of any curative or validating ordinances shall not impair or affect any cure or validation already effected thereby. (Prior Code, § 11.003) (Ord. 1, passed 9-9-1974)

§ 10.08 AMENDMENTS TO CODE.

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

(B) If a new section not heretofore existing in the code is to be added, the following language shall be used: "That the Hesperia 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.

§ 10.09 SUPPLEMENTATION OF CODE.

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

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

(C) When preparing a supplement to this code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in

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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 divisions of the code printed in the supplement and make changes in the 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 division numbers;
- (4) Change the words “this ordinance” or words of the same meaning to “this chapter,” “this article,” “this division” and the like, as the case may be, or to “sections _____ to _____” (inserting section numbers to indicate the sections of the code which embody the substantive sections of the ordinance incorporated into the code); and
- (5) Make other 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.

§ 10.10 APPEARANCE TICKETS.

(A) *Authorization to issue.* The village police officers, Village Health Officers and Village Building Inspector are hereby authorized and empowered to issue appearance tickets to defendants for the violation of any ordinances of the village.

(Prior Code, § 12.001)

(B) *Use.* An appearance ticket may be used without a warrant or complaint for violation of any village ordinance cognizable by a magistrate or a district judge.

(Prior Code, § 12.002)

(C) *Written order.* An appearance ticket shall be a written order directing the defendant to appear before the magistrate or district judge at a designated time for proceedings on the violation.

(Prior Code, § 12.003)

(D) *Failure to appear.* If the defendant, after service of an appearance ticket for the offense designated therein, does not appear at the designated court at the time designated, the court may issue a warrant for the defendant’s arrest.

(Prior Code, § 12.004)

(Ord. 8, passed 9-9-1974)

§ 10.11 SEPARABILITY OF PROVISIONS.

Each section, division, sentence, clause and provision of this code is separable and if any provision shall be held unconstitutional or invalid for any reason, the decision shall not affect the remainder of this code, or any part thereof, other than that part affected by the decision.
(Prior Code, § 11.002) (Ord. 1, passed 9-9-1974)

§ 10.12 CODE ENFORCEMENT.

The village's Zoning Department division (a part of the Police Department) enforces these local ordinances to protect and enhance the health, safety and aesthetic value of our neighborhoods. The Zoning Department also inspects for zoning violations. The Zoning Department may be contacted with questions or reports of violations.
(Ord. 2012-0, passed 8-13-2012)

§ 10.99 GENERAL PENALTY.

Unless another penalty is expressly provided by this code for any particular provision or section, every person convicted of a violation of any provision of this code or any rule or regulation adopted or issued in pursuance thereof shall be punished by a fine of not more than \$500 and costs of prosecution or by imprisonment for not more than 90 days, or by both fine and imprisonment; unless there is a fine or penalty specifically set forth in the ordinance which provides for a greater penalty, and in that event, the greater penalty shall control. Each act of violation and every day upon which any violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any section of this code whether or not the penalty is re-enacted in the amendatory ordinance.
(Prior Code, § 11.005) (Ord. 1, passed 9-9-1974)

Statutory reference:

Limitation on penalties, see M.C.L.A. § 117.4i(10), M.S.A. § 5.2082(10)

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TRUSTEES AND PRESIDENT

§ 30.01 ELECTIONS.

The village, pursuant to M.C.L.A. § 62.5, changes the time of holding village elections to the even-numbered year and to be conducted biennially.
(Prior Code, § 12.151) (Ord. 36, passed 3-3-1980)

§ 30.02 EXTENSION TO FOUR-YEAR TERM.

The terms of office for Village Trustee be extended to four years in the following manner:

(A) At the election in 1981, the three Trustee positions up for vote be extended one year so that the term would expire in 1984 rather than 1983;

(B) At the election occurring in 1982, the Trustees elected at that election will receive four-year terms; and

(C) At the election occurring in 1984, all three Trustees elected for the new term will have four years in office.
(Prior Code, § 12.152) (Ord. 36, passed 3-3-1980)

§ 30.03 COMPENSATION.

(A) (1) Each Trustee of the village shall be paid the sum of \$40 for each meeting of the Village Council attended by him or her during his or her term of office.

(2) The President shall receive the sum of \$30 for each meeting of the Village Council actually attended by him or her during his or her term of office, plus \$200 each month.

(3) In addition to the above stated amounts, all elected offices shall be reimbursed for mileage expense that has been approved by the Council.

(B) The salary due the President and each Trustee shall be paid quarterly.
(Prior Code, § 12.153) (Ord. 36, passed 3-3-1980; Ord. 2012-9, passed 8-13-2012)

CLERK AND TREASURER**§ 30.15 NOMINATION AND APPOINTMENT.**

The Clerk and Treasurer of the village shall each be appointed by a majority vote of the Council after nomination of each by the President.
(Prior Code, § 12.155) (Ord. 70, effective 4-26-2001)

§ 30.16 TERM.

The terms of the Clerk and Treasurer shall each be for two years. This section shall apply beginning with the first term the nomination deadline for which would have been not less than 30 days after the effective date of this section or shall apply when the office is vacated, whichever occurs first.
(Prior Code, § 12.156) (Ord. 70, effective 4-26-2001)

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- 31.03 Acquisition of real or personal property

§ 31.01 AUTHORIZING TRANSFER OF REAL PROPERTY.

The Village Council may adopt by a majority vote of its members, a resolution authorizing the Village President and Clerk to execute legal documents to transfer real property owned by the village to other persons for fair and valuable consideration. Provided however, that the Village Council shall under no circumstances have the power to transfer, sell or convey real property which is designated as public parks or property which was purchased with park funds and set aside for recreational purposes. (Prior Code, § 12.101) (Ord. 42, passed 8-4-1980)

§ 31.02 LIST OF PUBLIC PARK LANDS.

The village, by its Council, shall prepare and maintain a list of the public park lands owned by the village. (Prior Code, § 12.102) (Ord. 42, passed 8-4-1980)

§ 31.03 ACQUISITION OF REAL OR PERSONAL PROPERTY.

The Village Council, by a majority vote of its members, may authorize its appointed representative or representatives, to acquire real or personal property by gift, devise, purchase or lease, with terms subject to the approval of the Council, and shall adopt an appropriate resolution competently describing the lands, the terms and the nature of the conveyance authorized. This section shall not apply to publicly designated park lands owned by the village. (Prior Code, § 12.103) (Ord. 42, passed 8-4-1980)

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- 32.03 Meetings
- 32.04 Rules of procedure
- 32.05 Powers and duties

Cross-reference:

Zoning Code, see Chapter 153

PLANNING COMMISSION

§ 32.01 ESTABLISHMENT.

The Planning Commission for the village is established as authorized by P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L.A. §§ 125.3801 et seq. for the purpose of having planning and zoning in the village, to create, organize, enumerate powers and duties, and to provide for the regulation and subdivision of land; coordinated and harmonious development of the village; and to function in cooperation with other constituted authorities of incorporated and unincorporated areas within the State of Michigan. The Planning Commission shall perform its duties and exercise its powers as therein set forth and as provided by this Zoning Code such that the intent of this Zoning Code is observed and the health, safety and welfare of the public are secured.

§ 32.02 MEMBERSHIP; TERMS AND CONDITIONS OF OFFICE.

(A) The Planning Commission shall consist of five members appointed by the Village Council. To be qualified to be a member and remain a member of the Planning Commission, the individual shall meet the following qualifications:

(1) Shall be a qualified elector of the village, except one non-qualified elector may be a member and one member shall be a Trustee of the Village Council subject to the approval of the Village Council

by majority vote and shall serve as an ex-officio member. An ex-officio member shall not be Chair of the Planning Commission;

(2) Shall not be a declared candidate for any village political office, except this condition shall not apply to the Village Council representative to the Planning Commission;

(3) After an individual's first appointment and before reappointment, shall have attended training for Planning Commission members, pursuant to division (E) below;

(4) An appointed member of the Planning Commission shall not be an employee of the village and, with the exception noted in division (A)(1) above, shall not hold another elected or appointed village office except that one of the appointed members shall be a member of the Zoning Board of Appeals.

(B) The membership shall be representative of the important geographic and interest segments of the village to the extent possible, as follows:

- (1) Government;
- (2) Education;
- (3) Natural resources/environmental;
- (4) Commerce;
- (5) Industry;
- (6) Other, so as to achieve diversity.

(C) Members shall be appointed for three year terms. Terms shall be overlapping to provide for the appointment of an equal number of members each year. A successor member must be appointed within one month following the expiration of the previous term.

(D) Vacancies occurring other than through the expiration of the term shall be filled for the unexpired term in the same manner as the initial appointment such that, as nearly as possible, the terms of one-third of all commission members continue to expire each year.

(E) Training. Appointed members of the Planning Commission shall attend educational programs designed for training members of Michigan planning commissions if the adopted village budget for that fiscal year includes funds to pay for tuition, registration and travel expenses for the training. Nothing in this section shall deem a member who has not had training from finishing his/her term of office unless the member resigns or is removed by action of the Village Council. The member shall be ineligible for reappointment at the conclusion of a full term of office if they did not complete the required training. The Planning Commission shall include in its bylaws what training programs qualify to meet this requirement.

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(F) Removal from office.

(1) The Village Council may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Failure to disclose a potential conflict of interest shall be considered malfeasance in office. Failure to repeatedly attend Planning Commission meetings shall be considered nonfeasance in office.

(2) The Planning and Zoning Administrator shall report to the Village Council any member who has missed three regular meetings in a row.

(G) Members compensation. Members of the Planning Commission shall serve as such without compensation unless otherwise established by resolution of the Village Council.

§ 32.03 MEETINGS.

(A) The Planning Commission shall schedule a meeting as needed and shall meet at least four times per year. A majority of the Commission shall constitute a quorum for the transaction of the ordinary business in accordance with § 32.04. The presence of a majority of the appointed members shall be necessary to constitute a quorum and a majority vote of the members of the Commission shall be necessary for decisions made under the power and authority established by P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L. A. §§ 125.3801 et seq. and this Zoning Code.

(B) Special meetings shall be called in accordance with the adopted bylaws of the Planning Commission. Special meetings may be held for such purposes as discussions or work sessions and in those instances require no formal agenda.

(C) All hearings and meetings shall be noticed and conducted in accordance with the Public Act 267 of 1976, as amended, that being the Michigan Open Meetings Act, M.C.L.A. §§ 15.261 et seq., P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, (M.C.L.A. §§ 125.3801 et seq.), P.A. 110 of 2006, as amended, being the Michigan Zoning Enabling Act, (M.C.L.A. §§ 125.3101 et seq.).

(D) All official actions taken by all village Planning Commissions preceding the effective date of this subchapter are hereby approved, ratified and reconfirmed. Any project, review, or process taking place at the effective date of this subchapter, shall continue with the Planning Commission established under this subchapter, subject to the requirements of this subchapter, and shall be deemed a continuation of any previous village Planning Commission. This subchapter shall be in full force and effect from and after its adoption and publication.

§ 32.04 RULES OF PROCEDURE.

(A) The Planning Commission shall adopt bylaws for the transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which records shall be a public record.

(B) The Planning Commission may adopt such other rules to govern its procedure as it deems advisable, provided such rules are not in conflict with statute or this Zoning Code.

(C) Liaisons. The Planning Commission, in its bylaws, may name liaisons to the Commission. The purpose of the liaison is to provide certain village officials and quasi officials ability to participate in discussion with the Commission in addition to speaking in public participation and nothing else. At a minimum, liaisons shall include:

- (1) Planning and Zoning Department staff, and their agents and consultants;
- (2) The Village President;
- (3) The Village Attorney.

§ 32.05 POWERS AND DUTIES.

(A) The Planning Commission shall have their powers and duties as set forth in P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L.A. §§ 125.3801 et seq.; and P.A. 110 of the Public Acts of 2006, as amended, being the Michigan Zoning Enabling Act, M.C.L.A. §§ 125.3101 et seq. to act on those matters where this Zoning Code provides. The Planning Commission shall not have the power to vary a standard for a planned unit development or special land use permit request.

(B) Special land use permits. Upon application by a village official or person interested in a specific parcel of land, the Planning Commission shall have sole authority and decide on all applications for special land use permits.

(C) Planned unit development permits and amendments to the Zoning Code. Upon application by a village official or person interested in a specific parcel of land, the Planning Commission shall have the power to recommend to the Village Council:

- (1) Requests for a planned unit development permit;
- (2) Amendments to this Zoning Code; and
- (3) Requests for a change in zoning classification.

Village Council Actions

(D) Master Plan. The Planning Commission shall have the power to make and recommend approval or amendment a Master Plan as a guide for development within the limits of the village in accordance with Article III, PA. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L.A. §§ 125.3801 et seq.

(E) Grants. The Planning Commission, upon approval of the Village Council, shall have authority to apply for and receive grants from any private or governmental agency.

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§ 33.01 BANK.

Pursuant to M.C.L.A. § 211.43b, the Village Treasurer shall deposit all monies belonging to the village, coming into his or her hands as Village Treasurer, in a bank which the Village Council considers best for the protection of the funds.
(Prior Code, § 12.051) (Ord. 31, passed 9-9-1974; Ord. 65, effective 2-16-1991)

§ 33.02 SEMIMONTHLY DEPOSITS; DEPOSIT SLIP.

The Village Treasurer and any other duly appointed deputy or designated agent shall deposit all public monies belonging to the village in the duly authorized bank.
(Prior Code, § 12.052) (Ord. 31, passed 9-9-1974; Ord. 65, effective 2-16-1991)

§ 33.03 TREASURER; BOND.

The Village Treasurer and any other duly appointed deputy or designated agent shall be bonded. The bond amount shall be determined by the Village Council and is to be reviewed and revised at its discretion. The bond premium shall be paid by the village.
(Prior Code, § 12.053) (Ord. 31, passed 9-9-1974; Ord. 65, effective 2-16-1991)

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It is hereby determined to be desirable and necessary for the public health, safety and welfare of the village that the Newaygo County Sanitary Sewage Disposal System No. 1 (Village of Hesperia) be operated by the village as lessee of Newaygo County and the Newaygo County Department of Public Works as County Agency under Public Act 185 of 1957, being M.C.L.A. §§ 123.731 through 123.786, as amended, on a public utility rate basis in accordance with the provisions of Public Act 94 of 1933, being M.C.L.A. §§ 141.101 through 141.138, as amended.
(Prior Code, § 25.011) (Ord. 64, passed 12-10-1990)

§ 50.002 DEFINITIONS.

For the purpose of §§ 50.015, 50.030 through 50.039, 50.050 through 50.055, 50.070, 50.071, 50.085 through 50.090, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CONNECTION CHARGE. The amount charged at the time, and in the amount hereinafter provided, to each premises in the village which requires a new connection to the sanitary sewer. The charge is based upon the proportionate cost allocable to the premises of the trunkage and availability costs associated with providing sanitary sewers and sewage treatment.
(Prior Code, § 25.012)

DEBT RETIREMENT CHARGE. The charge levied to all users for retirement of bonded indebtedness for the sewage works.
(Prior Code, § 25.013)

INDUSTRIAL COST RECOVERY. The recovery from each eligible industrial user that portion of United States Environmental Protection Agency grants which are allocable to the collection and treatment of industrial wastes from the users.
(Prior Code, § 25.014)

O, M & R CHARGE. The charge levied to all users for operation, maintenance and replacement costs associated with the system.
(Prior Code, § 25.015)

OPERATION AND MAINTENANCE COSTS. All costs, direct and indirect, necessary to provide adequate wastewater collection and treatment on a continuing basis, to conform with all federal, state and local wastewater management requirements, and to assure optimum long-term management of the sewage works. ***OPERATION AND MAINTENANCE COSTS*** shall include replacement costs.
(Prior Code, § 25.016)

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REPLACEMENT COSTS. Expenditures made during the service life of the sewage works to replace equipment and appurtenances necessary to maintain the intended performance of the sewage works.

(Prior Code, § 25.017)

REVENUES AND NET REVENUES. Has the meanings as defined in Public Act 94 of 1933, § 3, being M.C.L.A. §§ 141.101 through 141.138, as amended.

(Prior Code, § 25.018)

SYSTEM. All facilities of the village and all subsequent additions, including all sewers, pumps, lift stations and all other facilities used or useful in the collection, treatment and disposal of domestic, commercial or industrial wastes, including all appurtenances thereto and including all extensions and improvements thereto which may hereafter be acquired.

(Prior Code, § 25.019)

(Ord. 26, effective 2-4-1980; Ord. 64, passed 12-10-1990)

OPERATION

§ 50.015 MANAGEMENT AND OPERATION OF SYSTEM.

(A) The operation, maintenance, alteration, repair and management of the system shall be under the supervision and control of the village.

(B) The village may employ a person or persons in a capacity or capacities as it deems advisable to carry out the efficient management and operations of the system and may make rules, orders and regulations as it deems advisable and necessary to assure the efficient management and operation of the system.

(Prior Code, § 25.031) (Ord. 26, effective 2-4-1980; Ord. 64, passed 12-10-1990)

SEWER USER CHARGE SYSTEM

§ 50.030 COMPUTATION OF PAYMENTS.

(A) All premises located within the sewer district to which sewer service is available, except as hereinafter provided, shall be charged and shall make quarterly or monthly payments, as desired, to the village at that amount established by the duly adopted resolution of the village.

(B) For purposes of computation of payments of any charges, each unit of a multiple-residential building, or in a mobile home park, each pad capable of placement of a mobile home, and in case of commercial premises, each separately leased or rented part of a larger structure, shall constitute a user to determine charges as set forth in this subchapter.

(Prior Code, § 25.041) (Ord. 26, effective 2-4-1980; Ord. 38, effective 3-31-1980; Ord. 39, effective 9-29-1980; Ord. 53, effective 4-3-1983; Ord. 64, passed 12-10-1990; Ord. passed 1-10-2000)

§ 50.031 RATES.

Sewer system users shall include all those persons located within the sewer district, whether or not they have physically connected to the system, and they shall pay for sewer services at the rate established by the duly adopted resolution of the Village Council. The rate shall include a debt retirement charge, an operation, maintenance and repair charge, and any applicable surcharges required by the regulations for the pretreatment of excess waste strengths.

(Prior Code, § 25.042) (Ord. 26, effective 2-4-1980; Ord. 38, effective 3-31-1980; Ord. 53, effective 4-3-1983; Ord. 64, passed 12-10-1990; Ord. passed 1-10-2000)

§ 50.032 METER READINGS.

Where residential users, as defined, except multi-residential or apartment residential users, are connected to the village water system, they shall be charged on the basis of actual recorded user water meter readings for the fourth and first quarters of a calendar year; second- and third-quarter charges shall be based upon the average of the previous fourth- and first-quarter billings. Nonresidential user classes as defined, multi-unit residential users or apartments, shall be charged on the basis of actual recorded user water meter readings for each month, less actual metered amounts of sprinkling and/or non-processed, non-sewage generating uses. When the amount actually used is less than the minimum charge, the village shall charge minimum rate gallonage allowed. Residential users who are not connected to the village water supply system shall separately install a meter to measure the sewer gallonage used and they shall be charged on the basis of the actual recorded sewer usage meter readings for the fourth- and first-quarter of a calendar year; second and third charges shall be based on the average of the previous fourth and first quarter billings. Nonresidential users classification as defined, multi-unit residential uses or apartments, who are not connected to the village water supply system shall install a meter to measure the sewer gallonage used and they shall thereafter be charged on the basis of actual recorded sewer meter readings for each month. Notwithstanding the provisions contained in this section, the village shall use the actual meter readings as a basis of computation of charges only when they exceed the gallonage allowed under the minimum charges set forth by the village. Obtaining of meters shall be handled in the same matter as described under § 52.03.

(Prior Code, § 25.043) (Ord. 26, effective 2-4-1980; Ord. 38, effective 3-31-1980; Ord. 39, effective 9-29-1980; Ord. 53, effective 4-3-1983; Ord. 64, passed 12-10-1990)

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§ 50.033 SPECIAL RATES.

For miscellaneous services or where a premises receives sewer service for which a special rate shall be established, the rates shall be fixed by the village by resolution under the same regulations as for the passing of ordinances.

(Prior Code, § 25.044) (Ord. 26, effective 2-4-1980; Ord. 38, effective 3-31-1980; Ord. 39, effective 9-29-1980; Ord. 53, effective 4-3-1983; Ord. 64, passed 12-10-1990)

§ 50.034 DELINQUENT CHARGES; ENFORCEMENT.

The charges for sewer service made a lien upon all premises served thereby, and are hereby recognized to constitute a lien. A lien against the premises is created when the service is rendered to the premises, and is perfected when the amount due is noted in the village records. Whenever a charge for sewer services against any parcel of property shall be delinquent, the Village Council shall certify, at any time prior to the date of levy of taxes of each year, to the Village President the fact of the delinquency. Thereupon, the delinquent charge shall be entered by the Treasurer upon the next tax rolls as a charge against the premises, and a lien thereof enforced in the same manner as general village taxes against the premises are collected and the lien thereof enforced.

(Prior Code, § 25.045) (Ord. 26, effective 2-4-1980; Ord. 38, effective 3-31-1980; Ord. 39, effective 9-29-1980; Ord. 53, effective 4-3-1983; Ord. 64, passed 12-10-1990)

§ 50.035 ADJUSTING CHARGE RATES; AUDIT REVIEW.

The village shall have the right to adjust the user charge rates based on an annual audit review of the sewage works operation and maintenance costs. An audit review shall be conducted annually by the village.

(Prior Code, § 25.046) (Ord. 26, effective 2-4-1980; Ord. 38, effective 3-31-1980; Ord. 39, effective 9-29-1980; Ord. 64, passed 12-10-1990)

§ 50.036 USER CLASSES.

All customers of the sewage works will be included in a user class and each user class will pay for its proportionate use of the sewage works in terms of volume and pollutant loading. Sewer user charges are levied to defray the cost of operation, maintenance (including replacement and depreciation) and debt retirement of the sewage works. The classes of users of the sewage works, for the purpose of determining the user charges, shall be defined in § 50.105, as same may be amended.

(Prior Code, § 25.047) (Ord. 26, effective 2-4-1980; Ord. 38, effective 3-31-1980; Ord. 39, effective 9-29-1980; Ord. 64, passed 12-10-1990)

§ 50.037 INDUSTRIAL USERS.

Each industrial user shall pay the proportionate share of the operation, maintenance and replacement depreciation costs of the sewage works that are allocable to the treatment of the user's industrial wastes.

(Prior Code, § 25.048) (Ord. 26, effective 2-4-1980; Ord. 38, effective 3-31-1980; Ord. 39, effective 9-29-1980; Ord. 64, passed 12-10-1990)

§ 50.038 WASTEWATER NOT EXCEEDING NORMAL STRENGTH.

Each industrial user that discharges process wastewater which does not exceed the limits of normal strength sewage shall be charged and shall make payments to the village in amounts based on the actual waste volume and strength from the premises.

(Prior Code, § 25.049) (Ord. 26, effective 2-4-1980; Ord. 38, effective 3-31-1980; Ord. 39, effective 9-29-1980; Ord. 64, passed 12-10-1990)

§ 50.039 WASTEWATER EXCEEDING NORMAL STRENGTH.

Each user that proposes to discharge wastewater to the system which exceeds the limits of normal strength sewage will be required to either:

(A) Provide satisfactory pretreatment to reduce the strength of the wastewater to normal strength sewage; or

(B) Pay a surcharge determined by the relative concentration of BOD, suspended solids or other pollutant as compared to normal strength sewage.

(Prior Code, § 25.050) (Ord. 26, effective 2-4-1980; Ord. 38, effective 3-31-1980; Ord. 39, effective 9-29-1980; Ord. 64, passed 12-10-1990)

INDUSTRIAL COST RECOVERY SYSTEM**§ 50.050 USERS LIABLE FOR INDUSTRIAL COST RECOVERY.**

Industrial users which are liable for industrial cost recovery, as defined in § 50.002, shall include the following:

(A) Any nongovernmental, nonresidential user of a publicly owned treatment works which discharges process wastes which are more than the equivalent of 25,000 gallons per day (gpd) of normal strength sewage wastes, as defined in § 50.105, and which is identified in the *Standard Industrial*

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Classification Manual, 1972, Office of Management and Budget, as amended, and supplemented under one of the following divisions:

- (1) Division A: Agriculture, Forestry and Fishing;
- (2) Division B: Mining;
- (3) Division D: Manufacturing;
- (4) Division E: Transportation, Communications, Electric, Gas and Sanitary Services; and
- (5) Division I: Services.

(B) Any nongovernmental user of a publicly owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of any municipal systems, or to injure, or to interfere with any sewage treatment process, or which constitutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in, or has an adverse effect on, the waters receiving any discharge from the treatment works.

(Prior Code, § 25.061) (Ord. 26, effective 2-4-1980; Ord. 64, passed 12-10-1990)

§ 50.051 COMPUTATION OF INDUSTRIAL WASTES.

For purposes of industrial cost recovery charge calculations, computations of amounts of industrial wastes shall exclude amounts of domestic wastes and/or wastes from human sanitary conveniences, normally a part of a given industrial waste stream.

(Prior Code, § 25.062) (Ord. 26, effective 2-4-1980; Ord. 64, passed 12-10-1990)

§ 50.052 ASSESSING CHARGES.

Each industrial user which is subject to industrial cost recovery will be assessed an industrial cost recovery charge for use of village sewage works which were funded in part by United States EPA construction grants received after March 1, 1973. The charge will be levied in accordance with federal regulations in force after July 1, 1980 and will be based on waste volume, delivery flow rate and pollutant loadings as they may affect the capacity of eligible sewage works. The village shall reserve the right to adjust the industrial cost recovery charges to any sewer user that significantly alters its waste volume or delivery flow rate. Affected users shall only be required to pay charges for those years that they use the system and only at an annual rate in proportion to the length of the entire recovery period. The **INDUSTRIAL COST RECOVERY PERIOD** is the time period that is provided to allow industrial users to pay their total industrial cost recovery charge and shall be equal to 30 years.

(Prior Code, § 25.063) (Ord. 26, effective 2-4-1980; Ord. 64, passed 12-10-1990)

§ 50.053 COMPUTING CHARGES.

(A) The industrial cost recovery charge for each affected industrial user shall be a portion of the federal construction grant amount equal in proportion to the user's proportionate share of the total capacity of the system in terms of strength, volume and delivery flow rate. Specifically, the total industrial cost recovery charge shall be determined by the sum of the three following calculations:

- (1)
- $$\frac{\text{Industrial volume contribution per unit of time}}{\text{Plant design volume per unit of time}} \times (\text{EPA grant portion allocable to volume handling})$$
- (2)
- $$\frac{\text{Industrial BOD contribution per unit of time}}{\text{Plant BOD design capacity per unit of time}} \times (\text{EPA grant portion allocable to BOD handling})$$
- (3)
- $$\frac{\text{Industrial suspended solids contribution per unit of time}}{\text{Plant suspended solids design capacity per unit of time}} \times (\text{EPA grant portion allocable to suspended solids handling})$$

(B) Industrial cost recovery charges shall be calculated and paid annually in an amount equal to the total industrial cost recovery charge for any industrial user divided by 30 years.
(Prior Code, § 25.064) (Ord. 26, effective 2-4-1980; Ord. 64, passed 12-10-1990)

§ 50.054 MONITORING WASTES.

(A) For purposes of industrial cost recovery calculations, the affected industrial user shall monitor its industrial waste stream(s), as directed by the Manager, and no less than quarterly and at the user's expense.

(B) The Manager shall reserve the right to request split samples from the user and analyze the wastes independently, the costs of which shall be borne by the user.
(Prior Code, § 25.065) (Ord. 26, effective 2-4-1980; Ord. 64, passed 12-10-1990)

§ 50.055 FUNDS; DISTRIBUTION.

Costs recovered from industrial users shall be deposited by the village in a separate account identified as the industrial cost recovery account. Funds shall be distributed from the industrial cost

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recovery account in accordance with United States Environmental Protection Agency rules and in the following manner.

(A) The village shall retain 50% of the total recovered amount. The remainder, together with any interest earned thereon, shall be returned to the United States Treasury on an annual basis.

(B) Eighty percent of the retained amount, together with interest earned thereon, shall be used solely for the eligible costs of expansion or reconstruction of the treatment works and only upon written approval of the EPA Administrator, Region V. The remainder of the retained amount may be used as the village so desires.

(C) Pending use, the village shall invest the retained amounts for expansion and reconstruction in:

(1) Obligations of the United States government;

(2) Obligations guaranteed as to principal and interest by the United States government or any agency thereof; or

(3) Shall deposit the amounts in accounts fully collateralized by obligations of the United States government or by obligations fully guaranteed as to principal and interest by the United States government or any agency thereof.

(Prior Code, § 25.066) (Ord. 26, effective 2-4-1980; Ord. 64, passed 12-10-1990)

SEWER CONNECTION CHARGES

§ 50.070 ORIGINAL CONNECTIONS; SUBSEQUENT CONNECTIONS.

Each person desiring to connect to the system shall pay a charge for the privilege of using the facilities and receiving the service of the system in the amounts given below.

(A) *Original connections.* For each connection to the lines of the system, within the village limits and for which a sewer service lateral stub was provided at the village's expense, there shall be charged a fee of \$100. For each connection to the lines of the system, outside the village limits and for which a sewer service lateral stub was provided at the village's expense, there shall be charged a fee of \$150.

(B) *Subsequent connections.* For each connection to the lines of the system, for which a sewer service lateral stub was not provided at the village's expense, there shall be charged a fee determined by resolution of the Village Council.

(Prior Code, § 25.081) (Ord. 26, effective 2-4-1980; Ord. 64, passed 12-10-1990)

§ 50.071 PAYMENT.

Connection charges as set forth above shall be due and payable in cash upon application for connection to the system.

(Prior Code, § 25.082) (Ord. 26, effective 2-4-1980; Ord. 64, passed 12-10-1990)

PAYMENTS AND COLLECTIONS**§ 50.085 DELINQUENT PAYMENTS.**

Bills for sewage disposal service are due and payable at the business office of the village or to any designated agent on their date of issue and, if not paid by the thirtieth day thereafter, shall be deemed delinquent and shall be subject to a penalty of 10% thereof. Bills shall be dated and mailed monthly. (Prior Code, § 25.091) (Ord. 26, effective 2-4-1980; Ord. 40, effective 9-29-1980; Ord. 64, passed 12-10-1990)

§ 50.086 DELIVERY OF BILL OR NOTICE.

All bills and notices relating to the conduct of the business of the village and of the sewage works will be mailed to the property owner at the address given at the Village Office; it shall not otherwise be responsible for delivery of any bill or notice, nor will the customer be excused from nonpayment of a bill or from any performance required in the notice.

(Prior Code, § 25.092) (Ord. 26, effective 2-4-1980; Ord. 64, passed 12-10-1990)

§ 50.087 CANCELLING APPLICATIONS; DISCONTINUING SERVICE.

Applications for connection permits may be cancelled and/or sewer service disconnected by the village for any violation of any rule, regulation or condition of service, and especially for any of the following reasons:

(A) Misrepresentation in the permit application as to the property or residential equivalents to be serviced by the sewage works;

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

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

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

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

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

(b) When it becomes necessary for the village to discontinue utility service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid, along with a turn-on charge in the sum of \$60.

(C) Improper or imperfect and/or failure to keep building sewers in a suitable state of repair. (Prior Code, § 25.093) (Ord. 26, effective 2-4-1980; Ord. 64, passed 12-10-1990)

§ 50.088 REESTABLISHING SERVICE.

Where the sewer service supplied to a customer has been discontinued for nonpayment of a delinquent bill, the village reserves the right to request a nominal sum be placed on deposit with the village for the purpose of establishing or maintaining any customer's credit. Service shall not be reestablished until all delinquent charges and penalties, and a turn-on charge to be specified by the village, have been paid. Further, the charges and penalties may be recovered by the village by court action.

(Prior Code, § 25.094) (Ord. 26, effective 2-4-1980; Ord. 64, passed 12-10-1990)

§ 50.089 INTERRUPTIONS OF SERVICE.

