# CODE

## OF

# LAKE ORION

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Published in 2026 by Order of the Village Council

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OFFICIALS

of the

VILLAGE OF

LAKE ORION, MICHIGAN

AT THE TIME OF THIS RECODIFICATION

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Stan Ford, President Pro-Tem
Alex Comparoni Jr.
George Dandalides
Michael Lamb
Nancy Moshier
Eric Papacek
*Village Council*

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Darwin D. P. McClary
*Village Manager*

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Sonja Stout
*Village Clerk*

# PREFACE

This Code constitutes a recodification of the general and permanent ordinances of the Village of Lake Orion, Michigan.

Source materials used in the preparation of the Code were the 1996 Code, as updated through November 3, 2020, and ordinances subsequently adopted by the Village Council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 1996 Code, as updated, and any subsequent ordinance included herein.

## *Acknowledgments*

This publication was under the direct supervision of Mary Margaret Niezgoda, Code Attorney, and Howard George, Editor, of CivicPlus, LLC, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

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***Editor's note**—Printed herein is the Charter adopted March 13, 1967, and effective March 31, 1967. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings and punctuation errors have been corrected without notation. The style used for headings and catchlines has been made uniform, and the same system of capitalization and expression of numbers in text as appears in the Code of Ordinances has been used.

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# THE CHARTER OF THE VILLAGE OF LAKE ORION

## COUNTY OF OAKLAND

## STATE OF MICHIGAN

### PREAMBLE

To the end that the people of the Village of Lake Orion may enjoy to the fullest extent the advantages and benefits of local self-government as authorized by the constitution and laws of the State of Michigan, they hereby establish this Charter.

### CHAPTER 1. BOUNDARIES AND SUBDIVISIONS OF THE VILLAGE

**Sec. 1.1. Boundaries.**

The following described territory, together with all territories that may hereafter be annexed thereto, shall continue and remain a body corporate under the official name and title of "Village of Lake Orion," and shall be subject to the municipal control of said Village:

Beginning at the northeast corner of the west one-half of the southwest one-quarter of section one, Township Four North, Range Ten East, Orion Township, Oakland County, Michigan, and running thence westerly along centerline (one-quarter line) of sections one, two and three to the northwest corner of the east one-half of the southeast one-fourth of section three; thence southerly along the easterly north and south one-eighth line of section three to the southwest corner of the northeast one-fourth of the northeast one-fourth of section ten; thence easterly along the south line of the northeast one-quarter of the northeast one-quarter to the section line between sections ten and 11; thence southerly along said section line to the southwest corner of the northwest one-quarter of section 11; thence easterly along the center line (one-quarter lines of sections 11 and 12) to the southeast corner of the west one-half of the northwest one-fourth of section 12; thence northerly along the westerly north and south one-eighth line to the southerly right-of-way line of Atwater Street in Wm. Winter's Subdivision; thence easterly along said right-of-way line to its intersection with the southwesterly right-of-way line of Orion-Rochester Road (so-called); thence northwesterly along said right-of-way line to its intersection with the westerly north and south one-eighth line of section one; thence northerly along said one-eighth line to the point of beginning.

### CHAPTER 2. GENERAL MUNICIPAL POWERS

**Sec. 2.1. Powers of the Village.**

All powers, privileges, and immunities not inconsistent with the provisions of this Charter, possessed by the Village of Lake Orion by virtue of its incorporation as such and enumerated

in Act. No. 3, P.A. 1895, the former Charter of the Village which is hereby superseded, are hereby expressly retained by the Village and shall constitute a part of the police power of the Village even though not expressly enumerated herein. Further, unless otherwise provided or limited in this Charter, the Village of Lake Orion and its officers shall be vested with any and all powers, privileges and immunities, expressed and implied, which villages and their officers are, or hereafter may be, permitted to exercise or to provide for in their charters under the Constitution and laws of the State of Michigan and of the United States of America, including all the powers, privileges, and immunities which villages are permitted to or may provide in their charters by the Michigan Home Rule Act for Villages, being Act. No. 278 of the Public Acts of 1909, as amended, as fully and completely as though those powers, privileges, and immunities were specifically enumerated in and provided for in this Charter, and in no case shall any enumeration of particular powers, privileges, or immunities in this Charter be held to be exclusive, it being the intent of the Charter Commission in framing this Charter, and of the people of the Village in adopting it, to include all such powers, privileges, and immunities within the scope of the powers, privileges, and immunities granted to the Village of Lake Orion by the provisions of this Charter.

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

**Sec. 2.2. Exercise of powers.**

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

**Sec. 2.3. Division of powers of government.**

All of the powers of municipal government possessed by the Village are hereby divided into two general divisions, i.e., legislative or policy forming and administrative. No person or body

belonging to or being part of one such division shall exercise powers imposed by this Charter upon or properly belonging to another. It shall be the duty of every officer of the Village to preserve the two divisions of the Village government distinct and separate.

## CHAPTER 3. GOVERNMENTAL ORGANIZATION

### Sec. 3.1. Village legislative body.

All legislative or policy forming powers of the Village shall be vested in, exercised, and determined by a Council of seven members who shall be designated and known as Councilmen. In all cases where the word "Council" is used in this Charter, the same shall mean and shall he synonymous with the terms "Commission," "common council," "board of aldermen," "governing body," or "legislative body," or any other synonymous term, as the same may be used in any state or federal law in referring to legislative or governing bodies of villages.

### Sec. 3.2. Terms of office.

At each regular Village election there shall be elected by and from the Village at large four Councilmen, the three receiving the highest number of votes shall hold office for two years and the one who shall receive the fourth highest number of votes shall hold office for one year. The term of office of each Councilman shall commence on and date from the Monday next following the date of the regular Village election at which they are elected.

**Editor's note—**The 2004 amendments to the Michigan Election Law take precedence over section 3.2 of the Village Charter. Per those amendments, a Village Council resolution was adopted on November 22, 2004, to provide that the terms of Village Councilmembers be changed from one- and two-year staggered terms to two- and four-year staggered terms, continuing the Charter provision for the election of four Councilmembers at each election, with the three candidates receiving the highest number of votes elected for four-year terms and the candidate receiving the fourth-highest number of votes elected for a two-year term. Any Councilmember terms that expire prior to the next regular Village election shall be extended to the Monday following that election when the new terms shall begin.

### Sec. 3.3. Judge of qualifications of members.

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

### Sec. 3.4. Remuneration of members of the Council.

The President and each Councilman shall receive as remuneration for his service to the Village the sum of $10.00 per regular or special meeting for the Council actually attended by him, but not to exceed in total $360.00 per year, excepting the president shall receive an additional $100.00 annually. Such salaries shall be payable annually, and shall constitute the only salary or remuneration which may be paid for services performed by the President or any

Councilman for the discharge of any official duty for or on behalf of the Village during their term of office. Upon authorization of the Council, reasonable expense may be allowed when actually incurred on behalf of the Village.

**Sec. 3.5. Selection of President and President Pro Tem.**

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

**Sec. 3.6. Duties of President.**

(a) Insofar as required by law, and for all ceremonial purposes, the President shall be recognized as the executive head of the Village and shall preside over Council meetings. He shall have an equal voice and vote in the proceeding of the Council, but shall have no veto power.

(b) He shall be a conservator of the peace, and may exercise within the Village the powers conferred upon sheriffs to suppress disorder, and shall have the power to command the assistance of all able-bodied citizens to aid in the enforcement of the ordinances of the Village, and to suppress riot and disorderly conduct.

(c) He shall authenticate by his signature such instruments as the Council, this Charter, or the laws of the State of Michigan or of the United States shall require.

**Sec. 3.7. Village Manager.**

All administrative powers, duties, and functions of the Village shall be vested in the Village Manager, except as otherwise provided in this Charter. He shall be elected by the Council on the basis of training and ability in work which would qualify him for the position of Village Manager, and shall hold office at the pleasure of the Council. He need not be a resident of the Village at the time of his appointment but shall, unless excused by the Council, become a resident of the Village within 90 days after his appointment and so remain throughout his tenure of office. The Village Manager may, with the approval of the Council, designate an administrative officer or employee of the Village to perform the duties of the Village Manager during his temporary absence or incapacity. The Council shall designate a qualified person to perform the duties of Village Manager during a vacancy in the office. No person acting as Village Manager in a temporary capacity, whether during the absence or disability of the Village Manager or during a vacancy in that office, shall make any change in the administrative

officers of the Village without the consent of the Council. No person who holds or has held an elective Village office shall be eligible for appointment as Village Manager, nor shall any such person perform the duties of the Village Manager during a vacancy in that office, until one year has elapsed following the expiration of the term for which he was elected.

**Sec. 3.8. Functions of the Village Manager.**

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

**Sec. 3.9. Other administrative officers.**

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

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

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

The Village Manager, Clerk, and Village Attorney shall hold office by virtue of election by the Council, which body shall also set their salaries. They shall hold office at the pleasure of the Council.

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

The Village Council shall appoint such other officers, as may be required by ordinance or resolution of the Council. Every election or appointment of an administrative office shall be for an indefinite term and shall be at the pleasure of the Council.

**Sec. 3.12. Duties of administrative officers.**

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

**Sec. 3.13. Village officers and employee benefits.**

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

## CHAPTER 4. ELECTIONS AND APPOINTMENTS

**Sec. 4.1. Eligibility for office in Village.**

No person shall be elected or appointed to any office who is in default to the Village, or has been convicted of a felony. The election or appointment of any such defaulter or person shall be void. No person shall be eligible to any elective office of the Village, other than that of Village Manager and Village Attorney, unless he shall be of legal age, a registered elector in and the owner of real property assessed for Village taxes in his name, or shall be the lawful husband or wife of such a person, and shall have been a resident of the Village for at least two years immediately prior to the date of his election to any such office.

**Sec. 4.2. Nepotism.**

Relatives by blood or marriage of any Councilman, or the Village Manager, within the second degree of consanguinity or affinity shall be disqualified from holding any appointive office, or from being employed by the Village during the term of office of such Councilman or Village Manager, except and unless said relatives are bona fide appointive officers or employees

of the Village at the time of the election of such officer or appointment of such Village Manager. If the status of relationship between any employee of the Village and any officer of the Village changes to a relationship prohibited hereby after one year following the employment of such person or election or appointment of such officer, the provisions of this section shall not apply.

**Sec. 4.3. Vacancies in offices.**

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

(a) For any reason specified by State law as grounds for creating a vacancy;

(b) If any officer of the Village shall absent himself continuously from the Village for more than 60 days without the permission of the Council;

(c) In the case of the President and other members of the Council, where such officer shall miss four consecutive regular meetings of the Council, or 25 percent of such meetings in any fiscal year of the Village, unless such absences shall in each case be excused by the Council and the reason therefor entered in the proceedings of the Council;

(d) If the officer shall be convicted of any act constituting misconduct in office under the provisions of this Charter.

**Sec. 4.4. Resignations.**

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

**Sec. 4.5. Filling vacancies.**

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

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

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

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

**Sec. 4.7. Increase or decrease of compensation.**

The Council shall not grant or authorize extra compensation to any Village officer, elected or appointive, or to any employee, after the service has been rendered. Nor shall the salary of any Village officer, elected or appointive, be increased or decreased after his election or appointment during any fixed term of office for which he was elected or appointed. Nor shall the Council grant or authorize extra compensation to any agent or contractor after service has been rendered or the contract has been entered into without the approving vote of all (each and every) member of the Council.

**Sec. 4.8. Oath and bond of office.**

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

**Sec. 4.9. Surety bonds.**

Except as otherwise provided in this Charter, all officers of the Village whose duties involve the custody of public property or the handling of public funds, either by way of receipt or disbursement or both, and all other officers and employees so required by the Council shall, before they enter upon the duties of their respective offices, file with the Village an official bond in such form and amount as the Council shall direct and approve. Such official bond of every officer and employee shall be conditioned that he will faithfully perform the duties of his office, and will on demand deliver over to his successor in office, or other proper officer or an agent of the Village, all books, papers, monies, effects and property belonging thereto, or appertaining

to his office, which may be in his custody as an officer or employee; and such bonds may be further conditioned as the Council prescribe. The official bond of every office whose duty it may be to receive or pay out money, besides being conditioned as above required, shall be further conditioned that he will, on demand, pay over or account for to the Village or any proper officer or agent thereof, all monies received by him as such officer or employee. The requirements of this paragraph may be met by the purchase of one or more appropriate blanket surety bonds covering all, or a group of, Village employees and officers.

All official bonds shall be corporate surety bonds and the premiums thereon shall be paid by the Village. All bonds of all officers or employees shall be filed with the Clerk, except that any bond pertaining solely to the Clerk, shall be filed with the Treasurer. No bond shall be issued for a term exceeding two years.

## CHAPTER 5. VILLAGE ELECTIONS

### Sec. 5.1. Election procedure.

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

### Sec. 5.2. Qualifications of electors.

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

### Sec. 5.3. Primary election.

A non-partisan Village primary election shall be held on the third Monday of February of each year. If, upon the expiration of the time for filing nomination petitions for the officers of the Village with respect to which elections are to be held at the next regular Village election, it appears that petitions have been filed for no more than twice the number of candidates for each such office, then no primary election shall be held and the Clerk shall publish notice of such fact. It is the intent of this section that if a primary is required for any office, it shall be held for all offices which are to be filled at the next regular Village election. The candidates for nomination for each Village office to be filled at the next Village election, in number equal to twice the number of persons to be elected to such Village office, receiving the highest number of votes at any such Village primary election shall be declared the nominees for election to the respective offices for which they are candidates for election and their names, and the names of persons filing petitions, or in whose behalf petitions have been filed in cases where no primary election was held, shall be certified to the election commission to be placed upon the ballot for

the next subsequent regular Village election. No person whose name is not printed on the primary election ballot, but whose name is written on or appears on the ballot on a sticker pasted thereon at such election, except such stickers as have been placed thereon by the election commission as provided by law, shall be nominated for election to any office, unless he receives at least 25 votes nominating him for such office.

**Editor's note—**The 2004 amendments to Michigan election law take precedence over section 5.3 of the Village Charter and abolished the Village primary election as confirmed in a Village Council resolution adopted on November 8, 2004.

**Sec. 5.4. Regular Village election.**

The Village's regular election shall be held on the general election date in November of even numbered years, commencing in 2013, such elections to be conducted by the Village Clerk. (Am. Res. of 11-8-2004; Am. Res. of 11-10-2012; Am. Res. of 11-10-2014)

**Sec. 5.5. Special elections.**

Special Village elections shall be held when called by resolution of the Council at least 40 days in advance of such election, or when required by this Charter or statute. Any resolution calling a special election shall set forth the purpose of such election. The Council shall not call more special elections within any year than the number permitted by statute.

**Sec. 5.6. Election precincts.**

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

**Sec. 5.7. Election Commission.**

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

**Sec. 5.8. Notice of election.**

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

**Sec. 5.9. Voting hours.**

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

**Sec. 5.10. Nomination petitions.**

Persons desiring to qualify as candidates for nomination for any elective office under this Charter shall file a petition therefor with the Clerk signed by not less than 25 nor more than 50 registered electors of the Village not later than 4:00 p.m. on the seventh Wednesday prior to the date of the regular Village primary election. Official blank petitions in substantially the same form as required by State law for State and County officers, except for references to party, shall be prepared and furnished by the Clerk. Before the Clerk shall furnish any nomination petitions to any person, he shall enter thereon in ink the name of the person desiring to become a candidate for office in the Village, or the person in whose behalf the petition is to be circulated, and the name of the office for which he is a candidate. Nomination petitions for the purpose of filling a vacancy shall so state in connection with the name of the office for which the petition is to be circulated. The Clerk shall publish notice of the last day and time for filing nomination petitions at least one week before, and not more than three weeks before that date. No person shall sign his name to a greater number of petitions for any one office than there will be persons elected to said office. Where any name appears on more petitions than there are candidates to be elected to said office, the signatures for that name, if they bear the same date, shall not be counted upon any petition, and if they bear different dates shall be counted in the order of their priority of date for only so many candidates as there are persons to be elected.

**Sec. 5.11. Approval of petitions.**

The Clerk shall accept for filing only nomination petitions on official blanks, furnished by him, containing the required number of signatures for candidates having those qualifications required for elective Village officers by this Charter. When petitions are filed by persons other than the person whose name appears thereon as a candidate, they may be accepted for filing only when accompanied by the written consent of the person in whose behalf the petition or petitions were circulated. The Clerk shall, within five days after the final day and hour for receiving nomination petitions, determine the sufficiency of the signatures on each petition filed, and if he finds any petition does not contain the required number of legal signatures of registered electors, he shall immediately notify the candidate in writing, by registered mail with return receipt requested, of the insufficiency of his petition. Each petition which is found by the Clerk to contain the required number of signatures of registered electors shall be marked "In Order," with the date thereof, and he shall so notify the candidate whose name appears thereon, in writing.
(Am. Ord. of 3-12-1984)

**Sec. 5.12. Public inspection of petitions.**

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

**Sec. 5.13. Form of ballots.**

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

**Sec. 5.14. Canvass of votes.**

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

(b) Certification. The Village Clerk shall file in his office and preserve the original statement and determination of the Village Board of Canvassers of the results of the elections and shall forthwith execute and cause to be delivered to the persons thereby declared to be elected to Village offices, a certification of election certified by him.

**Sec. 5.15. Recount.**

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

**Sec. 5.16. Recall.**

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

**Sec. 5.17. Tie vote.**

If, at any Village election, there shall be no choice between candidates by reason of two or more persons having received an equal number of votes, then the Council shall name a date for the appearance of such persons for the purpose of determining the election of such candidate by lot as provided by State law. Should any person or persons fail or refuse to appear, in person

or by representative, after notice to each of such candidates of a place and time therefor, to determine the result of any tie election at the time and place named by the Council, such determination shall be made by lot in his or their absence and under the supervision of the Council. Such determination shall, in any event, be final.

## CHAPTER 6. FUNCTIONS OF THE COUNCIL

### Sec. 6.1. Public health and safety.

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

### Sec. 6.2. Police Department.

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

### Sec. 6.3. Fire Department.

The Council shall be authorized to enact such ordinances and codes deemed appropriate for the protection of persons and property in the Village from the damages and destructive force of fire. The Council shall be further authorized to provide for the services of a fire department through services rendered by the Charter Township of Orion, funded by a township-wide millage, or by entering into a contract with another entity for such services, or by establishing, organizing and maintaining a fire department of the Village, or by a combination of such means.
(Am. Ord. of 12-9-1985)

### Sec. 6.4. Health.

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

**Sec. 6.5. Meetings of the Council.**

(a) The regular meetings of the Council shall be held at 6:30 p.m. on the second and fourth Monday of each month in the Village Hall. Change in time and place shall be permitted upon proper legal notifications. If any time set for the holding of a regular meeting of the Council shall be a holiday, then such regular meeting shall be held on the next secular day which is not a holiday.