The village shall make all reasonable efforts to eliminate interruptions of service and, when interruptions occur, will endeavor to reestablish service with the shortest possible delay. Whenever service is interrupted for the purpose of working on the sewage works, all customers affected by the interruption will be notified in advance whenever it is possible to do so.

(Prior Code, § 25.095) (Ord. 26, effective 2-4-1980; Ord. 64, passed 12-10-1990)

§ 50.090 APPEALS.

Any customer has the right to appeal the basis for any charges developed in accordance with this subchapter. Appeals shall be directed to the Village Clerk along with any supporting documentation for amendment of the charges in question. Any additional information that may be required to resolve the appeal, as directed by the Village Clerk, shall be obtained by the customer at his or her expense. Resolution of appeals shall be made within 30 days by the Village Clerk in accordance with best available data and the formulations presented in this subchapter. In no event shall appeals be accepted which would require a variance in the methods of charge calculations established and in force by this subchapter. All bills for sewage service, outstanding during the appeals process, including all penalties or delinquency charges, shall be due and payable. Pending resolution of the appeal, the village shall adjust the charges accordingly, including any refunds due. Refunds shall be retroactive to the previous four quarters billings only.

(Prior Code, § 25.096) (Ord. 26, effective 2-4-1980; Ord. 64, passed 12-10-1990)

DEFINITIONS**§ 50.105 DEFINITIONS.**

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

BOD (denoting ***BIOCHEMICAL OXYGEN DEMAND***). The quantity of oxygen required to biochemically decompose organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter.

(Prior Code, § 25.111)

BUILDING DRAIN. The 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.

(Prior Code, § 25.112)

BUILDING SEWER. The extension from the building drain to the public sewer or other place of disposal.

(Prior Code, § 25.113)

CLASSES OF USERS. The division of sanitary sewer customers into classes by similar process or discharge flow characteristics as follows.

(1) ***COMMERCIAL USER***. Any retail or wholesale business engaged in selling merchandise or a service.

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(2) **GOVERNMENTAL USER.** Any federal, state or local government office or government service facility.

(3) **INDUSTRIAL USER.** Any manufacturing establishment which produces a product from raw or purchased material.

(4) **INSTITUTIONAL USER.** Any educational, religious or social organization such as a school, church, nursing home, hospital or other institutional user.

(5) **RESIDENTIAL USER.** An individual home or dwelling unit, including mobile homes, apartments, condominiums or multi-family dwellings, that discharges only separated domestic wastes or wastes from sanitary conveniences.
(Prior Code, § 25.114)

COMPATIBLE POLLUTANT. 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 those pollutants and can, in fact, remove the pollutants to a substantial degree. The term **SUBSTANTIAL DEGREE** generally means removals of 80% or greater.
(Prior Code, § 25.115)

COMBINED SEWER. A sewer receiving both surface runoff and sewage.
(Prior Code, § 25.116)

GARBAGE. Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.
(Prior Code, § 25.117)

INCOMPATIBLE POLLUTANT. Any pollutant that is not a compatible pollutant, as defined above.
(Prior Code, § 25.118)

INDUSTRIAL WASTES. The liquid wastes from industrial manufacturing processes, trade or business as distinct from segregated domestic strength wastes, or wastes from sanitary conveniences.
(Prior Code, § 25.119)

INFILTRATION. Any waters entering the system from the ground through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. **INFILTRATION** does not include, and is distinguished from, inflow.
(Prior Code, § 25.120)

INFLOW. Any waters entering the system through such sources as, but not limited to, building downspouts, footing or yard drains, cooling water discharges, seepage lines from springs and swampy areas and storm drain cross connections.
(Prior Code, § 25.121)

INFILTRATION/INFLOW. The total quantity of water from both infiltration and inflow.
(Prior Code, § 25.122)

INSPECTOR. Any person or persons authorized by the village to inspect and approve the installation of building sewers and their connection to the public sewer system.
(Prior Code, § 25.123)

MANAGER. The Village Clerk, Sewage Works Operator or his or her authorized operator, agent or representative.
(Prior Code, § 25.124)

MAY. The action referred to is permissive.
(Prior Code, § 25.140)

NATURAL OUTLET. Any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.
(Prior Code, § 25.125)

NORMAL STRENGTH SEWAGE. A sanitary wastewater flow containing an average daily BOD of not more than 200 mg/l or an average daily suspended solids concentration of not more than 250 mg/l.
(Prior Code, § 25.126)

NPDES PERMIT. The permit issued pursuant to the national pollution discharge elimination system for the discharge of wastewater into the waters of the state.
(Prior Code, § 25.127)

OPERATION AND MAINTENANCE COSTS. All costs, direct and indirect (other than debt service), necessary to ensure adequate wastewater treatment on a continuing basis, to conform with all related federal, state and local requirements, and to assure optimal long-term facility management. (***O & M COSTS*** include replacement costs.)
(Prior Code, § 25.128)

REPLACEMENT. Necessary expenditures made during the service life of the treatment works to replace equipment and plant appurtenances required to maintain the intended performance of the treatment works.
(Prior Code, § 25.129)

PERSON. Any individual, firm, company, association, society, corporation or group.
(Prior Code, § 25.130)

pH. The logarithm of the reciprocal of the concentration of hydrogen ions in grams per liter of solution.
(Prior Code, § 25.131)

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PRETREATMENT. The treatment of extra strength or incompatible wastewater flows in privately owned pretreatment facilities prior to discharge into publicly owned sewage works.
(Prior Code, § 25.132)

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking and dispensing of food that have been shredded to 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 dimension.
(Prior Code, § 25.133)

PUBLIC SEWER. A sewer in which all owners of abutting properties have equal rights, and which is controlled by public authority.
(Prior Code, § 25.134)

SANITARY SEWER. A sewer which carries sewage and to which storm, surface and groundwaters are not intentionally admitted.
(Prior Code, § 25.135)

SEWAGE. A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with ground, surface and storm waters as may be present.
(Prior Code, § 25.136)

SEWAGE TREATMENT FACILITY. Any arrangement of devices and structures used for treating sewage.
(Prior Code, § 25.137)

SEWAGE WORKS. All facilities for collecting, pumping, treating and disposing of sewage.
(Prior Code, § 25.138)

SEWER. A pipe or conduit for carrying sewage.
(Prior Code, § 25.139)

SHALL. The action referred to is mandatory.
(Prior Code, § 25.140)

SLUDGE. Any discharge of sewage or industrial waste which, in concentration of any given constituent, exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration during normal operation.
(Prior Code, § 25.141)

STORM DRAIN. Sometimes termed **STORM SEWER**, shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.
(Prior Code, § 25.142)

SUSPENDED SOLIDS. Solids that either float on the surface of, or in suspension in, water, sewage or other liquids and which can be removed by laboratory filtering.
(Prior Code, § 25.143)

VILLAGE. The Village of Hesperia, Oceana and Newaygo Counties, Michigan, as represented by the Village Council.
(Prior Code, § 25.144)

WATERCOURSE. A channel in which a flow of water occurs, either continuously or intermittently.
(Prior Code, § 25.145)

WYE BRANCH. A local service connection to the sewer that is made at an angle similar to a *WYE* so that a sewer cleaning rod will not come into the sewer at a right angle and penetrate the far side, but will travel down the course of the sewer.
(Prior Code, § 25.146)
(Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

USE OF PUBLIC SEWERS REQUIRED

§ 50.120 DEPOSITING SEWAGE UPON PUBLIC OR PRIVATE PROPERTY; UNLAWFUL.

It shall be unlawful for any person to place, deposit or permit to be deposited any sewage upon public or private property within the village or in any area under the jurisdiction of the village in any unsanitary manner.
(Prior Code, § 25.161) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990) Penalty, see § 50.999

§ 50.121 POLLUTING WATER; UNLAWFUL.

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 polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of the chapter.
(Prior Code, § 25.162) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990) Penalty, see § 50.999

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§ 50.122 PRIVY; SEPTIC TANK.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for disposal of sewage.
(Prior Code, § 25.163) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990) Penalty, see § 50.999

§ 50.123 CONNECTION TO PUBLIC SEWER; TIME LIMIT.

The owner of any house, building or property used for human occupancy, employment, recreation or other purposes, situated within the village, and abutting on any street, alley or right-of-way, in which there is located, or may in the future be located, a public sewer of the village, within 200 feet at the nearest point from the structure in which sewage originates, is hereby required, at his or her expense, to install suitable toilet facilities therein, and to connect the facilities directly with the proper public sewer, in accordance with the provision of this chapter, when given official notice to do so, provided that the connection shall not be required to be made less than six months after the sewer is made available for connection thereto.

(Prior Code, § 25.164) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990) Penalty, see § 50.999

§ 50.124 INDUSTRIAL WASTES; REGULATIONS.

The village may require each person who applies for sewer service, receives sewer service or through the nature of the enterprise creates a potential environmental problem, to file the material listed below. Any industry discharging industrial wastes to the sanitary sewer, storm sewer or receiving stream shall file the material listed below with the Manager:

(A) File a written statement setting forth the nature of the enterprise, the source and amount of water used and the amount(s) of water to be discharged, with the present or expected bacterial, physical, chemical, radioactive or other pertinent characteristics of the wastes;

(B) Provide a plan map of the building, works or complex, with each outfall to the surface waters, sanitary sewer, storm sewer, natural watercourse or groundwaters noted, described and the waste stream identified;

(C) Sample, test and file reports with the Manager and the appropriate state agencies on appropriate characteristics of wastes on a schedule, at locations and according to methods outlined in § 50.182;

(D) An affidavit placing waste treatment facilities, process facilities, waste streams or other potential waste problems under the specific supervision and control of persons who have been certified by an appropriate state agency as properly qualified to supervise the facilities;

(E) Provide a report on raw materials entering the process or support system, intermediate materials, final product and waste by-products as those factors may affect waste control;

(F) Maintain records and file reports on the final disposal of specified liquids, solids, sludge, oil, radioactive materials, solvents or other wastes; and

(G) If any industrial process is to be altered so as to increase or decrease process waste or potential waste discharge to the sanitary sewer, written notification shall be given to the Manager. Discharge of altered waste streams shall be subject to the Manager's approval and shall comply with all other provisions of this chapter and any applicable laws or regulations.

(Prior Code, § 25.165) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

PRIVATE SEWAGE DISPOSAL

§ 50.135 WHERE ALLOWED.

Where a public sanitary or combined sewer is not available under the provisions of § 50.123, the building sewer shall be connected to a private sewage disposal system complying with all requirements of the District Health Department #5 (White Cloud).

(Prior Code, § 25.181) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.136 WHEN PUBLIC SEWER BECOMES AVAILABLE.

At a time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in § 50.123, a direct connection shall be made to the public sewer in compliance with this chapter; and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned, pumped out and filled with sand or gravel.

(Prior Code, § 25.182) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.137 OPERATION; MAINTENANCE.

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

(Prior Code, § 25.183) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990) Penalty, see § 50.999

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§ 50.138 ADDITIONAL REQUIREMENTS.

No statement contained in this subchapter shall be constructed to interfere with any additional requirements that may be imposed by the State Department of Public Health or the State Department of Natural Resources.

(Prior Code, § 25.184) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

BUILDING SEWERS AND CONNECTIONS

§ 50.150 PERMIT REQUIRED; BOND; INSURANCE; LICENSE FEE.

No one, except a drain layer licensed by the village, shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenances thereof, without first obtaining a written permit from the Manager. Before a general license or particular permit may be issued for excavating for plumbing or drain laying in any public street, way or alley, the person applying for the permit shall execute unto the village and deposit with the Treasurer a bond with corporate surety in the sum of \$1,000, conditioned that he or she will faithfully perform all work with due care and skill, and in accordance with the laws, rules and regulations established under the authority of the village pertaining to sewers and plumbing. This bond shall state that the person will indemnify and save harmless the village and the owner of the premises against all damages, costs, expenses, outlays and claims of every nature and kind arising out of mistake or negligence on his or her part in connection with plumbing, sewer line connection or excavating for plumbing or sewer connection as prescribed in this chapter. The bond shall remain in force and must be executed for a period of one year, except that, upon expiration, it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to the expiration. The licensee shall also provide public liability insurance for the protection of the village, the property owner and all persons, to indemnify them for all damages caused by accidents attributable to the work, with limits of \$100,000 for one person, \$300,000 for bodily injuries per accident and \$50,000 for property damages. Annual license fee for drain layer shall be \$10. (Prior Code, § 25.201) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990) Penalty, see § 50.999

§ 50.151 NEW BUILDINGS; BUILDINGS REQUIRING NEW SERVICE.

All new buildings or buildings requiring new sanitary sewer service must have building sewer permits. The owner or owner's agent shall make application for the permit on a special form furnished by the village. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Manager. The minimum permit and inspection fee, as established by the village, shall be paid to the village at the time the application is filed.

(Prior Code, § 25.202) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.152 COSTS AND EXPENSES; INDEMNIFICATION.

All costs and expenses incidental to the installation and connection of the building sewer to the sanitary sewer service lateral shall be borne by the owner. The owner or the person installing the building sewer for the owner shall indemnify the village from any loss or damage that may directly or indirectly be caused by the installation of the building sewer.

(Prior Code, § 25.203) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.153 SEPARATE SEWER FOR EVERY BUILDING; EXCEPTION.

A separate and independent building sewer shall be provided for every building, except 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 be extended to the rear building and the whole considered as one building sewer. Other exceptions will be allowed only by special permission granted by the village. Plumbing fixtures installed in accessory buildings and drains carrying sanitary sewage shall be connected to the public sewer.

(Prior Code, § 25.204) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.154 OLD BUILDING SEWERS.

Old building sewers or portions thereof may be used in connection with new buildings only when they are found, on examination and tested by the Inspector or his or her representative, to meet all requirements of this chapter.

(Prior Code, § 25.205) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.155 CONSTRUCTION.

(A) The building sewer shall be constructed of either of the following types of pipe meeting the current ASTM specifications:

- (1) Plastic (ABS) ASTM D 1527 SDR 35 or Schedule 40;
- (2) Plastic (PVC) ASTM D 1785 SDR 35 - D3034 or Schedule 40;
- (3) Vitrified Clay (VC) ASTM C-700 Extra Strength;
- (4) Cast Iron Extra Heavy ASTM A-74; or
- (5) Non-Reinforced Concrete ASTM C-14 Extra Strength.

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(B) If installed in filled or unstable ground, the building sewer shall be of cast iron extra heavy pipe, except that other types of pipe may be used if laid on a suitable improved bed or cradle as approved by the Inspector.

(Prior Code, § 25.206) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.156 JOINTS AND CONNECTIONS.

All building sewer joints and connections shall be made gas- and water-tight and shall conform to the requirements of current Building and Plumbing Codes. Vitrified clay sewer pipe shall be fitted with factory-made resilient compression joints meeting the current ASTM specifications for vitrified clay pipe joints having resilient properties. Concrete sewer pipe joints shall be of rubber ring, flexible compression type, similar and equal to joints specified for vitrified clay pipe. The joints and connections shall conform to the manufacturer's recommendations.

(Prior Code, § 25.207) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.157 SIZE AND SLOPE.

The size and slope of the building sewers shall be subject to the approval of the Inspector, but in no event shall the diameter be less than four inches. Minimum grade shall be as follows:

(A) Six-inch pipe: One-eighth inch per foot or one inch per eight feet; and

(B) Four-inch pipe: One-fourth inch per foot or two inches per eight feet.

(Prior Code, § 25.208) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.158 ELEVATION; EXCAVATIONS; PIPE LAYING AND BACKFILL.

(A) Whenever possible, the building sewer shall be brought to the buildings at an elevation below the basement floor.

(B) No building sewer shall be laid parallel to, or within three feet of, any bearing wall which might thereby be weakened.

(C) The depth shall be sufficient to afford protection from frost.

(D) All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the Inspector.

(E) Pipe laying and backfill shall be performed in accordance with current ASTM specifications, except that no backfill shall be placed until the work has been inspected by the Inspector or his or her representative.

(Prior Code, § 25.209) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.159 LIFTING SEWAGE.

In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by the drains shall be lifted by approved artificial means and discharged to the building sewer.

(Prior Code, § 25.210) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.160 EXCAVATIONS.

(A) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard.

(B) Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the village.

(Prior Code, § 25.211) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990) Penalty, see § 50.999

§ 50.161 CAPACITY OF SEWAGE WORKS.

No connection will be allowed unless there is sufficient available capacity in the sewage works as determined by the Manager.

(Prior Code, § 25.212) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.162 NEW CONSTRUCTION.

New sewer mains shall be charged to the property owner by special assessments set by resolution of the Village Council. The village may elect to pay up to one-third of the cost of the above mentioned mains.

(Prior Code, § 25.213) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

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USE OF PUBLIC SEWERS

§ 50.175 UNPOLLUTED DISCHARGES INTO SANITARY SEWER; PROHIBITED.

No person shall discharge, or cause to be discharged, any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer.

(Prior Code, § 25.231) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990) Penalty, see § 50.999

§ 50.176 UNPOLLUTED DISCHARGES; WHERE ALLOWED.

Storm water and all other unpolluted drainage shall be discharged to sewers or drains specifically designated for the use, or to a natural outlet approved by the appropriate state agency. Industrial cooling water or unpolluted process waters may be discharged, upon approval of the appropriate state agency, to a storm sewer or natural outlet.

(Prior Code, § 25.232) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.177 PROHIBITED DISCHARGES.

Except as hereinafter provided by specific limits, no person shall discharge any of the following described waters or wastes to any public sewers:

(A) Chlorine demand in excess of 15 mg/l;

(B) Color (as from, but not limited to, dyes, inks or vegetable tanning solutions) shall be controlled to prevent light absorbency which would interfere with treatment plant processes or that prevent analytical determinations;

(C) Explosive liquid, solid or gas, gasoline, benzene, naphtha, fuel oil or other flammable waste;

(D) Garbage not properly shredded (no particle size greater than one-half inch);

(E) Grease, oil, wax or fat, whether emulsified or not, in excess of 50 mg/l, or other substances which may solidify or become viscous at temperatures between 32°F and 150°F;

(F) Wastes which contain the following substances in concentrations exceeding limitations set forth by state or federal agencies to protect the sewage works or receiving waters, to minimize deleterious concentrations in sludges, and/or to comply with NPDES permit limitations:

(1) Arsenic;

- (2) Cadmium;
- (3) Hexavalent chromium;
- (4) Total chromium;
- (5) Copper;
- (6) Iron;
- (7) Nickel;
- (8) Lead;
- (9) Mercury;
- (10) Phenols;
- (11) Zinc; or

(12) Any other compounds or substances in quantities which impair the operation or maintenance of the sewage works.

(G) Inert suspended solids such as, but not limited to, fuller's earth, lime slurries and lime residues) or dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate) in unusual concentrations;

(H) Insoluble, solid or viscous substances (such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, tar, feathers, plastics, wood, hair, fleshings and the like);

(I) Noxious or malodorous gas (such as, but not limited to, hydrogen sulfide, sulphur dioxide or oxides of nitrogen) and other substances: capable of public nuisance;

(J) A pH less than 6.5 or greater than 9.5;

(K) Radioactive wastes or isotopes of a half-life or concentration which may exceed limits established by applicable state and federal regulations;

(L) Suspended solids in excess of 250 mg/l;

(M) Temperature of wastes less than 32°F and greater than 150°F;

(N) Water or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment to only a degree that the sewage

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treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters; and

(O) Discharges that would result in excess foaming during the treatment process. Excess foaming is any foam which, in the opinion of the Manager, is a nuisance in the treatment process.
(Prior Code, § 25.233) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.178 PROHIBITED DISCHARGES; OPTIONS OF VILLAGE.

(A) 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 enumerated in § 50.177, and which in the judgment of the Manager may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the village may:

(1) Reject the wastes;

(2) Require pretreatment to the level defined as normal strength sewage; or

(3) Require pretreatment to a compatible level (other than normal strength sewage) for discharge to the public sewers.

(B) If the village permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Manager and subject to the requirements of all applicable codes, ordinances and laws.
(Prior Code, § 25.234) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.179 INTERCEPTORS.

Grease, oil and sand interceptors shall be provided when, in the opinion of the Manager, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients, except that the interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Manager, and shall be located as to be readily and easily accessible for cleaning and inspection.
(Prior Code, § 25.235) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.180 PRELIMINARY TREATMENT FACILITIES.

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 or her expense.
(Prior Code, § 25.236) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.181 CONTROL MANHOLE.

When required by the village, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. The manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the village. The manhole shall be installed by the owner at his or her expense, and shall be maintained by him or her so as to be safe and accessible at all times. (Prior Code, § 25.237) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.182 MEASUREMENTS, TESTS AND ANALYSES.

(A) All measurements, tests and analyses of the characteristics of water and wastes to which reference is made in this chapter shall be determined in accordance with the most recent edition of *Standard Methods for the Examination of Water and Sewage* and shall be determined at the control manhole provided for, or upon suitable samples taken at, the control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

(B) Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether grab sample or samples should be taken. The responsibilities of industry are further defined in the industrial waste control program shown in §§ 50.200 through 50.207. (Prior Code, § 25.238) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.183 SPECIAL AGREEMENTS.

No statement contained in this subchapter 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.

(Prior Code, § 25.239) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.184 INDUSTRIAL COOLING WATER.

Industrial cooling water containing pollutants such as insoluble oils or grease or other suspended solids shall be treated for removal of the pollutants and then discharged to the storm sewer or drain.

(Prior Code, § 25.240) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

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§ 50.185 RIGHT OF ENTRY FOR INSPECTION AND THE LIKE.

Agents of the village, State Department of Natural Resources or United States Environmental Protection Agency shall have the right to enter all properties at all reasonable times for the purpose of inspecting, measuring, sampling and testing the wastewater discharge.
(Prior Code, § 25.241) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

INDUSTRIAL WASTE CONTROL PROGRAM

§ 50.200 INDUSTRIAL REPRESENTATIVE.

One person from each industry shall be delegated the authority to be responsible for industrial wastes admitted to the village sewers. He or she shall be involved with maintaining any pretreatment facility operations and assuring a continual high level of performance. In case no pretreatment is provided, he or she shall be involved with prevention of accidental discharges of process wastes admitted to the sanitary sewer system. He or she must become aware of all potential and routine toxic wastes generated by his or her industry. He or she must be informed of all process alterations which could, in any manner, increase or decrease normal daily flow or waste strength discharged to the sanitary sewers.

(Prior Code, § 25.251) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.201 FLOW AND CHEMICAL LISTING.

This industrial representative shall catalogue all chemicals stored, used or manufactured by his or her industry. This listing shall include specific chemical names, not manufacturer's codes. These wastes admitted to the sanitary sewer are a prime concern; however, all discharges shall be catalogued. An estimate of daily average flows and strengths shall be made including process, cooling, sanitary and the like. This determination should separate the flows according to appropriate categories. The aforementioned flow and chemical listing is to be sent to the Manager and shall be treated as confidential information.

(Prior Code, § 25.252) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.202 PROCESS ALTERATIONS.

The industrial representative should attempt to determine whether or not large process alterations will occur during the next few years—one year, two years, five years. He or she should consult with management to determine if the alterations are scheduled and forthcoming.

(Prior Code, § 25.253) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.203 PLANT LAYOUT SKETCH.

A sketch of the plant buildings shall be made, including a diagram of process and chemical storage areas. Location of any pretreatment equipment must be indicated, and floor drains located near process and storage areas must be noted. Manhole and sewer locations at the industry's point of discharge into the municipal collection system must be included on the plant layout sketch.

(Prior Code, § 25.254) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.204 PRETREATMENT.

There shall be separation of spent concentrates from the sanitary sewer to prevent toxic wastes from upsetting the treatment plant. Supervision and operation of equipment for pretreatment of spent concentrates, toxic wastes and high strength organic wastes, to an acceptable level as detailed in the village sewer use ordinance, is the responsibility of the industrial representative. All sludges generated by the treatment must be handled in an acceptable manner, such as in a designated area of a sanitary landfill or by a licensed waste hauler. Adequate segregation of those waters and wastes to be pretreated to meet discharge limits is a vital portion of the industrial effort to prevent operational problems at the wastewater treatment plant.

(Prior Code, § 25.255) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.205 SECONDARY CONTAINMENT.

Adequate secondary containment or curbing must be provided to protect all floor drains from accidental spills and discharges to the receiving sewers. The curbing should be sufficient to hold 150% of a total process area tank volume. All floor drains within a containment area must be plugged and sealed. Spill-throughs or sumps within process areas must discharge to appropriate pretreatment tanks. Secondary containment shall be provided for chemical storage areas and for storage tanks which may be serviced by commercial haulers.

(Prior Code, § 25.256) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.206 SAMPLING VAULT OR MANHOLE.

If so directed by the village, an adequate sampling vault or manhole must be provided at the owner's expense, in a fully accessible place for village personnel to obtain waste samples and flow measurement data. The complexity of the vault will vary with the sampling requirements the Manager determines necessary to protect the treatment plant and receiving streams. Should the village desire continual flow recording and long duration, 24-hour composite sampling, then a more complex manhole would be mandatory, complete with 120 volt AC. Samples collected may be divided between the industry and village for analysis if so desired by the industry. Industrial users which are subject to industrial cost recovery, as defined in § 50.002, shall install suitable monitoring equipment as described above and as approved by the village.

(Prior Code, § 25.257) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

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§ 50.207 FEE; SURCHARGE.

(A) A yearly surveillance fee may be initiated to reduce some equipment costs or for maintenance of monitoring devices.

(B) If a graduated surcharge is deemed necessary to monitor industrial discharges, then a factor may be incorporated to reduce the costs as industry lowers its waste strength. The village will encourage continued progress in industrial waste control.

(C) A graduated surcharge may not be required if industry provides adequate safeguard devices and treatment facilities to ensure protection of the municipal treatment plant and biological processes involved.

(Prior Code, § 25.258) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

POWERS AND AUTHORITY OF INSPECTORS

§ 50.220 RIGHT OF ENTRY; INFORMATION.

(A) The Manager and other duly authorized employees of the village, bearing proper credentials and identification, shall be permitted to enter upon all properties at all reasonable times for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provision of this chapter.

(B) The Manager or his or her representatives shall have no authority to inquire into any proprietary processes beyond any information having a direct bearing on the kind and source of discharge to the sewers and waterways or facilities for waste treatment.

(Prior Code, § 25.271) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.221 LIABILITY.

While performing the necessary work on private properties referred to in § 50.220, the Manager or duly authorized employees of the village shall observe all safety rules applicable to the premises established by the property owner, and the property owner shall be held harmless for injury or death to the employees, and the village shall indemnify the 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 by negligence or failure of the company to maintain safe conditions as required in § 50.182.

(Prior Code, § 25.272) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

PROTECTION FROM DAMAGE

§ 50.235 DAMAGE PROHIBITED.

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 sewage works. Any person violating this section shall be subject to immediate arrest under charge of disorderly conduct.

(Prior Code, § 25.281) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990) Penalty, see § 50.999

CONDITIONS OF SERVICE**§ 50.250 CONNECTIONS SUBSEQUENT TO ORIGINAL CONSTRUCTION.**

Those customers making connections subsequent to the time of original construction of the public sewer shall install, at their expense, the sewer lateral stub from the public sewer to the lot or easement line in addition to that portion of the building sewer from the lot or easement line to their premises.

(Prior Code, § 25.291) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.251 LIABILITY OF VILLAGE.

The village shall, in no event, be held responsible for claims made against it by reason of the breaking of any mains or service laterals, or by reason of any other interruption of the service caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption.

(Prior Code, § 25.292) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.252 INSPECTION.

Premises receiving sanitary sewer service shall, at all reasonable hours, be subject to inspection by duly authorized personnel of the village.

(Prior Code, § 25.293) (Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

§ 50.999 PENALTY.

(A) *Notice of violation.* Any person found to be violating any provision of this chapter shall be served with written notice stating the nature of the violation and providing a reasonable time limit for

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the satisfactory correction thereof. The offender shall, within the period of time stated in the notice, permanently cease all violations.

(Prior Code, § 25.311)

(B) *Penalty.* Any person convicted of a violation of any provision of this chapter shall be punished by a fine of not more than \$500, or by imprisonment of not more than 90 days, or by both a fine and imprisonment.

(Prior Code, § 25.312)

(C) *Nuisance.* A violation of this chapter is also declared to be a public nuisance and the village may enforce same by injunction or other remedy, including the right to correct the violation and bill the owner or person in charge of the premises therefor.

(Prior Code, § 25.313)

(D) *Liability for fine or penalty levied against village.* Any business, industry or person violating any of the provisions of this chapter, which results in fines or penalties being levied against the village, shall become liable for the fine or penalty, plus any expenses, loss or damage occasioned by the violation. This fine or penalty would be levied in addition to penalties identified in divisions (B) and (C) above.

(Prior Code, § 25.314)

(Ord. 25, effective 2-13-1980; Ord. 64, passed 12-10-1990)

CHAPTER 51: STORM SEWER; USE

Section

- 51.01 Use for disposition of sewage prohibited; storm sewer defined
- 51.02 Nuisance; notice to abate; disconnection

§ 51.01 USE FOR DISPOSITION OF SEWAGE PROHIBITED; STORM SEWER DEFINED.

The use of any storm sewer within the corporate limits of the village for the disposition of domestic sewage and other sanitary wastes, including the construction and/or maintenance of a pipeline, tile line or other conduit connecting with any storm sewer designated and/or used for the purpose of conveying and/or conducting into a storm sewer any domestic sewage and/or other sanitary wastes, from any toilet, sink, cesspool, septic tank and/or other waste disposal unit, are hereby declared dangerous and damaging to life and health in the village and a nuisance, and are hereby prohibited. The term ***STORM SEWER*** shall be construed to mean any sewer heretofore or hereafter constructed within the corporate limits of the village for the purpose of disposing of surface water and providing drainage thereof.

(Prior Code, § 25.451) (Ord. 21, effective 9-29-1974) Penalty, see § 10.99

§ 51.02 NUISANCE; NOTICE TO ABATE; DISCONNECTION.

Any person creating any nuisance as above defined in § 51.01, on and after the effective date of this chapter, and the owner of any premises having any connection with any storm sewer within the corporate limits of the village, and any person using any connection, shall be required to discontinue and abate the nuisance, and disconnect with the storm sewer. In the event the owner or occupant of any premises so connected with any storm sewer shall fail or neglect to effect the disconnection within 90.....*[missing material]*

(Prior Code, § 25.452) (Ord. 21, effective 9-29-1974)

CHAPTER 52: WATER SYSTEMS; RATES AND WATER USE

Section

- 52.01 Rates
- 52.02 Enforcement
- 52.03 Meters and connection to system
- 52.04 Water wells

- 52.99 Penalty

§ 52.01 RATES.

Charges for services rendered and water supplied by the water system for residents in the village shall be collected from each structure served by the system at that rate to be determined by the duly adopted resolution of the village. The rates adopted by the Village Council shall address residential, commercial and multi-family or multiple-use dwellings.

(Prior Code, § 25.501) (Ord. 27, passed 6-30-1978; Ord. 52, effective 3-7-1983; Ord. 57, effective 2-8-1988; Ord. passed 5-8-1989; Ord. passed 12-12-1994; Ord. passed 1-10-2000)

§ 52.02 ENFORCEMENT.

The charges for water service made a lien upon all premises served thereby, and are hereby recognized to constitute the lien. A lien against the premises is created when the service is rendered to the premises, and is perfected when the amount due is noted in the village records. Whenever a charge for water services against any parcel of property shall be delinquent, the Village Council shall certify, at any time prior to the date of levy of taxes of each year, to the Village President the fact of the delinquency. Thereupon, the delinquent charge shall be entered upon the next tax rolls as a charge against the premises by the Treasurer, and a lien thereof enforced in the same manner as general village taxes against the premises are collected and the lien thereof enforced. A 10% penalty shall apply after the due date. There shall be a shutoff charge and a turn-on charge for each and every shutoff during scheduled work hours per the current resolution. After scheduled work hours there will be a minimum charge of two hours overtime.