(b) Special meetings of the Council shall be called by the Clerk on the written request of the President or of any two members of the Council, on at least 24 hours' written notice to each member of the Council, designating the time, place and purpose of any meeting and served personally or left at his usual place of residence by the Clerk or someone designated by him. Notwithstanding the foregoing requirements for the calling of special meetings, any special meeting of the Council at which all members of the Council are present or have, in writing, waived the requirement that notice be given at least 24 hours prior to the time specified for the holding of such meeting and at which a quorum of the Council is present shall be a legal meeting.

(c) No business shall be transacted at any special meeting of the Council unless the same has been stated in the notice of such meeting. However, if all the members of the Council are present at any special meeting of the Council, then any business which might lawfully come before a regular meeting of the Council may be transacted at such special meeting.

(d) All regular and special meetings of the Council shall be open to the public and the rules of order of the Council shall provide that citizens shall have a reasonable opportunity to be heard.

(e) Four members of the Council shall be a quorum for the transaction of business at all meetings of the Council, but, in the absence of a quorum, the President or any three members may adjourn any regular or special meeting to a later date.

(f) Except that there shall be no standing committees of the Council, the Council shall determine its own rules and order of business and shall keep a journal of all of its proceedings in the English language which shall be signed by the President and the Clerk. The vote upon the passage of all ordinances, and upon the adoption of all resolutions shall be taken by "Yes" and "No" votes and entered upon the record, except that where the vote is unanimous, it shall only be necessary to so state. Each member of the Council who shall be recorded as present shall vote on all questions decided by the Council unless excused by the unanimous consent of the other members present. Any citizen or taxpayer of the Village shall have access to the minutes and records of all regular and special meetings of the Council at all reasonable times.

(g) The Council may, by vote of not less than three of its members, compel the attendance of its members and other officers of the Village at its regular and special meetings and enforce orderly conduct therein; and any member of the Council or other officer of the Village who

refuses to attend such meetings or conduct himself in an orderly manner thereat shall be deemed guilty of misconduct in office. The Chief of Police or a member of the Lake Orion Police Force designated by him when it is necessary for the Chief of Police to be absent shall serve as Sergeant at Arms of the Council in the enforcement of the provisions of this section.

**Sec. 6.6. Intergovernmental contracts.**

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

**Sec. 6.7. Licenses.**

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

**Sec. 6.8. Streets and alleys.**

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

**Sec. 6.9. Public highways, grounds; procedure to vacate.**

When the council shall deem it advisable to vacate, discontinue, or abolish any highway, street, lane, alley or public ground or any part thereof, they shall by resolution so declare, and in the same resolution shall appoint a time not less than four weeks thereafter when they will meet and hear objections thereto; notice of such meeting, with a copy of said resolution shall be given in such manner as shall be prescribed by ordinance or resolution. Objections to such

proposed action of the council may be filed with the Clerk in writing, and if any such shall be filed, the street, alley or public ground, or any part thereof shall not be vacated or discontinued except by the affirmative vote of five councilmen.

**Sec. 6.10. Rights as to property.**

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

**Sec. 6.11. Investigations.**

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

**Sec. 6.12. Restriction on the Council.**

(a) Except for the purpose of inquiry, and in case of emergency during the temporary absence or disability of the Village Manager, the Council and its members shall deal with the administrative service solely through the Village Manager and neither the Council nor any member thereof shall give orders to any subordinate of the Village Manager, either publicly or privately; neither shall any member of the Council direct or request: (1) except for the election of those administrative officers required to be elected by the Council, the appointment of any person to, or the removal of, any person from any employment or office for which the Village Manager is responsible; nor (2) except at public meetings and in cases of letting of contracts, the purchase of any specific materials, supplies or equipment. It is not the intention of this provision to prevent frank discussion of the business of the Village between the Village Manager and the Council or any member of the Council at any time, but to prevent the personal favoritism or prejudice of any member of the Council from hampering the administration of the Village government as set forth in this Charter.

(b) The Council shall not have the power to make any contract with or give any official position to any person who is in default to the Village. No real estate shall be sold, nor leased, in excess of three years, without first being appraised by at least one qualified appraiser within 60 days prior to the proposed sale or lease; which proposed sale or lease to be on a bid basis pursuant to public notice. The Council shall reserve the right to reject any and all bids. The Council shall not sell any park, cemetery or any part thereof, or any property bordering on a waterfront, nor shall the Council engage in any business enterprise requiring an investment of money in excess of $2,500.00 unless approved by a majority vote of the electors of the Village voting thereon. Except as otherwise provided in this Charter, no ordinance or resolution shall be adopted or passed except by the affirmative vote of at least four members of the Council. (Am. Ord. of 3-12-1984)

**Sec. 6.13. Prohibited interest in Village business.**

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

## CHAPTER 7. VILLAGE LEGISLATION

**Sec. 7.1. Ordinance enactment.**

(a) The Council is empowered to adopt, continue, amend or repeal Village ordinances.

(b) All legislation of the Village of Lake Orion shall be by ordinance or by resolution. The word "Resolution" as used in this Charter shall be the official action of the Council in the form of a motion, and such action shall be limited to matters required or permitted to be done by resolution by this Charter or by State or Federal law and to makers pertaining to the internal affairs or concerns of the Village government. All other acts of the Council, and all acts carrying a penalty for the violation thereof, shall be by ordinance. Each ordinance shall be identified by a number and a short title. Each proposed ordinance shall be introduced in written or printed form, and, except for emergency ordinances, a synopsis published not less than 15 days prior to its enactment in some legal newspaper of general circulation in the Village. All ordinances, when enacted shall be immediately recorded by the Clerk in a book called "The Ordinance Book"; and it shall be the duty of the President and Clerk to authenticate such record by their official signatures thereon. The style of all ordinances passed by the Council shall be, "The Village of Lake Orion Ordains."

(c) The Council is empowered to pass an emergency ordinance so as to be given immediate effect. Such ordinance shall contain a declaration of such emergency and the reasons therefor and can be passed only upon the affirmative vote of five councilmen. Any such ordinance shall be limited to be effective for a period of not more than 60 days from the adoption thereof and any such ordinance shall not be effective beyond such 60-day period unless such emergency ordinance has been enacted as a regular ordinance in accordance with the provisions of this Charter.

**Sec. 7.2. Penalties.**

The Council shall provide in each ordinance for the punishment of those who violate its provisions. No punishment for the violation of any Village ordinance or for the commission by any officer of the Village of any act declared by this Charter to constitute misconduct in office shall exceed a fine of $500.00 dollars, payment of court costs, or imprisonment for 90 days, or all of these in the discretion of the court, except that any officer of the Village found guilty of any act declared by this Charter to constitute misconduct in office shall, in addition to such fine, payment of court costs, or imprisonment, or all of these, forfeit his office.
(Am. Ord. of 3-12-1984)

**Sec. 7.3. Ordinance; effective date.**

A synopsis of each ordinance passed by the Council shall be published at least once in some legal newspaper of general circulation in the Village within 15 days after its adoption by the Council. All ordinances of the Village shall become effective immediately upon the publication of said synopsis after having been passed, unless a date upon which an ordinance shall become effective, which is subsequent to the date of the publication of said synopsis is specifically provided in the ordinance itself.
(Am. Ord. of 3-12-1984)

**Sec. 7.4. Technical codes.**

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

**Sec. 7.5. Compilation.**

(a) Copies of all ordinances enacted and amendments to the Village Charter adopted after the effective date of this Charter shall be available at the office of the Clerk.

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

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

**Sec. 7.6. Initiative and referendum.**

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

**Sec. 7.7. Petitions.**

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

**Sec. 7.8. Council procedure.**

Upon receiving an initiatory or referendary petition from the Clerk, the Council shall, within 30 days after publication in accordance with section 7.1, either:

(a) If it be an initiatory petition, adopt the ordinance as submitted in the petition or determine to submit the proposal to the electors of the Village.

(b) If it be a referendary petition, repeal the ordinance to which the petition refers or determine to submit the proposal to the electors of the Village.

**Sec. 7.9. Submission to electors.**

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

**Sec. 7.10. Ordinance suspended.**

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

## CHAPTER 8. GENERAL FINANCE

**Sec. 8.1. Fiscal year.**

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

**Sec. 8.2. Budget procedure.**

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

**Sec. 8.3. Budget document.**

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

(a) Detailed estimates of all proposed expenditures for each department and office of the Village showing the expenditures for corresponding items for the current and last preceding fiscal year, including contingent, miscellaneous or other similar fund expenditures, with reasons for increases and decreases recommended, as compared with appropriations for the current year;

(b) Statements of the bonded and other indebtedness of the Village, showing the debt redemption and interest requirement, the debt authorized and unissued, and the condition of sinking funds, if any;

(c) Detailed estimates of all anticipated income of the Village from sources other than taxes and borrowing, with a comparative statement of the amounts received by the Village from each of the same or similar sources for the last preceding and current fiscal year;

(d) A statement of the estimated balance or deficit, as the case may be, for the end of the current fiscal year;

(e) An estimate of the amount of money to be raised from current and delinquent taxes and the amount to be raised from bond issues which, together with income from other sources, will be necessary to meet the proposed expenditures and commitments of the Village government during the ensuing year;

(f) Such other supporting schedules as the Council may deem necessary.

**Sec. 8.4. Budget hearing.**

A copy of the budget proposal shall be on file and available to the public in the office of the Clerk during regular office hours for a period of not less than one week prior to the adoption of the budget by the Council. Notice of the requirement that the budget proposal is so required to be filed shall be published by the Clerk in a legal newspaper of general circulation in the Village not less than 15 days prior to the adoption of the budget by the Council; provided, however, that failure to give such notice shall not invalidate the adoption of any budget.

**Sec. 8.5. Adoption of budget, tax limit.**

Not later than the first regular meeting in May, the Council shall, by resolution, adopt the budget for the next fiscal year and shall, in such resolution make an appropriation of the money needed for municipal purposes during the ensuing fiscal year of the Village and provide for a levy of the amount necessary to be raised by taxes upon real and personal property for municipal purposes, which levy shall not exceed two percent of the assessed valuation of all real

and personal property subject to taxation in the Village. The levy so provided shall be known and referred to as the Charter tax rate of the Village of Lake Orion and shall be subject to all provisions of State law and the Michigan Constitution pertaining thereto.

**Sec. 8.6. Transfer of appropriations.**

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

**Sec. 8.7. Budget control.**

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

**Sec. 8.8. Depository.**

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

**Sec. 8.9. Independent audit.**

An independent audit shall be made of all accounts of the Village government at least annually and more frequently if deemed necessary by the Council. Such audit shall be made by public accountants experienced in municipal accounting. The results of such audit shall be made public by publishing in condensed form in some legal newspaper of general circulation in the Village.

## CHAPTER 9. TAXATION

**Sec. 9.1. Power to tax and secure revenue.**

In order to carry out the purposes, powers, and duties of the Village government established by this Charter, the Village may assess, levy, and collect taxes, rents, tolls, and any other taxes as may be authorized by State law.

**Sec. 9.2. Subjects of taxation.**

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

**Sec. 9.3. Assessments.**

Unless otherwise provided by State law, the 31st day of December in each year shall be the assessment day for both real and personal property in the Village.

**Sec. 9.4. Time for making assessments rolls.**

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

**Sec. 9.5. [Repealed].**

**Sec. 9.6. [Repealed].**

**Sec. 9.7. [Repealed].**

**Sec. 9.8. [Repealed].**

**Sec. 9.9. Clerk to certify tax levy.**

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

**Sec. 9.10. Village tax roll.**

After the last day for the meeting of the Board of Review, the Assessor shall, upon receiving the certification of the several amounts to be raised, as provided in the preceding section, proceed forthwith to spread upon the assessment roll the several amounts determined by the Council to be charged, assessed, or re-assessed against persons or property; and shall also proceed to spread the amounts of the general Village tax according to and in proportion to the

several valuations set forth in said assessment roll. For the purpose of avoiding fractions in computation, the Assessor may add to the amount of the several taxes to be raised not more than one percent; said excess shall belong to the Village.

**Sec. 9.11. Tax roll certified for collection.**

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

**Sec. 9.12. Taxes lien on property.**

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

**Sec. 9.13. Taxes due; notification.**

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

**Sec. 9.14. Collection of Village taxes.**

Village taxes shall be due and payable on the first day of July of each year and may be paid at the Office of the Village Treasurer during the regular business hours of the Village Office until and including August 31. To all taxes paid after August 31 there shall be added a penalty, and to all taxes paid after said date there shall also be added interest for each month or fraction of a month intervening between said date and the date of payment, or the last day of February immediately following, whichever date shall first occur. The amount of such penalty and interest shall be up to the maximum amount authorized by law, with the specific amounts to be established by ordinance which shall be duly adopted and effective prior to the due date of the tax in question, such ordinance to remain effective until duly amended. The added penalties and interest herein provided shall belong to the Village and shall constitute a charge and shall be a lien against the property to which the taxes themselves apply, collectible in the same manner as the taxes to which they are added.
(Am. Ord. of 12-9-1985)

**Sec. 9.15. Delinquent tax roll to County Treasurer.**

If the Treasurer has been unable to collect any of the Village taxes on said roll on real property before the first day of March following the date when said roll was received by him, it shall be his duty to return all such unpaid taxes on real property to the County Treasurer in the same manner and with like effect as returns by township treasurers of township, school, and County taxes. Such returns shall be made upon a delinquent tax roll to be prepared by the Treasurer and shall include all the additional charges and fees hereinbefore provided, which charges shall, in such return, be added to the amount assessed in said tax roll against each description. The taxes thus returned shall be collected in the same manner as other taxes returned to the County Treasurer are collected under the provisions of the general laws of the State and shall be and remain a lien upon the lands against which they are assessed, until paid.
(Am. Ord. of 12-9-1985)

**Sec. 9.16. Protection of Village lien.**

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

## CHAPTER 10. MUNICIPAL BORROWING POWER

### Sec. 10.1. General power to borrow.

Subject to the applicable provisions of State law and this Charter, the Council, by proper ordinance or resolution, may authorize the borrowing of money for any purpose within the scope of the powers vested in the Village and the issuance of bonds of the Village or other evidence of indebtedness therefor, and may pledge the full faith, credit, and resources of the Village for the payment of the obligation created thereby; provided that the net bonded indebtedness incurred for all public purposes shall not at any time exceed ten percentum of the assessed value of all real and personal property in the Village. The Village shall also have power to issue special assessment, mortgage, revenue, or other types of bonds, beyond the debt limits fixed by law for the issuance of bonds or other evidence of indebtedness which are a general obligation of the Village, in the manner and for the purpose permitted by the Charter, the Constitution, and the general laws of the State of Michigan, including Act. No. 278, P.A. 1909, under which the Village is incorporated. Bonds issued in anticipation of the payment of special assessments may be an obligation of the special assessment district or may be both an obligation of the special assessment district and a general obligation of the Village. All collections on special assessment rolls shall be set apart in a special fund and shall be used only for the purpose or purposes for which they were levied and for the payment of the principal and interest of any bonds issued in anticipation of the payment of such special assessments. If there be any deficiency in the special assessment fund to meet the payment of any such principal and interest, monies shall be advanced from the general funds of the Village to meet such deficiency and shall be replaced in such general fund when the special assessment fund shall be sufficient therefor. Bonds issued by the Village shall bear interest, as determined by the Council, up to the maximum amount allowed by law and the Constitution; provided, however, no bond shall bear interest at a rate higher than one percent above the highest rate paid on a bond of the County of Oakland issued during the 12-month period immediately preceding the date the interest rate on the bond is determined.
(Am. Ord. of 12-9-1985)

### Sec. 10.2. Unissued bonds.

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

## CHAPTER 11. PUBLIC IMPROVEMENTS, CONTRACTS, UTILITIES

### Sec. 11.1. Village may perform public work.

The Council shall have power to do any public work or make any public improvement by the employment of the necessary labor and the purchase of the necessary supplies and materials

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

**Sec. 11.2. Purchasing and contractual procedure.**

Before making any purchase or contract for supplies, materials, equipment, or contractual services, opportunity shall be given for competition, under such rules and regulations, and with such exceptions as the Council may by ordinance prescribe. All expenditures for supplies, materials, equipment, or contractual services involving more than $1,000.00 shall be made on written contract, and such contract shall be awarded to the lowest competent bidder meeting specifications and whose bid is most advantageous to the Village after such public notice and competition as may be prescribed by ordinance; provided, however, that the Council shall have the power to reject all bids and advertise again. The Council shall provide, by ordinance, for the ordinary purchasing procedure to be followed in purchasing Village supplies.

**Sec. 11.3. Nuisances and hazards.**

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

**Sec. 11.4. Cost of acquired property added.**

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

**Sec. 11.5. Sidewalks, curbs, and gutters.**

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

**Sec. 11.6. Condemnation.**

(a) Private property may be taken and appropriated for public use by the Village of Lake Orion, either within or without its limits, for the purposes of opening, widening, altering and extending streets, alleys and avenues; for the construction of bridges, for public buildings and for other public structures; for public grounds, parks, market places and spaces; for the improvement of water courses; for the providing of water and utilities; for the acquisition and improvement of property for the public parking of motor vehicles; for sewers, drains and ditches; for public hospitals, pest houses, quarantine grounds and public cemeteries; for jails and firehalls and other lawful and necessary public uses.

(b) If it shall become necessary to take and appropriate private property for the public uses for the purposes specified in the preceding [sub]section, the right to occupy and hold the same and the ownership therein and thereto, may be acquired by the Village in the manner and with like effect, as provided by any of the general laws, statutes or Constitution of this State relating to the taking of private property for public use by cities and villages.

## CHAPTER 12. ASSESSMENTS

**Sec. 12.1. General power relative to special assessments.**

The Council shall have the power to determine by resolution that the whole or any part of the expense of any public improvement be defrayed by special assessment upon the property especially benefited in proportion to the benefits derived or to be derived.

**Sec. 12.2. Procedure in providing for special assessments.**

(a) No resolution determining to proceed with any public improvement to be defrayed by special assessment shall be enacted until cost estimates have been prepared and a public hearing has been held on the advisability of so proceeding, which hearing shall be held not less than ten days after notice thereof has been published and sent by first class mail to all property owners in the proposed district as shown by the current assessment roll of the Village.

(b) Such resolution shall state the nature of the public improvement, the estimated cost thereof, the portion of the cost to be paid by special assessment and the portion to be paid from the general funds of the Village, shall designate the district or lands and premises upon which such special assessments shall be levied and shall direct the method of determining the benefits upon the property in the district.

(c) The Assessor shall thereupon prepare a special assessment roll and shall enter and describe thereon all of the lands and premises to be assessed, together with the names of the persons, if known, owning such lands and chargeable with the assessment thereon, and shall assess the cost of such improvements against said lands and premises in the manner directed by the foregoing resolution. When such roll has been completed, it shall be endorsed by the Assessor and filed with the Clerk.

(d) A public hearing shall be held by the Council for the purpose of correcting and reviewing such roll, which hearing shall be held not less than ten days after notice thereof has been published and sent by first class mail to all property owners in the proposed district as shown by the current assessment roll of the Village. At such hearing the Council shall review said roll and hear all objections thereto and may correct the roll and may then, or at a later date, confirm the roll as reported or corrected. It is provided, however, that no original special assessment roll shall be confirmed except by the affirmative vote of five members of the Council if prior to such confirmation written objections to the proposed improvement have been filed by the owners of property which will be required to bear more than 50 percent of the amount of such special assessment.