(Prior Code, § 25.502) (Ord. 27, passed 6-30-1978; Ord. 41, effective 9-29-1980; Ord. 52, effective 3-7-1983; Ord. passed 10-9-1989)

§ 52.03 METERS AND CONNECTION TO SYSTEM.

(A) Anyone desiring municipal water shall obtain a permit from the Village Clerk.

(B) The payment of the tap-in fee, shall be applied to all labor, materials and installation costs incurred for the installation by the village of a water supply line from the village main to the customer's property line, and also be applied to all labor and installation costs incurred for the installation of a meter, which meter shall remain the property of the village at all times. Those water customers residing outside the village limits shall be charged 50% more for the tap-in fee and 50% more on each water bill according to the rates in § 52.01.

(C) The tap-in fee and meter deposit shall be determined by resolution of the Village Council.

(D) The meters shall be placed at the property line or a suitable location to be determined by the Water Department. The meters shall be accessible at all times to designated village employees.

(E) No person shall destroy any property or tamper with water pipes, meter or valves, nor shall any person either turn off the water to any premises in the village water system.

(F) New water mains shall be charged to the property owner by special assessments set by resolution of the Village Council. The village may elect to pay up to one-third of the cost of the above-mentioned mains.

(Prior Code, § 25.503) (Ord. 27, passed 6-30-1978; Ord. effective 1-2-1980; Ord. 43, effective 2-11-1981; Ord. effective 4-7-1982; Ord. 52, effective 3-7-1983; Ord. passed 10-9-1989; Ord. 66, effective 2-14-1991)

§ 52.04 WATER WELLS.

No water well shall hereafter be put down within the corporate limits of the village, except such as may be put down by the village as a part of its municipal water system until after a permit therefor has been authorized by the Village Council and issued by the Village Clerk. Any person proposing to put down any well shall make application in writing to the Village Council for a permit so to do, which application shall specify the description and ownership of the land upon which the water well is to be located, and the specific location thereon of the proposed water well, and show the reasons why, in the opinion of the applicant, the putting down of the water well and the use of water therefrom shall not adversely affect the municipal water system, and also the reasons justifying the necessity of the water well, and shall sign the application, and file it with the Village Clerk. The Village Council shall consider the application at its next regular meeting following the filing thereof, and if, after due investigation and consideration thereof, it shall deem that the water well and the use of water therefrom shall not adversely affect the municipal water system, and that there exists a reasonable necessity therefor, it shall by resolution authorize the issuance of a permit and specify the terms and conditions deemed by it necessary to properly safeguard and protect the municipal water system, and the Village Clerk shall thereupon issue a permit containing terms and conditions to the applicant; if the Village Council shall deem the well not in the best interest of the village, the Village Clerk shall notify the applicant accordingly. No water well

Water Systems; Rates and Water Use

for which a permit has been granted shall be put down except in compliance with the terms and conditions specified in the resolution and permit therefor.

(Prior Code, § 25.504) (Ord. 27, passed 6-30-1978)

§ 52.99 PENALTY.

Any person violating this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding \$100 or imprisonment in the county jail for not more than 90 days or both a fine and imprisonment.

(Prior Code, § 25.505) (Ord. 27, passed 6-30-1978)

CHAPTER 53: CROSS CONNECTIONS

Section

- 53.01 Rules adopted
- 53.02 Inspections
- 53.03 Right of access; information
- 53.04 Discontinuing service
- 53.05 Labeling unsafe water
- 53.06 Relationship of chapter to State Plumbing Code

- 53.99 Penalty

§ 53.01 RULES ADOPTED.

The village adopts by reference the water supply cross connections rules of the State Department of Public Health, being Michigan Administrative Code R325.431 through R325.440. (Prior Code, § 25.551) (Ord. 22, passed 6-13-1977)

§ 53.02 INSPECTIONS.

It shall be the duty of the Superintendent of Public Works or someone designated by him or her to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply is deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the Village Water Department and as approved by the State Department of Public Health. (Prior Code, § 25.552) (Ord. 22, passed 6-13-1977)

§ 53.03 RIGHT OF ACCESS; INFORMATION.

The representative of the Water Department shall have the right to enter at any reasonable time any property served by a connection to the public water system of the village for the purpose of inspecting the piping system or systems thereof for cross connections. On request, the owner, lessees or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the

pipng system or systems on the property. The refusal of information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.
(Prior Code, § 25.553) (Ord. 22, passed 6-13-1977)

§ 53.04 DISCONTINUING SERVICE.

The Village Water Department is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this chapter exists, and to take other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to the property shall not be restored until the cross connection or connections have been eliminated in compliance with the provisions of this chapter.
(Prior Code, § 25.554) (Ord. 22, passed 6-13-1977)

§ 53.05 LABELING UNSAFE WATER.

The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified by this chapter and by the State Plumbing Code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE FOR DRINKING.

(Prior Code, § 25.555) (Ord. 22, passed 6-13-1977)

§ 53.06 RELATIONSHIP OF CHAPTER TO STATE PLUMBING CODE.

This chapter does not supersede the State Plumbing Code, but is supplementary to it.
(Prior Code, § 25.556) (Ord. 22, passed 6-13-1977)

§ 53.99 PENALTY.

Any person or customer found guilty of violating any of the provisions of this chapter, or any written order of the Village Water Department, in pursuance thereof, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$30 nor more than \$100 for each violation. Each day upon which a violation of the provisions of this act shall occur shall be deemed as a separate and additional violation for the purpose of this chapter.
(Prior Code, § 25.557) (Ord. 22, passed 6-13-1977)

CHAPTER 54: FLUORIDE

Section

54.01 Addition of fluoride rejected

§ 54.01 ADDITION OF FLUORIDE REJECTED.

The village hereby elects under the provisions of Public Act 346 of 1968, being M.C.L.A. § 333.12721, not to add fluoride to the public water supply of the village; and the village hereby rejects the provisions of this Act.

(Prior Code, § 25.601) (Ord. 28, passed 9-9-1974)

CHAPTER 55: SOLID WASTE

Section

- 55.01 Purpose and intent
- 55.02 Definitions
- 55.03 Responsibility of owners and occupants
- 55.04 Unauthorized dumping; littering
- 55.05 Village refuse collection
- 55.06 Receptacles generally
- 55.07 Bulk items and household appliances
- 55.08 Village refuse; sale and use
- 55.09 Collection of recyclable materials
- 55.10 Scope of services
- 55.11 Service charges and billing procedures
- 55.12 Tree or shrub branch pickup

- 55.99 Penalty

§ 55.01 PURPOSE AND INTENT.

It is the intent of the Village Council and the village that this chapter be liberally construed for the purpose of providing a sanitary and satisfactory method of preparation, collection and disposal of solid waste and recyclable materials, as well as the maintenance of public and private property in a clean, orderly and sanitary condition, for the health, safety and welfare of the community, and to provide for a reasonable system of service charges for waste removal and the implementation of recycling programs. The President (the Administrator) is hereby authorized to make rules and regulations as from time to time appear to be necessary to carry out this intent; provided, however, that the rules are not in direct conflict with the village ordinances or the laws of the state.
(Prior Code, § 35.201) (Ord. 69, passed 1-11-1993)

§ 55.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words used in the present tense include the future; words in the singular number include the plural number and words in the plural number include the singular number; words in the male gender include the female gender; the word **SHALL** is mandatory and not directory.

ADMINISTRATOR. The President of the village or his or her authorized representative.

BRUSH. Includes yard wastes such as shrub clippings, twigs, tree trimmings not greater than four inches in diameter and four feet in length and tied in bundles not to exceed 30 pounds.

BUILDING REFUSE. Waste materials from the demolition, construction, remodeling and repair operations on residences and other buildings.

BULK ITEMS. Includes, but not be limited to, any household furniture, bed springs, storm doors and windows, metal furniture, water closets, toilets, bathtubs, sinks, carpet and pads, railroad ties, fences or fence posts not exceeding three feet by four feet in dimension, and other discarded material incidental to the usual routine of housekeeping.

COMMERCIAL REFUSE. Any and all accumulation of mixed refuse generated by business establishments, churches, schools, apartment buildings with greater than four units, office buildings and other establishments, whether or not engaged in commerce. **COMMERCIAL REFUSE** as defined in this section shall not include residential mixed refuse, building refuse or industrial refuse.

COMMISSION. The Village Commission of the Village of Hesperia.

CONTRACTOR. A person with whom the village has entered into a contract for the collection, transportation and disposal of refuse from residential premises within the village.

CURBSIDE. The designated physical location for the placement of refuse accumulations intended for collection from a single-family home. This designated location shall be as near as possible to the curb or edge of the roadway where the collection point is located.

GARBAGE. All waste animal, fish, fowl, fruit or vegetable matter incident to the use, preparation and storage of food for human consumption. It does not include food processing wastes from canneries, slaughter houses, packing houses or similar industries, which shall be classified as industrial refuse or hazardous waste.

HAZARDOUS WASTE. Waste, or a combination of waste and other discarded material, including solid, semisolid or contained gaseous material, which, because of its quality, concentration or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible illness or serious incapacitating, but reversible illness, or pose a substantial present or potential hazard to human health or the environment, if improperly treated, stored, transported, disposed of or otherwise managed. **HAZARDOUS WASTE** does not include material which is sold for recycling or treatment and stored for one year or less, solid or dissolved material in domestic sewage discharge, solid or dissolved material in an irrigation return flow discharge, authorized industrial discharge to a municipal treatment system or industrial discharge which is a point source subject to permits under § 402 of the Clean Water Act of 1977, 33 U.S.C. § 1342, or is a source, special nuclear or by-product material, as defined by the Atomic Energy Act of 1985, 42 U.S.C. §§ 2011 to 2281. (See definition in M.C.L.A. § 324.11103, as amended.)

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HOUSEHOLD APPLIANCES. Includes, but not limited to, washers, dryers, air conditioners, microwave ovens, humidifiers, dehumidifiers, stoves, refrigerators, freezers and hot water heaters, not including sinks, lavatories, toilets and other plumbing devices.

INDUSTRIAL WASTE. All waste materials resulting from industrial or manufacturing operations or processes of every nature whatsoever, including organic and non-organic wastes. The term includes refuse material resulting from cleaning up in connection with industrial or manufacturing operations, and refuse material resulting from offices, stores, lunch rooms, warehouses or other operations established in conjunction with industrial or manufacturing operations, as well as garbage and rubbish. The term excludes hazardous waste.

MEDICAL AND CONTAGIOUS WASTE. All materials which may be contagious or dangerous, such as, but not limited to, needles, syringes, medicines or poisons, bandages, dressings, sputum cups, soiled tissues, cloth material, bedding, clothing and similar materials from hospitals, clinics, convalescent homes, nursing homes, doctors' offices or any similar source.

MIXED REFUSE. Garbage, rubbish, brush and yard wastes which constitute household refuse, but does not contain unacceptable items and effective March 31, 1995, shall not include yard waste.

MIXED REFUSE BAG. A polyethylene or similar plastic bag of not less than two mils thickness, designed to store refuse and secured in a manner to prevent spillage, leakage or other release of its contents by the use of wire, string or ties appropriate for this purpose. The total weight of a bag and its contents shall not exceed 30 pounds.

MIXED REFUSE COLLECTION CART. An approved cart supplied by the village or its contractor to each single-family home.

MULTIPLE-FAMILY RESIDENCE. A building with a total of more than four household living units.

PERSON. An individual, partnership, corporation or other legal entity.

RECYCLABLE MATERIALS. Includes, but not limited to, all newspapers, glass food containers, tin cans, aluminum cans, trays and foils, bottle grade plastics (#1 and #2 plastics) and similar other materials. As the technology becomes available, new materials may be included in this definition.

REFUSE. All waste, rubbish, garbage, trash, bulk items, discarded materials of every kind, unacceptable materials, medical and contagious waste, hazardous waste, industrial waste, commercial waste and any discardable or discarded materials otherwise defined herein.

RUBBISH. Miscellaneous solid waste material, resulting from housekeeping, and shall include, but not be limited to, ashes, packing boxes, cartons, magazines, tin cans, bottles, glassware, dishes, rubber, rags, wood, leather, automobile tires and floor sweepings.

SINGLE-FAMILY HOME. A household living unit containing a residential structure containing no more than four household living units.

SOLID WASTE; GARBAGE AND RUBBISH. SOLID WASTE does not include human body waste, liquid waste, materials that have been separated either at the source or a processing site for the purpose of reuse, recycling or composting, or any material that has been identified by state or federal regulation to be unsuitable for disposal in a type II sanitary landfill as defined in Public Act 451 of 1994, being M.C.L.A. §§ 324.11501 et seq.

UNACCEPTABLE BULK ITEMS. A bulk item which has no sticker or tag authorized by this chapter attached.

UNACCEPTABLE ITEMS OR MATERIALS. Building materials in large amounts, including but not limited to, concrete, wood, earth, motor vehicle or machinery parts, junk vehicles of any type, used oil, tires, tree branches, logs or wood exceeding four feet in length or four inches in diameter, tree stumps, industrial waste, medical and contagious waste, commercial refuse, hazardous waste, any item which is not contained in a container or bag authorized by this chapter, and is not a bulk item or appliance with an authorized sticker attached.

VILLAGE. The Village of Hesperia.

VILLAGE RECYCLING CONTAINER. An approved container which is furnished to single-family homes and complies with this chapter for the purpose of storage and setting out for collection of commingled recyclables.

VILLAGE REFUSE STICKER. A sticker that shall be identified with appropriate words which indicate to the village or its contractor that when a sticker is affixed to bags of mixed refuse or bulk items that such is intended for collection authorized by this chapter.

YARD WASTES. The miscellaneous waste material resulting from landscaping a home, including but not limited to, grass, weeds, house plants, leaves, brush, garden waste material and dirt incidental to minor plantings.

(Prior Code, § 35.202) (Ord. 69, passed 1-11-1993)

§ 55.03 RESPONSIBILITY OF OWNERS AND OCCUPANTS.

(A) Every owner, occupant or person in possession of a single-family home in the village is required to have accumulations of refuse removed and disposed of in accordance with this chapter and in accordance with any rules and regulations promulgated under this chapter. The village shall provide or contract for refuse removal services for single-family homes and there shall be paid to the village or its contractor as authorized herein the service charges specified by the Board for these services. Every owner, occupant or person in possession of multiple residential or nonresidential, commercial or industrial premises shall be responsible for the storage, collection and disposal of his or her own refuse by means authorized by this chapter, or federal, state or local laws, rules and regulations.

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(B) No owner, occupant, tenant or lessee of any building, structure, property or premises in the village shall store, collect, transport or dispose of any refuse, garbage, rubbish or other rejected, unwanted or discharged waste materials, except in compliance with this chapter and applicable state, federal and local laws, rules and regulations.

(C) No refuse of any description may be accumulated on any premises in the village, for a period longer than seven days, or the period between scheduled collection dates, whichever is longer. All refuse shall be collected from each premises and disposed of in accordance with this chapter, federal, state or local laws, rules and regulations immediately. Notwithstanding the above periods, refuse not eligible for collection shall be immediately disposed of in a legal manner.

(D) (1) It shall be unlawful for any person to burn refuse at any place in the village, whether owned or occupied by the person or not or upon any alley, street or other public place within the village unless in an enclosed incineration device approved or licensed by a public authority having exclusive jurisdiction thereof. No open burning of any materials shall be allowed in the village.

(2) (a) Materials to include, but not limited to, garbage, wood, wood products, leaves, yard waste, coal, coal products, plastics, paper and all other refuse. This provision shall not be construed to prohibit fires of charcoal or non-ash producing fuels when used on private property or in public recreation areas, relative to consumption of food.

(b) Exceptions. Open fires for purely recreational purposes shall be allowed if they meet the following provisions:

1. Fires to be placed in an earthen, metal, concrete or other non-combustible pit at least ten inches deep and does not exceed four feet in diameter;
2. Fires must be attended by an adult until extinguished and ashes are cold and non-smoldering;
3. Only open flames are acceptable, without smoldering;
4. Fires must be at least 20 feet from any dwelling and clear of weeds and debris so as not to present a fire hazard;
5. Only clean, dry firewood may be burned;
6. Recreational fires will not be allowed when winds are ten mph or higher;
7. Recreational fires may not be started before 8:00 a.m. and must be extinguished and non-smoldering by 12:00 a.m. midnight; and
8. All village residents that enjoy recreational burning must also realize that there are certain health hazards associated with wood burning. Therefore, any village resident with a defined

medical problem may ask that adjacent recreational burning be limited to both atmospheric and wind conditions.

(E) In order to comply with the requirements of this chapter and the rules and regulations adopted thereunder, no person shall use the services of a collector other than the village or its contractor. (Prior Code, § 35.203) (Ord. 69, passed 1-11-1993; Ord. passed - -) Penalty, see § 55.99

Cross-reference:

Open burning, see Ch. 95

§ 55.04 UNAUTHORIZED DUMPING; LITTERING.

(A) It shall be unlawful for any person, without the written consent or license of the village, to enter into the village for the purpose of disposing, depositing or leaving any refuse of any kind, unacceptable items, unacceptable bulk items, discarded bulk refuse of any kind or building refuse.

(B) It shall be unlawful for any person to throw, deposit or leave, or cause or permit the throwing, depositing or leaving, of refuse of any kind, directly or indirectly, on public or private property or waters, other than property lawfully designated and set aside for those purposes by a public authority having jurisdiction.

(C) In any proceeding for violation of this chapter involving littering from a motor vehicle or watercraft, proof that the particular motor vehicle or watercraft described in the citation, complaint or warrant was used in the violation, or proof that the defendant named in the citation, complaint or warrant was the registered owner or in charge of the vehicle or watercraft at the time of the violation, shall give rise to a presumption and be prima facie evidence that the registered owner or person in charge of the vehicle or watercraft at the time of the violation was responsible therefor.

(D) The owner or person in charge of a motor vehicle or watercraft in which there are other occupants shall be presumed to be responsible for littering on public or private property, or waters until the contrary is established by competent evidence. (Prior Code, § 35.204) Penalty, see § 55.99

§ 55.05 VILLAGE REFUSE COLLECTION.

(A) *Village refuse collection.* Every owner and occupant of a single-family home for which village refuse collection service is afforded under this chapter shall place all accumulated and acceptable refuse for collection in a mixed refuse collection cart supplied by the village or its contractor which shall be tightly sealed, with excess mixed refuse placed in mixed refuse bags with authorized village refuse stickers attached. Mixed refuse collection carts and mixed refuse bags intended for collection with village refuse stickers attached shall be placed by the owner and occupant of the residential unit at the curb in front of the residence not earlier than 7:00 p.m. of the day preceding the collection day and not later than 6:00 a.m. of the day of collection. Mixed refuse bags intended for collection shall not be broken nor weigh more than 30 pounds when filed. The owner or occupant shall not place or cause to be placed any

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unacceptable items in any additional refuse bag or mixed refuse collection cart intended for collection. No person shall place refuse materials of any kind on the premises of or in front of a residence for village collection service, except refuse originating in that residence.

(B) *Village contractor.* The village may enter into a contract for village refuse collection with a contractor. The contract documents shall contain provisions that the contractor shall commit to collect and dispose of refuse from all single-family homes in the village in full compliance with this chapter and applicable local, state and federal laws, rules and regulations.
(Prior Code, § 35.205) (Ord. 69, passed 1-11-1993)

§ 55.06 RECEPTACLES GENERALLY.

(A) *Mixed refuse collection carts; bags.* No persons, whether owner or occupant, shall deposit, place or permit to remain any refuse upon any property, whether owned by the person or not, within the limits of the village, unless the same is enclosed in a mixed refuse collection cart of a size, shape and construction as is determined to be appropriate by the Administrator and the contractor, if any, or in a mixed refuse bag with an appropriate sticker attached or it is a household appliance or bulk item with an appropriate sticker attached.

(B) *Nonconforming receptacles.* Nonconforming receptacles that are badly broken or otherwise fail to meet the requirements of this chapter or are of a design or capacity other than those provided by the village may be classified as refuse and, after due notice to the owner, may be collected as refuse.

(C) *Pickup.* All residential, commercial, or public facilities refuse/garbage must be stored in an approved garbage receptacle/container with a lid. Garbage and recyclable containers may be placed at the curb the night before scheduled pickup but must be removed within 24 hours after pickup and returned to rear of property if possible.
(Prior Code, § 35.206) (Ord. 69, passed 1-11-1993; Ord. 2012-6, passed 8-13-2012)

§ 55.07 BULK ITEMS AND HOUSEHOLD APPLIANCES.

The village may by resolution of the Village Council authorize a program for the collection and disposal of household appliances and bulk items and the charges therefor.
(Prior Code, § 35.207) (Ord. 69, passed 1-11-1993)

§ 55.08 VILLAGE REFUSE; SALE AND USE.

The village shall establish or require its contractor to establish programs for the collection of refuse in excess of refuse deposited in the mixed refuse collection cart. The service charges or other fees established in connection with the collection of excess refuse shall be approved by the Village Council.
(Prior Code, § 35.208) (Ord. 69, passed 1-11-1993)

§ 55.09 COLLECTION OF RECYCLABLE MATERIALS.

The Village Council may establish or may contract with a contractor to establish a program for collection of recyclables. The service charges for collection of recyclables shall be approved by the Village Council and may be established in conjunction with the service charge for refuse collection or separately.

(Prior Code, § 35.209) (Ord. 69, passed 1-11-1993)

§ 55.10 SCOPE OF SERVICES.

Village collection of mixed refuse, bulk items, household appliances and recyclables provided hereunder shall be provided only to occupants of single-family homes. A commercial or multiple residential premises may be served if its refuse is equivalent to residential refuse, the Administrator approves the service, the village or its contractor has the ability, capacity and equipment to collect it without disproportionate or additional costs, and the fees are paid.

(Prior Code, § 35.210) (Ord. 69, passed 1-11-1993)

§ 55.11 SERVICE CHARGES AND BILLING PROCEDURES.

(A) The Village Council shall establish by resolution all fees and service charges for refuse collection of recyclables. The fees and service charges shall be subject to revision by the Village Council from time to time. Owners and occupants of each single-family home shall be charged and responsible for the payment of the applicable fees and service charges, regardless of whether the persons use the services provided hereunder.

(B) In the case of a residential premises containing between two and four single-family homes, which are billed separately for charges by the village for sewer or water service, service charges for refuse collection and collection of recyclables shall be billed by the village or its contractor to the person who is the customer of the village or its contractor. In the case of premises which are served by a single water and sewer bill, so that occupants or tenants cannot be billed separately by the village or its contractor, service charges for refuse collection and collection of recyclables shall be billed to the customer of the single utility bill and that customer shall be liable for the fee for the premises. Owners and occupants of residential premises who are not water or sewer customers of the village shall be billed by the village or its contractor. Regardless of billing procedures, owners of all premises served shall be responsible for all charges.

(C) Collection of refuse and recyclables and appropriate charges for service shall continue, regardless of the customer's response to the billing procedure, so long as the single-family home is deemed occupied and service has not been terminated by the village or its contractor. The owner of the premises shall advise the village or its contractor of any change in occupancy of the single-family home or use of the service for purposes of service and billing. Every owner and occupant of a premises

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charged for refuse or recyclable collection shall be responsible for the period billed, or the portion of a billing period as may be provided for by the Administrator or the contractor.

(D) If the village or its contractor is notified that a tenant is responsible for refuse and recyclable collection service charges, the village or its contractors may require a tenant deposit of an amount equal to service charges for up to three months' service or the higher amount as may be determined by the Village Council, which shall be applied to the final bill upon termination of refuse service to a tenant.

(E) (1) Owners and occupants of single-family homes shall notify the village and the contractor if the premises are being vacated. An owner and occupant taking title to or possession of a single-family home in the village shall notify the village and the contractor immediately to avoid delay in billing and collection procedures.

(2) No charge shall be made to, nor collection service rendered to, a single-family home when it is temporarily vacated by order of the village.

(3) Responsibility for notification of vacancy for the purpose of terminating collection service shall be upon the owner or occupant.

(F) In the event, the village contracts with a contractor to provide refuse collection service and/or recyclable collection services, the village may authorize the contractor to implement its own billing procedures, in lieu of or in combination with the village billing procedures described in this section, and collect all service charges directly from the residential customer.

(G) Lien for charges.

(1) Charges for refuse collection whether billed by the village or its contractor shall constitute a lien on the premises.

(2) In addition to the methods for collecting fees authorized or imposed by or pursuant to this chapter, the Village Treasurer's office shall certify all unpaid charges for waste collection services to any single-family home which have remained unpaid in the same manner as water and sewer charges. Unpaid charges shall be certified to the Village Assessor who shall place the same on the tax assessment roll of the village.

(H) Fees to be paid for any village refuse stickers provided for bulk refuse, household appliance or excess refuse collection pursuant to any program therefor, shall be payable in cash at the time of the village refuse stickers.

(I) The village or its contractor may terminate refuse collection service to a premises for failure to pay fees. The power to terminate does not require the village or the contractor to do so, and the village or the contractor may elect to continue service and invoke other remedies for failure to pay fees as set forth above.

(Prior Code, § 35.211) (Ord. 69, passed 1-11-1993)

§ 55.12 TREE OR SHRUB BRANCH PICKUP.

Branches (three inches in diameter or less) that are cut to no longer than four feet may be tied together in small bundles (of no more than two feet wide) and left at the curb on designated pickup days for free pickup between April 1 and December 15 of each year.
(Ord. 2012-7, passed 8-13-2012)

§ 55.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Any person violating § 55.03(D) shall be subject to the following penalties:

- (1) Written warning;
- (2) Fifty dollar fine;
- (3) One hundred dollar fine; and/or
- (4) Ninety days in jail and/or \$500 fine.

(Ord. passed - -)

TITLE VII: TRAFFIC CODE

Chapter

70. GENERAL PROVISIONS

71. TRAFFIC REGULATIONS

72. SNOWMOBILES

73. TRAFFIC SCHEDULES

74. PARKING SCHEDULES

75. MISCELLANEOUS PROVISIONS

CHAPTER 70: GENERAL PROVISIONS

Section

- 70.01 Code re-adopted
- 70.02 References in Code
- 70.03 Notice to be posted

- 70.99 Penalty

§ 70.01 CODE RE-ADOPTED.

The current *Uniform Traffic Code for Cities, Townships and Villages* promulgated by the Director of the Department of State Police, January 1990, as directed by Public Act 62 of 1956, being M.C.L.A. §§ 257.951 through 257.954 and published in Quarterly Supplement No. 5 to the 1990 edition of the Michigan Administrative Code is hereby adopted by reference and made a part of this chapter as fully as if these materials were set out at length herein, along with any and all revisions from this date forward.

(Prior Code, § 20.001) (Ord. 19, passed 9-9-1974; Ord. 46, effective 7-6-1981; Ord. 67, effective 1-14-1991)

§ 70.02 REFERENCES IN CODE.

Reference in the Uniform Traffic Code for Michigan cities, townships and villages to “governmental units” shall mean the Village of Hesperia.

(Prior Code, § 20.002) (Ord. 19, passed 9-9-1974)

§ 70.03 NOTICE TO BE POSTED.

The Village Clerk shall post this chapter in the manner required by law and shall at the same time post a supplementary notice setting forth the purpose of the Uniform Traffic Code, and of the fact that complete copies are available at the office of the Clerk for inspection by and distribution to the public at all times.

(Prior Code, § 20.003) (Ord. 19, passed 9-9-1974)

§ 70.99 PENALTY.*(A) Penalty.*

(1) Any provision of this chapter for the village which describes an act or omission which constitutes a civil infraction under the terms of the Michigan Vehicle Code, being Public Act 300 of 1949, being M.C.L.A. §§ 257.1 through 257.923, as amended, shall be processed as a civil infraction and any person found to have committed a civil infraction may be ordered to pay a civil fine of not more than \$100 and costs in accordance with M.C.L.A. § 257.907.

(2) Violation of any other provision of this chapter not constituting a civil infraction, as herein provided, shall be punishable by a fine of not more than \$100 or imprisonment for not more than 90 days or by a fine and imprisonment.
(Prior Code, § 20.005)

(B) Cost recovery.

(1) As part of the sentence for a conviction of any of the following offenses, in addition to any other penalty authorized by law, the court may order the person convicted to reimburse the village for the expense of the response to the incident for which the conviction arose and other expenses incurred in relation to that incident, as provided in this section.

(a) A violation of M.C.L.A. § 257.625(1) or (2), Public Act 300 of 1949, being M.C.L.A. §§ 257.625 and 257.625B or §§ 5.15 or 5.15(b) of the Uniform Traffic Code as amended and in effect; and

(b) Felonious driving, negligent homicide or manslaughter, resulting from the operation of a motor vehicle while the person was impaired by or under the influence of intoxicating liquor or a controlled substance, as defined in § 7104 of the Public Health Code, Public Act 368 of 1978, being M.C.L.A. § 333.7104, or a combination of intoxicating liquor and a controlled substance, or had a blood alcohol content of 0.10% or more by weight of alcohol.

(2) The court may order reimbursement under this section for the following expenses incurred by the village relative to the incident from which the conviction arose:

(a) The reasonable costs incurred in making an appropriate response to the incident, including the costs of providing police, firefighting, rescue and emergency medical services at the scene of the incident, as well as the salaries or wages of the personnel responding to the incident; and

(b) The cost of conducting and analyzing preliminary chemical breath analysis tests and chemical tests of blood, urine or breath to determine the amount or presence of alcohol or controlled substances in the blood and the costs of processing or analyzing other physical evidence.

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(3) If Police, Fire Department or emergency medical service personnel from more than one unit of government incurred expenses as described in division (B)(1) above, the court may order the person convicted to reimburse each unit of government for the expenses it incurred.

(4) The amount ordered to be paid under this section shall be paid to the Clerk of the Court, who shall transmit the appropriate amount to the village or units of government named in the order to receive reimbursement. If not otherwise provided by the court under this division, the reimbursement ordered under this division shall be made immediately. However, the court may require that the person make the reimbursement ordered under this division within a specified period or in specified installments.

(5) If the person convicted is placed on probation or paroled, any reimbursement ordered under this division shall be a condition of that probation or parole. The court may revoke probation and the Parole Board may revoke parole if the person fails to comply with the order and if the person has not made a good faith effort to comply with the order. In determining whether to revoke probation or parole, the court or Parole Board shall consider the person's employment status, earning ability and financial resources, the willfulness of the person's failure to pay and any other special circumstances that may have a bearing on the person's ability to pay.

(6) An order for reimbursement under this division may be enforced by the prosecuting attorney or the state or local unit of government named in the order to receive the reimbursement in the same manner as a judgment in a civil action.

(7) Notwithstanding any other provision of this section, a person shall not be imprisoned, jailed or incarcerated for a violation of parole or probation, or otherwise, for failure to make a reimbursement as ordered under this section, unless the court determines that the person has the resources to pay the ordered reimbursement and has not made a good-faith effort to do so.

(Prior Code, § 20.006)

(Ord. 19, passed 9-9-1974; Ord. 20, effective 8-6-1979; Ord. 68, effective 7-17-1991)

CHAPTER 71: TRAFFIC REGULATIONS

Section

Exhibition Driving

- 71.01 Exhibition driving; regulations
- 71.02 Definition

Commercial Trucks

- 71.10 Operation of commercial trucks
- 71.11 Parking of tractor-trailer trucks prohibited

Fire Trucks

- 71.15 Following fire trucks; parking near fire
- 71.99 Penalty

EXHIBITION DRIVING

§ 71.01 EXHIBITION DRIVING; REGULATIONS.

It shall be unlawful for any person to engage in exhibition driving of a motor vehicle on any street, alley or road or in any park or public place or on any private grounds without the written permission of the owner thereof within the village.

(Prior Code, § 20.151) (Ord. 44, effective 6-15-1981) Penalty, see § 71.99

§ 71.02 DEFINITION.