(e) No public improvement to be financed in whole or part by special assessment shall be made before the confirmation of the special assessment roll for such improvement.

**Sec. 12.3. Disposition of excessive special assessments.**

The excess by which any special assessment proves larger than the actual cost of the improvement and expenses incidental thereto may be placed in the general fund of the Village if such excess is five percent or less of the assessment, but should the assessment prove larger than necessary by more than five percent the entire excess shall be refunded on a pro rata basis to the owners of the property assessed as shown by the current assessment roll of the Village. Such refunds shall be made by credit against future unpaid installments to the extent such installments then exist and the balance of such refund shall be in cash. No refunds may be made which contravene the provisions of any outstanding evidence of indebtedness secured in whole or part by such special assessment.

**Sec. 12.4. Additional assessments; correction of invalid special assessments.**

Additional pro rata assessments may be made when any special assessment roll proves insufficient to pay for the improvement for which it was levied and the expenses incident

thereto; provided that the additional pro rata assessment shall not exceed 25 percent of the assessment as originally confirmed unless a meeting of the Council be held to review such additional assessment, for which meeting notices shall be published and mailed as provided in the case of review of the original special assessment roll.

Whenever any special assessment shall, in the opinion of the Council, be invalid by reason of irregularity or informality in the proceedings, or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the Council shall, whether the improvement has been made or not or whether any part of the assessment has been paid or not, have power to cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment, and whenever any sum or part thereof levied upon any property in the assessment so set aside has been paid and not refunded, the payment so made shall be applied upon the reassessment or if the payments exceed the amount of the reassessment refunds shall be made.

No judgment or decree nor any act of the Council vacating a special assessment shall destroy or impair the lien of the Village upon the premises assessed for such amount of the assessment as may be equitably charged against the same or as by regular mode of proceedings might have been lawfully assessed thereupon.

**Sec. 12.5. Lien and collection of special assessments.**

*Lien.* Upon the confirmation of each special assessment roll the special assessments shall become a debt to the Village from the persons to whom they are assessed and shall until paid be a lien upon the property assessed for the amount of such assessments and all interest and charges thereon. Such lien shall be of the same character and effect as created by this Charter for Village taxes.

*Due date.* Special assessments shall become due on such date as the Council shall prescribe.

*Installment payments.* Any assessment may be made payable in yearly installments not to exceed 15 in number. The initial installment shall be due on such date as the Council shall prescribe. Subsequent yearly installments shall be spread on the annual Village tax roll. The second installment shall be collected as part of the first Village tax roll which becomes due six months or more after the due date of the initial installment. All unpaid future installments, from such date as the Council shall prescribe, shall bear interest at a rate not exceeding six percent per annum, which interest computed to the following September 1 shall be spread yearly upon the Village tax roll together as one item with the amount of the installment then being spread. The Council may provide for advance payment of unpaid installments with interest computed to such date as the Council prescribes.

*Collection fees.* Each special assessment, or the initial installment of such assessment when installment payments are provided for, shall be collected by the Treasurer without collection fee

for a period ending on the last day of the second month following the month in which the assessment or initial installment falls due. On the first day of the third month following such due date, the Treasurer shall add to such assessment or initial installment a collection fee of two percent of the amount thereof, and on the first day of each succeeding month he shall add an additional one-half of one percent collection fee. All collection fees shall belong to the Village and be collectible in the same manner as the collection fee on Village taxes.

*Delinquent assessments.* Special assessments or initial installments which become due other than on July 1 shall, if unpaid for 30 days or more on May 1 of any year, be certified as delinquent to the Council by the Treasurer and the Council shall place such delinquent assessments on the tax roll for that year together as one item with accrued collection fees thereon to September 1 of such year.

*Collection when part of tax roll.* Special assessments, or installments thereof which become due on July 1 of any year, and delinquent assessments together with accrued interest and collection fees thereon which have been placed upon the Village tax roll, shall be collected in all respects as are Village taxes due on such date and shall be returned to the County Treasurer with such taxes if unpaid on the following March 1.

**Sec. 12.6. Special assessment accounts.**

Except as otherwise provided in this Charter, monies raised by special assessment for any public improvement shall be segregated in a special fund or account and may be used only to pay for the costs of the improvement for which the assessment was levied and expenses incidental thereto or to repay any money borrowed therefor.

**Sec. 12.7. Contested assessments.**

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

**Sec. 12.8. Additional procedure may be provided by ordinance.**

The Council may provide by ordinance for any additional procedure in connection with the entire procedure of constructing improvements by special assessment not inconsistent with the provisions of this Charter.

**Sec. 12.9. Failure to mail notice.**

Failure to mail any notice required to be so sent by this chapter or by ordinance shall not invalidate any special assessment or special assessment roll.

## CHAPTER 13. PUBLIC UTILITY FRANCHISES

**Sec. 13.1. Right of regulation.**

All public utility franchises granted after the adoption of this Charter, whether it be so provided in the granting ordinance or not, shall be subject to the right of the Village:

(a) To repeal the same for misuse, or non-use, or for failure to comply with the provisions thereof;

(b) To require proper and adequate extension of plant and service and maintenance thereof at the highest practicable standard of efficiency;

(c) To establish reasonable standards of service and quality of products, and prevent unjust discrimination in service or rate;

(d) To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;

(e) To impose such other regulations as may be determined by the Council to be conducive to the safety, welfare, and accommodation of the public;

(f) To require the public utility to which any franchise is granted to permit joint use of its property and appurtenances located in the streets, alleys, and public places of the Village, by the Village, and other utilities insofar as such joint use may be reasonably practicable and upon payment of reasonable rents therefor; provided that in the absence of agreement, upon application by any public utility, the Council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor.

**Sec. 13.2. Use of streets by utility.**

Every public utility franchise shall be subject to the right of the Village to use, control and regulate the use of its streets, alleys, bridges, and public places and the space above and beneath them. Every public utility shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges and public places, as shall arise from its use thereof and shall protect and

save the Village harmless from all damages arising from said use; and may be required by the Village to permit joint use of its property and appurtenances located in the streets, alleys, and public places of the Village, by the Village, and other utilities insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefor; provided that in the absence of agreement, upon application by any public utility, the Council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor; which award shall be final.

**Sec. 13.3. Franchises.**

No franchise or grant which is not revocable at the will of the Council shall be granted or become operative until the same shall have been referred to the people at a regular or special election and has received the approval of three-fifths of the electors voting thereon at such election. All irrevocable public utility franchises and all renewals, extensions, and amendments thereof shall be granted only by ordinance. No such ordinance shall be adopted before 30 days after application therefor has been filed with the Council, nor until a full public hearing has been held thereon. No such ordinance shall be submitted to the electors at an election to be held less than 30 days after the grantee named therein has filed with the Clerk its unconditional acceptance of all of the terms of such franchise, and it shall not be submitted to a special election unless the expense of holding the election, as determined by the Council, shall have been paid to the Treasurer by the grantee. No exclusive franchise shall ever be granted and no franchise shall be granted for a longer term than 30 years.

**Sec. 13.4. Licenses and franchises remain in effect.**

All licenses and franchises granted by the Village of Lake Orion and in force within the Village when this Charter becomes law shall remain in full force and effect until the period of time for which they were respectively granted, has expired under conditions contained in the license or franchise granted, or until any such licenses or franchises may have been taken over by the Village by purchase, condemnation, grant, or otherwise.

**Sec. 13.5. Control and revocation.**

The Council shall cause to be instituted such actions or proceedings as may be necessary to prosecute a public utility company for violations of its franchise, the Village Charter or ordinances of the Village, and may revoke, cancel, or annul all franchises that may have been granted by the Village, which, for any reason, have become inoperative, illegal, or void and not binding upon the Village.

**Sec. 13.6. Provisions stated not to be exclusive.**

The enumeration and specification of particular matters in this Charter which must be included in every franchise or grant shall never be construed as impairing the right of the

Council to insert in such franchise or grant any other and further matters, terms, or conditions as may be within the power of the Village to impose or require and which the Council shall deem proper to protect the interests of the people of the Village.

**Sec. 13.7. Regulation of rates.**

All public utility franchises shall make provisions therein for fixing rates, fares, and charges, and for readjustments thereof at periodic intervals at the discretion of the Village. The value of the property of the utility used as a basis for fixing such rates, fares, and charges shall in no event include a value predicated upon the franchise, goodwill, or prospective profits.

**Sec. 13.8. Revocable permits.**

Temporary permits for public utilities, revocable at any time at the will of the Council, may be granted by the Council by ordinance on such terms and conditions as it shall determine; provided that such permits shall in no event be construed to be franchises or amendments to franchises.

## CHAPTER 14. MUNICIPAL OWNED UTILITIES

**Sec. 14.1. General powers respecting utilities.**

The Village shall possess and hereby reserves to itself all the powers granted to villages by statute and Constitution to acquire, construct, own, operate, improve enlarge, extend, repair and maintain, either within or without its corporate limits, including, but not by way of limitation, public utilities for supplying water, light, heat, power, gas, sewage treatment and garbage disposal facilities, or any of them, to the municipality and the inhabitants thereof; and also to sell and deliver water, light, heat, power, gas and other public utility services without its corporate limits to an amount not to exceed the limitations set by statute and Constitution.

**Sec. 14.2. Management of municipality owned utilities.**

All municipally owned utilities shall be administered as a regular department of the Village government under one or more department heads appointed by, and serving at the pleasure of, the Council and not by an independent board or commission.

**Sec. 14.3. Rates.**

The Council shall have power to fix from time to time such just and reasonable rates as may be deemed advisable for supplying the inhabitants of the Village and others with such public utility services as the Village may provide. There shall be no discrimination in such rates within any classification of users thereof, nor shall free service be permitted, but higher rates may be charged for service outside the Village limits.

**Sec. 14.4. Utility rates and charges; collection.**

The Council shall provide by ordinance for the collection of all public utility rates and charges made by the Village. With respect to water, the Village shall have all the powers granted to villages by Public Act No. 178 of 1939. When any person, firm or corporation shall fail or refuse to pay any sums due on utility bills, the service upon which such delinquency exists may be discontinued and suit may be instituted by the Village for the collection of the same in any competent tribunal.

**Sec. 14.5. Disposal of utility plants and property.**

Unless approved by a three-fifths majority vote of the electors voting thereon at a regular or special election, the Village shall not sell, exchange, lease or in any way dispose of any property, easement, equipment, privilege or asset belonging to and appertaining to any municipally owned public utility which is needed to continue operating such utility. All contracts, negotiations, licenses, grants, leases or other forms of transfer in violation of this section shall not apply to the sale or exchange of any articles of machinery or equipment of any Village owned public utility which are worn out or useless or which have been, or could with advantage to the service, be replaced by new and improved machinery or equipment, to the leasing of property not necessary for the operation of the utility, or to the exchange of property or easements for other needed property or easements.

**Sec. 14.6. Utility accounts.**

Transactions pertaining to the ownership and operation by the Village of each public utility shall be recorded in a separate group of accounts under an appropriate fund caption, which accounts shall be classified in accordance with generally accepted utility accounting practice. Charges for all service furnished to, or rendered by, other Village departments or agencies shall be recorded. An annual report shall be prepared to show fairly the financial position of the utility and the results of its operation, which report shall be available for inspection at the office of the Clerk.

## CHAPTER 15. MISCELLANEOUS

**Sec. 15.1. Notice to Village of claim for injuries.**

The Village shall not be liable in damages sustained by any person, either to his person or property, by reason of or the negligence of the Village, its officers, or employees, nor by reason of any defective highway, street, bridge, sidewalk, crosswalk or culvert, or by reason of any obstruction, ice, snow or other encumbrances upon such street, sidewalk, crosswalk or public highway, situated in the Village, unless such person shall serve or cause to be served, within 60 days after such injury shall have occurred, a notice in writing upon the Clerk, which notice shall set forth substantially the time and place of such injury, the nature of the defect, the manner in

which it occurred, and the extent of such injury as far as the same has become known, the names and addresses of the witnesses known at the time by claimant, and a statement that the person receiving such injury intends to hold the Village liable for such damages as may have been sustained by him. No person shall bring any action against the Village for any damages to person or property arising out of any obstruction, ice, snow, or other encumbrance upon such street, sidewalk, crosswalk or public highway, situated in the Village, unless he shall also present to the Clerk his claim in writing and under oath, setting forth particularly the nature and extent of such injury and the amount of damages claimed by reason thereof, which claim shall be presented to the Council by the Clerk.

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

**Sec. 15.2. Limitation on dedication of streets.**

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

**Sec. 15.3. Publication.**

The Council shall determine the method of publication of all notices, ordinances, and proceedings for which a mode of publication is not prescribed by this Charter or by law. The Council may determine that such publication may be made in a legal newspaper of general circulation in the Village, or that such publication may be made by posting in the office of the Clerk and in five other public places in the Village. In case publication is made by posting, a notice of such posting, setting forth by a descriptive phrase, the purpose or nature of the notice,

ordinance, or proceeding posted, and location of the places where posted, shall be published at least once in a legal newspaper of general circulation in the Village within seven days after such posting was done.

**Sec. 15.4. No estoppel by representative.**

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

**Sec. 15.5. Village records.**

All records of the Village shall be public.

**Sec. 15.6. Prior Village ordinances and regulations.**

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

**Sec. 15.7. Tense.**

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

**Sec. 15.8. Headings.**

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

**Sec. 15.9. Effect of illegality of any part of Charter.**

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

the event that any provision of this Charter shall conflict with or contravene the provisions of any general law of the State of Michigan, the provisions of such general law of the State shall govern.

**Sec. 15.10. Amendments.**

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

## SCHEDULE

**Sec. 1. Election of Charter.**

This Charter shall be submitted to a vote of the electors of the Village of Lake Orion for adoption at a special Village election to be held on March 6, 1967. In connection with such election the Charter Commission and the Village Council shall perform all of the duties required by law for the giving of notice of and the conduct of said election. Proper and sufficient notice of registration and of such election shall be given by the Village Clerk by publication and posting in the manner prescribed by law. If at said election a majority of the electors of the Village voting thereon shall vote in favor of the adoption of this Charter, then the Village Clerk shall perform all other acts required by law to carry this Charter into effect.

**Sec. 2. Form of ballot.**

The form of the ballot on submission of this Charter shall be as follows:

(Proper Instructions)

"Shall the Proposed Charter of the Village of Lake Orion, framed by the Charter Commission which was elected on March 14, 1966, and which has been approved by the Governor of the State of Michigan, be adopted?"

_____Yes

_____No

**Sec. 3. Village President and Trustees.**

The adoption of this Charter shall not change or influence the terms of office of the Village President or of any Village Trustee holding office at the time of the adoption of the Charter but each person who holds any such office shall continue therein until his successor has been elected and assumes the office to which he has been elected in accordance with the provisions of this Charter.

**Sec. 4. Village obligations.**

The adoption of this Charter shall not affect any rights, assets, obligations, liabilities, or immunities of the Village of Lake Orion and the officers thereof.

**Sec. 5. First officers of the Village under Charter.**

At the first meeting of the Council following the date that this Charter shall become effective as the Charter of the Village of Lake Orion, the Village President and Trustees, holding office by virtue of the provisions of Act. No. 3, P.A. 1895, the previous Charter of the Village of Lake Orion, shall qualify for and assume the offices of President and Councilmen, respectively, under this Charter, and shall, thereafter, perform the duties of their respective offices subject to and in accordance with the provisions of this Charter; provided, however, that the salary or remuneration of such officers shall not be changed during the term of office for which they were elected. On the 31st day of March, 1967, at 12:00 noon the terms of office of the Village Clerk, Village Treasurer, and the Village Assessor holding office by virtue of election under the provisions of Act. No. 3, P.A. 1895, the former Charter of the Village of Lake Orion, shall terminate and the persons holding such offices at that time shall qualify for and assume the offices of Clerk, Treasurer, and Assessor, respectively, under this Charter and shall hold such offices on the same basis as though they had been elected or appointed thereto in the manner provided in this Charter. All other administrative officers and employees of the Village shall continue in the respective offices and employment held by them at the time this Charter shall become effective as the Charter of the Village of Lake Orion for the terms for which they were appointed and shall be subject to the provisions of this Charter. Thereafter, the successors of all such officers shall be elected or appointed in the manner provided in this Charter.

Immediately after this Charter shall become effective as the Charter of the Village of Lake Orion the Council shall take the necessary steps to secure a Village Manager.

**Sec. 6. Interim.**

The Council, on the recommendation of the Village Manager, shall have authority to make any necessary interim budget required to defray the cost of government from April 1, 1967, to June 30, 1967, in order to bring the Village's financial plan into conformity with the fiscal year herein provided.

**Sec. 7. Number of Trustees during interim.**

It is intended that no change in the current number of Trustees shall be effected, except through the course of the regular Village elections for the years of 1968 and 1969. Until the regular Village election for the year of 1968, there will be the present number of Trustees and in addition thereto the president. At the regular Village election for the year 1968, and at each election thereafter, four councilmen will be elected in accordance with the provisions of this

Charter. At the regular Village election for the year of 1968, and thereafter, the council will consist of seven councilmen, out of which number the president shall be elected according to the provisions of this Charter.

**Sec. 8. Effective date.**

The effective date of this Charter shall be on the 31st day of March, 1967, at 12:00 noon.

**Sec. 9. Status of schedule chapter.**

The purpose of this schedule chapter is to inaugurate the government of the Village of Lake Orion under this Charter and shall constitute a part of this Charter only to the extent and for the time required to accomplish that end.

## RESOLUTION OF ADOPTION

At a meeting of the Charter Commission of the Village of Lake Orion, held in the offices of the Village of Lake Orion, being the usual meeting place of the Charter Commission, on the 5th day of October, A.D. 1966. Present were the following members: Wesley B. Allen, Gladys E. VanWagoner, James T. Haddrill, Charles Kelley and Irvine J. Unger, composing the full membership of the Charter Commission.

At such meeting the following resolution was offered by Commissioner Irvine J. Unger and seconded by Commissioner James T. Haddrill:

WHEREAS a Charter Commission was duly elected by the electors of the Village of Lake Orion, and

WHEREAS said Charter Commission as elected has met regularly and drafted the terms of a proposed revised Charter of the Village of Lake Orion, Oakland County, Michigan;

NOW THEREFORE, be it hereby resolved that the Charter Commission of the Village of Lake Orion, Oakland County, Michigan, does hereby adopt the foregoing instrument as the proposed revised Charter of the Village of Lake Orion.

BE IT FURTHER RESOLVED that the Clerk of the Charter Commission be instructed to transmit and forward the said Charter to the Governor of the State of Michigan, for his approval in accordance with the provisions of the Statute.

The vote on the adoption of said Resolution was as follows:

Nays: None.

Absent: None.

Signed:

_____

GLADYS E. VanWAGONER,
Clerk of the Charter Commission
of the Village of Lake Orion

Countersigned by the following Commissioners:

_____

WESLEY B. ALLEN

_____

GLADYS E. VanWAGONER

_____

JAMES T. HADDRILL

_____

CHARLES KELLEY

_____

IRVINE J. UNGER

STATE OF MICHIGAN )
) ss
COUNTY OF OAKLAND )

Gladys E. VanWagoner, Clerk of the Charter Commission of the Village of Lake Orion, being duly sworn, says that the following named persons were elected to and comprised the Charter Commission for the Village of Lake Orion, Oakland County, Michigan, as required by Act. 278, Public Acts of 1909, as amended, namely, Wesley Allen, Gladys VanWagoner, James T. Haddrill, Charles Kelley and Irvine J. Unger; that the members of said Charter Commission did meet as prescribed by law; that at the first meeting of the Charter Commission, Wesley B. Allen was elected Chairman and Gladys E. VanWagoner was elected Secretary of the Charter Commission; and that the annexed and foregoing Charter was duly framed and adopted by said Charter Commission and that said Charter Commission directed that said Charter be presented to the electors of the Village of Lake Orion, at the time fixed therein, all in accordance with the requirements of the laws of the State of Michigan which provide therefor.

GLADYS E. VanWAGONER,
Clerk of the Charter Commission for
the Village of Lake Orion

Dated October 5, 1966.

Subscribed and sworn to before me a Notary Public in and for the County of Oakland, this 5th day of October, A.D. 1966.

ROBERT V. PARENTI,
Notary Public, Oakland County, Michigan

My commission expires: December 17, 1966

RESOLUTION OF THE CHARTER COMMISSION

VILLAGE OF LAKE ORION

COUNTY OF OAKLAND

STATE OF MICHIGAN

At a meeting of the Charter Commission for the Village of Lake Orion held on the 27th day of January, A.D. 1967.

Moved by VanWagoner

Supported by Haddrill

WHEREAS, the Charter for the Village of Lake Orion has been approved by the Governor of the State of Michigan, and

WHEREAS, said Charter provides that such Charter will be presented to the electors for their approval or rejection on March 13, 1967, and

WHEREAS, it is required that the Charter Commission provide procedures necessary for the adoption of such Charter:

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. That the proposed Charter be published in the Lake Orion Review once, not less than two weeks and not more than four weeks preceding said election, together with the notice of such election as annexed hereto.
2. That on the date fixed therefor the question of adopting such proposed Charter will be voted upon and the elective officers provided for therein will be elected on the same date and in the manner provided for therein.

3. That notice of such election as annexed hereto, shall be posted in at least ten public places within the Village not less than two weeks prior to such election.

4. That the polling places for such election shall be at the Youth Center, located at 102 S. Broadway St., Lake Orion, Michigan.

5. That the inspectors of said election and the canvassing board to canvass the votes cast at such election are hereby appointed to be those persons who will be appointed by the Village Council of Lake Orion under applicable election laws to inspect and canvass the votes at the general Village election held on said date.

6. That a copy of this resolution be published.

7. That a copy of this resolution be forwarded to the Village Council for the Village of Lake Orion with the request that they undertake whatever action necessary to implement the foregoing, including the holding of the election in the manner set forth, the printing of necessary notices and the publication of the Charter and any resolutions, the printing of the ballots, and any and all other acts as may be necessary relating to the presentment of said Charter to the voters of the Village of Lake Orion.

Ayes: Allen, Haddrill and VanWagoner

Nays: None

Absent: Unger and Kelley

_____

WESLEY B. ALLEN, Chairman

_____

GLADYS E. VanWAGONER, Clerk

ELECTION NOTICE

To the qualified electors of the Village of Lake Orion, County of Oakland, State of Michigan: Notice is hereby given that a Special Election will be held in the Village of Lake Orion, in the County of Oakland, and State of Michigan, on the 13th day of March, A. D., 1967, being the date of the General Election in Lake Orion, from 7:00 o'clock in the forenoon until 8:00 o'clock in the afternoon, for the purpose of approving or rejecting the proposed Charter of the Village of Lake Orion, framed by the Charter Commission which was elected on March 14, 1966, and which has been approved by the Governor of the State of Michigan.

_____

GLADYS E. VanWAGONER,
Clerk of the Charter Commission

_____

MARY PARKINSON,
Village Clerk

## CHARTER COMPARATIVE TABLE

This table shows the location of the amendments to the Charter. The Charter was adopted March 3, 1967.

| Legislation | Date | Section | Section this Charter |
|---|---|---|---|
| Am. Ord. of 3-12-1984 | 3-12-1984 | — | 5.11 |
| | | — | 6.12 |
| | | — | 7.2, 7.3 |
| Am. Ord. of 12-9-1985 | 12-9-1985 | — | 6.3 |
| | | — | 9.14, 9.15 |
| | | — | 10.1 |
| Am. Res. of 11-8-2004 | 11-8-2004 | — | 5.4 |
| Am. Res. of 11-10-2012 | 11-10-2012 | — | 5.4 |
| Am. Res. of 11-10-2014 | 11-10-2014 | — | 5.4 |

# PART II

# CODE OF ORDINANCES

## Chapter 1

## GENERAL PROVISIONS


Sec. 1-1. Title of Code.
Sec. 1-2. Interpretation.
Sec. 1-3. Application to future ordinances.
Sec. 1-4. Catchlines of sections, effect of history notes, references in Code.
Sec. 1-5. Definitions.
Sec. 1-6. Rules of interpretation.
Sec. 1-7. Severability.
Sec. 1-8. Reference to offices.
Sec. 1-9. Errors and omissions.
Sec. 1-10. Official time.
Sec. 1-11. Reasonable time.
Sec. 1-12. Certain ordinances not affected by Code.
Sec. 1-13. Effective date of ordinances.
Sec. 1-14. Repeal or modification of ordinance.
Sec. 1-15. Ordinances that amend or supplement Code.
Sec. 1-16. Provisions considered as continuations of existing ordinances.
Sec. 1-17. Supplementation of Code.
Sec. 1-18. Presumption of misdemeanor; general penalty.

**Sec. 1-1. Title of Code.**

This codification of ordinances by and for the Village of Lake Orion shall be designated as the "Code of Lake Orion" and may be so cited and may also be cited as "Lake Orion Code" or "this Code."
(Code 1996, § 10.01)

**Sec. 1-2. Interpretation.**

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this Code as those governing the interpretation of state law.
(Code 1996, § 10.02)

**Sec. 1-3. Application to future ordinances.**

All provisions of this Code compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this Code unless otherwise specifically provided.
(Code 1996, § 10.03)

**Sec. 1-4. Catchlines of sections, effect of history notes, references in Code.**

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

(b) The history or source notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section. Editor's notes, cross references, Charter references, related law references and state law references which appear after sections or subsections of this Code or which otherwise appear in footnote form are provided for the convenience of the user of this Code and have no legal effect.

(c) All references to chapters, articles, divisions, subdivisions, or sections are to chapters, articles, divisions, subdivisions or sections of this Code, unless otherwise specified.
(Code 1996, § 10.04)

**Sec. 1-5. Definitions.**

(a) *General rule.* Words and phrases shall be taken in their plain, or ordinary and usual, sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

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

*Agencies, officers.* Any reference to any local, state, or federal agency or officer shall include any successor agency or officer.

*Article.* The term "article" means a division of a chapter, designated in this Code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have articles.

*Charter.* The term "Charter" means the Charter of the Village of Lake Orion, Michigan.

*Clerk.* The term "Clerk" means the Clerk of the Village of Lake Orion, Michigan.

*Code, this Code* or *this Code of Ordinances.* The term "Code," "this Code," or "this Code of Ordinances" means this Village Code designated on section 1-1 and as modified by amendment, revision, and adoption of new titles, chapters, or sections.

*Computation of time.* In computing a period of days, the first day is excluded and the last day is included. If the last day of any period or a fixed or final day is a Saturday, Sunday or legal holiday, the period or day is extended to include the next day that is not a Saturday, Sunday or legal holiday.

*County.* The term "County" means Oakland County, Michigan.

*May.* The term "may" means the act referred to is permissive.

*MCL.* The abbreviation "MCL" means Michigan Compiled Laws.

*Month.* The term "month" means a calendar month.

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

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

(1) An admission of responsibility for the municipal civil infraction.

(2) An admission of responsibility for the municipal civil infraction, "with explanation."

(3) A preponderance of the evidence at an informal hearing or formal hearing.

(4) A default judgment for failing to appear at a scheduled appearance.

*Oath.* The term "oath" means an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

*Officer, office, employee, commission, department.* References to an officer, office, employee, commission, or department are references to to an officer, office, employee, commission, or department of the Village, unless the context clearly requires otherwise.

*Person.* The term "person" extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the term "person or whoever," as applied to any unincorporated entity, means the partners or members thereof and as, applied to corporations, the officers or agents thereof.

*Public acts.* References to public acts are references to the Public Acts of Michigan. For example, a reference to Public Act No. 168 of 1959 is a reference to Public Act No. 158 of the Public Acts of Michigan of 1959. Any reference to a public act, whether by act number or by short title, is a reference to such act, as amended from time to time.

*Preceding, following.* The terms "preceding" and "following" mean next before and next after, respectively.

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

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

*Shall.* The term "shall" means the act referred to is mandatory.

*Signature* or *subscription.* The term "signature" or "subscription" includes a mark when the person cannot write.

*State.* The term "state" means the State of Michigan.

*Village, municipality* or *municipal corporation.* The term "Village," "municipality," or "municipal corporation" means the Village of Lake Orion, Michigan.

*Village Council* or *Council.* The term "Village Council" or "Council" means the legislative body of the Village.

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

*Week.* The term "week" means seven consecutive days.

*Written.* The term "written" means any representation of words, letters, or figures, whether by printing or otherwise.

*Year.* The term "year" means a calendar year, unless otherwise expressed; equivalent to the words "year of our Lord."
(Code 1996, § 10.05; Am. Ord. No. A-3, 1-13-1997)

**Sec. 1-6. Rules of interpretation.**

The construction of all ordinances of the Village shall be by the following rules, unless such construction is plainly repugnant to the intent of the Village Council or of the context of the same ordinance:

(1) *And, or.* Either conjunction shall include the other as if written "and/or," if the sense requires it.

(2) *Acts by assistants.* When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, such requisition shall be satisfied by the performance of such act by an authorized agent or deputy.

(3) *Gender; singular and plural; tenses.* Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(4) *General term.* A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

(5) *Delegation of authority.* A provision that authorizes or requires a Village officer or Village employee to perform an act or make a decision authorizes such officer or employee to act or make a decision through subordinates to the extent permitted by law.
(Code 1996, § 10.06)

**Sec. 1-7. Severability.**

If any provision of this Code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.
(Code 1996, § 10.07)

**Sec. 1-8. Reference to offices.**

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of the Village exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.
(Code 1996, § 10.08)

**Sec. 1-9. Errors and omissions.**

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words were clearly intended to express such intent, such spelling shall be corrected and such word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of such error.
(Code 1996, § 10.09)

**Sec. 1-10. Official time.**

The official time, as established by applicable state/federal laws, shall be the official time within the Village for the transaction of all Village business.
(Code 1996, § 10.10)

**Sec. 1-11. Reasonable time.**

(a) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, the term "reasonable time or notice" shall be deemed to mean the time which is necessary for a prompt performance of such act or the giving of such notice.

(b) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be Sunday, it shall be excluded.
(Code 1996, § 10.11)

**Sec. 1-12. Certain ordinances not affected by Code.**

(a) Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following:

(1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.

(2) Any ordinance 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.

(3) Any contract or obligation assumed by the Village.

(4) Any ordinance fixing the salary of any Village officer or employee, unless superseded.

(5) Any ordinance establishing and/or prescribing employment, benefits, and/or personnel policies and procedures for any Village officer or Village employee.

(6) Any right or franchise granted by the Village.

(7) Any ordinance dedicating, naming, establishing, locating, relocating, opening, widening, paving, etc., any street or public way in the Village.

(8) Any appropriation ordinance.

(9) Any ordinance which, by its own terms, is effective for a stated or limited term.

(10) Any ordinance providing for local improvements and assessing taxes therefor.

(11) Any ordinance dedicating or accepting any subdivision plat or providing for subdivision regulations.

(12) Any ordinance describing or altering the boundaries of the Village.

(13) The administrative ordinances of the Village not in conflict or inconsistent with the provisions of this Code.

(14) Any ordinance levying or imposing taxes not included herein.

(15) Any ordinance establishing or prescribing street grades in the Village.

(16) Any ordinance or regulation prescribing traffic regulations for specific locations concerning through streets, parking limitations, parking prohibitions, one-way traffic, limitations on loads of vehicles or loading zones, not in conflict or inconsistent with this Code;

(17) Any ordinance of agreement with another political subdivision; and

(18) Any other ordinance, or part thereof, which is not of a general and permanent nature; or which is referred to elsewhere in this Code as continuing in effect.

(b) No such ordinance shall be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by this chapter; and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein.

**Sec. 1-13. Effective date of ordinances.**

All ordinances passed by the Village Council requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided. Ordinances not requiring publication shall take effect from their passage, unless otherwise expressly provided.
(Code 1996, § 10.13)

**Sec. 1-14. Repeal or modification of ordinance.**

(a) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect thereto, unless otherwise expressly provided.

(b) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(c) When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.
(Code 1996, § 10.14)

**Sec. 1-15. Ordinances that amend or supplement Code.**

(a) If the Village Council shall desire to amend any existing chapter or section of this Code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(b) Any ordinance that is proposed to add to the existing Code a new chapter or section shall indicate, with reference to the arrangement of this Code, the proper number of such chapter or section. In addition to such indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.
(Code 1996, § 10.15)

**Sec. 1-16. Provisions considered as continuations of existing ordinances.**

The provisions appearing in this Code, insofar as they are the same as those of ordinances and resolutions existing at the time of adoption of this Code, shall be considered as continuations thereof and not as new enactments.

**Sec. 1-17. Supplementation of Code.**

(a) Supplements to this Code shall be prepared and printed whenever authorized or directed by the Village. A supplement to this 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 the supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete. 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 that 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 person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances and parts or ordinances included in the supplement, as necessary to embody them into a unified code. For example, the person may:

(1) Arrange the material into appropriate organizational units.

(2) Supply appropriate catchlines, headings and titles for chapters, articles, divisions, subdivisions, sections and subsections to be included in the Code and make changes in any such catchlines, headings and titles or in any such catchlines, headings and titles already in the Code.

(3) Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to the Code.

(4) Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions or sections.

(5) Change the term "this ordinance" or similar terms to "this chapter," "this article," "this division," "this subdivision," "this section, " "this subsection" or "sections ____ to ____ (inserting section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated in the Code).

(6) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted in the Code.

**Sec. 1-18. Presumption of misdemeanor; general penalty.**

Unless a violation of this Code is specifically designated in the text of this Code to be a municipal civil infraction, a violation shall be deemed to be a misdemeanor.

(1) *Penalties, sanctions and remedies for Code violations.*

a. *Penalties for misdemeanors.*

1. Whenever in this Code or in any rule, regulation or order made pursuant to this Code or any ordinance of the Village, any act is prohibited or is made or declared to be unlawful or an offense, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provision by any person shall, upon conviction, be punished by a fine not exceeding $500.00, and/or a term of probation, and/or imprisonment for a term not exceeding 90 or 93 days, except whenever a specific penalty is otherwise provided except pursuant to MCL 117.3(k). MCL 257.625(1)(c) of the Michigan Vehicle Code is hereby specifically adopted by

reference. In addition to probation, costs of prosecution, and any other consequence ordered by the court, a violation of this section is punishable by one or more of the following:

(i) Community service for not more than 360 hours;

(ii) Imprisonment for not more than 180 days; or

(iii) A fine of not less than $200.00 or more than $700.00.

2. Except as specifically provided, any person under the age of 17 years who violates any provision of this Code or any ordinance of the Village shall be dealt with by the juvenile division of the probate court or as prescribed by the laws of the state.

3. In addition to any penalty under this section, the Village may seek injunctive relief, abate the condition as a nuisance, revoke any permit or license, and/or seek any other available remedy.

4. The provisions of this section shall not apply to the failure of the Village officers and employees to perform duties required in this Code.

5. Continuing offense. Each act of violation, and each day upon which any such violation shall occur, shall constitute a separate offense.

6. Penalties not exclusive. In addition to any penalties provided for in this Code, any equitable or other remedies available may be sought.

b. *Penalties for municipal civil infractions.* Penalties for municipal civil infractions shall be established by resolution of the Village Council.

(2) *Commencement of municipal civil infraction action.*

a. A municipal civil infraction action may be commenced upon the issuance of a municipal civil infraction citation by an authorized official directing the person alleged to be responsible to appear in court.

b. The form of citations used to charge municipal civil infraction violations shall be in accordance with state law, being MCL 600.8709.

c. The basis for issuance of a municipal civil infraction citation shall be as set forth below:

1. An authorized official who witnesses a person violate an ordinance, the violation of which is a municipal civil infraction, shall prepare and subscribe, as soon as possible and as completely as possible, an original and three copies of a citation.

2. An authorized official may issue a citation to a person if, based upon investigation, the official has reasonable cause to believe that a person is responsible for a municipal civil infraction.

3. An authorized official may issue a citation to a person if, based upon investigation of a complaint by someone who allegedly witnessed the person violate an ordinance, a violation of which is a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction and if the attorney for the Village for whom the authorized local official is acting approves in writing the issuance of the citation.

d. Municipal civil infraction citations shall be served in the following manner:

1. Except as otherwise provided in subsection (2)d.2 of this section, the authorized official shall personally serve a copy of the citation upon the alleged violator.

2. In a municipal civil infraction action involving the use or occupancy of land or a building or other structure, a copy of the citation need not be personally served upon the alleged violator but may be served upon an owner or occupant of the land, building or structure by posting the copy on the land or attaching the copy to the building or structure. In addition, a copy of the citation shall be sent by first class mail to the owner of the land, building or structure at the owner's last known address.

3. A citation served as provided in subsection (2)d.2 of this section, for a violation involving the use or occupancy of land or a building or other structure, shall be processed in the same manner as a citation served personally upon a defendant.

(3) *Ordinance enforcement officer.*

a. The Village Council is hereby authorized to appoint by motion or resolution any person as an ordinance enforcement officer for such terms as may be designated in the motion or resolution for purposes of carrying out the duties and responsibilities specified in this Code for officials charged with the enforcement of this Code. The Council may further, by motion or resolution, remove any person from such office, in the discretion of the Council.

b. An appointed ordinance enforcement officer is authorized to enforce all provisions of this Code, whether or not any particular provision specifies or designates a different enforcing official. Where a particular officer is designated in any Code provision, that officer's authority shall continue in full force and effect, and shall not be diminished or impaired by the terms of this section, and the authority of the ordinance enforcement officer shall be in addition and supplementary to the authority granted to such other specific officer.

c. The ordinance enforcement officer's duties shall include the following: investigation of Code violations; issuance and service of municipal ordinance violation

notices and municipal civil infraction citations and municipal civil infraction violation notices; appearance in court or other judicial or quasi-judicial proceedings in the administration of this Code.