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

EXHIBITION DRIVING. Any one or more of the following:

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(1) Drag racing, i.e., operating one of two or more motor vehicles by fast acceleration thereof in an attempt to compete with the other motor vehicle;

(2) Racing, i.e., operating a motor vehicle alone or in company with other motor vehicle or vehicles in an attempt to compete with other motor vehicles over a given course or an allotted time limit;

(3) Sudden rapid acceleration for exhibition other than necessary to avoid other traffic which is not in contest with the driver;

(4) Squealing, peeling or burning tires, i.e., racing the motor and spinning the wheels on pavement thereby causing a noise from the tires so spinning;

(5) Fish-tailing, i.e., spinning the tires causing the back of the car to sway from side to side; and/or

(6) Show-off driving, i.e., any other dangerous intentional operation of a motor vehicle which would tend to attract the attention of the public, whether there were people present or not and whether or not there was other traffic, either pedestrian or motor traffic or any other kind of traffic present. (Prior Code, § 20.152) (Ord. 44, effective 6-15-1981)

COMMERCIAL TRUCKS

§ 71.10 OPERATION OF COMMERCIAL TRUCKS.

(A) *Purpose.* The purpose of this section is to protect the health, safety and general welfare of the residents of the village by prohibiting trucking in densely populated areas.

(B) *Unlawful acts.* It shall be unlawful to operate any "commercial truck," as hereinafter defined, on any "no truck road," as hereinafter defined, within the village, except as otherwise provided herein.

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

COMMERCIAL TRUCK. Any motor vehicle having a weight of 26,000 pounds GVW or more including the load carried, also including but not limited to any vehicle carrying hazardous materials or solid waste. **COMMERCIAL TRUCKS** shall not include vehicles carrying or designated to carry passengers, all governmentally owned or leased vehicles, public utility vehicles, motor homes, or recreational vehicles or vehicles used exclusively to transport personal possessions or family members for non-business purposes.

Traffic Regulations

NO TRUCK ROAD. A road on which commercial trucks are prohibited and the road is posted "No Through Trucks Over 26,000 Pounds Rated GVW."

(D) *Exceptions to commercial truck traffic.* Commercial trucks may be permitted on designated no truck roads as follows:

- (1) For the operation of authorized emergency vehicles;
- (2) For an emergency so declared by public officials or public act;
- (3) For the operation of commercial vehicles involved in the routine local pick-up, delivery, or service where the destination is on a declared "no truck road;" or
- (4) For an owner of a commercial vehicle to drive to and from his or her residence.

(E) "No Truck Roads" in the village shall be all roads located in the medium density residential area bounded on the north by the city limits on Maple Island Road, west by the city limits of McLaren Road and M 20, south by the city limits on Maple Island Road, east by the city limits on M 20.

(F) No person shall park any trailer or semitrailer upon any highway, street, alley, parks, commuter lots, or public way or upon any public place otherwise ordinarily used for vehicular parking. The provisions of this section shall not apply to any trailer or semitrailer which does not exceed 22 feet in overall length, as measured from the foremost part of the trailer hitch to the rear extremity of the trailer body, or to any trailer or semitrailer exceeding such length which is designed for the transportation of a boat or which is designed for human habitation for camping or recreational purposes, nor shall such provisions apply to any trailer or semitrailer which is:

- (1) In the process of being loaded or unloaded; or
- (2) Disabled in such a manner and to such an extent that it is impossible to avoid stopping and temporarily leaving the disabled trailer or semitrailer on that portion of the highway, street, alley or public way or upon any public place otherwise ordinarily used for vehicular parking;

(G) No person shall park or leave standing any commercial vehicle or any other vehicle exceeding 22 feet in length as measured from bumper to bumper, other than a house car, on any public street where a majority of the buildings situated on the property contiguous thereto is used for residential purposes, whether as single-family dwellings or as multi-family dwellings, nor shall any person park or leave standing any commercial vehicle for more than three hours on any other public street, except that any vehicle regulated herein may park notwithstanding such prohibition or in excess of such time limitation:

- (1) While loading or unloading property, and additional time is necessary to complete such work; or

(2) When such vehicle is parked in connection with, and in aid of, the performance of a service to or on a property in the block in which such vehicle is parked, and additional time is necessary and reasonable to complete such service.

(H) *Posting of restrictions.* Signs shall be posted stating no thru trucks over 26,000 pounds rated GVW. Signs shall be posted at locations as determined by village ordinance. (Ord. 2012-2, passed 8-13-2012) Penalty, see § 10.99

§ 71.11 PARKING OF TRACTOR-TRAILER TRUCKS PROHIBITED.

(A) *Tractor-trailer parking.* No person, firm, corporation, or partnership being the owner or operator of a tractor-trailer truck shall park or cause to be parked a tractor-trailer truck on the streets or highways of the village, except for the specific purpose of loading or unloading the tractor-trailer truck. This section shall apply to the tractor-trailer combination, the trailer part of the tractor-trailer truck, and the tractor part of the tractor-trailer truck.

(B) *Mechanical failure.* In the event of mechanical failure preventing the movement of the tractor-trailer or trailer part of the tractor-trailer truck, the village police shall be notified immediately. In the event of mechanical failure, the tractor-trailer or trailer part of the tractor-trailer truck shall remain parked no longer than 24 hours.

(C) *Violation.* A violation of this section is a misdemeanor. Each period of 24 hours that a tractor-trailer, or a trailer part, or the tractor trailer truck remains parked in violation of this section shall be deemed a separate offense. (Ord. 2012-3, passed 8-13-2012)

FIRE TRUCKS

§ 71.15 FOLLOWING FIRE TRUCKS; PARKING NEAR FIRE.

No persons other than members of the Fire Department, village police or persons detailed by the village police officers, shall follow fire trucks at a distance closer than 500 feet, nor shall any person park any car, truck or other vehicle closer than 500 feet to the fire or fire vehicles. All persons who shall neglect or refuse to obey these orders or conform to the regulations shall be liable to the penalties herein provided.

(Prior Code, § 22.207) (Ord. 6, passed 9-9-1974) Penalty, see § 71.99

Traffic Regulations

§ 71.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Any person who violates any of the provisions of § 71.15 shall be subject to a fine not exceeding \$100 or by imprisonment not exceeding 90 days, or both.
(Prior Code, § 22.208) (Ord. 6, passed 9-9-1974)

CHAPTER 72: SNOWMOBILES

Section

- 72.01 Lawful operation
- 72.02 Operation on sidewalk; unlawful
- 72.03 Operation at night
- 72.04 Operation in conflict with legal travel by pedestrians, other vehicles; unlawful
- 72.05 Operation in vicinity of church

- 72.99 Penalty

§ 72.01 LAWFUL OPERATION.

Operation of snowmobiles shall be lawful in the village, as far off the traveled portion of any street as possible, except Division Street, as designated hereafter in a reasonable manner, at speeds not to exceed ten mph, for the purpose of travel to and from the area of use and operation on private property, owned or occupied, by the user, or on private property of others, with the written permission, unless otherwise prohibited herein.

(Prior Code, § 20.101) (Ord. 18, passed 9-9-1974) Penalty, see § 72.99

Cross-reference:

Snowmobile operation, see Ch. 73, Sch. I

§ 72.02 OPERATION ON SIDEWALK; UNLAWFUL.

It shall be unlawful to operate a snowmobile on the public sidewalk of the village.

(Prior Code, § 20.103) (Ord. 18, passed 9-9-1974) Penalty, see § 72.99

§ 72.03 OPERATION AT NIGHT.

It shall be unlawful to operate a snowmobile within the village between the hours of 11:00 p.m. and 8:00 a.m. The hours set herein are variable by resolution of the Council, as from time to time passed, posted, attached to this chapter and available to the public at the office of the Village Clerk.

(Prior Code, § 20.104) (Ord. 18, passed 9-9-1974) Penalty, see § 72.99

§ 72.04 OPERATION IN CONFLICT WITH LEGAL TRAVEL BY PEDESTRIANS, OTHER VEHICLES; UNLAWFUL.

It shall be unlawful to operate a snowmobile within the village, in conflict with legal travel by pedestrians and other motor vehicles.

(Prior Code, § 20.105) (Ord. 18, passed 9-9-1974) Penalty, see § 72.99

§ 72.05 OPERATION IN VICINITY OF CHURCH.

It shall be unlawful to operate a snowmobile within one block of any church during any church services.

(Prior Code, § 20.106) (Ord. 18, passed 9-9-1974) Penalty, see § 72.99

§ 72.99 PENALTY.

In addition to any other penalty herein provided, every person who shall be convicted of the violation of any provision of this chapter shall be punished by a fine of not more than \$100 and costs of prosecution, and/or by imprisonment in the Oceana County Jail or the Newaygo County Jail, for a period not exceeding 90 days, in the discretion of the court before whom the conviction is had.

(Prior Code, § 20.107) (Ord. 18, passed 9-9-1974)

CHAPTER 73: TRAFFIC SCHEDULES

Section

I. Snowmobile operation

SCHEDULE I. SNOWMOBILE OPERATION.

It shall be unlawful to operate a snowmobile on:

<i>Street Name</i>	<i>Between</i>
Division Street	Alpha Street and the White River

(Prior Code, § 20.102) (Ord. 18, passed 9-9-1974) Penalty, see § 72.99

CHAPTER 74: PARKING SCHEDULES

Section

- I. Two-hour parking zones
- II. Overnight parking

SCHEDULE I. TWO-HOUR PARKING ZONES.

(A) *Two-hour parking zones.*

<i>Street</i>	<i>Restriction</i>	<i>From/To</i>
Division Street	2-hour parking limit	From M-20 North to the White River Bridge
Michigan Avenue	2-hour parking limit	From Maple Alley to Pine Alley

(B) *Penalty.* There will be a \$10 parking violation fee to be paid at the Village Hall, Monday through Friday 8:00 a.m. to 5:00 p.m.
(Prior Code, § 20.201) (Ord. 45, passed 6-15-1981)

Parking Schedules

SCHEDULE II. OVERNIGHT PARKING.

(A) No overnight parking shall be permitted for any unauthorized vehicle in any park or other municipal property unless designated by the village on any village street or parking lot.

(B) The village does not allow unauthorized vehicle on-street parking between the hours of 2:00 a.m. and 6:00 a.m. The goal is to make your neighborhood as safe as possible. Police patrols can monitor activity and who is coming and going in your neighborhood better without cars parked on the streets overnight. However, the village understands that you may occasionally have visitors who must park on the street. You must notify the Police Department before 11:00 p.m. in that case of temporary overnight guest parking so those guests will not be ticketed. Please call the non-emergency number and supply the license plate number, make, model, and color of the vehicle.
(Ord. passed 8-24-2011; Ord. 2012-4, passed 8-13-2012)

CHAPTER 75: MISCELLANEOUS PROVISIONS

Section

75.01 Recreational vehicles

§ 75.01 RECREATIONAL VEHICLES.

Recreational vehicles must be owned, leased or rented by the occupant of the property on which the recreational vehicles are parked and/or stored.
(Ord. 2012-8, passed 8-13-2012)

TITLE IX: GENERAL REGULATIONS

Chapter

90. STREETS AND SIDEWALKS

91. NUISANCES

92. PUBLIC HEALTH

93. ANIMALS

94. DANGEROUS BUILDINGS

95. OPEN BURNING

96. FISHING FROM HESPERIA DAM

CHAPTER 90: STREETS AND SIDEWALKS

Section

Sidewalks

- 90.01 Duty of owners; expense
- 90.02 Necessity to build or repair; notice
- 90.03 Failure to build or repair
- 90.04 Adopting by reference the State Department of State Highways and Transportation specifications for sidewalks and curbs

SIDEWALKS

§ 90.01 DUTY OF OWNERS; EXPENSE.

It is hereby declared to be the duty of owners of lots and premises within the village to build, rebuild and maintain sidewalks and curbs in the public streets adjacent to and abutting upon the lots and premises, and to construct and lay the same upon lines and grades and the width and materials and manner of construction and within a time as the Council shall by resolution prescribe. The expense of building, rebuilding or maintenance shall be paid 60% by the owner of the lots and premises and 40% by the village.

(Prior Code, § 30.001) (Ord. 15, passed 9-9-1974)

§ 90.02 NECESSITY TO BUILD OR REPAIR; NOTICE.

If it becomes necessary to build, rebuild or maintain or repair any curb or sidewalk within the village, the Village Council shall by resolution so declare and notice of the resolution shall be given to the owners of the lots and premises abutting thereto.

(Prior Code, § 30.002) (Ord. 15, passed 9-9-1974)

§ 90.03 FAILURE TO BUILD OR REPAIR.

If the owner of any lot or premises, after notice, shall fail for 30 days to build, rebuild, repair or maintain any sidewalk or curb or to pay for the building, rebuilding, repairing or maintenance thereof,

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the Council may by resolution provide that the cost thereof be levied and collected as a social assessment on the lot and premises adjacent and abutting upon the sidewalk or curb.
(Prior Code, § 30.003) (Ord. 15, passed 9-9-1974)

§ 90.04 ADOPTING BY REFERENCE THE STATE DEPARTMENT OF STATE HIGHWAYS AND TRANSPORTATION SPECIFICATIONS FOR SIDEWALKS AND CURBS.

(A) The village adopts by reference the specifications for sidewalks and curbs as detailed by the State Department of State Highways and Transportation.

(B) The rules are to be available for public distribution at a reasonable charge with not less than ten copies to be available for public inspection at the office of the Village Clerk.
(Prior Code, § 30.050) (Res. passed 12-9-1974)

CHAPTER 91: NUISANCES

Section

- 91.01 Garbage and offensive materials
- 91.02 Litter and refuse
- 91.03 Junk and disabled automobiles
- 91.04 Weeds, brush and dead trees
- 91.05 Vacant land
- 91.06 Vacant or unsafe buildings
- 91.07 Enforcement

- 91.99 Penalty

§ 91.01 GARBAGE AND OFFENSIVE MATERIALS.

No person shall deposit or suffer to remain, upon property owned or occupied by him or her, any garbage, decaying vegetables, dead animals, nor any filthy or offensive substance of any kind. (Prior Code, § 35.001) (Ord. 7, effective 9-29-1974) Penalty, see § 91.99

§ 91.02 LITTER AND REFUSE.

No person shall deposit or suffer to remain upon property owned, occupied or under his or her control any litter, trash, refuse or rubbish of any kind. This section refers to waste paper, tin cans, bottles, leaves, brush, wood and any other substances commonly known as litter and refuse. (Prior Code, § 35.002) (Ord. 7, effective 9-29-1974) Penalty, see § 91.99

§ 91.03 JUNK AND DISABLED AUTOMOBILES.

(A) No person shall deposit or suffer to remain upon property owned, occupied or under his or her control junk of any kind, disabled automobiles or other recreational vehicles of any kind, metallic waste of any kind, nor shall maintain any dump, junk yard or other similar establishment or area within the limits of the village.

(B) Commercial junk dealers operating enterprises at the time of this section are excepted from the provisions of this section subject to any further regulation which may be prescribed from time to time

by the Village Council. **COMMERCIAL JUNK DEALERS** are those persons whose incomes are over 50% derived from the purchase and resale of junk, and who are so engaged at the effective date of this chapter. No person not so engaged at the effective date of this chapter may qualify as a commercial junk dealer, and no further enterprises or establishments shall be suffered within the limits of the village after the effective date of this chapter.

(C) Disabled vehicles are excepted when they are kept in a completely closed building or are under active and current repair by a commercial vehicle repair establishment; provided, however, that the storage or repair shall not violate any zoning or building laws of the village, county or the state, except for the following:

(1) Disabled vehicles/automobiles shall mean all vehicles in a state of disrepair so that they are not capable of being operated, including those vehicles which may be operated which, however, do not contain a valid registration plate;

(2) Vehicles or trailers that are temporarily inoperable because of minor mechanical failure, but which are not in any manner dismantled and have substantially all main component parts attached, which may remain upon private property for not to exceed 14 days; and

(3) No repairing, re-designing, modifying or dismantling work or operations shall be allowed upon any vehicle or trailer or parts thereof upon any public right-of-way or public property, or more than one vehicle on any property primarily used or zoned for any type of residential purpose for a period in excess of 48 hours except such as shall be accomplished within fully enclosed buildings; any work within 48 hours heretofore allowed shall not, however, consist of any major repair, redesigning, modifying or dismantling work, but only occasional minor repair as may infrequently be required to maintain a vehicle or trailer or parts thereof in normal operating condition.

(D) No person shall abandon, park, store, or leave or permit the abandonment, parking, storage, or leaving of any vehicle or part thereof which is unlicensed, has an expired state motor vehicle license, has an expired municipal motor vehicle license, is abandoned, is wrecked, is dismantled or is in an inoperative condition, upon any private property or public property, within the village, for a period in excess of five days, unless such vehicle or part thereof is completely enclosed within a building in a lawful manner, where it is not plainly visible from the street or other public or private properties, or unless such vehicle is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer or a junk yard.

(Prior Code, § 35.003) (Ord. 7, effective 9-29-1974; Ord. 63, passed 11-12-1990; Ord. 2012-5, passed 8-13-2012)

§ 91.04 WEEDS, BRUSH AND DEAD TREES.

No person shall maintain or suffer to remain upon property owned, occupied or under his or her control any accumulation or growth of high weed, brush or other vegetation within 150 feet from the

Nuisances

nearest adjunctive public street or sidewalk, nor fail to cut down and remove any dead, dying or diseased tree which endangers adjacent property or travelers along the public streets and sidewalks. (Prior Code, § 35.004) (Ord. 7, effective 9-29-1974; Ord. 63, passed 11-12-1990) Penalty, see § 91.99

§ 91.05 VACANT LAND.

No person shall maintain or suffer to maintain upon property owned, occupied or under his or her control any unsightly or littered condition upon vacant land adjacent to the public streets and sidewalks, and to a distance of 150 feet therefrom, and all vacant land shall be periodically cleared and maintained to prevent the unsightly appearance and to ensure conformity with this section. (Prior Code, § 35.005) (Ord. 7, effective 9-29-1974; Ord. 63, passed 11-12-1990) Penalty, see § 91.99

§ 91.06 VACANT OR UNSAFE BUILDINGS.

No person shall maintain or suffer to remain upon property owned, occupied or under his or her control, any vacant or unused building unless the buildings are securely locked with all windows glazed or neatly boarded, and all entrances and openings of whatever kind tightly closed. No person shall maintain or suffer to remain upon property owned, occupied or under his or her control, buildings in a ruinous condition or state of disrepair which shall either present an unsightly appearance or which shall endanger passersby or which could be called attractive nuisance as known to the common law, to children. (Prior Code, § 35.006) (Ord. 7, effective 9-29-1974; Ord. 63, passed 11-12-1990) Penalty, see § 91.99

§ 91.07 ENFORCEMENT.

If a violation is found, notice shall be given to the owner, occupier or controller of the property upon which the violation is present by certified mail or in person, and no action shall be taken until 48 hours has elapsed after the notice. If no substantial progress has been made at the end of this 48-hour period, the enforcement sanctions adopted by the Council in its resolution shall be carried out immediately. (Prior Code, § 35.007) (Ord. 7, effective 9-29-1974; Ord. 63, passed 11-12-1990)

§ 91.99 PENALTY.

The enforcement sanctions for violations beyond the periods outlined in § 91.07 on enforcement are as follows.

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(A) The Village Council may instruct the Police Chief or designate an independent contractor to correct the violation. The Police Chief or the independent contractor may go upon private property to correct a violation, but entries shall be limited to whatever action is necessary therefor. The direct costs of this action together with a 20% surcharge for overhead and indirect costs shall be levied against the property containing the violation, together with the regular property taxes, and shall constitute a valid tax lien against the premises if unpaid.

(B) Any person who violates or fails to comply with the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed \$100, or by imprisonment in the county jail for not to exceed 30 days, or both a fine and imprisonment in the discretion of court. In the event a fine is imposed, the court shall have the power to commit the violator to the county jail until a time as the fine is paid, not to exceed, however, 30 days from the date of commitment.

(C) Each day violation of this chapter shall constitute a separate and distinct offense and shall be punishable on conviction in a manner prescribed in this section.
(Prior Code, § 35.008) (Ord. 7, effective 9-29-1974; Ord. 63, passed 11-12-1990)

CHAPTER 92: PUBLIC HEALTH

Section

Board of Health

- 92.01 Created
- 92.02 Members
- 92.03 Meetings
- 92.04 Powers and duties

General Provisions

- 92.15 Spitting in public places
- 92.16 Milk; regulations
- 92.17 Contaminated food

Communicable Diseases

- 92.30 Duty to report
- 92.31 Schools

Sanitary Code

- 92.45 Short title
- 92.46 Identification of Sanitary Code
- 92.47 Administration and enforcement

BOARD OF HEALTH

§ 92.01 CREATED.

The Board of Health of the village be and the same is hereby created and established.
(Prior Code, § 35.051) (Ord. 2, passed 9-9-1974)

§ 92.02 MEMBERS.

The Village President, Health Officer and one other member of the Village Council, to be appointed by the Village Council, and to hold their offices for the term of one year each, shall constitute the Board of Health of the village; provided, however, that the members of the Board of Health shall hold their office until the expiration of the time for which they were respectively elected or appointed, and until their successors shall be elected or appointed and qualified.
(Prior Code, § 35.052) (Ord. 2, passed 9-9-1974)

§ 92.03 MEETINGS.

The Village President shall be ex officio the President of the Board. At the first meeting of the Village Council after the annual village election, the Board of Health shall be organized as herein provided and thereafter the Board of Health shall meet as often as may be necessary for the performance of its duties. A majority of all the members of the Board shall constitute a quorum for the transaction of business but a less number may adjourn from time to time.
(Prior Code, § 35.053) (Ord. 2, passed 9-9-1974)

§ 92.04 POWERS AND DUTIES.

The Board of Health shall have power and it is hereby made its duty to make and direct to be made diligent inquiry with respect to all nuisances and dangerous or infectious diseases of every description in the village, which are or may be dangerous or injurious to the public, and whenever in its judgment it shall be necessary for the public health, it may at once take possession of any building, factory, hotel, dwelling house, outhouse, premises or grounds in or upon which, in its judgment, there exists any dangerous or infectious diseases prejudicial to the public health, and that once, and by force if necessary, close up the houses, buildings, hotels and premises, and exclude all occupants therefrom until all danger to the public is past and the contents of the buildings or premises are thoroughly fumigated and purified. Any person who shall resist the action of the Board, or any of its officers or agents, under this section shall be liable to the penalties herein provided.
(Prior Code, § 35.054) (Ord. 2, passed 9-9-1974) Penalty, see § 10.99

GENERAL PROVISIONS**§ 92.15 SPITTING IN PUBLIC PLACES.**

No person shall spit, expectorate, deposit or place any spewdom, spittal, saliva, phlegm, mucus or tobacco juice upon any part of any sidewalk or crosswalk in the village, or upon any part of the floors or walls of public halls, theaters and churches in the village.
(Prior Code, § 35.055) (Ord. 2, passed 9-9-1974) Penalty, see § 10.99

Public Health

§ 92.16 MILK; REGULATIONS.

No person, persons, partnership or corporation shall engage in the sale, delivery or distribution of milk, cream, buttermilk, skimmed milk or sour milk in the village without having first obtained a license or written consent so to do from the Board of Health of the village; the Board of Health shall have power and authority to prescribe the rules and regulations under which milk, cream, buttermilk, skimmed milk and sour milk shall be sold, delivered or distributed in the village.
(Prior Code, § 35.056) (Ord. 2, passed 9-9-1974) Penalty, see § 10.99

§ 92.17 CONTAMINATED FOOD.

It shall be unlawful for anyone to sell or offer for sale any tainted, unwholesome or diseased meats, fish, poultry or products of the same, or any decayed or unwholesome fruits or vegetables: nor shall meat, fish, poultry or other products be treated chemically or otherwise to disguise or overcome signs or appearances of taint.
(Prior Code, § 35.058) (Ord. 2, passed 9-9-1974) Penalty, see § 10.99

COMMUNICABLE DISEASES

§ 92.30 DUTY TO REPORT.

It shall be the duty of every owner, agent or occupant of any dwelling house or other building in which there shall occur a case of communicable disease dangerous to the public health, to immediately give notice thereof to the Health Officer of the village.
(Prior Code, § 35.059) (Ord. 2, passed 9-9-1974) Penalty, see § 10.99

§ 92.31 SCHOOLS.

No teacher, principal, professor or superintendent of any school, college or Sunday school, shall knowingly permit any child, pupil or student with any communicable disease or any child or person residing in a house where there is a case of a communicable disease, to attend school, class or service under his or her charge until a time as the Health Officer certifies to the teacher, principal, professor or superintendent that the child or person may attend without danger of communicating the disease to others.
(Prior Code, § 35.060) (Ord. 2, passed 9-9-1974) Penalty, see § 10.99

SANITARY CODE**§ 92.45 SHORT TITLE.**

This subchapter shall be known as the Village Sanitary Code and shall be referred to as this throughout this subchapter.

(Prior Code, § 35.101) (Ord. 30, passed 9-9-1974)

§ 92.46 IDENTIFICATION OF SANITARY CODE.

The village adopts by reference the sanitary code known as the Sanitary Code of the District Health Department #5, Lake, Newaygo and Oceana Counties, Michigan.

(Prior Code, § 35.102) (Ord. 30, passed 9-9-1974)

§ 92.47 ADMINISTRATION AND ENFORCEMENT.

This subchapter shall include all the appropriate and applicable portions of the sanitary code as a part of the Village Sanitary Code, including the violation and enforcement provisions thereof. The Village Health Committee shall serve as Administrator and Health Officer for the code. The Health Officer and Code Administrator shall enforce the code for the village.

(Prior Code, § 35.103) (Ord. 30, passed 9-9-1974)

CHAPTER 93: ANIMALS

Section

General Provisions

93.01 Animals and distance from dwellings

Dogs

93.15 Running at large

93.16 Disturbing the peace

93.17 Impoundment

93.18 Disposal of impounded dogs

93.19 Common law liability

93.99 Penalty

GENERAL PROVISIONS

§ 93.01 ANIMALS AND DISTANCE FROM DWELLINGS.

(A) The keeping and maintaining of hogs or hogpens within the village limits is hereby expressly forbidden.

(B) It shall be unlawful for any person, partnership or corporation to have and maintain any stable yard or structure where cattle are kept within 300 feet of any dwelling house, occupied building, well or spring; nor any structure, yard or enclosure for the confining of chickens, geese or other fowl, or stable where horses, mules or other animals are kept within 300 feet from any dwelling house or occupied building, or within 300 feet of any well or spring.

(Prior Code, § 35.057) (Ord. 2, passed 9-9-1974) Penalty, see § 93.99

DOGS**§ 93.15 RUNNING AT LARGE.**

It shall be unlawful for any person who owns or who has any interest in the possession of, or control of, a dog within the village to allow or permit the dog to run at large or to leave the premises owned or leased by the person, whether the dog is licensed in accordance with the statute in that case made and provided, or is unlicensed; provided, however, it shall be lawful for any person to allow the dog to leave the premises when the dog is on a leash or accompanied by any person.

(Prior Code, § 35.151) (Ord. 48, passed 1-4-1982) Penalty, see § 93.99

§ 93.16 DISTURBING THE PEACE.

It shall be unlawful for any person having a right of property in a dog or other animal or any person who keeps or harbors a dog or other animal or has it in his or her care and any person who permits a dog or other animal to remain on or about any premises occupied by him or her to suffer or permit a dog or other animal to disturb the peace and quiet of the neighborhood by barking or by making other loud or unusual noises.

(Prior Code, § 35.152) (Ord. 48, passed 1-4-1982) Penalty, see § 93.99

§ 93.17 IMPOUNDMENT.

Any dog found running at large or disturbing the peace whether licensed in accordance with the statute in the case made and provided, or unlicensed, in contravention of the provisions of this subchapter, shall immediately be taken by the County Dog Warden or by a duly appointed police officer of the village, to the dog pound. The owner of the dog or any person having lawful right to do so, shall have the privilege within seven days after the dog has been placed in the dog pound, to take the dog from the dog pound by paying the County Treasurer the sum of \$10 for first four days and \$15 thereafter, that the dog has been confined in the dog pound, and furnishing proof of payment to the Dog Warden.

(Prior Code, § 35.153) (Ord. 48, passed 1-4-1982) Penalty, see § 93.99

§ 93.18 DISPOSAL OF IMPOUNDED DOGS.

In the event that a dog so placed in the dog pound is uncalled-for by the owner thereof or any person claiming an interest therein, within the period of seven days after the placement of the dog in the dog pound, then and in that event the County Dog Warden is hereby empowered to forthwith kill or otherwise dispose of the dog, and the County Dog Warden shall properly dispose of the carcass.

(Prior Code, § 35.154) (Ord. 48, passed 1-4-1982)

Animals

§ 93.19 COMMON LAW LIABILITY.

Nothing in this subchapter contained shall be construed as limiting the common law liability of the owner of a dog, or by any person having lawful possession thereof, for damages incurred by any person, firm or corporation occasioned by the dog.
(Prior Code, § 35.155) (Ord. 48, passed 1-4-1982)

§ 93.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Any person violating or failing or refusing to comply with the provisions of §§ 93.15 through 93.19 shall be guilty of a misdemeanor and upon conviction shall pay a fine of not more than \$100 or shall be imprisoned in the county jail for a period not exceeding 90 days or both a fine and imprisonment.
(Prior Code, § 35.156) (Ord. 48, passed 1-4-1982)

CHAPTER 94: DANGEROUS BUILDINGS

Section

- 94.01 Sources of filth
- 94.02 Nuisances per se
- 94.03 Notice
- 94.04 Failure to abate nuisance

- 94.99 Penalty

§ 94.01 SOURCES OF FILTH.

All sources of filth in and about dwellings or other buildings shall be examined into by the Board of Health of the village, and if in the opinion of the Board of Health it is injurious to the health and safety of the inhabitants of the village, it shall be destroyed, removed or remedied.
(Prior Code, § 40.001) (Ord. 6, passed 9-9-1974) Penalty, see § 94.99

§ 94.02 NUISANCES PER SE.

All dwellings and other buildings in the village which have been abandoned by the owner, or which are in a run down and unkept condition, and which shall have been left opened and unoccupied and which have been determined by the Village Council or the Village Board of Health, to be an attractive nuisance to children, shall be declared a nuisance per se.
(Prior Code, § 40.002) (Ord. 6, passed 9-9-1974) Penalty, see § 94.99

§ 94.03 NOTICE.

All buildings or dwellings as may be determined to be attractive nuisances and liable to cause injury to children or others, shall be removed, altered, remodeled or reconstructed, upon written notice from the Village Clerk to the owner that the building has been determined to be a nuisance.
(Prior Code, § 40.003) (Ord. 6, passed 9-9-1974)

§ 94.04 FAILURE TO ABATE NUISANCE.

Upon receipt of notice from the Village Clerk, the owner or agent shall forthwith proceed to make a disposition of the building as shall be determined by the Village Council to be necessary, and in the event of failure of the owner or agent thereof to abate the nuisance within ten days from the date of the notice, the Village Attorney may institute any appropriate action or proceed to enforce the order of the Village Council and to abate any nuisance by proper legal procedure.

(Prior Code, § 40.004) (Ord. 6, passed 9-9-1974) Penalty, see § 94.99

§ 94.99 PENALTY.

In addition to any other penalty herein provided, every person who shall be convicted of the violation of any provision of this chapter shall be punished by a fine of not more than \$100 and costs of prosecution, and/or by imprisonment in the Oceana County Jail or the Newaygo County Jail, for a period not exceeding 90 days, in the discretion of the court before whom the conviction is had.

(Prior Code, § 40.005) (Ord. 6, passed 9-9-1974)

CHAPTER 95: OPEN BURNING

Section

95.01 Freestanding solid fuel-burning appliances

§ 95.01 FREESTANDING SOLID FUEL-BURNING APPLIANCES.

(A) *Definition.*

(1) For purposes of this section, the term “free-standing solid fuel-burning appliance” shall mean any device or structure that:

(a) Is designed, intended, or used to provide heat and/or hot water to any residence or other structure;

(b) Operates by the burning of wood or other solid fuel; and

(c) Is not located within a residential structure.

(2) Excluded from the definition of a free-standing solid fuel-burning appliance is any device which is solely designed or used to heat the structure in which the appliance is located.

(B) *Prohibition.* It shall be unlawful to install or operate a free-standing solid fuel-burning appliance, and to cause or permit the installation or operation of a free-standing solid fuel-burning appliance, within the village.

(C) *Conflicts.* This section shall not be construed as an exemption or exception to any other provision of this code of ordinances or any other code adopted by reference as an ordinance for which the village is an enforcing agency. In the event of a conflict between the provisions of this section and any other ordinance or other provision of law, the more restrictive provision shall apply.

(D) *Existing uses.* This section shall not apply to any free-standing solid fuel-burning appliance that was installed, connected, and operating prior to adoption. However, this section shall not be deemed as an authorization for the use of any preexisting free-standing solid fuel-burning appliance and shall not be deemed to bar, limit, or otherwise affect the rights of any person to take private legal action regarding damage or nuisance caused by the use of a free-standing solid fuel-burning appliance.

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(E) *Violations; declaration of nuisance.* Any free-standing solid fuel-burning appliance installed or operated in violation of this section is declared to be nuisance per se.

(F) *Issuance of civil infraction, citations, and notices.* The Police Department or Zoning Administrator are designated to issue municipal civil infraction notices and citations for violations of this section.

CHAPTER 96: FISHING FROM HESPERIA DAM

Section

96.01 Fishing from dam prohibited

96.99 Penalty

§ 96.01 FISHING FROM DAM PROHIBITED.

No person shall fish or molest fish with any apparatus or by any means whatsoever from the structure commonly known as the Hesperia Dam upon the White River within the village.
(Prior Code, § 20.451) (Ord. 10, passed 9-9-1974) Penalty, see § 96.99

§ 96.99 PENALTY.

In addition to any other penalty herein provided, every person who shall be convicted of the violation of any provision of this chapter shall be punished by a fine of not more than \$100 and costs of prosecution, and/or by imprisonment in the Oceana County Jail or the Newaygo County Jail, for a period not exceeding 90 days, in the discretion of the court before whom the conviction is had.
(Prior Code, § 20.452) (Ord. 10, passed 9-9-1974)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. PEDDLERS, SOLICITORS AND CANVASSERS

111. GAS AND ELECTRIC FRANCHISES

112. TELECOMMUNICATIONS

113. MEDICAL MARIHUANA

CHAPTER 110: PEDDLERS, SOLICITORS AND CANVASSERS

Section

- 110.01 Permit and license required
- 110.02 Definitions
- 110.03 Permit application; fee
- 110.04 Investigation and issuance of license
- 110.05 Fee
- 110.06 Transfer of license
- 110.07 Bond
- 110.08 Loud noises and speaking devices
- 110.09 Use of streets
- 110.10 Exhibition of license
- 110.11 Duty of police to enforce
- 110.12 Records
- 110.13 Revocation of license
- 110.14 Appeal
- 110.15 Expiration of license

- 110.99 Penalty

' 110.01 PERMIT AND LICENSE REQUIRED.

It shall be unlawful for any person to engage in the business of peddler as defined in ' 110.02, or for any person to act as solicitor or canvasser as defined in ' 110.02, within the village limits without first obtaining a permit and license therefor as provided herein. The Fourth of July Funfest shall be exempt from all fees and permits required in this chapter.
(Prior Code, ' 20.601) (Ord. 13, passed 9-9-1974; Ord. effective 12-9-1985)

' 110.02 DEFINITIONS.

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

CANVASSER or **SOLICITOR**. Any individual, whether a resident of the village or not, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance from place to

place, house to house or street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery or for services to be furnished or performed in the future, whether or not the individual has, carries or exposes for sale a sample of the subject of the sale or whether he or she is collecting advance payments on the sales or not; provided, however, that the definition shall include any person who for himself, herself or for another person, firm or corporation, hires, leases or uses or occupies any buildings, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or other place within the village for the sole purpose of exhibiting samples and taking orders for future delivery.

PEDDLER. Includes any person, whether a resident of the village or not, traveling by foot, wagon, automobile or any other conveyance from place to place, house to house, or street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck farm products or provisions, offering or exposing the same for sale or making sales or delivering articles to purchasers or who, without traveling from place to place shall sell or offer for sale from a wagon, automobile, railroad car or other vehicle or conveyance, and further provided that one who solicits orders and as a separate transaction makes deliveries to purchasers as part of a scheme or design to evade the provisions of this chapter shall be deemed a **PEDDLER** subject to the provisions of this chapter. The word **PEDDLER** shall include the words **HAWKER** and **HUCKSTER**.

PERSON. Includes the singular and plural and shall also mean and include any person, firm or corporation, association, club, copartnership or society or any other organization. The word **PERSON** for purposes of this chapter shall not include non-profit organizations or churches.
(Prior Code, ' 20.602) (Ord. 13, passed 9-9-1974; Ord. effective 12-9-1985)

' 110.03 PERMIT APPLICATION; FEE.

Applicants for permit and license under this chapter must file with the Village Clerk a sworn application, in writing, in duplicate, on a form to be furnished by the Village Clerk, which shall give the following information:

(A) Name and description of the applicant;

(B) Address (legal and local);

(C) A brief description of the nature of the business and the goods to be sold, and in case of products of farm orchards, whether produced or grown by the applicant;

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

(E) The length of time for which the right to do business is desired;

(F) If a vehicle is to be used, a description of the same together with license number or other means of identification, and in the case of solicitors and canvassers, the place where the goods or property are proposed to be sold, or on orders taken for the sale thereof where manufactured or produced, where the goods or products are located at the time of the filing of the application, and the proposed method of delivery;

(G) The names of at least two reliable property owners of the County of Oceana or Newaygo who will certify as to the applicant=s good character and responsibility, or in lieu of the names of references, any other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to evaluate properly character and business responsibility;

(H) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, nature of offense and the punishment or penalty assessed therefor; and

(I) At the time of the filing of the application a fee of \$5 shall be paid to the Village Clerk to cover the costs of investigation.
(Prior Code, ' 20.603) (Ord. 13, passed 9-9-1974)

' 110.04 INVESTIGATION AND ISSUANCE OF LICENSE.

(A) Upon receipt of the application, the original shall be referred to a village police officer who shall cause an investigation of the applicant=s business and moral character as he or she deems necessary for the protection of the public good. If, as a result of the investigation, the applicant=s character or business responsibility is found to be unsatisfactory, the village police officer shall endorse on the application his or her disapproval and his or her reasons for the same, and return the application to the Village Clerk, who shall notify the applicant that his or her application is disapproved, and that no permit and license will be issued.

(B) If, as a result of the investigation, the character and business responsibility of the applicant are found to be satisfactory, the village police officer shall endorse on the application his or her approval, execute a permit addressed to the applicant for the carrying on of the business applied for, and return the permit along with the application to the Village Clerk who shall, upon payment of the prescribed license fee, deliver to the applicant his or her permit to issue a license. The license shall contain the signature and seal of the issuing officer and show the name and address of the licensee, the class of license issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in peddling or soliciting or canvassing. The Clerk shall keep a permanent record of all licenses issued.
(Prior Code, ' 20.604) (Ord. 13, passed 9-9-1974)

' 110.05 FEE.*(A) Computation.*

(1) Computation of:

(a) Three dollars per day; \$10 per week; \$15 per month or \$25 per year for each person proposing to engage in the business of peddling; and

(b) Three dollars per day; \$10 per week; \$15 per month or \$25 per year for each person proposing to engage in the business of soliciting or canvassing.

(2) No fee shall be required of anyone selling products of the farm or orchard actually produced thereon by the seller.

(B) Basis of fees. For the purpose of this chapter, any period of seven calendar days or less shall be considered one week, and a period of more than seven calendar days and not more than 30 calendar days shall be considered one month, and a period of more than 30 calendar days and not more than one calendar year shall be treated as a year. The annual fees herein provided for shall be assessed on a calendar year basis and on and after July 1, the amount of the fee for annual licenses shall be one-half the amount stipulated for the remainder of the year.

(Prior Code, ' 20.605) (Ord. 13, passed 9-9-1974)

' 110.06 TRANSFER OF LICENSE.

No license issued under the provisions of this chapter shall be used at any time by any person other than the one to whom it was issued.

(Prior Code, ' 20.606) (Ord. 13, passed 9-9-1974)

' 110.07 BOND.

Each applicant desiring to engage in the business of soliciting or canvassing and desiring to act as a solicitor and canvasser as defined in ' 110.02, not a resident of the village, or who being a resident of the village represents a firm whose principal place of business is located outside the state, shall file with the Village Clerk a surety bond running to the village in the amount of \$1,000, with surety acceptable and approved by the Village President, conditioned that the applicant shall comply fully with all the provisions of the ordinances of the village, and the statutes of the state regulating and concerning the business of soliciting, and guaranteeing to any citizen of the village that all money paid as a down payment will be accounted and applied according to the representations of the solicitor, and further guaranteeing to any citizen of the village doing business with the solicitor that the property purchased will be delivered according to the representations of the solicitor. Action on the bond may be brought in the name of the village to the use or benefit of the aggrieved person.

(Prior Code, ' 20.607) (Ord. 13, passed 9-9-1974)

' 110.08 LOUD NOISES AND SPEAKING DEVICES.

No peddler, solicitor or canvasser or any person in his, her or their behalf shall shout, make any cry out, blow a horn, ring a bell or use any sound device, including any loudspeaker or sound amplifying system upon any of the streets, alleys, parks or other public places of the village or upon any private premises in the village where sound of sufficient volume is emitted or produced therefrom and capable of being plainly heard upon the streets, alleys, parks or other public places for the purpose of attracting attention to any goods, wares or merchandise which the licensee proposes to sell.

(Prior Code, ' 20.608) (Ord. 13, passed 9-9-1974) Penalty, see ' 110.99

' 110.09 USE OF STREETS.

No peddler shall have any exclusive right to any location in the public streets nor shall any be permitted a stationary location nor shall he or she be permitted to operate in any congested area where his or her operations might impede or inconvenience public property or the public. For the purpose of this chapter, the judgment of the village police officer exercising good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

(Prior Code, ' 20.609) (Ord. 13, passed 9-9-1974) Penalty, see ' 110.99

' 110.10 EXHIBITION OF LICENSE.

Peddlers, solicitors and canvassers are required to exhibit their licenses at the request of any citizen.

(Prior Code, ' 20.610) (Ord. 13, passed 9-9-1974) Penalty, see ' 110.99

' 110.11 DUTY OF POLICE TO ENFORCE.

It shall be the duty of the police officers of the village to require any person seen peddling, soliciting or canvassing, and who is not known by the officer to be duly licensed, to produce his or her peddler=s, solicitor=s or canvasser=s license and to enforce the provision of this chapter against any person found to be violating the same.

(Prior Code, ' 20.611) (Ord. 13, passed 9-9-1974)

' 110.12 RECORDS.

The village police officer shall report to the Village Clerk all convictions for violation of this chapter, and the Village Clerk shall maintain a record for each license issued and record the reports of violations therein.

(Prior Code, ' 20.612) (Ord. 13, passed 9-9-1974)

' 110.13 REVOCATION OF LICENSE.

(A) Permits or license issued under the provisions of this chapter may be revoked by the Clerk of the village after notice and hearing for any one of the following causes:

- (1) Fraud, misrepresentation or false statement contained in the application for license;
- (2) Fraud, misrepresentation or false statement made in the course of carrying on his or her business as peddler, solicitor or canvasser;
- (3) Any violation of this chapter;
- (4) Conviction of any crime or misdemeanor involving moral turpitude; and/or
- (5) Conducting the business of peddling, soliciting or canvassing in an unlawful manner or in a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

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

(Prior Code, ' 20.613) (Ord. 13, passed 9-9-1974)

' 110.14 APPEAL.

Any person aggrieved by the action of the village police or the Village Clerk in the denial of an application for permit or license as provided in ' 110.04, or in a decision with reference to the revocation of a license as provided in ' 110.13 shall have the right of appeal to the Village Council of the village. The appeal shall be taken by filing with the Council, within 14 days after notice of the action complained of, has been mailed to the person=s last known address, a written statement setting forth the grounds for appeal. The Village Council shall set a time and place for the hearing on the appeal and notice of the hearing shall be given to the appellant in the same manner as provided in ' 110.13 for hearing notice of revocation. The decision and order of the Council on the appeal shall be final and conclusive.

(Prior Code, ' 20.614) (Ord. 13, passed 9-9-1974)

' 110.15 EXPIRATION OF LICENSE.

(A) All annual licenses issued under the provisions of this chapter shall expire on December 31 in the year when issued.

(B) Other than annual licenses shall expire on the date specified on the license.
(Prior Code, ' 20.615) (Ord. 13, passed 9-9-1974)

' 110.99 PENALTY.

Any person violating any of the provisions of this chapter shall upon conviction thereof be punished by a fine not to exceed \$100 or by imprisonment not to exceed 90 days or both a fine and imprisonment.
(Prior Code, ' 20.616) (Ord. 13, passed 9-9-1974)

CHAPTER 111: GAS AND ELECTRIC FRANCHISES

Section

- 111.01 Purpose
- 111.02 Grant of franchise and consent to laying of wires, pipes and the like
- 111.03 Utility services and extension of system
- 111.04 Use of streets and other public places
- 111.05 Standards and conditions of service, rules, regulations and rates
- 111.06 Underground relocation
- 111.07 Terms of franchise

' 111.01 PURPOSE.

To protect the public peace, health, safety and welfare of the village, new regulations are enacted to regulate the granting of non-exclusive gas and electrical power franchises, and to provide to franchisees the right, power and authority to lay, maintain and commercially use gas pipes, mains, conductors, service pipes and other necessary equipment or electric lines consisting of towers, masts, poles, crossarms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances on, under, along and across the highways, streets, alleys, bridges, waterways and other public places, and to do local gas or electricity business in the village.

(Ord. 2010-06, passed 6-14-2010)

' 111.02 GRANT OF FRANCHISE AND CONSENT TO LAYING OF WIRES, PIPES AND THE LIKE.

Subject to all the terms and conditions mentioned in this chapter, the village may grant a non-exclusive franchise to a gas or electrical power company, its successors and assigns, to lay, maintain, operate and use gas pipes, mains, conductors, service pipes and other necessary equipment or electric lines consisting of towers, masts, poles, crossarms, guys, braces, feeders, wires, transformers and other electrical appliances and any other necessary equipment in the highways, streets, alleys and other public places in the village. The franchise if granted to the company, its successors and assigns, provides them with the authority to transact local business in the village for the purposes of conveying gas or electricity services into and through and supplying and selling those services in the village and all other matters incidental thereto.

(Ord. 2010-06, passed 6-14-2010)

' 111.03 UTILITY SERVICES AND EXTENSION OF SYSTEM.

If a franchise is granted and accepted by the company, then the company shall furnish gas or electricity services to applicants residing therein in accordance with applicable laws, rules and regulations, and other applicable provisions now or from time to time hereafter contained in the company=s rules and regulations for gas or electrical service as filed with the State Public Service Commission or successor agency having similar jurisdiction, and in accordance with applicable laws, rules and regulations.

(Ord. 2010-06, passed 6-14-2010)

' 111.04 USE OF STREETS AND OTHER PUBLIC PLACES.

(A) A franchisee, shall not unnecessarily obstruct the passage of any of the highways, streets, alleys or other public places within the village and shall within a reasonable time after making an opening or excavation, repair the same and leave it in as good a condition as before the opening or excavation was made. The company receiving a franchise, its successors, assigns and employees shall use due care in exercising the privileges herein contained and shall be liable to the village for all damages and costs which may be recovered against the village arising from the default, carelessness or negligence of the company or its officers, agents, employees and servants. The company, its successors or assigns shall hold the village harmless and shall indemnify them for any and all losses associated with the installation and distribution of electricity but only to the extent that the losses do not arise out of the negligence of the village, its officials, employees, agents and servants.

(B) No road, street, alley or highway shall be opened for the laying of trunk lines or lateral lines except upon application to the Director of Public Works for the village or other authority having jurisdiction in the premises, stating the nature of the proposed work and the route. Upon receipt of the application, it shall be the duty of the Director of Public Works or the village or other authority as may have jurisdiction, to issue a permit to the company to do the work proposed.

(C) A franchisee=s towers, masts, pipes and/or poles shall be neat and sightly, and so placed on either side of the highways, streets, alleys and bridges as not to unnecessarily interfere with the use thereof for highway, street and alley purposes. All of franchisee=s wires carrying electricity shall be securely fastened so as not to endanger or injure persons or property in the highways, streets, alleys and public places. All work performed by the franchisee in the highway, streets and alleys shall be done so as not to interfere with the use thereof, and when completed, the same shall be left in as good condition as when work was commenced. The grantee shall have the right to trim trees if necessary in the conducting of business, subject, however, to the supervision of the Department of Public Works.

(Ord. 2010-06, passed 6-14-2010)

' 111.05 STANDARDS AND CONDITIONS OF SERVICE, RULES, REGULATIONS AND RATES.

A franchise may only be granted to a company under the jurisdiction of the State Public Service Commission to the extent provided by statute; and the rates to be charged for gas or electricity services, and the standards and conditions for service and operation hereunder, shall be the same as set forth in the company=s schedule of rules, regulations and rates as applicable in the several cities, villages and townships in which the company is now rendering power service, or as shall thereafter be validly prescribed for the village under the orders, rules and regulations of the State Public Services Commission or other authority having jurisdiction in the premises.
(Ord. 2010-06, passed 6-14-2010)

' 111.06 UNDERGROUND RELOCATION.

If a franchisee has its facilities on aboveground utility poles and the owner of poles relocates its facilities to an underground conduit, the franchisee shall relocate its facilities in the same underground conduit.
(Ord. 2010-06, passed 6-14-2010)

' 111.07 TERMS OF FRANCHISE.

The term of any franchise granted hereunder shall be not more than 30 years in duration. Renewals or extensions shall be governed in the same manner as original applications. However, in all instances, this chapter and the franchise granted hereunder shall be revocable at the will of the village.
(Ord. 2010-06, passed 6-14-2010)

CHAPTER 112: TELECOMMUNICATIONS

Section

- 112.01 Purpose
- 112.02 Conflict
- 112.03 Definitions
- 112.04 Permit required
- 112.05 Issuance of permit
- 112.06 Construction/engineering permit
- 112.07 Conduit or utility poles
- 112.08 Route maps
- 112.09 Repair of damage
- 112.10 Establishment and payment of maintenance fee
- 112.11 Modification of existing fees
- 112.12 Savings clause
- 112.13 Use of funds
- 112.14 Annual report
- 112.15 Cable television operators
- 112.16 Existing rights
- 112.17 Compliance
- 112.18 Reservation of police powers
- 112.19 Authorized village officials
- 112.20 Municipal civil infractions

' 112.01 PURPOSE.

The purposes of this chapter are to regulate access to and ongoing use of public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety, and welfare and exercising reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act 48 of the Public Acts of 2002) (AAct@), being M.C.L.A. ' ' 484.3101 through 484.3120 and other applicable law, and to ensure that the village qualifies for distributions under M.C.L.A. ' ' 484.3101 through 484.3120 by modifying the fees charged to providers and complying with M.C.L.A. ' ' 484.3101 through 484.3120. (Ord. 75, passed 12-8-2003)

' 112.02 CONFLICT.

Nothing in this chapter shall be construed in such a manner as to conflict with M.C.L.A. ' ' 484.3101 through 484.3120 or other applicable law.
(Ord. 75, passed 12-8-2003)

' 112.03 DEFINITIONS.

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

ACT. The Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act 48 of the Public Acts of 2002), being M.C.L.A. ' ' 484.3101 through 484.3120, as amended.

AUTHORITY. The Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to M.C.L.A. ' 484.3103.

MPSC. The Michigan Public Service Commission in the Department of Consumer and Industry Services, and shall have the same meaning as the term ACommission@ in M.C.L.A. ' ' 484.3101 through 484.3120.

PERMIT. A non-exclusive permit issued pursuant to M.C.L.A. ' ' 484.3101 through 484.3120 and this chapter to a telecommunications provider to use the public rights-of-way in the village for its telecommunications facilities.

PUBLIC RIGHT-OF-WAY. The area on, below, or above a public roadway, highway, street, alley, easement or waterway. **PUBLIC RIGHT-OF-WAY** does not include a federal, state, or private right-of-way.

TELECOMMUNICATION FACILITIES or **FACILITIES.** The equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunication services or signals. **TELECOMMUNICATION FACILITIES** or **FACILITIES** do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in 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.** Those terms as defined in Section 102 of the Michigan Telecommunications Act, 1991 PA 179, M.C.L.A. ' 484.2102. **TELECOMMUNICATION PROVIDER** does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in Section 332(d) of part I of the Communications Act of 1934, Chapter 652, 48 Stat 1064, 47

U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the Act and this chapter only, a provider also includes all of the following:

(1) A cable television operator that provides a telecommunications service.

(2) Except as otherwise provided by M.C.L.A. ' ' 484.3101 through 484.3120, a person who owns telecommunication facilities boated within a public right-of-way.

(3) A person providing broadband internet transport access service.

VILLAGE COUNCIL. The Village Council of the village or its designee. This section does not authorize delegation of any decision or function that is required by law to be made by the Village Council.

VILLAGE PRESIDENT. The Village President or his or her designee.
(Ord. 75, passed 12-8-2003)

' 112.04 PERMIT REQUIRED.

(A) *Permit required.* Except as otherwise provided in M.C.L.A. ' ' 484.3101 through 484.3120, a telecommnications provider using or seeking to use public rights-of-way in the village for its telecommunications facilities shall apply for and obtain a permit pursuant to this chapter.

(B) *Application.* Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with M.C.L.A. ' 484.3106(1). A telecommunications provider shall file one copy of the application with the Village Clerk, one copy with the Village President, and one copy with the Village Attorney. Upon receipt, the Village Clerk shall make three copies of the application and distribute a copy to the Public Works, Police and Fire Departments. 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 M.C.L.A. ' 484.3106(5).

(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, M.C.L.A. ' ' 15.231 to 15.246, pursuant to M.C.L.A. ' 484.3106(5), the telecommnications provider shall prominently so indicate on the face of each map.

(D) *Application fee.* Except as otherwise provided by the M.C.L.A. ' ' 484.3101 through 484.3120, the application shall be accompanied by a one-time non-redfundable application fee in the amount of \$500.

(E) *Additional information.* The Village President may request an applicant to submit such additional information which the Village President deems reasonable necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the Village President. If the village and the applicant cannot agree on the requirement of additional information requested by the village, the village or the applicant shall notify the MPSC as provided in M.C.L.A. ' 484.3106(2).

(F) *Previously issued permits.* Pursuant to M.C.L.A. ' 484.3105(1), authorizations or permits previously issued by the village under Section 251 of the Michigan Telecommunications Act, 1991 PA 179, M.C.L.A. ' 484.2251 and authorizations or permits issued by the village to telecommunications providers prior to the 1995 enactment of Section 251 of the Michigan Telecommunications Act but after 1985 shall satisfy the permit requirements of this chapter.

(G) *Existing providers.* Pursuant to M.C.L.A. ' 484.3105(3), 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, M.C.L.A. ' 484.2251, shall submit to the village an application for a permit in accordance with the requirements of this chapter. Pursuant to M.C.L.A. ' 484.3105(3), a telecommunications provider submitting an application under this division is not required to pay the \$500 application fee required under division (D). A provider under this division shall be given up to an additional 180 days to submit the permit application if allowed by the authority, as provided in M.C.L.A. ' 484.3105(4).
(Ord. 75, passed 12-8-2003)

' 112.05 ISSUANCE OF PERMIT.

(A) *Approval or denial.* The authority to approve or deny an application for a permit is hereby delegated to the Village President. Pursuant to M.C.L.A. ' 484.3115(3), the Village President shall approve or deny an application for a permit within 45 days from the date a telecommunications provider files an application for a permit under ' 112.04(B) for access to a public right-of-way within the village. Pursuant to M.C.L.A. ' 484.3106(6), the Village President shall notify the MPSC when the Village President has granted or denied a permit including information regarding the date on which the application was filed and the date on which permit was granted or denied. The Village President shall not unreasonably deny an application for a permit.

(B) *Form of permit.* If an application for permit is approved, the Village President shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with M.C.L.A. ' ' 484.3106(1),(2) and 484.3115.

(C) *Conditions.* Pursuant to M.C.L.A. ' 484.3115(4), the Village President may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider=s access and usage of the public right-of-way.

(D) *Bond requirement.* Pursuant to M.C.L.A. ' 484.3115(3), and without limitation on division (C), the Village President may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider=s access and use.

(Ord. 75, passed 12-8-2003)

' 112.06 CONSTRUCTION/ENGINEERING PERMIT.

A telecommunications provider shall not commence construction upon, over, across, or under the public rights-of-way in the village without first obtaining a construction or engineering permit as required for construction within the public rights-of-way. No fee shall be charged for such a construction or engineering permit.

(Ord. 75, passed 12-8-2003)

' 112.07 CONDUIT OR UTILITY POLES.

Pursuant to M.C.L.A. ' 484.3104(3), obtaining a permit or paying the fees required under M.C.L.A. ' ' 484.3101 through 484.3120 or under this chapter does not give a telecommunications provider a right to use conduit or utility poles.

(Ord. 75, passed 12-8-2003)

' 112.08 ROUTE MAPS.

Pursuant to M.C.L.A. ' 484.3106(7), 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 M.C.L.A. ' 484.3106(8).

(Ord. 75, passed 12-8-2003)

' 112.09 REPAIR OF DAMAGE.

Pursuant to M.C.L.A. ' 484.3115(5), a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in the village, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below, or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting conditions.

(Ord. 75, passed 12-8-2003)

' 112.10 ESTABLISHMENT AND PAYMENT OF MAINTENANCE FEE.

In addition to the non-refundable application fee paid to the village set forth ' 112.04(D), a telecommunications provider with telecommunications facilities in the village=s public rights-of-way shall pay an annual maintenance fee to the Authority pursuant to M.C.L.A. ' 484.3108. (Ord. 75, passed 12-8-2003)

' 112.11 MODIFICATION OF EXISTING FEES.

In compliance with the requirements of M.C.L.A. ' 484.3113(1), the village hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of M.C.L.A. ' ' 484.3101 through 484.3120, relating to access and usage of the public rights-of-way, to an amount not exceeding the amounts of fees and charges required under M.C.L.A. ' ' 484.3101 through 484.3120, which shall be paid to the Authority. In compliance with the requirements of M.C.L.A. ' 484.3113(4), 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 M.C.L.A. ' 484.3108. The village shall provide each telecommunications provider affected by the fee with a copy of this chapter, in compliance with the requirement of M.C.L.A. ' 484.3113(4). To the extent any fees are charged telecommunications providers in excess of the amounts permitted under M.C.L.A. ' ' 484.3101 through 484.3120 or which are otherwise inconsistent with the M.C.L.A. ' ' 484.3101 through 484.3120 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. 75, passed 12-8-2003)

' 112.12 SAVINGS CLAUSE.

Pursuant to M.C.L.A. ' 484.3113(5), if M.C.L.A. ' 484.3108 is found to be invalid or unconstitutional, the modification of fees under ' 112.11 shall be void from the date the modification was made. (Ord. 75, passed 12-8-2003)

' 112.13 USE OF FUNDS.

Pursuant to M.C.L.A. ' 484.3110(4), 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 51 of the Public Acts of 1951. (Ord. 75, passed 12-8-2003)

' 112.14 ANNUAL REPORT.

Pursuant to M.C.L.A. ' 484.3110(5), the Village President shall file an annual report with the Authority on the use and disposition of funds annually distributed by the Authority.
(Ord. 75, passed 12-8-2003)

' 112.15 CABLE TELEVISION OPERATORS.

Pursuant to M.C.L.A. ' 484.3113(6), 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 M.C.L.A. ' ' 484.3101 through 484.3120, 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. 75, passed 12-8-2003)

' 112.16 EXISTING RIGHTS.

Pursuant to M.C.L.A. ' 484.3104(2), except as expressly provided herein with respect to fees, this chapter shall not affect any existing rights that a telecommunications provider or the village may have under a permit issued by the village or under a contract between the village and a telecommunications provider related to the use of the public rights-of-way.
(Ord. 75, passed 12-8-2003)

' 112.17 COMPLIANCE.

The village hereby declares that its policy and intent in adopting this chapter is to fully comply with the requirements of M.C.L.A. ' ' 484.3101 through 484.3120, 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 M.C.L.A. ' ' 484.3101 through 484.3120, including but not limited to the following:

(A) Exempting certain route maps from the Freedom of Information Act, 1976 PA 442, M.C.L.A. ' ' 15.231 to 15.246, as provided in ' 112.04(C);

(B) Allowing certain previously issued permits to satisfy the permit requirements in accordance with ' 112.04(F);

(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 ' 112.04(G);

(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 ' 112.05(A);

(E) Notifying the MPSC when the village has granted or denied a permit in accordance with ' 112.05(A);

(F) Not unreasonably denying an application for a permit in accordance with ' 112.05(A);

(G) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in ' 112.05(B);

(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 ' 112.05(C);

(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 ' 112.05(D);

(J) Not charging any telecommunications providers any additional fees for construction or engineering permits in accordance with ' 112.06;

(K) Providing each telecommunications provider affected by the village=s right-of-way fees with a copy of this chapter in accordance with ' 112.11;

(L) Submitting an annual report to the Authority in accordance with ' 112.14; and

(M) Not holding a cable television operator in default for a failure to pay certain franchise fees in accordance with ' 112.15.

(Ord. 75, passed 12-8-2003)

' 112.18 RESERVATION OF POLICE POWERS.

Pursuant to M.C.L.A. ' 484.3115(2), this chapter shall not limit the village=s right to review and approve a telecommunication provider=s access to and ongoing use of a public right-of-way or limit the village=s authority to ensure and protect the health, safety and welfare of the public.

(Ord. 75, passed 12-8-2003)

' 112.19 AUTHORIZED VILLAGE OFFICIALS.

The Village President or his or her designee is hereby designated as the authorized village official to issue municipal civil infraction citations for violations under this chapter as provided by the village code.

(Ord. 75, passed 12-8-2003)

' 112.20 MUNICIPAL CIVIL INFRACTIONS.

A violation of this chapter shall be a violation of the village code. Nothing in this section shall be construed to limit the remedies available to the village in the event of a violation by a person of this chapter or a permit.

(Ord. 75, passed 12-8-2003)

CHAPTER 113: MEDICAL MARIHUANA

Section

113.01 Moratorium on medical marihuana

' 113.01 MORATORIUM ON MEDICAL MARIHUANA.

(A) *Findings.* In accordance with Act 110 of the Public Acts of 2006, as amended, being M.C.L.A. ' ' 125.3101 through 125.3702, and Act 279 of the Public Acts of 1909, as amended, being M.C.L.A. ' 117.1 through 117.38, the village has determined that:

(1) The provisions within the village code of ordinances have not kept pace with recent developments and the passing into law of Initiated Law 1 of 2008, the Michigan Medical Marihuana Act, being M.C.L.A. ' ' 333.26421 through 333.26430.

(2) It is within the rights and authority of the village to establish reasonable regulations to control the sale and dispensation of medical marihuana in order to protect the public health, safety and welfare in a manner consistent with the Michigan Medical Marihuana Act, being M.C.L.A. ' ' 333.26421 through 333.26430.

(3) Imposing a moratorium, on a limited temporary basis, is reasonable and necessary in order to allow time for review of and potential amendments to the code of ordinances.

(4) During this moratorium period, the Village Council and Planning Commission will investigate potential modifications to the code of ordinances that may establish reasonable regulations to control the possession, sale, and dispensation of medical marihuana in order to protect the public health, safety and welfare.

(B) *Administrative action.* A moratorium is hereby imposed upon the issuance of any village permit, license, variance or use or similar approval for the sale or dispensation of medical marihuana within the village, so long as this section is in effect. During the moratorium term specified in this section, no village official, employee, body, or agent shall issue any such permit, license, variance or other approval.