(Code 1996, § 10.99; Am. Ord. No. A-3, 1-13-1997; Am. Ord. No. A-4, 5-27-1997; Am. Ord. No. A-9, 6-12-2017)

**State law reference—**Limitation on penalties, MCL 117.4i.

Chapter 2

# ADMINISTRATION

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## Article II. Boards and Commissions

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# ARTICLE I. IN GENERAL

**Secs. 2-1—2-18. Reserved.**

# ARTICLE II. BOARDS AND COMMISSIONS

## DIVISION 1. GENERALLY

**Secs. 2-19—2-39. Reserved.**

## DIVISION 2. DOWNTOWN DEVELOPMENT AUTHORITY

### Sec. 2-40. Establishment.

In recognition of the fact that it is in the best interest of the public to prevent further property value deterioration in the downtown business district of the Village, to eliminate the causes of such deterioration and to promote economic growth in the downtown business district consistent with land use plan guidelines, a downtown development authority (Authority) is hereby established pursuant to Public Act No. 197 of 1975, being MCL 125.1651 through 125.1657 and 125.1659 through 125.1680, to be known as the Downtown Development Authority of the Village of Lake Orion.
(Code 1996, § 30.01; Ord. No. 35.01, 8-12-1985)

### Sec. 2-41. Organization.

The Authority shall be under the supervision and control of a board consisting of the Village President and eight members appointed by the Village Council President, subject to the approval of Village Council. At least five of the members shall be persons having an interest in property located in the downtown district. Of the members first appointed, two shall be appointed for one year, two for two years, two for three years, and two for four years. Thereafter, a member shall serve for a term of four years. An appointment to fill a vacancy shall be made by the Village Council President for the unexpired term only. Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses. The Chairperson of the Board shall be elected by the Board.
(Code 1996, § 30.02; Ord. No. 35.01, 8-12-1985)

### Sec. 2-42. Duties.

The Downtown Development Authority as herein created shall be charged with the following duties:

(1) Prepare an analysis of economic changes taking place in the downtown district.

(2) Study and analyze the impact of a maturing community upon the downtown district.

(3) Plan and propose the construction, renovation, repair, remodeling, rehabilitation, restoration, preservation, or reconstruction of a public facility, an existing building, or a multiple-family dwelling unit which may be necessary or appropriate to the execution of a plan which, in the opinion of the Board, aids in the economic growth of the downtown district.

(4) Develop long-range plans, in cooperation with the Village Planning Commission, designed to prevent the deterioration of property values in the downtown district, and take such steps as may be necessary to persuade property owners to implement the plans to the fullest extent possible.

(5) Implement any plan of development in the downtown district necessary to achieve the purposes of this division, in accordance with the powers of the Authority as granted by this division.

(6) Make and enter into contracts necessary or incidental to the exercise of its powers and the performance of its duties.

(7) Acquire by purchase or otherwise, on terms and conditions and in a manner the Authority deems proper, or own, convey, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights or interests therein, which the Authority determines is reasonably necessary to achieve the purposes of this division, and to grant or acquire licenses, easements, and options with respect thereto.

(8) Improve land and construct, reconstruct, rehabilitate, restore and preserve, equip, improve, maintain, repair, and operate any building, including multiple-family dwellings, and any necessary or desirable appurtenances thereto, within the downtown district for the use, in whole or in part, of any public or private person or corporation, or a combination thereof.

(9) Fix, charge, and collect fees, rents, and charges for the use of any buildings or property under its control or any part thereof, payment of revenue bonds issued by the Authority.

(10) Lease any building or property under its control, or any part thereof.

(11) Accept grants and donations of property, labor, or other things of value from a public or private source.

(12) Acquire and construct public facilities.

(Code 1996, § 30.03; Ord. No. 35.01, 8-12-1985)

**Sec. 2-43. Financing.**

The activities of the Authority shall be financed from one or more of the following sources:

(1) Donations to the Authority for the performance of its functions.

(2) Proceeds of a tax imposed pursuant to section 12 of Public Act No. 197 of 1975, being MCL 125.1662. However, the Board shall not request that the Village Council authorize such a tax without first holding a public hearing, following the sending of a notice to every property owner in the district.

(3) Monies borrowed and to be repaid as authorized by section 13 of Public Act No. 197 of 1975, being MCL 125.1663.

(4) Revenues from any property, building, or facility owned, leased, licensed or operated by the Authority or under its control, subject to the limitations imposed upon the Authority by trusts or other agreements.

(5) Proceeds of a tax increment financing plan, established under sections 14 through 16 of Public Act No. 197 of 1975, being MCL 125.1664 through 125.1666.

(6) Monies obtained from other sources approved by the Village Council.

(7) Monies received by the Authority and not covered under subsection (1) of this section shall be immediately deposited to the credit of the Authority, subject to disbursement pursuant to Public Act No. 197 of 1975. Except as provided in Public Act No. 197 of 1975, the Village shall not obligate itself, nor shall it ever be obligated to pay any sums from public monies, other than monies received by the Village pursuant to this section, for or on account of the activities of the Authority.

(Code 1996, § 30.04; Ord. No. 35.01, 8-12-1985)

**Sec. 2-44. Development plans.**

When the Board decides to finance a project in the downtown district by the use of revenue bonds as authorized in section 13 or tax increment financing as authorized in sections 14 through 16 of Public Act No. 197 of 1975, being MCL 125.1664 through 125.1666, it shall prepare a development plan. The development plan shall contain:

(1) The designation of boundaries of the development area in relation to highways, streets, streams, or otherwise.

(2) The location and extent of existing streets and other public facilities within the development area and shall designate the location, character, and extent of the categories of public and private land uses then existing and proposed for the development area, including residential, recreational, commercial, industrial, educational, and other uses and shall include a legal description of the development area.

(3) A description of existing improvements in the development area to be demolished, repaired, or altered, a description of any repairs and alterations, and an estimate of the time required for completion.

(4) The location of existing improvements in the development area.

(5) A statement of the construction or stages of construction planned, and the estimated time of completion of each stage.

(6) A description of any parts of the development area to be left as open space and the use contemplated for the space.

(7) A description of any portions of the development area that the Authority desires to sell, donate, exchange, or lease to or from the municipality and the proposed terms.

(8) A description of any desired zoning changes and changes in streets, street levels, intersections, and utilities.

(9) An estimate of the cost of the development, a statement of the proposed method of financing the development and the ability of the Authority to arrange the financing.

(10) The designation of the persons, natural or corporate, to whom all or a portion of the development is to be leased, sold, or conveyed in any manner and for whose benefit the project is being undertaken if that information is available to the Authority.

(11) The procedures for bidding for the leasing, purchasing, or conveying in any manner of all or a portion of the development upon its completion, if there is no express or implied agreement between the Authority and persons, natural or corporate, that all or a portion of the development will be leased, sold or conveyed in any manner to those persons.

(12) A plan for compliance with Public Act No. 227 of 1972, being MCL 213.321 through 213.332.

(13) Other material that the Authority, local public agency, or governing body deems pertinent.

(Code 1996, § 30.05; Ord. No. 35.01, 8-12-1985)

**Sec. 2-45. Governing procedures.**

The Authority shall have all the power and duties prescribed by Public Act No. 197 of 1975, being MCL 125.1651 through 125.1657 and 125.1659 through 125.1680. Any questions of interpretation of the powers and duties and responsibilities of the Authority shall be resolved by reference to Public Act No. 197 of 1975. The Authority shall provide the Village Council and Planning Commission with all reports and studies regulating the information and implementation of project development plans. The Authority shall submit the proposed development plan to the Village Planning Commission for review and recommendation to the Village Council prior to the hearing specified in section 18 of Public Act No. 197 of 1975, being MCL 125.1668.

(Code 1996, § 30.06; Ord. No. 35.01, 8-12-1985)

**Sec. 2-46. Boundaries.**

The Authority shall exercise its powers within the following described area:

Land lying in the southwest one-quarter of section 1, Township 4 North, Range 10 East, the southeast one-quarter of section 2, Township 4 North, Range 10 East, the northeast one-quarter of section 11, Township 4 North, Range 10 East, and the northwest one-quarter of section 12, Township 4 North, Range 10 East, the Village, Oakland County, Michigan, and more particularly described as beginning at the east one-quarter corner of said section 11; thence north along the east line of said section 11 to the southerly line of Atwater Street; thence easterly along the southerly line of Atwater Street as recorded in Perry's and Axford's addition to the Village of Orion as recorded in Liber 1, Page 47 of Plats, Oakland County Records and William Winters Subdivision as recorded in Liber 25, Page 21 of Oakland County Records to the southwesterly line of Orion Road; thence northwesterly along the southwesterly line of said Orion Road as recorded in said William Winters Subdivision and said Perry's and Axford's Addition to the intersection of the south line of Flint Street of said Perry's and Axford's Addition; thence northeasterly to the southeast corner of Lot 29 of Assessors Plat No. 1 as recorded in Liber 53, Page 52, Oakland county Records; thence northerly along the east line of said Assessor's Plat No. 1 to the northeast corner of Lot 19 of said plat; thence westerly along the northerly line of said Assessor's Plat No. 1 to the northwest corner of Lot 18 of said plat; thence southerly along the westerly line of Lot 18 of said Assessor's Plat No. 1 to a point that is 46.53 feet southerly of the northeast corner of Lot 17 of said Assessor's Plat No. 1; thence southerly to a point on the northerly line of Jackson Street, said point being 94.9 ft. easterly of the southwest corner of said Lot 17; thence southerly to the southwest corner of Jackson Street and Florence Street as recorded in Perrysburgh, a subdivision recorded in Liber 1, Page 36 of Plats, Oakland County Records; thence southerly along the westerly line of Florence Street as recorded in said Perrysburgh subdivision to the northwest corner of Florence and Flint Street as recorded in said subdivision; thence westerly along the northerly line of said Flint Street to the northeast corner of Flint Street and Washington Street of said subdivision; thence northerly along the easterly line of Washington Street as recorded in said Perrysburgh Subdivision to the extension of the north lines of Lots 5, 6 and 7, Block 11 of Hemmingway's Plat as recorded in Liber 1, Page 34 of Plats, Oakland County Records; thence westerly along the northerly line of Lots 5, 6, 7, and 8 of Blocks 11, 12, 13 and 14 of said Hemmingway's Plat to the easterly line of Lapeer Street of said subdivision; thence northerly along the easterly line of Lapeer Street of said subdivision and Supervisor's Plat No. 8 as recorded to Liber 14, Page 58 of Oakland County Records to the southeast corner of Lapeer Street and Elizabeth Street, thence northerly to a point on the northeasterly side of Elizabeth Street, said point being on the extension of the said easterly line of Lapeer Street; thence northwesterly along the northeasterly line of said Elizabeth Street to the east and west one-quarter line of said section 2; thence westerly along said east and west one-quarter line to the west line of Axford

Avenue in plat of Axford's Addition recorded in Liber 4, Page 21 of Oakland County Records; thence southerly along the said westerly line of Axford Avenue to the south line of Church Street as recorded in said Axford's Addition; thence easterly along the said southerly line of Church Street to the southwest corner of Church and Andrews Avenue; thence southerly along the westerly line of said Andrews Avenue to the extension of the south line of Shadbolt Street In South Andrews Addition as recorded in Liber 1, Page 40, of Oakland County Records; thence easterly along the southerly line of said Shadbolt Street to the southwest corner of Shadbolt and Beebe Street; thence southerly along the westerly line of said Beebe Street to a point, said point being the intersection of the south line of Flint Street and the westerly line of Beebe Street extended; thence easterly along the southerly line of said Flint Street to the northeast corner of a parcel of land identified as Andrews reservation as shown on said Andrews Addition; thence southerly in part along the easterly line of said Andrews Reservation and the westerly line of Supervisor's Plat No. 6 as recorded in Liber 34, Page 48 of Oakland County Records to the southwest corner of said Supervisor's Plat No. 6; thence southeasterly to the northwest corner of Lot 4 as shown in Assessor's replat of Decker's Addition to the Village of Orion and part of Canandaigua Village as recorded in Liber 52, Page 17 of Oakland County Records; thence along the westerly line of Lots 4, 5, 6, 7, 9 and 10 of said replat to the southwest corner of Lot 10 of said replat; thence along the northerly and westerly and southerly lines of Lots 14, 17, 18, 19, 20, 22 and 23 of said replat to the south corner of said Lot 23; thence southerly to the northwest corner of Lot 24 of said replat; thence southerly along the westerly line of Lots 24, 29, 44, 47, 48 49, 50, 52 and 53 of said replat to the southwest corner of Lot 53; thence easterly along the southerly line of said Assessor's replat to the said east one-quarter corner of section 11, the point of beginning.

(Code 1996, § 30.07; Ord. No. 35.01, 8-12-1985)

**Secs. 2-47—2-65. Reserved.**

## DIVISION 3. HOUSING COMMISSION

### Sec. 2-66. Establishment.

Pursuant to Public Act No. 18 of the Extra Session of 1933, being MCL 125.651 et seq., there is hereby created in and for the Village a commission to be known as "The Lake Orion Housing Commission."

(Code 1996, § 30.35; Ord. No. 180, 6-28-1971)

### Sec. 2-67. Membership, appointment, term compensation, vacancies.

The Commission shall consist of five members to be appointed by the Village Manager and confirmed by the Village Council. The term of office of the members of the Commission shall be five years. Members of the first Commission existing hereunder shall be appointed for the terms of one year, two years, three years, four years and five years respectively, and annually

thereafter one member shall be appointed for the term of five years. Members of the Commission shall serve without compensation and may be removed from office by the appointing authority. Any vacancy in office shall be filled by the appointing authority for the remainder of the unexpired term.
(Code 1996, § 30.36; Ord. No. 180, 6-28-1971)

**Sec. 2-68. Powers and duties.**

The Commission shall have all the powers and duties vested or permitted to be vested in Housing Commission by Public Act No. 18 of the Extra Session of 1933, as heretofore or hereafter amended, being MCL 125.651 et seq., and any laws heretofore or hereafter enacted which are supplemental thereto, it being the intention of this division to vest in the Lake Orion Housing Commission all powers and duties permitted by law.
(Code 1996, § 30.37; Ord. No. 180, 6-28-1971)

**Sec. 2-69. Meetings, rules, records, quorum, officers, employees.**

The Commission shall meet at regular intervals, said meeting to be public. It shall adopt its own rules or procedure and shall keep a record of the proceedings. Three members shall constitute a quorum for the transaction of business. A President and Vice President shall be elected by the Commission. The Commission may appoint a Director who may also serve as secretary, and such other employees or officers as shall be necessary. The Commission shall prescribe the duties of all its officers and employees and may, with the approval of the appointing authority, fix their compensation. The Commission may from time to time as necessary employ engineers, architects and consultants.
(Code 1996, § 30.38; Ord. No. 180, 6-28-1971)

**Sec. 2-70. Funds.**

Funds for the operation of the Commission may be provided by the Village Council, but the Commission shall as soon as possible reimburse the Village for all monies expended by it for the Commission from revenues received from the sale of bonds.
(Code 1996, § 30.39; Ord. No. 180, 6-28-1971)

**Sec. 2-71. Reports to Village Council.**

The Commission shall make an annual report of its activities to the Village Council and shall make such other reports as the Village Council may from time to time direct.
(Code 1996, § 30.40; Ord. No. 180, 6-28-1971)

**Secs. 2-72—2-100. Reserved.**

## DIVISION 4. PLANNING COMMISSION

### Sec. 2-101. Established.

In accordance with the Michigan planning enabling act, Public Act No. 33 of 2008, the Village Planning Commission is hereby established, to have the powers and duties provided in that act and this division. The Village Planning Commission existing on the effective date of the ordinance from which this division is derived shall be the Village Planning Commission provided for in this division, and its members shall continue to serve with their existing terms continued.
(Code 1996, § 30.15; Ord. No. 24.04, 3-11-1985; Am. Ord. No. 24.08, 6-27-2011; Am. Ord. No. 24.07, 7-11-2011)

### Sec. 2-102. Membership.

(a) The Planning Commission shall have nine members consisting of the Village President, another member of the Village Council selected by the Village Council and an administrative official of the Village selected by the Village President as ex officio members, and six other persons appointed by the Village President subject to majority approval by the members of the Village Council elected and serving. At least seven members of the Planning Commission shall be qualified electors of the Village.

(b) The membership of the Planning Commission shall be representative of the entire geography and important segments of the Village, such as the economic, governmental, educational, and social development of the Village, in accordance with the major interests that exist, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce.

(c) All members of the Planning Commission shall serve as such with compensation as determined by the Village Council. Except for ex officio members, members of the Planning Commission shall not hold another Village office, except that one appointed member may be a member of the Board of Zoning Appeals.

(d) The term of each appointed member of the Planning Commission shall be three years or until his or her successor takes office, with all appointments to be dated from May 1 and staggered such that as near as possible to one-third of the appointed members terms expire on April 30 of each year. The term of an ex officio Village Council member of the Planning Commission may be limited to no more than three years at the time of their selection but otherwise shall correspond to their current term on the Village Council. The term of an ex officio administrative official member of the Planning Commission shall end when the person who selected them is no longer Village President, on a date established by the Village President at the time of selection or three years from the date of selection, whichever first occurs.

(e) Vacancies on the Planning Commission for unexpired terms shall be filled using the same process that applied to the vacant position.
(Code 1996, § 30.16; Ord. No. 24.04, 3-11-1985; Am. Ord. No. 24.06, 10-22-2007; Am. Ord. No. 24.05, 11-26-2007; Am. Ord. No. 24.08, 6-27-2011; Am. Ord. No. 24.07, 7-11-2011)

**Sec. 2-103. Removal of members and conflict of interest.**

(a) 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 of a member to disclose a potential conflict of interest constitutes malfeasance in office.

(b) Before casting a vote on a matter on which a member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Planning Commission. The member is disqualified from voting on the matter if so provided by the Planning Commission bylaws or by a majority vote of the remaining members of the Planning Commission.

(c) For purposes of this section, the term "conflict of interest" shall have the meaning as defined in the Planning Commission bylaws and in the absence of this definition, means when a member of the Planning Commission or a member of their family has a proprietary or financial interest in an issue or matter that is before the Planning Commission beyond that which is experienced by the public in general, or the member may receive or gain a financial benefit as a result of a vote on the issue or matter.
(Code 1996, § 30.17; Ord. No. 24.04, 3-11-1985; Am. Ord. No. 24.08, 6-27-2011; Am. Ord. No. 24.07, 7-11-2011)

**Sec. 2-104. Officers and committees.**

(a) The Planning Commission shall elect a Chairperson, Vice-Chairperson and Secretary from among its members and create and fill other offices it considers advisable. An ex officio member of the Commission is not eligible to serve as Chairperson. The term of each officer shall be one year, with opportunity for reelection.