(C) *Prohibition on sale or dispensation of medical marihuana.* No sale or dispensation of medical marihuana shall occur within the village pursuant to the Michigan Medical Marihuana Act, being M.C.L.A. ' ' 333.26421 through 333.26430 (or any other law or statute) while the moratorium imposed by this section is in effect. Such prohibition shall not apply to the direct dispensation by a

primary caregiver of marihuana to that primary caregiver=s registered qualifying patient if fully lawful under the Michigan Medical Marihuana Act being M.C.L.A. ' ' 333.26421 through 333.26430, as well as all other applicable state and federal statutes. The prohibition contained in this division shall apply to the sale or dispensation of marihuana by anyone other than a primary caregiver administering directly to that primary caregiver=s qualifying patient in full compliance with the Michigan Medical Marihuana Act, being M.C.L.A. ' ' 333.26421 through 333.26430.

(D) *Term.* The moratorium imposed by this section shall remain in effect for one year following the effective date of this section or until amendments to the village code of ordinances regarding the sale or dispensation of medical marihuana become effective, whichever occurs first. Prior to the expiration of the one year moratorium, the village may extend the moratorium for an additional six months to allow sufficient time to complete any such amendments to the code of ordinances.

TITLE XIII: GENERAL OFFENSES

Chapter

130. OFFENSES AGAINST PUBLIC PROPERTY

131. OFFENSES AGAINST PERSONS

CHAPTER 130: OFFENSES AGAINST PUBLIC PROPERTY

Section

General Provisions

130.01 Damaging public property prohibited

Public Parks

130.15 Damaging park property; prohibited

130.16 Disturbing wildlife; prohibited

130.17 Handbills and the like; prohibited

130.18 Park hours

130.99 Penalty

GENERAL PROVISIONS

' 130.01 DAMAGING PUBLIC PROPERTY PROHIBITED.

No person shall damage, mutilate, mar or in any manner deface any public building, standpipe, waterpipe, well, hydrant, fire apparatus, pole, wire, cable, anchor, lamp, lamp-post, sewer, tank, drain, public pound, sidewalk, streets or any other public property located in the village.
(Prior Code, ' 20.501) (Ord. 11, passed 9-9-1974) Penalty, see ' 130.99

PUBLIC PARKS

' 130.15 DAMAGING PARK PROPERTY; PROHIBITED.

Hesperia - General Offenses

No person shall break, cut, mutilate, injure, overturn, remove or carry away any tree, shrub, plant, flower, stone or stonework, bench, chair, seat, stand, house, arbor, structure, fence or property in, upon or belonging to any park, square, public or open place in the village, or in any street, avenue, highway in or adjoining or around the village.

(Prior Code, ' 20.551) (Ord. 12, passed 9-9-1974) Penalty, see ' 130.99

' 130.16 DISTURBING WILDLIFE; PROHIBITED.

No person shall kill, disturb or molest any bird or bird=s nest, or any fish or animal therein belonging to or being therein.

(Prior Code, ' 20.552) (Ord. 12, passed 9-9-1974) Penalty, see ' 130.99

' 130.17 HANDBILLS AND THE LIKE; PROHIBITED.

No person shall paste, affix or inscribe any handbill, sign, poster, car device or inscription upon or against any fence, tree, structure or property of or in a park, place, square or highway, on or adjoining the same.

(Prior Code, ' 20.553) (Ord. 12, passed 9-9-1974) Penalty, see ' 130.99

' 130.18 PARK HOURS.

No person shall be upon a public park within the village between the hours of 11:00 p.m. and 6:00 a.m.

(Prior Code, ' 20.555) (Ord. 12, passed 9-9-1974; Ord. 60, effective 9-8-1988) Penalty, see ' 130.99

' 130.99 PENALTY.

(A) In addition to any other penalty herein provided, every person who shall be convicted of the violation of any provision of ' 130.01 shall be punished by a fine of not more than \$100 and costs of prosecution, and/or by imprisonment in the jail, for a period not exceeding 90 days, in the discretion of the court before whom the conviction is had.

(Prior Code, ' 20.502)

(B) In addition to any other penalty herein provided, every person who shall be convicted of the violation of any provision of ' 130.15 through 130.17 shall be punished by a fine of not more than \$100 and costs of prosecution, and/or by imprisonment in the jail, for a period not exceeding 90 days, in the discretion of the court before whom the conviction is had.

(Prior Code, ' 20.554)

(Ord. 11, passed 9-9-1974; Ord. 12, passed 9-9-1974)

CHAPTER 131: OFFENSES AGAINST PERSONS

Section

Disorderly Conduct; Weapons

- 131.01 Definitions
- 131.02 Prohibited
- 131.03 Discharge of firearms and other dangerous weapons prohibited
- 131.04 Exemptions

Narcotics and Dangerous Drugs

- 131.15 Possession, sale or distribution
- 131.16 Dispensing by authorized persons; drugs to be kept in original package
- 131.17 Hypodermic syringes, needles and the like; possession prohibited; exceptions
- 131.18 Hypodermic syringes, needles and the like; sale; prohibited
- 131.19 Fraud and deceit in obtaining drugs, syringes and the like
- 131.20 Fraud and deceit in sale and the like; prohibited
- 131.21 Possession of drugs and the like; not applicable to common carriers, public officers, while engaged in lawful transportation or performance of duties
- 131.22 Frequenting; loitering

Alcoholic Beverages in Parks

- 131.35 Definitions
- 131.36 Prohibitions; exception

Curfews of Minors

- 131.50 Minors under 12
 - 131.51 Minors under 16
 - 131.52 Detaining child
 - 131.53 Delinquent or mendicant children
 - 131.54 Aiding and abetting
 - 131.55 Exceptions
- 131.99 Penalty

DISORDERLY CONDUCT; WEAPONS

' 131.01 DEFINITIONS.

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

INCITE A RIOT. Shall mean, but is not limited to, urging or instigating other persons to riot, but shall not be deemed to mean the mere oral or written:

(1) Advocacy of ideas; or

(2) Expression of belief, not involving advocacy of any act or acts of violence or assertion of the rightness of, or the right to commit, any act or acts.

PUBLIC PLACE. Any place to which the general public has access and a right to resort for business, entertainment or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business and also public grounds, areas or parks.

RIOT. A public disturbance involving:

(1) An act or acts of violence by one or more persons part of an assemblage of three or more persons, which act or acts shall constitute a clear and present danger of, or shall result in, damage or injury to the property of any other person or to the person of any other individual; or

(2) A threat or threats of the commission of an act or acts of violence by one or more persons part of an assemblage of three or more persons having, individually or collectively, the ability of immediate execution of threat or threats, where the performance of the threatened act or acts of violence would constitute a clear and present danger of, or would result in, damage or injury to the property of any other person or to the person of any other individual.

(Prior Code, ' 20.301) (Ord. 3, passed 9-9-1974)

' 131.02 PROHIBITED.

A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder, nuisance or if his or her conduct is likely to cause public danger, alarm, disorder or nuisance, he or she willfully does any of the following acts in a public place:

(A) Commits an act in a violent and tumultuous manner toward another whereby that other is placed in danger of his or her life, limb or health;

(B) Commits an act in a violent and tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged;

(C) Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another;

(D) Interferes with another=s pursuit of a lawful occupation by acts of violence;

(E) Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic and refuses to clear a public way when ordered to do so by the village police or other lawful authority known to be such;

(F) Is in a public place under the influence of an intoxicating liquor or drug in a condition as to be unable to exercise care for his or her own safety or the safety of others;

(G) Resists or obstructs the performance of duties by village police, any other authorized official of the village, when known to be an official;

(H) Incites, attempts to incite or is involved in attempting to incite a riot;

(I) Addresses abusive language or threats to any member of the Village Police Department, any other authorized officer of the village who is engaged in the lawful performance of his or her duties, or any other persons when the words have a direct tendency to cause acts of violence. Words merely causing displeasure, annoyance or resentment are not prohibited;

(J) Damages, befouls or disturbs public property or the property of another so as to create a hazardous, unhealthy or physically offensive condition;

(K) Makes or causes to be made any loud, boisterous and unreasonable noise or disturbance to the annoyance of any other persons nearby, or near to any public highway, road, street, lane, alley, park, square or common, whereby the public peace is broken or disturbed, or the traveling public annoyed;

(L) Fails to obey a lawful order to disperse by a police officer, when known to be an official, where one or more persons are committing acts of disorderly conduct in the immediate vicinity and the public health and safety is imminently threatened; or

(M) Uses abusive or obscene language or makes an obscene gesture.
(Prior Code, ' 20.302) (Ord. 3, passed 9-9-1974) Penalty, see ' 131.99

' 131.03 DISCHARGE OF FIREARMS AND OTHER DANGEROUS WEAPONS PROHIBITED.

No person shall fire or shoot off any airgun, spring gun, crossbow, slingshot, gun, rifle, pistol or other dangerous weapon or instrument in the streets, alleys or anywhere in the village limits.
(Prior Code, ' 20.303) (Ord. 3, passed 9-9-1974) Penalty, see ' 131.99

' 131.04 EXEMPTIONS.

This subchapter shall not be construed to suppress the right to lawful assembly, picketing, public speaking or other lawful means of expressing public opinion not in contravention of other laws. (Prior Code, ' 20.304) (Ord. 3, passed 9-9-1974)

NARCOTICS AND DANGEROUS DRUGS

' 131.15 POSSESSION, SALE OR DISTRIBUTION.

It shall be unlawful for any person to possess, sell, offer for sale, distribute, administer, dispense, prescribe or give away any narcotic, narcotics or narcotic drugs or any controlled substance, unless authorized by law. This section shall include the substances methaqualone, ephedrine and benzphetamine.

(Prior Code, ' 20.351) (Ord. 4, effective 4-14-1975) Penalty, see ' 131.99

' 131.16 DISPENSING BY AUTHORIZED PERSONS; DRUGS TO BE KEPT IN ORIGINAL PACKAGE.

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, inebrity or drug addiction may purchase, receive, possess, sell, distribute, prescribe, administer or dispense narcotic drugs provided that he, she or they shall have complied with all the provisions as required by the United States Internal Revenue Code, the laws of the United States and the Public Acts of the state, as the acts have been or shall hereafter be amended. No medical doctor, osteopathic physician or other person specified in this section, in any manner authorized to prescribe narcotic or dangerous drugs shall prescribe the drugs for his or her own use nor shall any druggist honor a prescription. All narcotic or dangerous drugs obtained pursuant to this section shall be kept in the original package or container in which they were received, but this requirement shall not be construed to apply to any duly licensed medical doctor, osteopathic physician, dentist, veterinarian or chiropractor, or to any authorized person or persons acting directly under their supervision or control.

(Prior Code, ' 20.352) (Ord. 4, effective 4-14-1975) Penalty, see ' 131.99

' 131.17 HYPODERMIC SYRINGES, NEEDLES AND THE LIKE; POSSESSION PROHIBITED; EXCEPTIONS.

No person shall at any time have or possess a hypodermic syringe or needle or any other instrument adapted for the use of narcotic or dangerous drugs by subcutaneous injection or intracutaneous injection or any other manner or method of introduction and which is possessed for that purpose, unless the possession is authorized by the certificate of a licensed medical doctor or osteopathic physician issued within the period of six months. The prohibition contained in this section shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, technologists,

nurses, hospitals, research teaching institutions, clinical laboratories, medical doctors, osteopathic physicians, dentists, chiropractors, veterinarians, pharmacists and embalmers in the normal legal course of their respective businesses or professions, nor to persons suffering from diabetes, asthma or any other medical condition requiring self-injection.

(Prior Code, ' 20.353) (Ord. 4, effective 4-14-1975) Penalty, see ' 131.99

' 131.18 HYPODERMIC SYRINGES, NEEDLES AND THE LIKE; SALE; PROHIBITED.

It shall be unlawful for any person to sell, furnish, supply or give away any empty gelatin capsules or hypodermic syringe or needle or other instrument or implement adapted for the use of narcotic or dangerous drugs by subcutaneous injection or intracutaneous injection or any other manner or method of introduction to any person known to be a nonmedical habitual user of narcotic or dangerous drugs.

For the purpose of this section, a ***NONMEDICAL HABITUAL USER OF NARCOTIC OR DANGEROUS DRUGS*** shall mean any person who uses narcotic or dangerous drugs merely to satisfy a craving for those drugs and who does not have a legitimate medical need for narcotic or dangerous drugs.

(Prior Code, ' 20.354) (Ord. 4, effective 4-14-1975) Penalty, see ' 131.99

' 131.19 FRAUD AND DECEIT IN OBTAINING DRUGS, SYRINGES AND THE LIKE.

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 narcotic or dangerous drugs or barbituric acid or any derivative, compound, preparation or mixture thereof or hypodermic syringe or needle or other instrument or implement or empty gelatin capsules or false statement on any prescription blank shall be deemed a violation of this section. No person who shall have obtained the possession of any narcotic or dangerous drugs, hypodermic syringes, needles or other instruments or implements adapted for the use of the drugs or empty gelatin capsules pursuant to the terms of this subchapter 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 the possession was obtained.

(Prior Code, ' 20.355) (Ord. 4, effective 4-14-1975) Penalty, see ' 131.99

' 131.20 FRAUD AND DECEIT IN SALE AND THE LIKE; PROHIBITED.

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 marijuana or any other drug or substance, possession of which is unlawful when the same may or may not be the substance shall be deemed a violation of this subchapter.

(Prior Code, ' 20.356) (Ord. 4, effective 4-14-1975) Penalty, see ' 131.99

' 131.21 POSSESSION OF DRUGS AND THE LIKE; NOT APPLICABLE TO COMMON

CARRIERS, PUBLIC OFFICERS, WHILE ENGAGED IN LAWFUL TRANSPORTATION OR PERFORMANCE OF DUTIES.

The provisions of this subchapter restricting the possession of narcotic, or dangerous drugs or barbituric acid or any derivative, compound, preparation or mixture thereof or hypodermic syringes, needles or other implements or instruments adapted to the use of the drugs by means of subcutaneous injection or intracutaneous injection, or any other manner or method of introduction of empty gelatin capsules shall not apply to common carriers or warehousemen or their employees engaged in the lawful transportation or storage of 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.

(Prior Code, ' 20.357) (Ord. 4, effective 4-14-1975) Penalty, see ' 131.99

' 131.22 FREQUENTING; LOITERING.

No person shall knowingly loiter about, frequent or live in any building, apartment, store, automobile, boat, boathouse, airplane or any other place of any description whatsoever where narcotic or dangerous drugs, hypodermic syringes, needles or other instruments or implements or empty gelatin capsules are used, sold, dispensed, furnished, given away, stored or kept illegally.

(Prior Code, ' 20.358) (Ord. 4, effective 4-14-1975) Penalty, see ' 131.99

ALCOHOLIC BEVERAGES IN PARKS**' 131.35 DEFINITIONS.**

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

ALCOHOL. The product of distillation of fermented liquid, whether rectified or diluted with water or not, whatever may be the original thereof.

ALCOHOLIC LIQUOR. Any spirituous, vinous, malt or fermented liquor, liquids and compounds, whether or not medicated proprietary, patented and by whatever name called, containing 0.5% or more of alcohol by volume which are fit for use in beverage purposes.

BEER. Any beverage obtained by alcoholic fermentation of an infusion or decoction of barley, malt, hops and/or other cereal and potable water.

PERSON. Any person, firm, partnership, association or corporation.

SPIRITS. Any beverage which contains alcohol obtained by distillation, mixed with potable water and other substances and solution and includes, among other things, wine containing an alcoholic

content of over 16% by volume.

WINE. The product made by the normal alcoholic fermentation of the juice of sound, ripe grapes or any other fruit with the usual cellular treatment and containing not more than 16% of alcohol by volume. The term **WINE** shall include fermented fruit juices other than grapes.
(Prior Code, ' 20.401) (Ord. 5, passed 8-22-1978)

' 131.36 PROHIBITIONS; EXCEPTION.

(A) No alcoholic beverage, as defined by ' 131.35, shall be consumed, shall be in the possession of persons, nor shall they be sold, exchanged, bartered, given away or furnished, in any of the parks of the village except as is allowed in division (B) below.

(B) Alcoholic beverages may be consumed in Weaver Park between the hours of noon (12:00 p.m.) and until 1:00 a.m.
(Prior Code, ' 20.402) (Ord. 5, passed 8-22-1978) Penalty, see ' 131.99

CURFEWS OF MINORS

' 131.50 MINORS UNDER 12.

No minor under the age of 12 years shall loiter, idle, wander, stroll, play or congregate in or on any public street, highway, alley, park, playground, beach, other public grounds or public buildings, vacant lots or other unsupervised places in the village between the hours of 10:00 p.m. and 6:00 a.m., unless the minor is accompanied by a parent or guardian or some adult delegated by the parent or guardian to accompany the child.
(Prior Code, ' 20.651) (Ord. 51, passed 9-13-1982) Penalty, see ' 131.99

' 131.51 MINORS UNDER 16.

No minor under the age of 16 years shall loiter, idle, wander, stroll, play or congregate in or on any public street, highway, alley, park, playground, beach, other public grounds or public buildings, vacant lots or other unsupervised places in the village between the hours of 12:00 midnight and 6:00 a.m., 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 the minor child or where the minor is upon an errand or other legitimate business directed by his or her parent or guardian.
(Prior Code, ' 20.652) (Ord. 51, passed 9-13-1982) Penalty, see ' 131.99

' 131.52 DETAINING CHILD.

Every member of the police force while on duty is hereby authorized to detain any minor willfully violating the provisions of ' ' 131.50 and 131.51 until the parent or guardian of the child shall take him or her into custody; but the officer shall immediately upon taking custody of the child communicate with the parent or guardian.

(Prior Code, ' 20.653) (Ord. 51, passed 9-13-1982)

' 131.53 DELINQUENT OR MENDICANT CHILDREN.

If it shall appear that any child taken into custody for a violation of ' ' 131.50 and 131.51 is growing up in mendicancy or vagrancy, or is incorrigible, for lack of a proper parental care or has no home, proper proceedings shall be taken to have the child placed in the care of a state institution as provided by statute.

(Prior Code, ' 20.654) (Ord. 51, passed 9-13-1982)

' 131.54 AIDING AND ABETTING.

Any person over the age of 16 years assisting, aiding, abetting, allowing, permitting or encouraging any minor the age of 16 years or under to violate the provisions of any of the above sections is guilty of a misdemeanor.

(Prior Code, ' 20.655) (Ord. 51, passed 9-13-1982) Penalty, see ' 131.99

' 131.55 EXCEPTIONS.

This section does not apply to a minor who is:

(A) Accompanied by the minor=s parent or guardian;

(B) On an errand at the direction of the minor=s parent or guardian, without any detour or stop;

(C) In a motor vehicle involved in interstate travel;

(D) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

(E) Involved in an emergency;

(F) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor=s presence;

(G) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the village, a civic organization, or another similar entity that takes responsibility for the

minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor;

(H) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or

(I) Married or had been married or had disabilities of minority removed in accordance with state law.

(Prior Code, ' 20.656) (Ord. 51, passed 9-13-1982) Penalty, see ' 131.99

' 131.99 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of ' 10.99.

(B) *Disorderly conduct.* Any person who violates any of the provisions of ' ' 131.01 through 131.03 shall be subject to a fine not exceeding \$100 or by imprisonment not exceeding 90 days or both. Any violation shall constitute a separate offense on each successive day continued.
(Prior Code, ' 20.305)

(C) *Narcotics and dangerous drugs.* Any person who violates any of the provisions of ' ' 131.15 through 131.22 shall be subject to a fine not exceeding \$100 or by imprisonment not exceeding 90 days or both.
(Prior Code, ' 20.360)

(D) *Alcoholic beverages in parks.* Any person who violates any of the provisions of ' ' 131.35 and 131.36 shall be subject to a fine not exceeding \$100 or imprisonment not exceeding 90 days or both. Any violation shall constitute a separate offense on each successive day continued.
(Prior Code, ' 20.405)
(Ord. 3, passed 9-9-1974; Ord. 4, effective 4-14-1975; Ord. 5, passed 8-22-1978)

TITLE XV: LAND USAGE

Chapter

150. BUILDING REGULATIONS

151. TRAILER COACHES AND MOBILE HOMES

**152. UNPLATTED SINGLE-FAMILY RESIDENTIAL
DEVELOPMENTS**

153. ZONING

CHAPTER 150: BUILDING REGULATIONS

Section

General Provisions

- 150.01 Transfer responsibility to county
- 150.02 Uniform Housing Code

Fire Prevention; Building Construction

- 150.15 Fire District
- 150.16 Buildings within Fire District; moving, repair and the like
- 150.17 Building walls; construction
- 150.18 Every week a separate offense
- 150.19 Disorderly conduct at fire
- 150.20 Fire emergencies

Moving Buildings

- 150.35 Permit required
- 150.36 Buildings affecting public health and welfare
- 150.37 Permit application; fee; rejection of application; appeal
- 150.38 Violation; nuisance

- 150.99 Penalty

GENERAL PROVISIONS

§ 150.01 TRANSFER RESPONSIBILITY TO COUNTY.

Pursuant to the provisions of § 8b(7) of the State Construction Code Act of 1972, being M.C.L.A. § 125.1508b(7), as amended, the village hereby transfers responsibility for the administration and enforcement of its State Building Code, and Electrical Code provisions to the Counties of Oceana/Newaygo.
(Prior Code, § 22.160) (Ord. 74, effective 1-30-2002)

§ 150.02 UNIFORM HOUSING CODE.

(A) *Code adopted.* Pursuant to the provisions of § 8 of the State Construction Code Act, Public Act 230 of 1972, being M.C.L.A. §§ 125.1501 through 125.1531, the Uniform Housing Code, as published by the Building Officials and Code Administrators International, Inc., 1985 Edition, is hereby adopted by reference subject to the modifications contained in this section.
(Prior Code, § 18.001)

(B) *References in Code.* References in the Uniform Housing Code to state shall mean the State of Michigan; references to municipality shall mean the Village of Hesperia; references to municipal charter or local ordinances shall mean the ordinances of the Village of Hesperia.
(Prior Code, § 18.002)
(Ord. 58, passed 2-8-1968)

FIRE PREVENTION; BUILDING CONSTRUCTION**§ 150.15 FIRE DISTRICT.**

All that portion of the village included within the following boundaries is hereby constituted a fire district, to wit:

All of the lots and premises fronting on each side of Division Street between Michigan Avenue and South Street, in the village and all of the lots and premises fronting on that portion of the north side of Michigan Avenue between Division Street and Elm Street as extended north, according to the recorded plats thereof in the office of the Register of Deeds of Newaygo County and the office of the Register of Deeds of Oceana County, Michigan.
(Prior Code, § 22.201) (Ord. 6, passed 9-9-1974)

§ 150.16 BUILDINGS WITHIN FIRE DISTRICT; MOVING, REPAIR AND THE LIKE.

No building or part of a building, the outer wall or walls or roof of which is constructed of wood or other combustible material, shall be moved into, rebuilt, enlarged or repaired, within the limits of the fire district, or to be removed from one place to another therein. Provided, however, that the Village Council may by resolution authorize and prescribe improvement of any building to be lengthened or widened, to the extent of not exceeding 25% of its insurable value. And provided, further, that repairs on any building already erected or situated within the limits of the fire district prior to the passage of this subchapter may be made within a period of any two years to the extent of not exceeding 5% of its insurable value unless special permission for more extensive repairs shall have been previously obtained from the Village Council. And provided, further, that in case of damage by fire or by the elements, repairs on any damaged building situated within the limits of the fire district may be made to the extent

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of not exceeding 25% of its insurable value prior to the damage; the total value of the repairs, however, are at no time to exceed the amount of the damages sustained.

(Prior Code, § 22.202) (Ord. 6, passed 9-9-1974) Penalty, see § 150.99

§ 150.17 BUILDING WALLS; CONSTRUCTION.

The supporting walls of every building or part of a building hereafter erected, moved into, re-built or repaired within the limits of the fire district shall be at least 12 inches in thickness, or heavier if intended to support the weight of more than two stories, and all outer walls shall be constructed of stone, brick or concrete.

(Prior Code, § 22.203) (Ord. 6, passed 9-9-1974) Penalty, see § 150.99

§ 150.18 EVERY WEEK A SEPARATE OFFENSE.

For each and every week in which a building erected, moved into, rebuilt, enlarged or repaired contrary to the provisions of this subchapter, shall be allowed to remain in the fire district, the owner of the building may be complained of as for a distinct offense and punished as herein provided.

(Prior Code, § 22.204) (Ord. 6, passed 9-9-1974) Penalty, see § 150.99

§ 150.19 DISORDERLY CONDUCT AT FIRE.

Every person present, at or near a fire, who shall conduct himself or herself in a disorderly manner or neglect or refuse to obey any proper order of the village police, members of the Fire Department or who shall resist, obstruct, hinder or abuse any person or officer then and therein the discharge of his or her duties shall be subject to the penalties hereinafter prescribed and may be arrested by any officer present who is authorized to make arrests for offenses against the village ordinances.

(Prior Code, § 22.205) (Ord. 6, passed 9-9-1974) Penalty, see § 150.99

Cross-reference:

Disorderly conduct, see §§ 131.01 through 131.04

§ 150.20 FIRE EMERGENCIES.

Whenever, in the opinion of the President or Village Council, the village is in imminent danger from fire, the President or Village Council may make orders and adopt measures and regulations as, in their judgment, may best serve to prevent the fire and secure the safety of the village therefrom. It shall be the duty of the village police to see that orders are obeyed and the measures and regulations carried into effect. All persons who shall neglect or refuse to obey the order or conform to the regulations shall be liable for the penalties herein provided.

(Prior Code, § 22.206) (Ord. 6, passed 9-9-1974)

MOVING BUILDINGS**§ 150.35 PERMIT REQUIRED.**

No person shall move any building from one location to another within the corporate limits of the village, or from any location situated outside of the corporate limits to another location within the corporate limits without first obtaining a permit therefor as hereinafter provided.
(Prior Code, § 22.251) (Ord. 29, passed 9-9-1974) Penalty, see § 150.99

§ 150.36 BUILDINGS AFFECTING PUBLIC HEALTH AND WELFARE.

It is hereby declared necessary to public health and welfare that no building be moved from one location to another within the corporate limits of the village, or from any location outside of the corporate limits to any location within the corporate limits, which will create, or be likely to create, any hazard from fire or disease, or would menace or be likely to menace the public security, health or morale, taking into consideration the surrounding conditions, including the effect thereof upon traffic conditions, and no permit shall be granted for moving any buildings which shall be deemed to violate the policy herein declared.
(Prior Code, § 22.252) (Ord. 29, passed 9-9-1974) Penalty, see § 150.99

§ 150.37 PERMIT APPLICATION; FEE; REJECTION OF APPLICATION; APPEAL.

Before moving any building, the owner or person desiring to move the same shall obtain a permit therefor, by filing with the Building Inspector an application in writing on forms prepared by and obtainable from the Building Inspector, containing a description of the building proposed to be moved, a specification of the location from which the same is proposed to be moved, and a specification of the location to which the same is proposed to be moved, the purpose of the building, the time when the moving is to be commenced and when the same is to be completed, and the names and addresses of the owners thereof. The application shall be accompanied by a fee of \$10 an hour and mileage at the going rate. The Building Inspector shall examine the application and if the same shall show that the building proposed to be moved is in accordance with the provisions of this subchapter, he or she shall approve the same, and thereupon issue the applicant a permit therefor. If the application does not show that the building proposed to be moved is in accordance with the provisions of this subchapter, then the Building Inspector shall reject the application and deny the permit. If the applicant considers himself or herself aggrieved by the decision of the Building Inspector in rejecting the application, the applicant may make an appeal of the decision of the Building Inspector to the Village Council by signing the request for appeal in the form endorsed upon the application, and the Village Council shall, within ten days thereafter, hear the appeal and either reject or grant the application, in the exercise of its discretion.
(Prior Code, § 22.253) (Ord. 29, passed 9-9-1974) Penalty, see § 150.99

Building Regulations

§ 150.38 VIOLATION; NUISANCE.

Any building that shall be moved within or into the corporate limits of the village in violation of the provisions of this subchapter shall constitute a nuisance and shall be subject to abatement as provided by law.

(Prior Code, § 22.254) (Ord. 29, passed 9-9-1974) Penalty, see § 150.99

§ 150.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Any person who violates any of the provisions of §§ 150.15 through 150.20 shall be subject to a fine not exceeding \$100 or by imprisonment not exceeding 90 days, or both.

(Prior Code, § 22.208)

(C) In addition to any other penalty herein provided, every person who shall be convicted of the violation of any provision of §§ 150.35 through 150.38 shall be punished by a fine of not more than \$100 and costs of prosecution, and/or by imprisonment in the Oceana County Jail or the Newaygo County Jail, for a period not exceeding 90 days, in the discretion of the court before whom the conviction is had.

(Prior Code, § 22.255)

(Ord. 6, passed 9-9-1974; Ord. 29, passed 9-9-1974)

CHAPTER 151: TRAILER COACHES AND MOBILE HOMES

Section

Trailer Coaches

- 151.01 Definitions
- 151.02 Use as residence
- 151.03 Permit application
- 151.04 Registration fee; permit expiration
- 151.05 Septic disposal system
- 151.06 Water supply
- 151.07 Electrical service

Mobile Homes

- 151.20 Mobile homes moved into village; permit required
- 151.21 Enforcement
- 151.22 Violation

- 151.99 Penalty

TRAILER COACHES

§ 151.01 DEFINITIONS.

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

SELF-CONTAINED TRAILER COACH. A trailer coach equipped with toilet and lavatory within the trailer coach or within a permanent structure attached to the trailer coach and accessible from the trailer coach without the need of outside exposure.

SEPTIC TANK. A watertight enclosure used for storage and decomposition of human excrement and domestic wastes.

TRAILER COACH OR TRAILER. Any vehicle with or without motor power designated for carrying property or persons and is so constructed as to permit occupancy as a dwelling or sleeping place by one or more persons.

(Prior Code, § 17.001) (Ord. 16, passed 9-9-1974)

§ 151.02 USE AS RESIDENCE.

No person shall use or permit the use of any trailer coach as a residence on any site, lot, field or tract of land not specifically licensed as a trailer coach park for more than three days except by written permission as hereinafter provided and except under regulations as hereinafter set forth.

(Prior Code, § 17.002) (Ord. 16, passed 9-9-1974) Penalty, see § 151.99

§ 151.03 PERMIT APPLICATION.

All applications for a permit shall be made to the Village Clerk and shall contain:

(A) The name of the owner of the trailer coach and the names of all occupants, including the ages of all children;

(B) The location of the proposed parking site as to street or road and house number or by legal property description where no house number is available;

(C) The make and length of the trailer coach and its vehicle license number and serial number, if any;

(D) The date of application;

(E) The signature of the property owner, accepting his or her responsibilities under the permit;

(F) The signature of the Health Officer that waste disposal facilities and sanitation of the premises are in compliance with all applicable statutes and local regulations; and

(G) The signature of the applicant.

(Prior Code, § 17.003) (Ord. 16, passed 9-9-1974) Penalty, see § 151.99

§ 151.04 REGISTRATION FEE; PERMIT EXPIRATION.

A registration fee of \$7.50 shall accompany the application to the Village Clerk. Upon approval of the application and the receipt of the registration fee, the Clerk shall issue a permit for occupancy of the trailer coach. The permit shall expire and be subject to renewal 12 months from the date issued.

(Prior Code, § 17.004) (Ord. 16, passed 9-9-1974)

Trailer Coaches and Mobile Homes

§ 151.05 SEPTIC DISPOSAL SYSTEM.

Each occupied trailer shall be a self-contained trailer coach and shall be connected through a watertight connection from the trailer water drainage outlet or outlets to a septic disposal system of a size and design as to properly care for all wastes produced. Septic tanks shall have adequate capacity to receive the normal 24-hour flow of sewage, but in no case shall be less than 500 gallons. No wastewater from trailer coaches shall be deposited on the surface of the ground. All septic tanks and disposal fields shall be located at least 75 feet from the casing or any part of a section pipe of a groundwater supply. Disposal field tile or a seepage pit or pits must have capacity sufficient to receive the normal flow of septic tank effluent.

(Prior Code, § 17.005) (Ord. 16, passed 9-9-1974) Penalty, see § 151.99

§ 151.06 WATER SUPPLY.

Every occupied trailer coach shall be connected to a municipal water supply if it is available and accessible and the same shall be metered through an individual meter for each occupied trailer coach. If a connection to the municipal water supply is not available and accessible, a water supply shall be obtained from a properly constructed drilled or driven well. Water under pressure shall at all times be connected to each occupied trailer coach and the use of hand pumps is prohibited.

(Prior Code, § 17.006) (Ord. 16, passed 9-9-1974) Penalty, see § 151.99

§ 151.07 ELECTRICAL SERVICE.

Every occupied trailer coach requiring electrical energy shall be connected to a separate electrical service entrance, properly grounded, at the trailer site. No occupied trailer coach shall be connected to electrical service through extension cords connected to electrical service at another building or trailer.

(Prior Code, § 17.007) (Ord. 16, passed 9-9-1974) Penalty, see § 151.99

MOBILE HOMES

§ 151.20 MOBILE HOMES MOVED INTO VILLAGE; PERMIT REQUIRED.

No mobile home shall be moved into the village, whether for storage, occupancy or any other reason, except transient travel limited to 48 hours, without a permit issued by the Code Administrator of the village, under other applicable ordinance or ordinances.

(Prior Code, § 17.051) (Ord. 17, passed 7-6-1970) Penalty, see § 151.99

§ 151.21 ENFORCEMENT.

This subchapter may be enforced by any legal means and by action, civil or criminal, in any court having jurisdiction, by the Village Attorney, Code Administrator or any authorized village personnel or official.

(Prior Code, § 17.052) (Ord. 17, passed 7-6-1970)

§ 151.22 VIOLATION.

Violation of this subchapter shall constitute a nuisance and a misdemeanor.

(Prior Code, § 17.053) (Ord. 17, passed 7-6-1970) Penalty, see § 151.99

§ 151.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Any person occupying a trailer coach without a permit or convicted of violating any of the provisions of §§ 151.01 through 151.07 shall be guilty of a misdemeanor punishable by a fine of not more than \$100 and/or 90 days in the county jail together with the costs of prosecution. Each day that a violation of §§ 151.01 through 151.07 is continued or permitted to continue shall constitute a separate offense punishable upon conviction in the manner described in this division.

(Prior Code, § 17.008) (Ord. 16, passed 9-9-1974)

CHAPTER 152: UNPLATTED SINGLE-FAMILY RESIDENTIAL DEVELOPMENTS

Section

152.01 Unplatted single-family residential developments generally

§ 152.01 UNPLATTED SINGLE-FAMILY RESIDENTIAL DEVELOPMENTS GENERALLY.

(A) *Intent and purpose.*

(1) It is recognized that state statutes provide for the implementation of developments consisting of one-family detached residential dwelling units and sites, through procedures other than those enabled by the Subdivision Control Act (Public Act 288 of 1967, being M.C.L.A. §§ 560.101 through 560.293, as amended). The intent of this chapter is to provide procedures and standards for review and approval or disapproval of these developments, in order to ensure that they will be consistent and compatible with other one-family residential developments in the community, and not detrimental to the orderly development of the adjacent area.

(2) For the purpose of this chapter, ***UNPLATTED ONE-FAMILY RESIDENTIAL DEVELOPMENT*** shall include proposed developments consisting of two or more single-family detached residential structures on a single parcel, as well as site condominiums.

(B) *Submitted plans.* Plans submitted for proposed unplatted one-family residential development shall indicate specific parcel dimensions allocated to each residential structure. These parcel dimensions and the average parcel area shall be at least equal to the standard lot size as prescribed in the village zoning regulations.

(C) *Maximum gross density.* The maximum gross density shall not exceed that which is established in village zoning regulations.

(D) *Yards setbacks.* Yards setbacks, including those from public streets, private streets or private street easements, shall be at least equal to those prescribed by the village zoning regulations.

(E) *Principal access and circulation.* Principal access and circulation through unplatted one-family residential developments shall be provided by public streets constructed to County Road Commission standards, within 66-foot wide rights-of-way. Non-public streets must conform to Uniform Fire Code standards and provide appropriate easements for public utilities, and shall be built to the same standards as public streets.

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(F) *Public utilities.* All unplatted one-family residential developments shall be served by approved water, septic systems, storm sewer and detention/retention systems, at the expense of the developer.

(G) *Plan review and approval procedure.* The review and approval of plans for unplatted one-family residential development shall occur in two stages: preliminary plan approval and final plan approval.

(1) *Preliminary plan approval.* Preliminary plans for unplatted one-family residential developments shall be submitted to the Village Council for approval. The Village Council shall have final authority for approval of the preliminary plan. The Village Council's approval shall be effective for a period of one year, during which time the developer is authorized to prepare and submit construction plans for site improvements and utilities, along with the final plan for the unplatted one family residential development.

(2) *Preliminary plan content.* The preliminary plan shall include the street pattern and fully dimensioned residential parcel layout. In order to receive preliminary plan approval the developer must also demonstrate that the proposed development:

- (a) Will be adequately serviced by on-site septic systems;
- (b) Will be adequately serviced by on-site potable water;
- (c) Will be approved by the Newaygo/Oceana County Road Commission;
- (d) Will be approved by the Hesperia Area Fire Chief; and
- (e) Will satisfy any other legitimate governmental interest in a development.

(3) *Final plan approval.* Final plans for unplatted one-family residential developments shall be submitted to the Village Council. The Village Council shall have final authority for approval of final plans, which must occur prior to any construction on the site. Final plans shall consist of fully dimensioned plans of the total property proposed for development, as prepared by a registered civil engineer or land surveyor. Final plans shall indicate the corners of all proposed residential parcels and other points as may be necessary to determine that the potential parcel and building configurations will conform with applicable zoning requirements. Final plans shall be accompanied by the following materials or information:

(a) Construction plans for all utilities and street improvements prepared in accordance with commonly accepted engineering design standards;

(b) The owners/developers certification that the floor plans and elevations of the proposed residential units shall meet any other applicable code requirements;

Unplatted Single-Family Residential Developments

(c) Warranty deeds and easement documents, in recordable form, for all rights-of-way and easements which are to be conveyed to the public in conjunction with implementation of the proposed final plan;

(d) Proof that any conditions attached to preliminary approval of the development have been satisfied; and

(e) Following review and approval of the related elements of the final plan by the Village Council, they shall prepare and submit a detailed summary of any required financial guarantees to ensure the construction of required improvements and the placement of proper property and parcel monuments and markers.

(Prior Code, § 17.101) (Ord. 71, effective 9-6-2001)

CHAPTER 153: ZONING

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GENERAL PROVISIONS

§ 153.001 TITLE.

This chapter shall be known as the “Zoning Chapter of the Village of Hesperia,” and will be referred to herein as “this chapter.”
(Prior Code, § 15.010) (Ord. 33, passed 9-9-1974)

§ 153.002 DEFINITIONS.

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

(B) Words used in the present tense include the future; words in the singular include the plural number and words in the plural number include the singular number; the word **BUILDING** includes the word **STRUCTURE**; the word **SHALL** is mandatory and not directive.

(C) Any word not herein defined shall be construed as defined in the Housing Code of Michigan, Public Act 167 of 1917, being M.C.L.A. §§ 125.401 through 125.543, and amendments thereto.

ACCESSORY BUILDING. A subordinate building or portion of the main building, the use of which is purely incidental to that of the main building.
(Prior Code, § 15.022)

ACCESSORY USE. A use subordinate to the main use on a lot and used for purposes customarily incidental to those of the main use.
(Prior Code, § 15.023)

ALLEY. A public thoroughfare which affords customarily a secondary means of access to abutting property and customarily used for ingress and egress from service entrances.
(Prior Code, § 15.024)

APARTMENT. A room or suite of rooms in a two-family or multiple residence intended or designed for use as a residence by a single family, including bath and culinary accommodations.
(Prior Code, § 15.025)

BUILDING. Any structure (excluding fences) having a roof and/or walls and built for, or capable of, the shelter and enclosure of persons, animals, chattels or property of any kind, including a mobile home as defined herein.
(Prior Code, § 15.026)

BUILDING, HEIGHT OF. The vertical distance from the mean elevation of the finished grade along the front of the building to the highest part of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridges for gable, hip or gambrel roofs.
(Prior Code, § 15.027)

ESSENTIAL SERVICES. The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions, of overhead or underground gas, electrical, steam or water distribution or transmission systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, electric substations and auxiliary buildings, gas regulator buildings and equipment and other similar facilities and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by public utilities or municipal departments or commissions or for the public health or safety or general welfare, but not including any buildings other than those provided for herein, shall be permitted as authorized or regulated by law and other ordinances of the village in any use district, it being the intention hereof to except the erection, construction, alteration and maintenance from the application of this chapter.
(Prior Code, § 15.029)

FAMILY. Any number of persons living together on the premises comprising a single housekeeping unit and related by blood, marriage or adoption, including the domestic employees thereof. Any group of persons not so related but inhabiting as a single housekeeping unit, shall be considered to constitute one **FAMILY** for each five persons, exclusive of domestic employees, contained in that group.
(Prior Code, § 15.030)

Zoning

GARAGE, PRIVATE. A garage used for storage purposes only, and having provision for not more than one car for each 20 feet unit of street frontage.
(Prior Code, § 15.031)

GARAGE, PUBLIC. Any building or premises used for housing or care of motor driven vehicles where the vehicles are equipped for operation, repaired or kept for remuneration, hire or sale.
(Prior Code, § 15.032)

GAS STATION; SERVICE STATION. A space, structure or building for the retail sale or supply of motor fuels, lubricants, air, water and other customary facilities for the installations of commodities in or on motor vehicles, but not including special facilities for pumping, painting and major repairs.
(Prior Code, § 15.033)

HOME OCCUPATION. An occupation for gain or support, commonly involving the performing of a process or the creating of a product, conducted only by members of a family residing on the premises, provided that no article is sold or offered for sale except such as may be produced by members of the immediate family residing on the premises, provided that the product or process is not injurious or obnoxious because of noise or odor to the surrounding neighborhood, and provided further that the ***HOME OCCUPATION*** is not contrary to the spirit and purpose of this chapter. Specifically excluded from this classification of ***HOME OCCUPATION*** is a personal service business such as barbers and beauty shops.
(Prior Code, § 15.034)

HOSPITAL, VETERINARY. A commercial establishment or professional office designed for the purpose of examining, treating and/or housing of one or more animals.
(Prior Code, § 15.035)

HOTEL. A building occupied as the more or less temporary abiding place of individuals, who are lodged with or without meals in which there are more than ten sleeping rooms usually occupied singly and no provision made for cooking in any individual room or apartment.
(Prior Code, § 15.036)

KENNEL. The keeping of four or more dogs and/or cats, at least three months old on a single premises.
(Prior Code, § 15.037)

LIVABLE FLOOR SPACE. The square feet of floor area providing living space in normal residence areas, including kitchen, dining room, living room, bathroom, bedroom and similar living quarter rooms, but excluding any area contained within utility rooms, attached garages, breezeways and enclosed porches.
(Prior Code, § 15.038)

LOT. Land occupied or to be occupied by a building and its accessory building and including open spaces as are required under this chapter, and having its frontage upon a public street.
(Prior Code, § 15.039)

LOT, CORNER. A lot fronting on two or more streets intersecting at an angle of not more than 135 degrees.
(Prior Code, § 15.040)

LOT, INTERIOR. A lot other than a corner lot.
(Prior Code, § 15.041)

LOT LINES. Lines bounding a lot.
(Prior Code, § 15.042)

MEDICAL OFFICE. Offices of physician, surgeon, chiropractor, osteopath, dentist and optometrist.
(Prior Code, § 15.043)

MOBILE HOME. A detached complete single-family dwelling unit with all of the following characteristics:

- (a) Designed for long-term occupancy;
- (b) Containing sleeping accommodations, a flush toilet, tub or shower bath, kitchen facilities, plumbing and electrical systems; and
- (c) Designed to be transported on its own wheels or on flatbed or other trailers or detachable wheels and incorporating a minimum of 400 square feet of floor space.
(Prior Code, § 15.044)

MOTEL. A combination or group of two or more detached or semi-detached permanent dwellings occupying a building site integrally owned and used to furnish overnight transient living accommodations.
(Prior Code, § 15.045)

NONCONFORMING USE. A building or land occupied by a use that does not conform with the use regulations of the district in which it is situated.
(Prior Code, § 15.046)

NURSING HOME. A state licensed home for the care of the aged or infirm.
(Prior Code, § 15.047)

PARKING LOT, COMMERCIAL. An area, other than a street, used for the temporary parking of more than four vehicles and available for public use for compensation.
(Prior Code, § 15.048)

Zoning

PARKING SPACE. An off-street parking space shall be an area of not less than 200 square feet, exclusive of driveways and aisles, of such shape and dimensions and so prepared as to be useable for the parking of a motor vehicle, and so located as to be readily accessible to a public street or alley. No **PARKING SPACE** or portion thereof may extend into the front yard area required in residential zones.

(Prior Code, § 15.049)

PROFESSIONAL OFFICE. The office for the practice of his or her calling by a physician, veterinarian, dentist, oculist, lawyer, accountant, insurance or real estate agent, architect, minister, engineer, musician, teacher, artist, magistrate or similar occupations, but not including the customary home occupations or the personal service businesses such as barber shops and beauty shops, and provided that the facilities of the offices for medical professions shall not include any facilities for the overnight care nor any more than the facilities used for the immediate treatment of patients, and provided that the facilities for a veterinarian shall not include any for the care or treatment of animals.

(Prior Code, § 15.050)

PUBLIC UTILITIES. Any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing under state or municipal regulations, to the public, electricity, gas, steam, communications, telegraph, transportation or water.

(Prior Code, § 15.235) (Ord. 33, passed 9-9-1974)

RESIDENCE, MULTI-FAMILY. A building or portion thereof, used or designed as a residence for three or more families living independently of each other.

(Prior Code, § 15.051)

RESIDENCE, SINGLE-FAMILY. A detached building occupied by but one family and so designed and arranged as to provide living, cooking and sleeping accommodations for one family only.

(Prior Code, § 15.052)

RESIDENCE, TWO-FAMILY. A building occupied by but two families and so designed and arranged as to provide living, cooking and sleeping accommodations for two families only.

(Prior Code, § 15.053)

ROOMING HOUSE. A building other than a hotel, where lodging or lodging and meals are served for compensation to five or more persons residing therein.

(Prior Code, § 15.054)

SETBACK. The minimum horizontal distance between the front line of the building, excluding steps and uncovered porches and the street line.

(Prior Code, § 15.055)

SIGN. Any structure or part thereof on which is lettered, pictured or displayed matter the chief purpose of which is for advertising. This shall include window or display cards and lettered window area, whether fixed or movable.

(Prior Code, § 15.056)

STABLE, PUBLIC. A stable in which horses are kept for hire or sale, or which has a capacity of housing more than three horses.
(Prior Code, § 15.057)

STORY. The portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor to the ceiling next above it.
(Prior Code, § 15.058)

STORY, HALF. The portion of a building between the eaves and the ridge lines of a pitched roof, which may or may not be used for tenant purposes.
(Prior Code, § 15.059)

STREET. A public or private thoroughfare which affords the principal means of access to abutting property.
(Prior Code, § 15.060)

STRUCTURAL ALTERATION. Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, excepting these alterations as may be required for the safety of the building.
(Prior Code, § 15.062)

STRUCTURE. Anything constructed, erected or moved on a premises, the use of which requires more or less permanent location on the ground or attached to something having more or less permanent location on the ground.
(Prior Code, § 15.061)

TRAILER COACH. Any house car, house trailer, trailer home, mobile home, travel trailer, camp car, automobile trailer or similar vehicle having no foundation other than wheels, blocks, skids, jacks, horses or skirtings, and which is, has been, or reasonably may be equipped with wheels or other devices to permit its being used as a conveyance upon the public streets or highways, whether self-propelled or otherwise, and duly licensable as such.
(Prior Code, § 15.063)

TRAVEL TRAILER. A vehicular portable structure designed as a temporary dwelling for travel and recreational uses with or without tents or tent trailers.
(Prior Code, § 15.064)

VILLAGE OFFICER. The village official designated by the Village Council to fulfill the duties outlined in this chapter.
(Prior Code, § 15.028)

Zoning

YARD. A space open to the sky and unoccupied or unobstructed by any portion of a building, including overhanging eaves, on the same parcel with a building or structure. Yard measurements shall be the minimum horizontal distances.

(Prior Code, § 15.065)

YARD, FRONT. An open space extending the full width of the lot between the front lot line and the nearest point of the main building, excluding steps and uncovered porches.

(Prior Code, § 15.066)

YARD, REAR. The depth of the rear yard shall be measured between the rear line of the lot, and the rear line of the building, excluding steps and uncovered porches.

(Prior Code, § 15.067)

YARD, SIDE. An open unoccupied space on the same lot with the main building, situated between the side line of the building and the adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard, excluding steps and uncovered porches. If there be no front yard, the front boundary of the **SIDE YARD** shall be the front line of the lot, and if there be no rear yard, the rear boundary of the **SIDE YARD** shall be the rear line of the lot.

(Prior Code, § 15.068)

ZONE. A section of the village for which the regulations governing the height, area, use, structure or size of buildings and premises are the same.

(Prior Code, § 15.069) (Ord. 33, passed 9-9-1974)

DISTRICTS

§ 153.015 DISTRICTS ESTABLISHED.

For the purposes of this chapter the village is divided into three areas or districts with subdivisions as follows:

- (A) 1A Residence;
- (B) 1B Residence;
- (C) 1C Residence;
- (D) 2A Business;

(E) 2B Business; and

(F) 3A Industry.

(Prior Code, § 15.091) (Ord. 33, passed 9-9-1974)

§ 153.016 DISTRICT BOUNDARIES; ZONING MAP.

The boundaries of each district are indicated upon the zoning map which is hereto attached and made a part of this chapter as Appendix A. The map and all notations, references and other information shown thereon shall be as much a part of this chapter as if fully described herein.

(Prior Code, § 15.092) (Ord. 33, passed 9-9-1974)

§ 153.017 DISTRICTS GENERALLY.

Except as hereinafter provided:

(A) *Permitted uses.* No building shall be erected, reconstructed or structurally altered, nor shall any building or land be used for any purpose other than is permitted in the district in which the building or land is located.

(B) *Building height.* No building shall be erected, reconstructed or structurally altered to exceed the height limit herein established for the district in which the building is located.

(C) *Lot area.* No lot area shall be so reduced or diminished that the yards or other open spaces shall be smaller than prescribed by this chapter; no yard or open space provided about any building for the purpose of complying with the provision of this chapter shall be considered as providing a yard or open space for any other building; and no yard or open space on adjoining premises shall be considered as providing a yard or open space on a lot whereon a building is to be erected.

(Prior Code, § 15.093) (Ord. 33, passed 9-9-1974)

RESIDENCE DISTRICT 1A REGULATIONS

§ 153.030 DESCRIPTION OF DISTRICT.

Residence District 1A shall comprise those residential areas of the village as shown on the zoning map.

(Prior Code, § 15.111) (Ord. 33, passed 9-9-1974)

Cross-reference:

Zoning map, see Appendix A

Zoning

§ 153.031 PERMITTED USES.

In Residence District 1A no building or land shall be used and no building shall be hereafter erected or structurally altered, unless otherwise provided in this chapter, except for the following uses:

- (A) One-family dwellings containing not less than 1,200 square feet of floor space;
- (B) Churches;
- (C) Schools and institutions of an educational nature;
- (D) Museums, art galleries, libraries, public parks and playgrounds;
- (E) Hospitals and clinics and other than institutions for the care of the insane or feeble-minded;

(F) Accessory buildings except one private garage shall be located not less than 50 feet from the front line of the lot and not less than six feet from any other lot line; provided however, that neither a private garage nor private stable shall be less than the building line on the side street, except that a garage may be located on the side street line where the lot abuts a lot in a business district; and

(G) Uses customarily incidental to any of the above uses when located on the same lot and not involving the conduct of a business. This shall be understood to include the professional office or studio of a doctor, dentist, teacher, artist, architect, engineer, lawyer, musician, magistrate, masseur or practitioner of a similar character, or rooms used for home occupations, including dressmaking, millinery or similar handicrafts, provided the office, studio or occupational rooms are located in the dwelling in which the practitioner resides, and provided further, no goods are publicly displayed on the premises and no sign or advertisement is shown thereon other than a sign not to exceed two square feet, bearing the name and occupation, in words only of the practitioner, except a sign for the sale or lease may be displayed on one lot not to exceed six square feet.

(Prior Code, § 15.112) (Ord. 33, passed 9-9-1974; Ord. 2012-10, passed 8-13-2012)

§ 153.032 HEIGHT REGULATIONS.

No building or structure or part thereof shall be erected or altered to a height exceeding two and one-half stories or 35 feet, except that permitted nonresidential structures may exceed this limit by one foot for each foot in excess of 12 feet that the building sets back from all property lines.

(Prior Code, § 15.113) (Ord. 33, passed 9-9-1974)

§ 153.033 AREA REGULATIONS.

The minimum dimensions of yard and the minimum lot area per family shall be as follows.

(A) *Lot area per family.* Every family dwelling hereafter erected or altered shall provide a lot area of not less than 6,000 square feet. This regulation shall not apply to lots already platted and recorded at the effective date of this chapter.

(B) *Setback.* There shall be a building setback line of not less than 20 feet; provided, however, that when the majority of buildings capable of being built on one side of a street between two intersecting streets at the time of the adoption of this chapter have been built, no building hereafter erected or altered on that side of the street shall project beyond the minimum setback line thus established by the building already in existence; provided that no building shall be required by this chapter to set back more than 40 feet in any case; and provided further that this regulation shall not be interpreted as to reduce the buildable width of a corner lot facing on an intersecting street and which is separated and distinct from adjacent lot and is included in a plat or deed of record at the time of the adoption of this chapter.

(C) *Yard, rear.* There shall be a rear yard having a depth of not less than 20 feet for all dwellings and buildings in this district.

(D) *Yard, side.* There shall be a side yard on each side of the lot of not less than six feet in width. (Prior Code, § 15.114) (Ord. 33, passed 9-9-1974)

§ 153.034 BUSINESS LOTS.

All lots platted as business lots shall be used and occupied solely for the uses permitted in this district. To accomplish this requirement where the width of any lot is less than 40 feet, it shall be combined with an adjoining or a number of adjoining lots as shall be required to make the total frontage width thereof to be not less than 60 feet.

(Prior Code, § 15.115) (Ord. 33, passed 9-9-1974)

§ 153.035 SPECIAL PERMITTED USES.

Subject to approval by the Village Council, the following uses may be allowed within the 1A Residential District:

(A) Bed and breakfast facilities;

(B) Child care facilities;

(C) Foster care facilities; and

(D) Any other permitted use under the guideline of this chapter.

(Prior Code, § 15.116) (Ord. 33, passed 9-9-1974)

Zoning

RESIDENCE DISTRICT 1B REGULATIONS

§ 153.050 DESCRIPTION OF DISTRICT.

Residence District 1B shall comprise those residential areas of the village as shown in the zoning map.

(Prior Code, § 15.131) (Ord. 33, passed 9-9-1974)

Cross-reference:

Zoning map, see Appendix A

§ 153.051 PERMITTED USES.

In Residence District 1B, no building or land shall be used and no building shall be hereafter erected or structurally altered unless otherwise provided in this chapter, except for the following uses:

(A) One-family dwellings containing not less than 480 square feet of floor space; and

(B) Any use permitted in Residence District 1A.

(Prior Code, § 15.132) (Ord. 33, passed 9-9-1974)

§ 153.052 HEIGHT REGULATIONS.

No building or structure or part thereof shall be erected or altered to a height exceeding two and one-half stories or 35 feet, except that permitted nonresidential structures may exceed this limit by one foot for each foot in excess of 12 feet that the building sets back from all property lines.

(Prior Code, § 15.133) (Ord. 33, passed 9-9-1974)

§ 153.053 AREA REGULATIONS.

In the residence district the minimum dimensions of yards and the minimum lot area per family shall be as follows.

(A) *Lot area per family.* Every family dwelling hereafter erected or altered in the residence district shall provide a lot area of not less than 5,500 square feet. This regulation shall not apply to lots already platted and recorded at the effective date of this chapter.

(B) *Setback.* There shall be a building setback line of not less than 16 feet; provided, however, that when the majority of buildings built on one side of a street between two intersecting streets at the time of the adoption of this chapter have been built, no building hereafter erected or altered on that side of the street shall project beyond the minimum setback line thus established by the buildings already in

existence; provided, that no building shall be required by this chapter to be set back more than 40 feet in any case; and provided further that this regulation shall not be interpreted as to reduce the buildable width of a corner lot facing on an intersecting street and which is separate and distinct from adjacent lots and is included in a plat or deed of record at the time of the adoption of this chapter.

(C) *Yard, rear.* There shall be a rear yard having a depth of not less than 16 feet for all dwellings and buildings in the district.

(D) *Yard, side.* There shall be a side yard on each side of the lot of not less than three feet in width.

(Prior Code, § 15.134) (Ord. 33, passed 9-9-1974)

§ 153.054 BUSINESS LOTS.

All lots platted as business lots shall be used and occupied solely for the uses permitted in this district.

(Prior Code, § 15.135) (Ord. 33, passed 9-9-1974)

TWO-FAMILY OR INCOME BUNGALOW RESIDENCE DISTRICT 1C

§ 153.065 PERMITTED USES.

All uses permitted in Residence District 1A and Residence District 1B shall be permitted in Residence District 1C. Dwellings and income bungalows designed for occupancy by not more than two families shall be permitted. Provided, however, that the buildings shall have the general appearance of a single-family residence except that two porches may be permitted. Provided, further, that apartment houses and multiple dwellings shall be permitted in those 1C Districts which face on Districts 2A, 2B or 3A.

(Prior Code, § 15.151) (Ord. 33, passed 9-9-1974)

§ 153.066 HEIGHT, BUILDING LINE AND YARD REGULATIONS.

All buildings erected or altered in Residence District 1C shall conform to the requirements as to heights, building lines and yards on lots having a frontage of 40 feet or more shall conform to requirements of §§ 153.030 through 153.035 and in the case of lots having a frontage of less than 40 feet, the same shall conform to the requirements of §§ 153.050 through 153.054.

(Prior Code, § 15.152) (Ord. 33, passed 9-9-1974)

Zoning

§ 153.067 FLOOR AND LOT AREA.

No building shall be erected or altered in this district which provides less than 576 square feet of floor area per family, exclusive of floor space below first floor. There shall be provided in this district not less than 4,356 square feet of lot area per family.
(Prior Code, § 15.153) (Ord. 33, passed 9-9-1974)

§ 153.068 ADDITIONAL USE.

The 1C District shall permit the additional use as follows: a mobile home as defined in § 153.002.
(Prior Code, § 15.154) (Ord. 33, passed 9-9-1974)

BUSINESS DISTRICTS 2A AND 2B

§ 153.080 PERMITTED USES.

All uses permitted in Residence District 1A and in Residence District 1B shall be permitted in each business district herein established. In the several business districts herein established, no building or land shall be used, and no building shall be hereafter erected or structurally altered, except as otherwise provided in this chapter, except for the following uses.

(A) Business District 2A.

- (1) Apartment houses and multiple dwellings;
- (2) Banks;
- (3) Barber shops and beauty parlors;
- (4) Catering establishments;
- (5) Millinery and tailoring establishments;
- (6) Gasoline and service stations;
- (7) Office buildings;
- (8) Office and showroom of plumber, electrician, decorator or similar trades;
- (9) Photographic galleries;

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- (10) Post office;
- (11) Public utility buildings without storage facilities or repair shops;
- (12) Restaurants and bakeries having retail sales rooms in connection with bakeries;
- (13) Auto show rooms or auto accessory sales having repair shops at the rear in connection with show room or sales room;
- (14) Mortuaries;
- (15) Stores and shops for conducting retail business, with covered storage; and
- (16) Theaters.

(B) Business District 2B.

- (1) All uses permitted in Districts 1A and 1B;
 - (2) Apartment houses and multiple dwellings;
 - (3) Banks;
 - (4) Professional buildings;
 - (5) Motels; and
 - (6) Mortuaries.
- (Prior Code, § 15.171) (Ord. 33, passed 9-9-1974)

§ 153.081 PROHIBITED USES IN BUSINESS DISTRICTS.

Prohibited uses in business districts are any process or activity resulting in the emission of odor, fumes, smoke, dust, excess noise or vibration or of a character generally detrimental and disturbing to the district as a whole.

(Prior Code, § 15.172) (Ord. 33, passed 9-9-1974)

§ 153.082 AREA AND BULK IN BUSINESS DISTRICTS.

No building shall be erected in 2A and 2B Districts or areas containing less than 600 square feet of floor space for each story thereof.

(Prior Code, § 15.173) (Ord. 33, passed 9-9-1974)

Zoning

§ 153.083 USES NOT SPECIFICALLY MENTIONED.

Uses not specifically permitted or prohibited in the various districts must be approved in writing by the Board of Appeals of the Village Council.
(Prior Code, § 15.174) (Ord. 33, passed 9-9-1974)

§ 153.084 HEIGHT REGULATIONS.

(A) Every building hereafter erected or structurally altered to exceed 50 feet in height shall, above that height, be set back from the front line on the ratio of one foot for each two feet rise above 50 feet in height.

(B) No building used in any part for dwelling purposes shall hereafter be erected or structurally altered to exceed three stories in height.

(C) Where lots comprising more than one-half of the frontage on one side of a block are zoned residence and the lots comprising the remainder of the frontage are zoned business, the height regulations for the residence district shall apply to the lots zoned for business.
(Prior Code, § 15.175) (Ord. 33, passed 9-9-1974)

§ 153.085 AREA REGULATIONS.

All buildings in the business district may be built on the front property line; provided, however, that:

(A) *Residential purposes.* Property in this district used exclusively for residence purposes shall comply with the height and area regulations of the residence district;

(B) *Side yards.* In the business district, no side yard shall be required except as follows:

(1) Where a building is erected for mixed use, namely, for both dwelling and business purposes; each story of the building used in any part for dwelling purposes shall, if more than two rooms in depth, be provided with two side yards, one on each side of the building, neither of which shall be less than eight feet in width. Provided, however, that this regulation shall not apply to the street side of a corner lot;

(2) Where a lot abuts upon the side of a lot zoned residence there shall be a side yard of not less than five feet in width; and

(3) Every side yard that is provided, where not required by these regulations, shall be not less than three feet in width.

(C) *Rear yards.* On every lot in the business district there shall be less than 20% of the depth of the lot; provided, however, that the depth of the rear yard need not exceed 25 feet for an interior lot, or 15 feet for a corner lot. On every lot in the business district, which lot has, before the passage of this chapter or any amendment thereto, been platted as residential or zoned as a residential district there shall be a rear lot building setback line of not less than 20 feet from the rear lot line. (Prior Code, § 15.176) (Ord. 33, passed 9-9-1974)

INDUSTRIAL DISTRICT 3A REGULATIONS

§ 153.100 USE REGULATIONS.

In the industrial district, buildings and land may be used for any purpose whatsoever not in conflict with any ordinance of the village. Provided, however, that no building or occupancy permit shall be issued for any of the following uses until and unless the location of the use shall have been approved by the Village Council:

- (A) Abattoirs;
- (B) Acid manufacturing;
- (C) Blast furnace;
- (D) Crematory;
- (E) Distillation of bones, coal or wood;
- (F) Fireworks or explosives;
- (G) Fat rendering;
- (H) Glue sizing or gelatin manufacturing;
- (I) Incineration of garbage, dead animals or refuse;
- (J) Junk yard, vehicle or machinery disassembly yard;
- (K) Paint, oil, shellac, turpentine or varnish works;
- (L) Petroleum refining;
- (M) Rubber or gutta percha manufacture or treatment;

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(N) Soap manufacture;

(O) Smelters;

(P) Stockyards and slaughter houses;

(Q) Tar distillation or manufacture; and

(R) In general those uses which have been declared a nuisance in any court of record or which may be noxious or offensive by reason of odor, dust, gas, smoke or noise.
(Prior Code, § 15.191) (Ord. 33, passed 9-9-1974)

§ 153.101 HEIGHT REGULATIONS.