(b) The Planning Commission may appoint advisory committees whose members are not members of the Planning Commission.
(Code 1996, § 30.18; Ord. No. 24.04, 3-11-1985; Am. Ord. No. 24.08, 6-27-2011; Am. Ord. No. 24.07, 7-11-2011)

**Sec. 2-105. Appointments by the Commission.**

The Planning Commission may appoint such employees as it may deem necessary for its work and may contract with Village planners, engineers, architects and other consultants as it

may require; provided, however, that the Planning Commission shall not expend any funds or enter into any contracts or agreements for expenditures in excess of amounts appropriated for the purpose by the Village Council.
(Code 1996, § 30.19; Ord. No. 24.04, 3-11-1985)

**Sec. 2-106. Meetings and procedures.**

(a) The Planning Commission shall hold not less than four regular meetings each year and, at its first meeting of each calendar year, shall adopt and provide public notice of its regular meetings for that year in accordance with the Michigan open meetings act.

(b) Unless the Planning Commission bylaws provide otherwise, a special meeting of the Planning Commission may be called by the Chairperson or by two other members upon written request to the Secretary, who shall send written notice of the special meeting to Planning Commission members not less than 48 hours before the meeting.

(c) The business that the Planning Commission may perform shall be conducted at a public meeting of the Planning Commission held in compliance with the Michigan open meetings act. Public notice of the time, date, and place of a regular or special meeting shall be given in the manner required by that act.

(d) The Planning Commission shall adopt bylaws for the transaction of business and shall keep a public record of its resolutions, transactions, findings and determinations.
(Code 1996, § 30.20; Ord. No. 24.04, 3-11-1985; Am. Ord. No. 24.08, 6-27-2011; Am. Ord. No. 24.07, 7-11-2011)

**Sec. 2-107. Duties and responsibilities.**

The Planning Commission shall have the following powers, duties and responsibilities in accordance with any applicable provisions of the Michigan planning enabling act, Public Act No. 33 of 2008 (referred to in this section as planning act), this division, and other applicable laws:

(1) Prepare, review and update a master plan as a guide for development within the Village's planning jurisdiction.

(2) Promote public interest in and understanding of the master plan, including consultation and advice concerning promotion and implementation of the master plan.

(3) Review the master plan at least every five years and determine whether to commence the procedure to amend it.

(4) Prepare an annual written report to the Village Council concerning the Planning Commission's operations and the status of planning activities, including recommendations regarding actions by the Village Council related to planning and development.

(5) Carry out duties and responsibilities authorized or required by the Michigan zoning enabling act, Public Act No. 110 of 2006, and the Michigan planning enabling act, Public Act No. 33 of 2008, except the annual preparation of a capital improvements program under section 65 of the planning act, which is the responsibility of the Village Council under the Village Charter and from which the Planning Commission is therefore and hereby exempted.

(6) Provide recommendations to the Village Council on programs for and financing of public structures and improvements.

(7) Exercise all powers and duties of a zoning commission, as previously and hereby confirmed as transferred to the Planning Commission, as provided in the Michigan zoning enabling act, Public Act No. 110 of 2006.

(8) Review and take action on public construction as described in sections 61 and 63 of the planning act.

(9) Review and provide recommendations to the Village Council on subdivision ordinances and plats as described in section 71 of the planning act.

(10) Take actions authorized, required or requested by an Village ordinance or Village Council resolution.

(11) Prepare special studies and plans, as deemed necessary by the Planning Commission or Village Council and for which appropriations of funds have been approved by the Village Council, as needed.

(Code 1996, § 30.21; Ord. No. 24.04, 3-11-1985; Am. Ord. No. 24.08, 6-27-2011; Am. Ord. No. 24.07, 7-11-2011)

**Sec. 2-108. Gifts.**

The Village Planning Commission may receive gifts for purposes of carrying out its objectives and may expend any funds received in the form of a gift, in such manner as it may deem proper.

(Code 1996, § 30.22; Ord. No. 24.04, 3-11-1985)

**Secs. 2-109—2-129. Reserved.**

## ARTICLE III. DEPARTMENTS

### DIVISION 1. GENERALLY

**Secs. 2-130—2-156. Reserved.**

## DIVISION 2. FINANCE AND TREASURY

### Sec. 2-157. Head of Department.

The Department of Finance and Treasury shall be headed by the Finance Director/Treasurer, who shall be the administrative officer of the department. The Finance Director/Treasurer shall direct the work of the department and be responsible for the efficient and effective operations of the department. The Finance Director/Treasurer shall be appointed by the Village Council upon the recommendation of the Village Manager and shall serve at the pleasure of the Village Council. The salary of the Director shall be set by the Village Council in accordance with budget appropriations and upon recommendations of the Village Manager. In addition to the responsibilities outlined in this division for the Department of Finance and Treasury, the Finance Director/Treasurer shall perform such duties as are provided for the Finance Director/Treasurer by state law, Charter, Village ordinances, and the administrative directives of the Village Manager. The Director shall have the authority to hire, promote, demote, discipline, or discharge employees of the Department with the approval of the Village Manager and in accordance with any applicable collective bargaining agreements which may be in effect from time to time. The Director shall prepare the Department's annual budget proposals for submission to, and consideration by, the Village Manager and Village Council in accordance with the requirements specified by the Village Manager, Charter, ordinance, or law. (Code 1996, § 33.01; Ord. No. 40.02, 2-9-2015)

### Sec. 2-158. Functions of Department.

The functions of the Department of Finance and Treasury shall consist of the following:

(1) The Department shall perform the general accounting functions of the Village, shall keep the books of account of the assets, receipts, and expenditures, and shall keep the Council and the Village Manager informed as to the financial affairs of the Village. The system of accounts of the Village shall conform to such uniform system as may be required by law.

(2) The Department shall examine and audit all accounts and claims against the Village. The Department shall not allow withdrawals from any Village fund which, after deduction of withdrawals therefrom, does not have a sufficient amount therein to pay such proposed withdrawal.

(3) The Department shall balance all the books of account of the Village at least quarterly in each year, and shall make a report thereon to the Village Manager.

(4) The Department shall, at any time, upon direction of the Council or the Village Manager, examine and audit all books of account kept by any official or department of the Village. The Department shall examine and audit all books of account of all departments at least once each month.

(5) The Department shall collect Village taxes, unless another person or agency is designated by the Council to do so, and shall perform all of the duties as prescribed by the Village Charter for collection of taxes, the general laws of the state, together with such other duties as may be required or assigned to him by the Village Manager.

(6) The Department shall have custody of all monies of the Village, the Clerk's bond, and all evidences of value belonging to the Village or held in trust by the Village.

(7) The Department shall receive all monies belonging to and receivable by the Village that may be collected by any official or employee of the Village, including license fees, taxes, assessments, utility charges and all other charges belonging to and payable to the Village and shall, in all cases, give a receipt therefor.

(8) The Department shall keep and deposit all monies or funds in such manner and in such places as the Council may determine from time to time and shall report the same in detail to the Council and Village Manager.

(9) The Department shall have such powers, duties and prerogatives in regard to the collection and custody of state, county and school district and Village taxes and monies as are conferred by law to enforce the collection of state, county, village, township and school district taxes upon real and personal property.

(10) The Department shall pay no money out of the treasury except in pursuance of and by the authority of the law and upon warrants issued in the manner as required by the Village Charter, which warrants shall specify the purpose for which the amounts thereof are to be paid.

(11) The Department shall collect and keep an account of and be charged with all taxes and monies appropriated, raised or received for each fund of the Village, and shall keep a separate account of such funds, and shall credit thereto all monies raised, paid in or appropriated therefor, and shall pay every warrant out of the particular fund raised for the purpose for which the warrant was issued.

(12) The Department shall perform such other functions, duties, and responsibilities as may be designated by the Village Manager, Charter, Village ordinances, or state or federal law.

(13) The Finance Director/Treasurer shall supervise, monitor, coordinate, and manage the work of others in the performance of the functions of the Department.

(Code 1996, § 33.02; Ord. No. 40.02, 2-9-2015)

**Sec. 2-159. Department rules.**

The Finance Director/Treasurer may prescribe rules, policies, and procedures for the operation of the department, subject to approval by the Village Manager, which shall be entered in a book of "Department of Finance and Treasury Rules and Orders" and which may be

amended or repealed by the Finance Director/Treasurer upon written notice to, and approval by, the Village Manager. It shall be the duty of all employees of the Department of Finance and Treasury to comply with such rules and orders while effective.
(Code 1996, § 33.03; Ord. No. 40.02, 2-9-2015)

**Sec. 2-160. Acting Finance Director/Treasurer.**

In case of the absence from the Village of the Finance Director/Treasurer, or his or her disability or inability from any cause to act as Director, the Village Manager shall designate and appoint another competent person to act as Finance Director/Treasurer during such absence or disability.
(Code 1996, § 33.04; Ord. No. 40.02, 2-9-2015)

**Secs. 2-161—2-188. Reserved.**

## DIVISION 3. POLICE

**Sec. 2-189. Head of Department.**

The Department of Police shall be headed by the Police Chief, who shall be the commanding officer of the police force. He shall direct the police work of the Village and be responsible for the enforcement of law and order.
(Code 1996, § 32.01; Ord. No. 1.01, 9-13-1971)

**Sec. 2-190. Functions of Department.**

The police work of the Village shall consist of the following functions:

(1) The operation of motor and foot patrol units for routine investigation and the general maintenance of law and order.

(2) The maintenance of a complaint desk at Central Police Headquarters, the maintaining and supervising of police records, criminal and non-criminal identification, property identification, and the custody of property.

(3) The investigation of crimes, elimination of illegal liquor and drug traffic and vice, and the preparation of evidence for the prosecution of criminal cases and offenses in violation of this Code.

(4) The prevention and control of juvenile delinquency, the handling of cases in which women are involved, the removal of crime hazards and the coordination of community groups or agencies interested in crime prevention.

(5) To recommend, as to the control of traffic, traffic educational programs and the coordination of traffic violation prosecution.

(6) The enforcement of this Code and other ordinances of the Village and the laws of the state.

(Code 1996, § 32.02; Ord. No. 1.01, 9-13-1971)

**Sec. 2-191. Department rules.**

(a) The Police Chief may prescribe rules for the government of police officers of the Village, subject to approval by the Village Manager, which shall be entered in a book of "Police Department Rules and Orders," of which any may be amended or revoked by the Police Chief upon written notice to the Village Manager. It shall be the duty of all members of the police force to comply with such rules and orders while effective.

(b) The minimum employment standards for law enforcement officers as established and adopted by the Michigan Law Enforcement Officers Training Council shall be in accordance with Public Act No. 203 of 1965, being MCL 28.601 through 28.616.

(Code 1996, § 32.03; Ord. No. 1.01, 9-13-1971)

**Sec. 2-192. Acting Chief.**

In case of the absence from the Village of the Police Chief, or his disability or inability from any cause to act as Police Chief, the Manager shall designate and appoint some other member of the Police Department to act as Chief during such absence or disability.

(Code 1996, § 32.04; Ord. No. 1.01, 9-13-1971)

**Sec. 2-193. Lost property.**

The Police Department shall accept custody of lost articles having a value of $5.00 or more delivered to them and the Department shall maintain a record of each article, giving its description, the time and place found and the name and address of the finder. Any such article held by the Department for 90 days or longer, during which period the same is not claimed by the owner, shall be returned to the finder and if not claimed by said finder shall be sold at public auction and the proceeds, less the expenses of storage and sale, shall be deposited with the Treasurer. Prior to sale of any article, a notice of such sale shall be published in a newspaper of general circulation in the Village once a week for three successive weeks. Such notice shall describe the articles to be sold unless claimed by the owner thereof prior thereto. No such article shall be sold earlier than one month subsequent to the first publication of such notice of sale.

(Code 1996, § 32.05; Ord. No. 1.01, 9-13-1971)

**Secs. 2-194—2-224. Reserved.**

## DIVISION 4. PUBLIC WORKS

### Sec. 2-225. Head of Department.

The Department of Public Works shall be headed by the Director of Public Works, who shall be the Administrative Officer of the Department. The Director of Public Works shall direct the work of the department and be responsible for the efficient and effective operations of the Department. The Director of Public Works shall be appointed by the Village Council upon the recommendation of the Village Manager and shall serve at the pleasure of the Village Council. The salary of the Director shall be set by the Village Council in accordance with budget appropriations and upon recommendations of the Village Manager. In addition to the responsibilities outlined in this division for the Department of Public Works, the Director of Public Works shall perform such duties as are provided for public works directors by state law, Charter, Village ordinances, and the administrative directives of the Village Manager. The Director shall have the authority to hire, promote, demote, discipline, or discharge employees of the Department with the approval of the Village Manager and in accordance with any applicable collective bargaining agreements which may be in effect from time to time. The Director shall prepare the Department's annual budget proposals for submission to, and consideration by, the Village Manager and Village Council in accordance with the requirements specified by the Village Manager, Charter, ordinance, or law.
(Code 1996, § 30.50; Ord. No. 40.01, 7-8-2013)

### Sec. 2-226. Functions of Department.

The functions of the Department of Public Works shall consist of the following:

(1) Maintenance and lighting of public streets, alleys, and sidewalks;

(2) Construction and maintenance of public buildings;

(3) Construction and maintenance of park facilities, cemeteries, and other public grounds;

(4) Construction and maintenance of public sanitary sewers, storm sewers, sewage, drainage, and disposal systems and facilities;

(5) Construction and maintenance of water systems and facilities;

(6) Maintenance and repair of motor vehicles and equipment;

(7) Performance of such other functions, duties, and responsibilities as may be designated by the Village Manager, Charter, Village ordinances, or state or federal law; and

(8) Supervision, monitoring, coordination, and management of the work of others in the performance of the functions of the Department.

(Code 1996, § 30.51; Ord. No. 40.01, 7-8-2013)

**Sec. 2-227. Department rules.**

The Director of Public Works may prescribe rules, policies, and procedures for the operation of the Department, subject to approval by the Village Manager, which shall be entered in a book of Department of Public Works rules and orders and which may be amended or repealed by the Director of Public Works upon written notice to, and approval by, the Village Manager. It shall be the duty of all employees of the Department of Public Works to comply with such rules and orders while effective.
(Code 1996, § 30.52; Ord. No. 40.01, 7-8-2013)

**Sec. 2-228. Acting Director.**

In case of the absence from the Village of the Director of Public Works, or his or her disability or inability from any cause to act as Director, the Village Manager shall designate and appoint another competent person to act as Director of Public Works during such absence or disability.
(Code 1996, § 30.53; Ord. No. 40.01, 7-8-2013)

**Secs. 2-229—2-249. Reserved.**

## ARTICLE IV. TAXATION

**Sec. 2-250. Taxes due and payable.**

(a) Village taxes shall be due and payable on July 1 of each year, may be paid as provided in the Village Charter or at a location and in a manner approved by resolution of the Village Council and specified on the tax bill, and shall not be subject to the addition of penalties and interest if paid by August 31.

(b) Taxes unpaid after August 31 shall be subject to the addition of a three percent penalty and interest at the rate of one percent for each month or fraction of a month after that date that the taxes remain unpaid until the last day of the next February, with the penalty and interest to be added if the taxes are not paid by September 14. Any penalties and interest added to the taxes shall constitute a charge and lien against the property to which the taxes apply and be collectible in the same manner as those taxes.
(Code 1996, § 31.01; Ord. No. 37.02, 5-27-1986; Am. Ord. No. 37.04, 5-10-2010)

**Sec. 2-251. Property tax administration fee.**

There shall be no property tax administration fee applied to Village property taxes.
(Code 1996, § 31.02; Ord. No. 37.02, 5-27-1986)

**Secs. 2-252—2-280. Reserved.**

## ARTICLE V. PURCHASING

### Sec. 2-281. Guidelines.

The guidelines set forth in this article have been prepared to provide standardized policies and procedures for the purchase of supplies and contractual services by the Village. The guidelines also define the responsibilities of the Purchasing Agent and the operating departments regarding the purchase and/or sale of goods. These guidelines are to be followed for the purchase of supplies and contractual services.
(Ord. No. 24.09, § 1(34.01), 6-26-2023)

### Sec. 2-282. Definitions.

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

*Contract* means all types of Village agreements, regardless of what they might be called, for the procurement of supplies, equipment or contractual services, except that the term "contract" does not include collective bargaining agreements.

*Contractual services* means and includes the rental, repair or maintenance of equipment, machinery and other Village-owned property. The term "contractual services" does not include professional, insurance and personal services or other contractual services which are in their nature unique.

*Department head* means the individual in charge of a using agency or that individual's designate.

*Invitation for bids* means the complete assembly of related documents, whether attached or incorporated by reference, furnished prospective bidders for the purpose of soliciting sealed bids.

*Purchasing Agent.* The Village Manager shall act as purchasing agent of the Village unless another officer or employee shall be designated to act as Purchasing Agent by the Village Manager in writing filed with the Village Clerk. The Purchasing Agent, with the approval of the Village Manager, shall adopt any necessary rules respecting requisitions and purchase orders.

*Purchasing guidelines* means those guidelines established by the Village Manager and approved by resolution of the Village Council.

*Responsible bidder* means a person who has the capability in all respects to perform fully the contract requirements.

*Responsive bidder* means a person who has submitted a bid which conforms in all material respects to the invitation for bids.

*Supplies* means and includes all supplies, materials and equipment, but excluding land or any interest in land.

*Using agency* means any department, agency, commission or other unit in the Village government using supplies or procuring contractual services as provided in this article.
(Ord. No. 24.09, § 1(34.02), 6-26-2023)

**Sec. 2-283. General policies.**

All Village officials shall:

(1) Comply with the Village Charter and this Code as it pertains to purchasing and disposal of assets. Specific references are in sections 11.1 and 11.2 of the Charter.

(2) Obtain from responsible vendors sufficiently high-quality goods for the lowest possible price.

(3) Implement purchasing procedures which will facilitate the purchase of and payment for goods yet will provide sufficient internal controls.

(4) Provide departments with timely financial reports for purposes of budgetary controls and order goods only if funds have been appropriated by the Village Council.

(5) Purchase in quantity when practical in order to obtain discounts and minimize paper flow throughout the year.

(6) Purchase materials or equipment that are sustainable when practical.

(7) Encourage competitive bidding among vendors; however, the Village reserves the right to reject any or all bids or quotes and need not purchase from the lowest bidder.

(8) Ensure orders shall not be artificially subdivided in order to avoid complying with the bidding requirements.

(9) Ensure all Village officials and employees involved in the purchase process will adhere to the requirements in this article and chapter 11 of the Charter.

(Ord. No. 24.09, § 1(34.03), 6-26-2023)

**Sec. 2-284. Responsibilities of the Purchasing Agent.**

The Purchasing Agent shall:

(1) Oversee the entire purchasing operation.

(2) Monitor the purchase of supplies and contracted services as well as the disposal of obsolete or surplus fixed assets.

(3) Assist departments with their purchasing needs and ensure that proper purchasing procedures are being followed.

(4) Examine each requisition for purchase order and each requisition for payment to ensure that requests have been properly documented and authorized, that budgeted funds are available and that the account number classification is correct.

(5) Ensure that all vendors with an expected annual payment of $600.00 or greater have a valid W-9 on record.

(Ord. No. 24.09, § 1(34.04), 6-26-2023)

**Sec. 2-285. Responsibilities of operating departments.**

(a) Operating departments shall:

(1) Be familiar with and abide by the legal requirements for purchasing as specified in general policies.

(2) Follow the purchasing methods outlined in this article.

(3) Prepare a requisition request for a purchase order as required in this article.

(b) If a vendor is expected to be paid over $600.00 in a year, then a W-9 must be obtained from the vendor and forwarded to the Purchasing Agent.

(Ord. No. 24.09, § 1(34.05), 6-26-2023)

**Sec. 2-286. Purchasing methods.**

(a) *Aggregation and threshold rules.* The purchasing method to be used is based on the dollar amount of the purchase. To determine the dollar amount, departments should aggregate the amount of annual reoccurring purchases to be made from the vendor or the aggregate of the contract amounts under an agreement, including any extensions.

(b) *Petty cash ($100.00 or less).*

(1) *Legal requirements.* The petty cash fund maintained by the Finance Director/Treasurer is to be used for the purchase of incidentals and may be authorized by department heads.

(2) *Village policy.* Petty cash is to be used for non-repetitive items not exceeding $100.00.

(3) *Procedures.*

a. Any cash removed from the fund must be replaced by a petty cash voucher accompanied by a receipt or invoice from the supplier of the item or service purchased.

b. The receipt or invoice must detail the type and amount of the expenditure. The petty cash voucher must indicate the appropriate account number to which the purchase should be charged and indicate the department head's approval.

c. Each department that has a petty cash fund must designate one person to have custody and responsibility for the fund. This responsibility includes balancing the fund periodically; requesting reimbursement of the fund; and ensuring the funds are at all times in a locked and safe location.

d. To ensure accountability for each petty cash fund, the fund must be balanced periodically based on use. Therefore, the sum of all unused cash and petty cash vouchers should equal the total of the respective department's petty cash total. If the actual balance is ever different from the amount that should be in the fund, the Finance Director/Treasurer should be contacted immediately.

e. When requesting reimbursement of petty cash funds, the appropriate petty cash vouchers, along with supporting receipt, etc., must be submitted to the Finance Director/Treasurer's office. This should be done at regular intervals to avoid running the fund too low. No reimbursements will be made without the required supporting documentation.

(c) *Purchases less than $1,000.00.*

(1) Purchases may be made from any responsive vendor.

(2) Informal price quotes from three vendors is recommended.

(3) A purchase order is required for all purchases except those purchased with petty cash.

(4) Agreements (if applicable) need to be reviewed by the Village Attorney prior to purchase.

(5) The department head is authorized to approve purchase.

(d) *Purchases from $1,000.00 to $25,000.00.*

(1) Formal price quotes from three vendors is required or use of an approved cooperative purchasing organization or unit of government.

(2) A purchase order is required.

(3) Documentation of price quotes and vendor selection along with any signed agreement needs to be electronically attached to the purchase requisition in the system.

(4) A standard Village contract or a mutually agreeable contract approved by the Village Attorney may be required at the Village Manager's discretion.

(5) The department head is authorized to approve purchases up to $10,000.00 if budgeted. Purchases of over $10,000.00 or non-budgeted purchases need to be approved by the department head and Village Manager

(6) Any sole source purchasing needs to be explained and approved by the Village Manager.

(e) *Purchases over $25,001.00 to $50,000.00.*

(1) Formal specifications and price quotes from three vendors is required or use of an approved cooperative purchasing organization or unit of government.

(2) A purchase order is required.

(3) Documentation of price quotes and vendor selection and signed contract needs to be electronically attached to the purchase requisition in the system.

(4) A standard Village contract or a mutually agreeable contract approved by the Village Attorney must be used. The contract must be signed and approved by the Village Attorney and Village Manager.

(5) If this is a non-budgeted purchase or if the purchase will require a budget amendment, then the purchase must be approved by the Village Council.

(6) Any sole source purchasing needs to be explained and approved by the Village Manager.

(f) *Purchases of $50,000.00 or greater.*

(1) Formal competitive bidding as outlined in the Village Charter or use of an approved cooperative purchasing organization or unit of government is required.

(2) The purchase must be approved by the Village Council.

(3) The purchase order is required.

(4) Documentation of formal bids and vendor selection and signed contract needs to be electronically attached to the purchase requisition in the system.

(5) The standard Village contract or a mutually agreeable contract approved by the Village Attorney must be used. The contract must be signed by the Village Attorney, Village Manager, and Village Clerk.

(Ord. No. 24.09, § 1(34.06), 6-26-2023)

**Sec. 2-287. Competitive bidding requirements.**

(a) (1) Except as provided in subsection (c) of this section, all supplies and contractual services, when the estimated cost thereof shall equal or exceed $50,000.00, shall be purchased by formal written contract from the lowest responsible and responsive bidder after due notice inviting competitive sealed bids. All such contracts shall be awarded by the Village Council.

(2) The Purchasing Agent or department head shall provide for the procurement of competitive sealed bids as follows:

a. Prepare the invitation for bids describing the requirements of the using agency.

b. Publicize the invitation for bids by public advertisement, such as through an electronic bidding platform or suitable trade publications, no less than five days preceding the last day set for the receipt of competitive sealed bids. The public advertisement required by this section shall include a general description of the supplies or contractual services to be purchased or sold and, in addition, shall state where bid forms and specifications may be obtained, the date, time and place for the filing and opening of bids, whether bid, performance and payment bonds are required and, if required, the amounts thereof and anything else deemed necessary.

c. Bids submitted in response to the invitation for bids shall be submitted sealed and, in addition, shall be identified as bids on the outside of the envelopes and accompanied by any bid security required.

d. Bids shall be opened publicly at the time, place and date designated in the invitation for bids. Each bid, together with the name of the bidder, shall be recorded, and a tabulation of all bids received shall be available for public inspection in the requesting department.

e. An invitation for bids may be cancelled or any or all bids or proposals may be rejected in whole or in part as specified in the invitation for bids when it is determined by the Village Council to be in the best interests of the Village.

f. The Purchasing Agent or department head shall not knowingly accept the bid of a person who is in default in the payment of any taxes, licenses, fees, permits or any other monies due the Village or who shall in any other respects be disqualified according to any federal or state law or ordinance provision. A contract with a person who is discovered to have been in default or disqualified at the time of the awarding of the contract shall be voidable.

g. The Purchasing Agent or department head shall determine and recommend in writing to the Village Council the name of the lowest responsible and responsive bidder. In reaching a determination as to who the lowest responsible bidder is, the following shall be considered:

    1. The ability, capacity and skill of the bidder to provide the service or supplies required;

    2. Whether the bidder can provide the service or supplies promptly or within the time specified without delay or interference;

    3. The character, integrity, reputation, judgment, experience and efficiency of the bidder in business;

    4. The quality of performance and time of completion by the bidder of previous contracts or services;

5. The previous and existing compliance by the bidder with laws and ordinances relating to contract performance;
6. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
7. The quality, availability and adaptability of the supplies or contractual services to the particular use required;
8. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract; and
9. The number and scope of any additional, limiting or qualifying conditions attached to the bid by the bidder.

(b) The Village shall not be obligated to purchase from the lowest bidder.

(c) The Village Council, by an affirmative vote of five-sevenths of its members, may dispense with the requirement for competitive bidding when the estimated cost of the contract does not exceed $50,000.00.

(d) A contract may be awarded by the Village Council for the purchase of supplies and/or contractual services without submitting the purchase through the competitive bidding process as set forth herein when there is only a sole source for the purchase and the requesting department head has provided reasonable justification to the Village Manager in writing that circumstances exist that preclude obtaining competition.

(e) No contract or purchase shall be artificially divided to avoid the requirements of this section.
(Ord. No. 24.09, § 1(34.07), 6-26-2023)

**Sec. 2-288. Small purchases; open market procedure.**

All purchases of supplies or contractual services having a cost of less than $1,000.00 may be made in the open market, without advertisement, and may be awarded by either the Village Manager, Purchasing Agent or department head in conformance with purchasing guidelines, provided that funds have been previously appropriated by the Village Council.
(Ord. No. 24.09, § 1(34.08), 6-26-2023)

**Sec. 2-289. Emergency purchases.**

Normal purchasing procedures may be circumvented only in the case of an emergency; that is, when there is an apparent threat to the public safety, health or welfare of the Village or its citizens.
(Ord. No. 24.09, § 1(34.09), 6-26-2023)

**Sec. 2-290. Exceptions to competitive bidding.**

Subject to prior approval of the council, competitive bidding shall not be required in the following cases:

(1) Where the product or material contracted for is not competitive in nature, and the purchasing agent so certifies to the council in writing.

(2) In the engagement of professional services. The term "professional services" is defined as those services provided by a person, firm, or corporation which require specific technical training, expertise, certification, or licensure to perform, including, but not limited to, architectural, engineering, accountancy, consulting, appraising, auditing, risk assessment, urban planning, legal, and information technology services.

(3) Where the Council shall determine that the public interest will be best served by joint purchase with, or purchase from, another unit of government, or in the utilization of another governmental unit's competitive bid process.

(Ord. No. 24.09, § 1(34.10), 6-26-2023)

**Sec. 2-291. Disposal of obsolete, worn or surplus supplies.**

Items determined to be of surplus nature, i.e., those items deemed of no further use to the Village and/or which are obsolete or worn out, shall be subject to disposal in the following manner:

(1) An item with an original value of less than $2,500.00 shall be disposed of by the best and most efficient means in the judgment of the using department and the Finance Director/Treasurer, taking into account such factors as storage and handling costs and advertising.

(2) An item with an original value of $2,500.00 to $75,000.00 shall be disposed of in one of the following methods:

a. Sale after obtaining informal quotes.

b. Auction.

c. Manufacturer trade-in.

d. By the best and most efficient means in the judgment of the using department and the Village Manager, taking into account such factors as storage and handling costs and advertising, with the approval of the Village Manager.

(3) An item with an original value in excess of $75,000.00 shall be disposed of in one of the following methods:

a. Sale after obtaining formal quotes and going through the bid procedure.

b. Auction.

c. Manufacturer trade-in.

d. By the best and most efficient means in the judgment of the using department and the Village Manager, taking into account such factors as storage and handling costs and advertising, with the approval of the Village Council.

(Ord. No. 24.09, § 1(34.11), 6-26-2023)

**Sec. 2-292. Sale of real property.**

The purchase, acquisition, or sale of real property shall comply with sections 6.10 and 6.12(b) of the Village Charter.

(Ord. No. 24.09, § 1(34.12), 6-26-2023)

**Sec. 2-293. Procurement for federally funded projects.**

Purchases using federal grants shall conform to 2 CFR 200.318 through 200.327.

(Ord. No. 24.09, § 1(34.13), 6-26-2023)

**Sec. 2-294. Gifts, rebates prohibited; conflict of interest prohibited.**

(a) All officials and employees of the Village are prohibited from soliciting, demanding, accepting or agreeing to accept directly or indirectly, from any person to which a contract might be awarded or is awarded any gift, offer of employment, rebate, money or anything of material value whatsoever, except where given for the sole use and benefit of the Village.

(b) The Village will not enter into a contract to furnish supplies or contractual services to the Village from any Village official, his or her spouse, child or parent, from any corporation, association or partnership in which any Village official, his or her spouse, child or parent, has any direct or indirect interest. Ownership of less than one percent of the stock or other equity interest in a corporation or unincorporated business shall not be deemed to be a disqualifying interest. Employment by a business entity shall be deemed to be a disqualifying interest only if such employment is in an administrative, managerial or executive capacity in which the employee could in any way influence the decisions of the business entity with regard to contract proposals or other transactions contemplated by this section.

(c) Every written contract entered into by the Village shall contain a provision to the effect that if subsequent to entering into the contract a Village official or his or her spouse, child or parent has or shall become directly or indirectly interested in the contract, the Village shall have the right to terminate the contract without further liability if the disqualification has not been removed with 30 days after the Village has given notification of the disqualifying interest.

(Ord. No. 24.09, § 1(34.14), 6-26-2023)

**Sec. 2-295. Requisitions and estimates.**

(a) All using agencies, either by or with the authorization of the department head under which the using agency operates, shall file with the Purchasing Agent detailed requisitions or estimates of their requirements for supplies and contractual services in such a manner and at such times as the purchasing guidelines shall establish.

(b) The Purchasing Agent shall examine each requisition or estimate and may revise it as to quantity, quality or estimated cost, with the concurrence of the using agency. The Purchasing Agent shall also verify that proper purchasing procedures have been followed, and that the budgeted funds are available based on the most current financial records. The Purchasing Agent may change the account to be charged, if appropriate, with departmental approval.
(Ord. No. 24.09, § 1(34.15), 6-26-2023)

**Sec. 2-296. Cooperative purchasing.**

The Village shall have the authority to join with other units of government in cooperative purchasing plans when the best interests of the Village would be served thereby.
(Ord. No. 24.09, § 1(34.16), 6-26-2023)

**Sec. 2-297. Bid deposits; performance and payment bonds.**

Bid deposits shall be required in all instances in which the Purchasing Agent or department head determines such security to be in the best interests of the Village. The Purchasing Agent, department head or the Village Council may require a performance bond, payment bond or other similar security before awarding a contract, in such amount as is reasonably necessary to protect the best interests of the Village. A successful bidder shall forfeit any bid deposit required upon failure of the successful bidder to enter into a contract within the time specified after the award.
(Ord. No. 24.09, § 1(34.17), 6-26-2023)

**Sec. 2-298. Payment of monies.**

All monies belonging to the Village shall be paid out upon presentation of a valid warrant approved and signed by the Village Clerk and Village Manager and issued in accordance with the Charter, by checks drawn by the Finance Director/Treasurer or his Deputy and countersigned by signatories duly approved by the Village Council.
(Ord. No. 24.09, § 1(34.18), 6-26-2023)

**Sec. 2-299. Approval of legal documents.**

The Village Manager shall approve as to substance and sign, the Village Clerk shall attest to, and the Village Attorney shall approve as to form all contracts and agreements requiring the assent of the Village, unless otherwise provided for by law, the Charter, ordinance or the provisions of this Code. Any contract or agreement by which the Village incurs any financial obligation shall first be approved by the Finance Director/Treasurer in accordance with section 8.3 of the Charter.
(Ord. No. 24.09, § 1(34.19), 6-26-2023)

**Secs. 2-300—2-316. Reserved.**

## ARTICLE VI. ETHICS

### Sec. 2-317. Public policy.

(a) Public office and employment are public trusts. For government to operate properly, each Village official, appointee employee or advisor must earn and honor the public trust by integrity and conduct.

(b) The Village hereby declares that all Village officials, appointees and employees must avoid conflicts between their private interests and the public interest. Public officials, appointees and employees must:

(1) Be independent, impartial and responsible to the people;

(2) Make governmental decisions and policy in the proper governmental channels;

(3) Not use public office for personal gain.

(c) To enhance public trust, the Village must provide its officials, appointees and employees with adequate guidelines for separating their roles as private citizens from their roles as public servants.

(d) The code of ethics set forth in this article sets minimum standards of ethical conduct for all Village officials, appointees and employees, elected or appointed, paid or unpaid. It proscribes actions incompatible with the public interest and directs disclosure of private financial or other interests in matters affecting the Village.
(Ord. No. 24.10, § 30.61, 10-9-2023)

### Sec. 2-318. Responsibilities of public office.

(a) Village officials, appointees and employees are bound to uphold the Constitution of the United States and the Constitution of the State and to carry out impartially and comply with the laws of the nation, state, and the Village. Village officials, appointees and employees must not exceed their authority or breach the law or ask others to do so. Village officials, appointees and employees are bound to observe in their official acts the highest standards of ethical conduct and to discharge the duties of their offices faithfully, regardless of personal consideration, recognizing that their official conduct should be above reproach.

(b) All Village officials, appointees and employees shall safeguard public confidence by being honest, fair and respectful of all persons and property with whom they have contact, by maintaining non-partisanship in all official acts, and by avoiding official conduct which may tend to undermine respect for Village officials, appointees and employees and for the Village as an institution.
(Ord. No. 24.10, § 30.62, 10-9-2023)

**Sec. 2-319. Definitions.**

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

*Compensation* means any money, property, thing of value or benefit conferred upon or received by any person in return for services rendered or to be rendered to himself or herself or any other party.

*Consultant* means a person who gives professional advice or services regarding matters in the field of his or her special knowledge or training.

*Financial interest* means any interest in money, property or thing of value or benefit.

*Immediate family* means a Village official, appointee or employee, his or her spouse, parents or children.

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

*Personal interest* means an interest arising from blood or marriage relationships or any business association.

*Private gain* means any interest or benefit, in any form, received by a Village employee or official.

*Substantial* means considerable in quantity or significantly great.

*Village official, appointee or employee* means a person elected, appointed or otherwise serving in any capacity with the Village in any position established by the Village Charter or by Village ordinance which involves the exercise of a public power, trust or duty. The term "Village official, appointee or employee" includes all officials, appointees and employees of the Village, whether or not they receive compensation, including consultants and persons who serve on advisory boards and councils. The term "Village official, appointee or employee" does not include election inspectors and student representatives appointed to Village boards or councils. (Ord. No. 24.10, § 30.63, 10-9-2023)

**Sec. 2-320. Intention of code of ethics.**

(a) It is the intention of this article that Village officials, appointees and employees avoid any action, whether or not specifically prohibited by this article, which might result in, or create the appearance of:

(1) Using public employment or office for private gain;

(2) Giving or accepting preferential treatment, including the use of Village property or information, to or from any organization or person;

(3) Losing complete independence or impartiality of action;

(4) Making a Village decision outside official channels; or

(5) Affecting adversely the confidence of the public or the integrity of the Village government.

(b) The code of ethics is intended to be preventative and not punitive. It should not be construed to interfere with or abrogate in any way the provisions of any federal or state statutes, the Village Charter, Village ordinances, or any rights and/or remedies guaranteed under a collective bargaining agreement.

(c) This declaration of policy is not intended to apply to contributions to political campaigns, which are governed by state law.
(Ord. No. 24.10, § 30.64, 10-9-2023)

**Sec. 2-321. Promulgation.**

(a) *Conflict of interest, generally.*

(1) No official, appointee or employee of the Village shall divulge to any unauthorized person, confidential information acquired in the course of employment or service as a Village official in advance of the time prescribed for its authorized release to the public.

(2) No official, appointee or employee of the Village shall represent his or her personal opinion as that of the Village.

(3) Every official, appointee or employee of the Village shall use personnel resources, property and funds under his or her official care and control solely in accordance with prescribed constitutional, statutory and regulatory procedures and not for personal gain or benefit.