In the industrial district, no buildings shall be hereinafter erected or structurally altered to exceed 75 feet in height, and provided further that no building or part thereof located within 50 feet of a residence district lot or a business district lot shall exceed 50 feet in height and provided further that no building used in any part for dwelling purposes shall hereafter be erected or structurally altered to exceed three stories in height.

(Prior Code, § 15.192) (Ord. 33, passed 9-9-1974)

§ 153.102 AREA REGULATIONS.

In the industrial district, neither rear yards nor side yards shall be required except as follows.

(A) Buildings erected for dwelling purposes exclusively shall comply with the rear yard and side yard regulations for the residence district.

(B) Buildings erected or altered for dwelling purposes shall provide a lot area of not less than 6,000 square feet and the lot shall have not less than 60 feet frontage along a public street; provided, however, that in dwellings housing more than two families, there shall be an additional 600 square feet of lot area per family. This regulation shall not apply where the owner of a lot already platted and recorded at the effective date of this chapter does not own a sufficient amount of adjacent land to permit compliance with this section.

(C) Buildings erected for mixed use, namely for both dwelling and business purposes, shall comply with the rear and side yard regulations prescribed for the buildings in the business district.

(D) No buildings or use which is excluded from the business district shall be permitted within ten feet of any residence district lot.

(E) Every rear yard and every side yard that is provided where not required by these regulations shall be not less than six feet in width.

(Prior Code, § 15.193) (Ord. 33, passed 9-9-1974)

NONCONFORMING USES

§ 153.115 NONCONFORMING USE REGULATIONS.

(A) The lawful use of a building or premises existing at the time of the adoption of this chapter may be continued although the use does not conform with the provisions of this chapter and the building may be reconstructed or structurally altered and the nonconforming use therein changed subject to the following regulations.

(1) The order of classification of uses from highest to lowest for the purpose of this section shall be as follows:

(a) Residence district uses;

(b) Business district uses; and

(c) Industrial district uses, as permitted under §§ 153.100 through 153.102.

(2) A nonconforming use may be changed to a use of a higher classification but not to a use of a lower classification, nor shall a nonconforming use be changed to another use of the same classification unless the new use shall be deemed by the Village Council, after public notice and hearing, to be no more harmful to the surrounding neighborhood, from the standpoint of the purposes of this chapter, than the existing nonconforming use.

(3) A nonconforming use may not be extended, but the extension of a use to any portion of a building, which portion is at the time of the adoption of this chapter primarily arranged or designed for the nonconforming use, shall not be deemed to be an extension of a nonconforming use.

(4) The structural alterations made in a nonconforming building shall not during its life exceed 60% of its assessed value, nor shall the building be enlarged, unless the use therein is changed to a conforming use. Provided however, that a nonconforming building, damaged by fire, explosion, tornado, earthquake or similar uncontrollable cause to an extent of not more than 50% of its value may be repaired or rebuilt within one year of the date of the damage, but not thereafter.

(5) If a nonconforming use is discontinued, any further use of the building and premises shall be in conformity with the provisions of this chapter. An interim, not exceeding 90 days, however, between tenants or occupants, shall not be construed to mean discontinuance.

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(B) The foregoing provisions of this section shall also apply to nonconforming uses in districts hereafter changed.

(Prior Code, § 15.211) (Ord. 33, passed 9-9-1974)

GENERAL USE REGULATIONS

§ 153.130 ZONING OF NEW ADDITIONS.

All new additions or enlargements of the site are hereby zoned in the residence district until zoned by the Village Council.

(Prior Code, § 15.231) (Ord. 33, passed 9-9-1974)

§ 153.131 GASOLINE FILLING STATIONS.

(A) No permit shall be granted for any gasoline filling station within 200 feet of any public library, public or private school, playground, park, church, hospital, children's aid or old people's home, or any other place of public assembly having a seating capacity of 100 people or more except in case of an intervening street. Where a street intervenes between the gasoline filling station and any library, school and the like, no permit shall be granted for a gasoline filling station within 150 feet from the library, school and the like, nor shall a permit be granted in any case for any location where by reason of traffic conditions or fire or explosion hazard a filling station would imperil the public safety.

(B) In case of a library, school, church, hospital, children's aid or old people's home or any other place of public assembly, the measurements shall be from the nearest pump or tank to the front entrance or to the nearest portion of the auditorium or room in which the public is gathered. In the case of a park or playground, the measurements shall be from the nearest pump or tank to any regular entrance of the park or playground; provided, however, that the foregoing description shall not be construed to include small local parks not designated or used as public assembly grounds.

(Prior Code, § 15.232) (Ord. 33, passed 9-9-1974)

§ 153.132 PARKING FACILITIES.

Outdoor facilities for the storage of self-propelled passenger vehicles for the use of persons employed in any building in the industrial district shall be provided and maintained by the owners of those buildings. These storage facilities shall provide at least 200 square feet of accessible storage space for every four persons employed in the building.

(Prior Code, § 15.233) (Ord. 33, passed 9-9-1974)

§ 153.133 MOVING OF BUILDINGS; MOBILE HOMES LOCATED OUTSIDE MOBILE HOME PARKS OR DISTRICTS.

(A) *Generally.* No preexisting home, building or structure shall be moved into the village from a point outside the village limits, to some other different location, and no home, building or structure shall be moved unless and until the mover of the home, building or structure submits a site plan for review to the Building and Zoning Administrator's office, which shows the approximate location of the home, building or structure on the new, proposed location, and secures the following necessary permits from the Building and Zoning Administrator.

(B) *Determinations before approving moving of building.* The Building and Zoning Administrator shall issue its permit approving the transfer after having made the following determinations:

(1) The adequate on-site facilities exist, such as water, gas, sewer and electricity, and that the utilities are available and will be installed or otherwise be operable within six months of the transfer of the house, building or structure to its new location and, in any event, prior to occupation;

(2) Prior to the moving of the house, building or structure, and after inspection, the house, building or structure will comply or will be brought into compliance with the village's Building Code then in existence and the provisions of this chapter;

(3) Any necessary repairs needed to ensure compliance with the applicable Building Code will be completed within six months after issuance of the permit;

(4) The owner has posted and filed a performance bond of cash, certified bank check, cashier's check or an insurance company bond with the office of the Building and Zoning Administrator in a reasonable amount, but no less than 50% of the assessed valuation of the property upon which the house, building or structure is to be located, with a maximum of \$1,000;

(5) After review of the proposed site plan, it is determined that the house, building or structure will comply with all applicable village zoning regulations; and

(6) The home, building or structure will comply with all the pertinent local, state and federal laws, ordinances and regulations regarding zoning, construction or installation in effect at the time of application.

(C) *Mobile homes located outside mobile home parks or districts.* In addition to any other provisions contained in this section, the owners of mobile homes who desire to locate their homes in residential areas outside mobile home parks or districts in which mobile homes are not otherwise permitted, must satisfy all of the following standards:

(1) Meet all construction standards of the United States Department of Housing and Urban Development mobile home construction safety standards, in effect at the time of application;

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(2) The basic mobile home must meet any interior square-foot minimum floor space area requirements of this chapter, and, where there are more than two bedrooms, have an additional 150 square feet for each room over the minimum;

(3) Provide storage space not less than 15% of the interior living space of the dwelling, exclusive of auto storage, in a basement, attic or separate enclosed structure of equal or better quality construction of the main structure;

(4) The interior shall have a minimum floor-to-ceiling height of seven and one-half feet in rooms and seven feet in aisles;

(5) The structure shall have a width which is the lesser of:

(a) Twenty-four feet;

(b) The average width of the homes on the same street within 300 feet in either direction;
or

(c) If in the event there are no homes within 300 feet in either direction.

(6) The dwelling shall be placed on the same foundation as required for on-site-built homes constructed around the entire perimeter of the dwelling;

(7) All wheels, towing mechanisms or undercarriages shall be removed;

(8) The roof shall have the same load rating of conventional site-built homes;

(9) The dwelling shall contain front and side, or front and rear doors, with permanent porch steps if the difference in ground and entrance requires the same;

(10) Any additions or extensions shall be constructed according to all requirements of the Village Building Code;

(11) The structure shall comply with all the provisions of the Fire Code and the zoning regulations in effect in the village; and

(12) All effective requirements for the installation of mobile homes in mobile home parks as adopted by the State Mobile Home Park Commission, except as the same may conflict with the provisions of this section, shall be observed.

(D) *Permit approving moving of building.* The Building and Zoning Administrator shall issue its permit approving the moving of a house, building or structure, as herein provided, after having made the following determinations:

(1) A certain time has been specified during which the move will take place;

(2) The streets which will be used in the process of moving the house, building or structure have been specified and their use approved;

(3) The owner has secured all necessary approval and has made all necessary arrangements for the alteration or rearrangement of any utilities which may be affected by the proposed route taken by the mover or owner;

(4) Adequate provisions have been made to ensure the safe transportation of the home, building or structure, including the use of escort vehicles as required by the Building and Zoning Administrator, to proceed and to follow the house, building or structure during the actual move; and

(5) Any security required by any affected utility, including electric, telephone and cable television, has been secured and proof of the same is on file with the Police Department.

(E) *Certificate of occupancy; refund of bond.* After receiving the necessary permits, and complying with the requirements herein contained, the Building and Zoning Administrator shall issue a certificate of occupancy and refund or discharge any unused portion of the performance bond. (Prior Code, § 15.236) (Ord. 33, passed 9-9-1974; Ord. 49, effective 5-23-1982)

§ 153.134 SATELLITE RECEIVING ANTENNAS.

(A) *SATELLITE RECEIVING ANTENNAS* shall be defined as a dish antenna, the purpose of which is designed for the use as an earth based station for reception of communication or other signals from orbiting satellites, or other extraterrestrial sources, together with other incidental transmission equipment related to that purpose.

(B) Satellite receiving antennas are permitted in all districts, provided, compliance with the following regulations are met.

(1) No satellite receiving antenna shall be greater than 12 feet in height as measured from ground level unless mounted on a rooftop or on a pole located above the roof's edge; in which case the size would be restricted to six feet.

(2) Satellite receiving antennas shall be erected solely in the rear yard and shall not be closer than ten feet to any side or rear lot line.

(3) The diameter of the satellite receiving antenna shall not be greater than ten feet except as approved by the Zoning Board of Appeals.

(4) A permit to erect a satellite receiving antenna shall be obtained at the village offices. There shall be a \$1 fee to obtain a permit.

(Prior Code, § 15.237) (Ord. 33, passed 9-9-1974; Ord. 54, effective 8-22-1984; Ord. effective 12-9-1985)

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§ 153.135 FENCE REQUIREMENTS - RESIDENTIAL.

(A) Fences offer privacy and enclosure that may be desirable in a residential setting. Fences also have a visual impact on properties and neighborhoods. To ensure that impact is positive, the village regulates fences. These regulations establish standards for fence materials, construction, heights and placement on the property.

(B) Fences may be built up to your property line (which is a shared invisible line between two adjoining properties). Fences may be set back any distance from the lot line.

(C) You will need to determine where your property lines are located. If a survey is not included with your mortgage papers, you may wish to hire a surveyor (listed online or in the Yellow Pages) to determine and mark your lot lines. Placing a fence that goes over a lot line onto your neighbor's property is not allowed; additional expense may be incurred to remedy the situation. The village can tell you where your front or side street lot line is located in relation to the curb or edge of pavement.

(D) A fence may not be built on neighboring property. If you believe your neighbor's fence encroaches onto your property, you may initiate private legal action. The village does not arbitrate these disputes. If you have a concern about a neighborhood fence and would like an inspector to investigate whether the fence was built to code or has the proper permit, call the Hesperia Zoning Department.

(E) *Code requirements.*

(1) *Materials.* Fences must be built with approved fence wire, standard fence wood, vinyl, or metal such as wrought iron. You may not build a fence with scrap lumber, chicken wire, wood pallets, barbed wire, single stranded wire, or other unapproved materials. Fence posts and supports must be installed on the side of the fence that faces your own house or yard (good side toward your neighbor).

(2) *Historic districts.* If you live in a local historic district, a Certificate of Appropriateness is required before a fence permit can be issued.

(3) *Height and location.*

(a) The height allowed for a fence depends on its location on your lot and on the fence style or material. Corner lots present unique challenges. Generally, the narrower street frontage of a corner lot is the front of the lot, no matter which street the house faces. The village also defines a side yard somewhat differently than what you might expect. A side yard is defined as that portion of the lot that is located on each side of your house. It is distinct from the front yard, the back yard, the side street or the rear street. Please refer to the diagram on the back of this page for clarification.

(b) The maximum allowable height for a fence in a front yard is four feet. However, if the fence is constructed with an ornamental material, such as wrought iron with or without masonry or wood

piers, a six foot high fence is allowed provided the fence is at least 50% open. This is also true for side street and rear street fences.

1. The maximum height allowed for a solid fence in the side yard is four feet. A six-foot fence is allowed if the upper two feet is at least 50% open construction, such as lattice or chain link. A side yard fence placed at least ten feet inside the lot line can be a solid fence up to six feet high.

2. The maximum allowable height for any fence in the rear yard is six feet.

3. Opaque, solid or privacy fences built at the intersection of a street and a driveway, alley or another street are limited to a height of three feet. (See Vision Setback Triangle below.)

(4) *Vision setback triangle.*

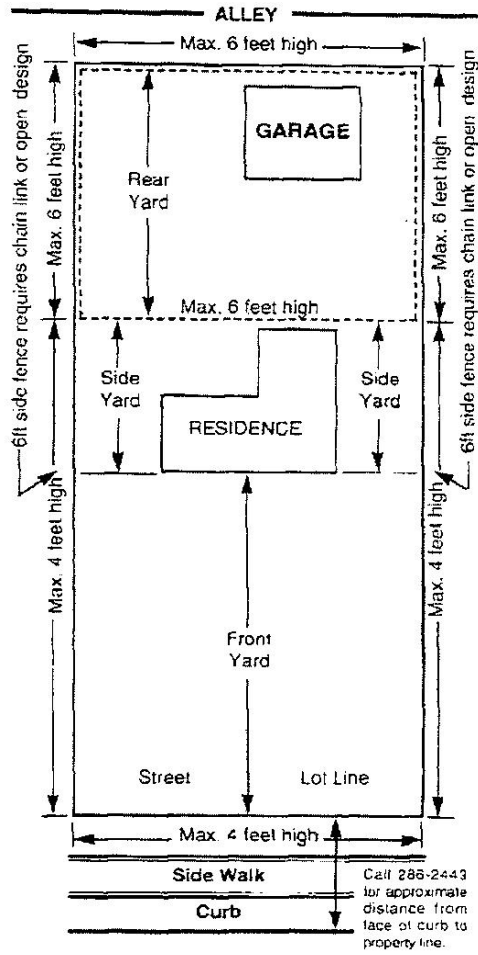
(a) If you wish to build an opaque or solid fence where two streets, an alley and a street, or a driveway and a street intersect, the fence will be limited to a height of three feet within a specific vision setback area, to prevent traffic blind spots and hazards to pedestrians.

(b) The vision setback is formed by connecting two points, a set distance from the intersection, to form a triangle. The two points are measured an equal distance away from the point of intersection, along the drive, walk or curb. The specific distance (ten to 25 feet) depends on your area. Fences, bushes, hedges, signs, trees or other obstructions taller than three feet are prohibited within this triangle.

(5) *Beware of underground cables or pipe.* Call the Miss Dig to determine the location of any buried utilities on your property.

(6) *Permit.* Any person desiring to build or cause to be built a fence upon property within the village shall first apply to the Zoning Department for a permit to do so. You can obtain a fence permit application from the Hesperia Zoning Department or the Village Clerks Office. The cost of a fence permit is \$30. The Hesperia Village Hall is open Monday through Friday.

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(Ord. 2012-1, passed 8-13-2012)

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HEIGHT AND AREA EXCEPTIONS

§ 153.150 EXCEPTIONS AND REGULATIONS.

Height and area requirements shall be subject to the following exceptions and regulations.

(A) Chimneys, towers, tanks, penthouses or necessary mechanical appurtenances may be erected to their required height.

(B) Every part of a required yard or court shall be open from its lowest point to the sky unobstructed, except that open porches, fire escapes, open stairways and chimneys may be permitted by the Village Inspector where same are so placed as not to obstruct light and ventilation.

(C) In computing the depth of a rear yard of any building where a yard opens into an alley or street, one-half of the alley or street may be assumed to be a portion of the yard.
(Prior Code, § 15.261) (Ord. 33, passed 9-9-1974)

BOARD OF APPEALS

§ 153.165 BOARD DESIGNATED.

The Board of Appeals shall be the Village Council.
(Prior Code, § 15.281) (Ord. 33, passed 9-9-1974)

§ 153.166 INSPECTOR.

The Village Council shall appoint an Inspector to serve one year without compensation.
(Prior Code, § 15.282) (Ord. 33, passed 9-9-1974)

§ 153.167 APPEAL.

Appeal from the Inspector concerning the enforcement of the provisions of this chapter may be made to the Village Council within the times as shall be prescribed by the Council, by general rule. The appellant shall file with the Inspector and with the Council a notice of appeal specifying the grounds thereof. The Inspector shall forthwith transmit to the Council all the papers constituting the record upon which the actions appealed from were taken.

(Prior Code, § 15.283) (Ord. 33, passed 9-9-1974)

§ 153.168 STAY.

An appeal stays all proceedings in furtherance of the action, appealed from unless the Inspector, from whom the appeal is taken, certifies to the Council, after the notice of appeal shall have been filed with him or her, that by reason of facts stated in the certificate, a stay would in his or her opinion cause imminent peril to life or property. In which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Circuit Court, on application, on notice to the Inspector from whom the appeal is taken and on due cause shown.

(Prior Code, § 15.284) (Ord. 33, passed 9-9-1974)

§ 153.169 JURISDICTION; HEARING OF A DECISION UPON APPEAL.

The Council shall hear the appeal within 15 days and give due notice thereof to the parties and decide the same within 30 days. At the hearing, any party may appear, in person, or by attorney. The Council may reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from and shall make the order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have powers of the officer from whom the appeal is taken. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this chapter, the Board shall have power in passing upon appeals to vary or modify any of the rules, regulations or provisions, so that the spirit of this chapter shall be observed, public safety secured and substantial justice done. The decision of the Board shall be final so far as it involves discretion or the findings of facts.

(Prior Code, § 15.285) (Ord. 33, passed 9-9-1974)

§ 153.170 VARIANCES.

In addition to the general powers above given, the Board of Appeals shall have the authority, in specific cases after public notice and hearings to authorize by permit a variation of the application of the use, height and area district regulations herein established in harmony with their general purpose and intent as follows:

(A) A temporary building for commerce or industry, in a residence district which is incidental to the residential development, the permit to be issued for a period of not more than one year and which may be renewed for a period not to exceed one year;

(B) The erection and use of a building or an addition to an existing building of a public service corporation or for public or municipal utility purposes, in any location to a greater height or of larger area than the district requirements herein established which the Board shall find reasonably necessary for the public convenience;

(C) A building or use in an industrial district otherwise excluded from the district, provided the building or use is distinctly incidental and essential to a use permitted in an industrial district, and provided that not more than 25% of the employees of the entire plant are engaged therein; and

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(D) To permit a garage, other than a private garage, but for storage purposes only, as an accessory building to a hotel, hospital or similar institution in residence district where it is deemed necessary for the public convenience.

(Prior Code, § 15.286) (Ord. 33, passed 9-9-1974)

ADMINISTRATION

§ 153.185 ADMINISTRATIVE OFFICER.

The Village Inspector or his or her designated representative is hereby authorized and directed to enforce all the provisions of this chapter, and shall for the purposes of this chapter have the powers of a police officer.

(Prior Code, § 15.311) (Ord. 33, passed 9-9-1974)

§ 153.186 BUILDING PERMIT.

No building or structure within the limits of the village shall hereinafter be erected, moved, repaired, altered or razed, nor shall any work start on the building to be erected, moved, repaired or razed until a building permit shall have been obtained from the Village Inspector, nor shall any change be made in the use of a building without a permit having been obtained from the Village Inspector. No permit shall be issued to erect a building or structure, or make any changes of use unless they are in conformity with the provisions of this chapter and amendments hereto, hereinafter duly enacted. Unless construction is started within 90 days, the permit shall become void.

(Prior Code, § 15.312) (Ord. 33, passed 9-9-1974)

§ 153.187 PLATS.

Each application for a building permit shall be accompanied by a plat showing accurate dimensions of the building to be erected, its location on the lot and other information as may be necessary for the enforcement of this chapter. A careful record of the applicants shall be kept in the office of the Village Inspector. No yard, court or other open space provided about any building for the purpose of complying with the provisions of these regulations shall again be used as a yard, court or other open space for another building.

(Prior Code, § 15.313) (Ord. 33, passed 9-9-1974)

§ 153.188 CERTIFICATE OF OCCUPANCY.

(A) No building hereinafter erected, altered or moved shall be occupied until a certificate of occupancy has been issued therefor, nor shall the use or occupancy of any building be changed to a use

or occupancy of a different classification until a certificate of occupancy permitting the new use or occupancy shall have been issued. No certificate of occupancy shall be issued for any building unless all the provisions of this chapter are fully complied with.

(B) Upon written request there shall be issued a certificate of occupancy for any building or land for the use classification as existing on the effective date of this chapter, stating whether the use is a conforming use or a nonconforming use; provided application for the certificate is made within one year after the passage of this chapter.

(Prior Code, § 15.314) (Ord. 33, passed 9-9-1974)

§ 153.189 INTERPRETATION.

(A) In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, safety and general welfare.

(B) Whenever any provision of this chapter imposes requirements for lower heights of buildings, or a less percentage of lot than may be occupied, or requires wider or larger courts, or deeper yards than are imposed or required by existing provisions of law or ordinance, the provisions of this chapter shall govern. Where, however, the provisions of the State Housing Code or any ordinances or regulations of the village impose more strict regulations than are required by this chapter, the provisions of the State Housing Code or other ordinance or regulation shall govern.

(C) It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or land, the provisions of this chapter shall control.

(Prior Code, § 15.315) (Ord. 33, passed 9-9-1974)

§ 153.190 FEES.

<i>Category</i>	<i>Fee</i>
Failure to call for required inspection as noted on permit	Extra \$15 per inspection
Miscellaneous structures	Remodeling and additions under 600 square feet, flat fee of \$20
	Plus \$0.08 per square foot over 600 square feet
Mobile homes	\$20
Modular and prefab homes	50% off new construction fee
New construction	\$0.07 per square foot on first 1,200 square feet
	\$0.02 per square foot over 1,200 square feet

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<i>Category</i>	<i>Fee</i>
Starting construction without a permit	Double fee
The fees collected for building permits shall be paid to and retained by the appointed Building Inspector.	

(Prior Code, § 15.316) (Ord. 33, passed 9-9-1974)

BOUNDARIES OF DISTRICTS

§ 153.205 INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the map accompanying and made a part of this chapter in Appendix A, the following rules shall apply.

(A) The district boundaries, unless otherwise shown, are lot lines of record running approximately parallel with the nearest street.

(B) Where the designation on the map accompanying and made a part of this chapter indicates the various districts approximately bounded by a street or alley line, the street or alley shall be construed to be the boundary of the district.

(C) In unsubdivided property, or where the district boundaries are not shown as being with lot lines, streets or alleys or the extension thereof, the district boundary lines shall be construed as being located 100 feet from the nearest street, except that in the event of the boundary passing between two streets running approximately parallel and less than 200 feet apart, the boundary is located midway between the two streets.

(Prior Code, § 15.331) (Ord. 33, passed 9-9-1974)

CHANGES AND AMENDMENTS

§ 153.220 PUBLIC HEARING; PROTEST.

(A) The Village Council may, by ordinance, amend, supplement or change this chapter. Any proposed amendment or supplement or change shall first be submitted to the Planning Commission for its recommendation and report.

(B) A public hearing shall be held by the Village Council before adoption of any proposed amendment, supplement or change, notice of which hearing shall be given by publication at least once in the official newspaper, stating the time and place of the hearing not less than 15 days from date of the

hearing, and that not less than 15 day's notice of the time and place of the public hearing shall first be given by registered United States mail to each public utility company and to each railroad company owning or operating any public utility or railroad within the districts or zones affected. If a protest against any proposed amendment, supplement or change be presented in writing to the Village Clerk duly signed by the owners of 20% or more of the frontage proposed to be altered or by the owners of 20% or more of the frontage immediately in the rear thereof, or by the owners of 20% of the frontage directly opposite the frontage proposed to be altered, the amendment shall not be passed except by the three-fourths vote of the legislative body.

(Prior Code, § 15.351) (Ord. 33, passed 9-9-1974)

ENFORCEMENT

§ 153.235 NUISANCE; ABATEMENT.

(A) Buildings erected, altered, razed or converted, or uses carried on in violation of any provisions of this chapter are hereby declared to be a nuisance.

(B) The court shall order the nuisance abated and the owner and/or agent in charge of the building or land shall be adjudged guilty of maintaining a nuisance.

(Prior Code, § 15.371) (Ord. 33, passed 9-9-1974)

§ 153.236 VESTED RIGHT.

It is hereby expressly declared that nothing in this chapter shall be held or construed to give or grant to any person, firm or corporation any vested interest, right, license, privilege or permit.

(Prior Code, § 15.400) (Ord. 33, passed 9-9-1974)

§ 153.999 PENALTY.

Any person, firm or corporation who violates the enforcement of any of the provisions of this chapter shall upon conviction, be fined not less than \$50 nor more than \$100 for each offense, together with the costs of prosecution or civil suit as set by a court of competent jurisdiction and in default of payment of a fine and costs of prosecution, shall be imprisoned until the fine and forfeiture are paid, but not to exceed 30 days. Each day that a violation continues to exist shall constitute a separate offense.

(Prior Code, § 15.372) (Ord. 33, passed 9-9-1974)

Zoning Map

APPENDIX A: ZONING MAP

[The Zoning Map follows this chapter]

TABLE OF SPECIAL ORDINANCES

Table

I. BONDS

II. FRANCHISES

TABLE I: BONDS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
62	6-8-1990	Issuance and sale of revenue bonds to provide for the construction, installation, furnishing and equipping of an above-ground storage tank and related improvements for the water supply system of the village.

TABLE II: FRANCHISES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
32	9-9-1974	Granting a franchise to Michigan Consolidated Gas Company to lay, maintain, operate and use gas pipes, mains, conductors, service pipes and other necessary equipment in the highways, streets, alleys and other public places in the village for a period of 30 years.
50	9-13-1982	Granting a franchise to Cable Vision, Inc. to establish a community antenna television system in the village for a period of 15 years.
0709	7-13-2009	Granting to Consumers Energy Company the right, power and authority to construct, maintain and commercially use electric lines on, under, along and across highways, streets, alleys, bridges, waterways and other public places to do local electric business in the village for a period of 30 years.
2010-05	6-14-2010	Repealing Ord. 19 and permitting Michigan Consolidated Gas Company to operate a gas transportation and distribution business within the village for a period of 30 years.

PARALLEL REFERENCES

References to Michigan Compiled Laws Annotated
References to Prior Code
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REFERENCES TO MICHIGAN COMPILED LAWS ANNOTATED

<i>M.C.L.A. Section</i>	<i>Code Section</i>
15.231 through 15.246	112.04, 112.17
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–	12-9-1974	90.04

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26	effective 2-4-1980	50.002, 50.015, 50.030—50.039, 50.050—50.055, 50.070, 50.071, 50.085—50.090
25	effective 2-13-1980	50.105, 50.120—50.124, 50.135— 50.138, 50.150—50.162, 50.175— 50.185, 50.200—50.207, 50.220, 50.221, 50.235, 50.250—50.252, 50.999
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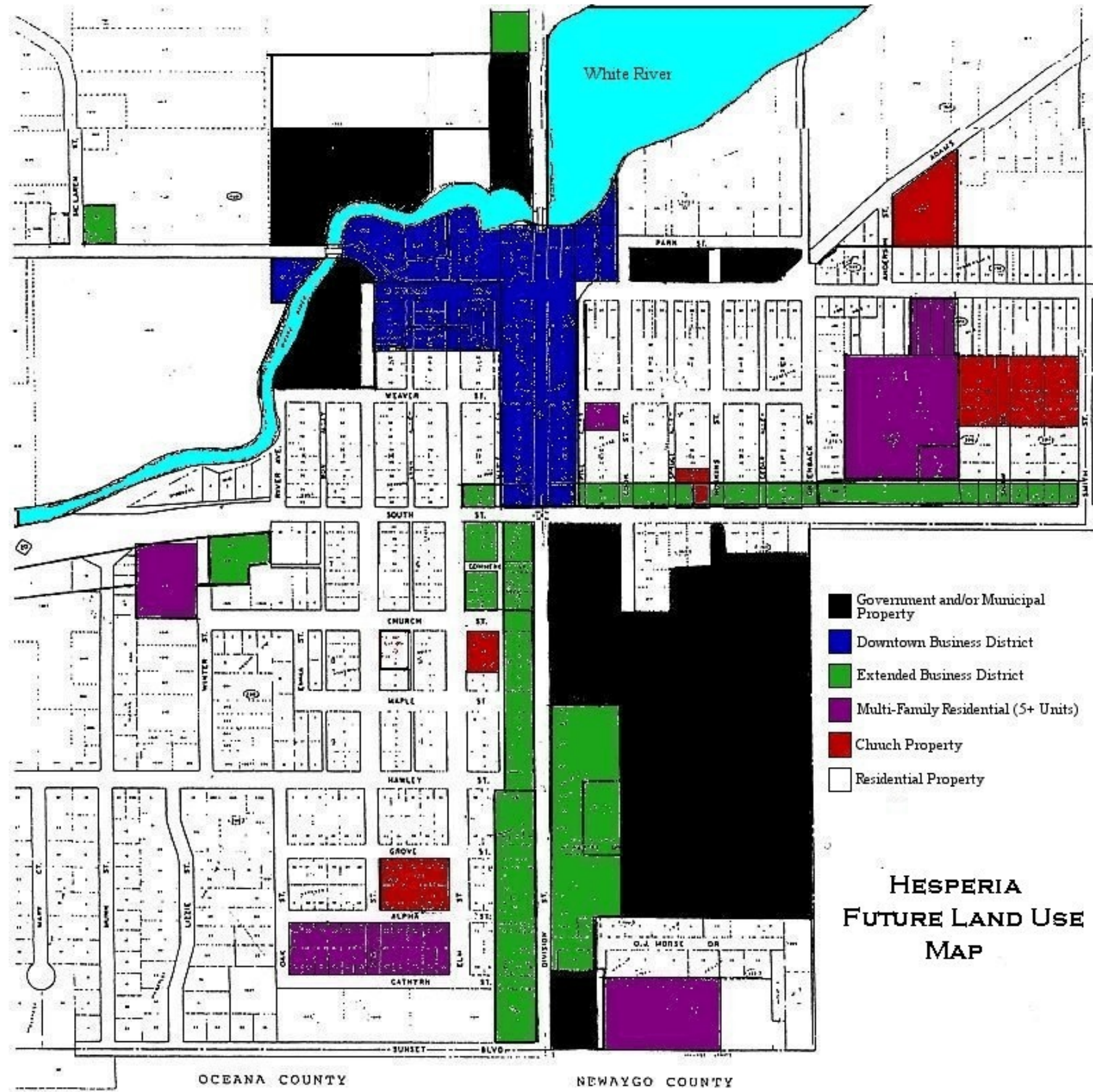
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**HESPERIA
FUTURE LAND USE
MAP**