(4) a. No official, appointee or employee of the Village shall directly or indirectly, solicit or accept any gift or loan of money, goods, services or other thing of value for the benefit of any person or organization, other than the Village, which tends to influence the manner in which the official, appointee or employee or any other official, appointee or employee performs his or her official duties.

b. Gratuities do not include fees for speeches or published works on legislative subjects and, except in connection therewith reimbursement for expenses for actual expenditures for travel, and reasonable subsistence, for which no payment or reimbursement is made by the Village, invitations to such events as ground breakings, grand openings, charitable or civic events, or inconsequential gifts from established friends.

(5) No official, appointee or employee of the Village shall engage in a business transaction in which he or she may profit because of his or her official position or authority or benefit financially from confidential information which he or she has obtained or may obtain by reason of such position or authority.

(6) a. No official, appointee or employee of the Village shall engage in or accept employment or render services for any private or public interest when that employment or service is incompatible or in conflict with the discharge of his or her official duties or when that employment may tend to impair his or her independence of judgment or action in the performance of his or her official duties.

b. This subsection (a)(6) shall not prohibit a part-time elected or appointed Village official from engaging in private employment or business on his or her own time as a private citizen and where Village business is not involved, subject to his or her disclosing such private employment or business on the public record for any matter on which he or she may be called upon to act in his or her official capacity, in accordance with this article. He or she shall refrain from voting upon or otherwise participating in debate on any such matter.

(7) No official, appointee or employee of the Village shall participate, as an agent or representative of the Village, in the negotiation or execution of contracts, granting of subsidies, fixing of rates, issuance of permits or certificates, or other regulation or supervision, relating to any business entity in which he or she has, directly or indirectly, a financial or personal interest.

(8) No official, appointee or employee of the Village shall use, or attempt to use, his or her official position to secure, request or grant unreasonably any special consideration, privilege, exemption, advantage, contract or preferential treatment for himself, herself, or others, beyond that which is available to every other citizen.

(9) Relatives by blood or marriage of any Councilmember, or the Village Manager, within the second degree of consanguinity or affinity, shall be disqualified from holding any appointive office, or from being employed by the Village during the term of office of such Councilmember or Village Manager, except and unless said relatives are bona fide appointive officers or employees of the Village at the time of the election of such officer or appointment of such Village Manager. If the status of relationship between any employee of the Village and any officer of the Village changes to a relationship prohibited hereby after one year following the employment of such person or election or appointment of such officer, the provisions of this subsection shall not apply.

(10) It is recognized that various boards and councils are part of the plan of government for the Village. As such, it is further recognized that by virtue of the various requirements for membership of the board, a member may be placed in the position of participating in a decision that may directly or indirectly affect his or her financial or personal interests. Therefore, those members of the various boards and councils in the Village, as they may be established from time to time, may participate in such decisions, provided that they act:

a. In furtherance of the public good;

b. In compliance with the duties of their respective boards; and,

c. In a manner consistent with subsection (a)(8) of this section.

(11) Determination of conflict of interest. A conflict of interest exists if:

a. The Village official, appointee or employee has any financial or personal interest, beyond ownership of his or her place of residence, in the outcome of a matter currently before that Village official, appointee or employee, or is associated as owner, member, partner, officer, employee, broker or stockholder in an enterprise that will be affected by the outcome of such matter, and such interest is or may be adverse to the public interest in the proper performance of said official's, appointee's or employee's governmental duties;

b. The Village official, appointee or employee has reason to believe or expect that he or she will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his or her official activity; or

c. The public official has any other prohibited interest as defined by state statutes relating to conflicts of interest.

(12) Subsequent conflict of interest. No official, appointee or employee of the Village shall acquire any financial interest in or accept any employment concerning any project which has been granted approval by the Village or any council, board, department or employee thereof within one year of the official's, appointee's or employee's participation in any manner in considering or recommending the approval or disapproval of said project.

(13) No councilmember's spouse or immediate family members may be appointed to any other board, committee, commission or employment with the Village, except as permitted by Village Charter or ordinance.

(b) *Full disclosure.*

(1) *Responsibility to disclose.*

a. It shall be the responsibility of the official, appointee or employee to disclose the full nature and extent of his or her direct or indirect financial or personal interest in a matter before him or her.

b. No official, appointee or employee of the Village shall participate, as an agent or representative of the Village, in approving, disapproving, voting, abstaining from voting, recommending or otherwise acting upon any matter in which he or she has directly or indirectly a financial or personal interest. The official, appointee or employee shall, in such circumstances, recuse himself or herself from the matter before him or her.

(2) *Disclosure of conflict of interest and disqualification.*

a. Any Village official, appointee or employee who has a conflict of interest, as defined herein, in any matter before the Village shall disclose such fact on the appropriate record of the Village prior to discussion or action thereon and shall refrain from participating in any discussion, voting or action thereon, as follows, provided that such exceptions shall be observed as are permitted by law:

1. A member of the Village Council shall disclose any conflict of interest and the nature and extent of such interest on the record of the Village Council;

2. A member of any Village board, council or committee shall disclose any conflict of interest and the nature and extent of such interest on the records of said board, council or committee;

3. A Village employee who has a financial or other interest in a matter before the Village Council or any Village board, council or committee and who participates in discussion with, or gives an official opinion to the Village Council, or to such other Village board, council or committee relating to such matter, shall disclose on the records of the Village Council or such other Village board, council or committee, as the case may be, any conflict of interest and the nature and extent of such interest;

4. Otherwise, any appointed Village official, appointee or employee shall address such a disclosure to the supervisory head of his or her department, and any elected Village official shall address such a disclosure to the general public.

b. If a Village official, appointee, councilor or employee has a conflict of interest, as defined herein, in any matter before the Village, and discloses that conflict on the appropriate records but refuses to refrain from discussion, deliberation or voting thereon, the matter under consideration shall be immediately referred to the Board of Ethics for a final determination as to the conflict in question and whether the official, appointee, councilor or employee must refrain from discussion, deliberation, action or voting thereon.

c. Within 20 days after election, employment, appointment, or the effective date of the ordinance from which this article is derived, or any change in the facts set forth in the Village official's, appointee's or employee's previously filed disclosure statement, each Village official, appointee and employee shall file with the Village Clerk an affidavit and disclosure statement. The Village Clerk shall provide each Village official, appointee or employee with the required affidavit and disclosure statement form immediately upon his or her election, employment or appointment.

(Ord. No. 24.10, § 30.65, 10-9-2023)

**Sec. 2-322. Violation, enforcement and advisory opinions.**

(a) *Board of Ethics.*

(1) The Village Council, by super majority of those serving as councilmembers, shall appoint a Board of Ethics, consisting of three members, as an advisory body for the purpose of interpreting this article. No councilmember or employee shall be appointed.

(2) a. The initial three members of the Board of Ethics shall be appointed for one-, two-, and three-year terms of office respectively, which shall begin on March 24, 2025. If appointed prior to July 1, they shall begin their terms of office immediately and their terms shall include the additional time prior to July 1. Terms of office shall expire on June 30 of the respective years.

b. Thereafter, all members shall be appointed to three-year terms, beginning July 1, so that only one member's term expires each year. A member shall hold office until his or her successor is appointed. The Village Council shall fill a vacancy by an appointment for the unexpired term only.

(3) The Village Council may also appoint not more than two alternate members for the same term as regular members of the Ethics Board. The alternate member may be called on a rotating basis to sit as a regular member of the Ethics Board in the absence of a regular member. An alternate member may also be called to service in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Ethics Board.

(4) The Board of Ethics shall be made up of three persons, who may or may not be residents of the Village who have legal, administrative or other desirable qualifications.

a. The members of the Board of Ethics shall serve without compensation and shall not be elected officials, appointees, persons appointed to elective office, full-time appointed officials, or Village employees, nor shall they be currently serving on any other Village board or council.

b. The Board shall select its own presiding officer from among its members.

c. The Board shall establish such procedures it deems necessary or appropriate to perform its functions as set forth in this article.

(b) *Functions of the Board of Ethics.* When there is a question or a complaint as to the applicability of any provision of this article to a particular situation, that question or complaint shall be directed to the Board of Ethics. It shall then be the function of the Board of Ethics to conduct hearings and/or issue an advisory opinion, as applicable.

(1) Hearings. The Board of Ethics shall follow the following hearing procedure:

a. The Board shall, within seven days after any matter is brought to its attention, set a date certain for hearing said matter.

b. The Board shall, at least 28 days before the hearing date, send notice of such hearing, accompanied by a concise statement of the alleged breach of the code of ethics, to any person requested to appear before them, by certified mail, return receipt requested, to addressee only.

c. Any person requested to appear before a Board of Ethics hearing may request one extension for a period not to exceed 28 days. Extensions thereafter will be granted only under extreme circumstances.

d. Any person requested to appear before a Board of Ethics hearing may be accompanied by his or her attorney.

e. All hearings at which any person shall be requested to appear shall be subject to the Michigan open meetings act.

f. All findings of Board hearings shall be published in permanent form and communicated to the Village Council and the public, subject to the requirements of the Michigan open meetings act.

(2) Advisory opinions. All advisory opinions so issued shall also be published in permanent form and communicated to the Village Council and the public, subject to the requirements of the Michigan open meetings act.

(3) After the Board of Ethics' advisory opinions and/or hearing findings have been published:

a. The Village Council shall be responsible for imposing any sanction for a violation of this article on one of its members or any person appointed by the Council to any Village board.

b. If it becomes necessary to seek the removal of a Village official after the Board of Ethics' advisory opinion and/or hearing findings, the Village shall follow the requirements for removal of a public official in accordance with the laws of the state.

c. The Village Manager shall be responsible for imposing any discipline for a violation of this article on any employee of the Village.

(Ord. No. 24.10, § 30.66, 10-9-2023)

**Sec. 2-323. Affidavit and disclosure statement.**

Immediately following an election, employment or appointment of a Village official or employee, the Village Clerk shall provide the individual with an affidavit and disclosure statement form. Within 20 days after election, appointment, employment or any change in the

facts set forth in the Village official's or employee's previously filed affidavit and disclosure statement, all Village officials, appointees or employees shall file with the Village Clerk an affidavit and disclosure statement including the following:

(1) A disclosure statement responding in detail to the following questions:

a. Do you promise and attest that if you or any members of your immediate family own any interest in real property located within the Village, in land contiguous to the Village, or in any area covered by a 425 agreement to which the Village is party and that property becomes subject to an issue before you in your capacity as an employee, board member, committee member, councilmember, etc., that you will disclose such an interest?

b. If you must disclose such an interest, you promise and attest to state the following information for each such interest owned:

1. The nature of your interest in the real property; and

2. The location of the real property (for improved property, provide the street address; for unimproved property, state its location in relation to existing streets).

c. Do you promise and attest that if you or any members of your immediate family own five percent or more of any business entity located in the Village and that property becomes subject to an issue before you in your capacity as an employee, board member, committee member, councilmember, etc., that you will disclose such an interest?

d. If you must disclose such an interest, you promise and attest to state the following, to the best of your knowledge:

1. The name of the entity;

2. The address of the entity;

3. The nature of your relationship to the entity; and

4. The date relationship commenced.

e. To the best of your knowledge, do you or any members of your immediate family have any direct financial or business relationships with any supplier, service provider or contractor of the Village from which you or they derive direct compensation or financial benefit that is not reported in the prior answers?

f. To the best of your knowledge, have you or any members of your immediate family given or received any gifts, other than from immediate family members, the value of which exceeds $50.00, within the last year, or since the effective date of the ordinance from which this article is derived, whichever time period is shorter, to or from any person or business or other legal entity doing business with the Village,

other than legal campaign contributions? If so, list the names and addresses of each donor or donee of each such gift and the date upon which it was made and the nature of the gift.

(2) An affidavit in which the Village official, appointee or employee states: "I have read and I understand the Code of Ethics of the Village of Lake Orion and, to the best of my knowledge, I am not in conflict with its provisions."

(Ord. No. 24.10, § 30.67, 10-9-2023)

Chapter 3

**RESERVED**

Chapter 4

# ANIMALS


Sec. 4-1. Definitions.
Sec. 4-2. Unlawful to keep certain animals.
Sec. 4-3. Dogs and cats generally.
Sec. 4-4. Dogs; license required.
Sec. 4-5. Application generally.
Sec. 4-6. Quarantine.
Sec. 4-7. Cruelty to animals.
Sec. 4-8. Poisoning animals.
Sec. 4-9. Confinement.
Sec. 4-10. Dangerous dogs prohibited.
Sec. 4-11. Destruction of dangerous dogs.
Sec. 4-12. Barking, yelping, etc., dogs.
Sec. 4-13. Maximum number of dogs or cats.
Sec. 4-14. Confining animal for observation.
Sec. 4-15. Animal bitten by another animal.
Sec. 4-16. Disposition of unclaimed animals.
Sec. 4-17. Sanitary conditions maintained when keeping birds, dogs, cats, or other domesticated household pets.
Sec. 4-18. Violations.

**Sec. 4-1. Definitions.**

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

*Cat* means any cat, whether male, female or unsexed.

*Control* means a dog when on a leash, in an enclosed vehicle or container, or with the owner, or some member of the owner's family, or some other person with the permission of the owner, provided such dog is amenable to orders and commands of the person in charge thereof.

*Dangerous animal* means a dog or other animal that bites or attacks a person, or a dog that bites or attacks and causes serious injury or death to another dog while the other dog is on the property or under the control of its owner. However, the term "dangerous animal" does not include any of the following:

(1) An animal that bites or attacks a person who is knowingly trespassing on the property of the animal's owner;

(2) An animal that bites or attacks a person who provokes or torments the animal;

(3) An animal that is responding in a manner that an ordinary and reasonable person would conclude was designed to protect a person if that person is engaged in a lawful activity or is the subject of an assault;

(4) Livestock.

*Dog* means any dog, whether male, female or unsexed.

*Owner,* when applied to the proprietorship of a dog or cat, includes every person having a right or property in such dog or cat, and every person who keeps or harbors such dog or cat or has it in his or her care, and every person who permits such dog or cat to remain in or about any premises occupied by him or her for a period of five or more days.
(Code 1996, § 91.01; Ord. No. 6.21, 2-24-2020)

**Sec. 4-2. Unlawful to keep certain animals.**

(a) It shall be unlawful for any person to keep or allow to be kept within the Village any cows, horses, pigs, goats, pigeons, chickens, geese, ducks, or any other animal, fowl, or insect, except birds, dogs, cats, or other harmless and domesticated household pets as regulated by ordinance.

(b) No animals shall be allowed in any commercial establishment where foodstuffs are prepared, sold or packaged for public consumption; provided, however, that this subsection shall not be construed so as to prevent the keeping of animals by a business establishment for temporary promotional purposes, provided that the establishment is not in the business of preparing, selling or packaging foodstuffs for public consumption, and provided, further, that

such display of animals meets with the approval of the Health Officer, and also provided that this subsection shall not be construed to prohibit in any commercial establishment any animal trained to assist persons with visual or hearing impairments.
(Code 1996, § 91.02; Ord. No. 7.01, 10-11-1971; Ord. No. 6.21, 2-24-2020)

**Sec. 4-3. Dogs and cats generally.**

(a) It shall be unlawful for any person owning or keeping any dog or cat to allow or permit such dog or cat to run at large within the corporate limits of the Village at any time. Dogs or cats attached to a leash and accompanied by the owner or keeper thereof who has absolute control of said dog or cat shall not be determined to be running at large.

(b) It shall be unlawful for any person owning or keeping any female dog to allow said female dog to go beyond the premises of the owner or keeper during the period while the female dog is in heat.

(c) Any dog or cat found running at large may be seized and impounded by a law enforcement officer of the Village and the owner thereof may redeem same within 24 hours by paying the costs and charges for impounding and keeping same. Any liability for injury and/or damage or death of any dog or cat while in the process of seizure by a law enforcement officer or while any such dog or cat is under impoundment shall rest solely with the owner of said dog or cat.

(d) In the event that the owner does not redeem same within 24 hours, then said dog or cat may be surrendered to the county dog warden for disposition.
(Code 1996, § 91.03; Ord. No. 162, 4-8-1968; Am. Ord. No. 7.01, 10-11-1971; Ord. No. 6.21, 2-24-2020)

**Sec. 4-4. Dogs; license required.**

It shall be unlawful for any person to own, possess or harbor any dog four months old or older in the Village unless such dog is licensed, or to own, harbor or possess any dog four months of age or older that does not at all times wear a collar or harness with suitable tag attached or with the license number written indelibly thereon. All dogs shall be immunized against rabies prior to the issuance of a license under this chapter. County dog licenses can be purchased online through Oakland County.
(Code 1996, § 91.04; Ord. No. 6.21, 2-24-2020)

**Sec. 4-5. Application generally.**

The Village Clerk shall accept applications for and issue county licenses. It shall be the duty of the owner of the dog or cat to file with the Village Clerk an application for a dog license, setting forth the name and residence of the applicant, the breed, sex, age and color of the dog, and such other information as may be required. An application for a license shall be accompanied by proof of vaccination of the dog for rabies by a certificate of a current vaccination for

rabies, with a vaccine licensed by the federal department of agriculture, signed by an accredited veterinarian. The certificate of vaccination for rabies shall state the month and year of expiration for the rabies vaccination in the veterinarian's opinion.
(Code 1996, § 91.05; Ord. No. 6.21, 2-24-2020)

**Sec. 4-6. Quarantine.**

The Animal Control Officer is hereby authorized to require that any dog or cat be quarantined, or that a quarantine be established in the Village for any defined period, when in his or her opinion such measures are necessary in order to protect the health of the inhabitants of the Village.
(Code 1996, § 91.06; Ord. No. 6.21, 2-24-2020)

**Sec. 4-7. Cruelty to animals.**

No person shall cruelly treat or abuse any animal or bird.
(Code 1996, § 91.07; Ord. No. 6.21, 2-24-2020)

**Sec. 4-8. Poisoning animals.**

No person shall throw or deposit any poisonous substance on any exposed public or private place where it endangers, or is likely to endanger, any domestic animal or bird.
(Code 1996, § 91.08; Ord. No. 6.21, 2-24-2020)

**Sec. 4-9. Confinement.**

It shall be unlawful for any owner to allow any dog or cat to leave the owner's premises under any conditions, unless such dog or cat has been immunized against rabies, provided nothing in this section shall be interpreted to prevent an owner from taking his dog or cat to the offices of a veterinarian for purposes of having such dog or cat immunized.
(Code 1996, § 91.09; Ord. No. 6.21, 2-24-2020)

**Sec. 4-10. Dangerous dogs prohibited.**

No person shall own or harbor a dangerous dog, or a dog that has been bitten by any animal known to have been afflicted with rabies. All dogs found to be dangerous and all rabid dogs shall be destroyed, unless otherwise disposed of by the owner thereof.
(Code 1996, § 91.10; Ord. No. 6.21, 2-24-2020)

**Sec. 4-11. Destruction of dangerous dogs.**

Whenever a dog is brought to the pound for having bitten a person, the Police Department may, if deemed necessary and advisable, and after holding such dog a sufficient length of time to meet the requirements of the Health Department for investigation, cause such dog to be destroyed as a dangerous dog. Unless waived in writing, notice of intent to so destroy such dog

shall be given to the owner if known. The owner shall have seven days from mailing of such notice in which to seek a review by the District Court for the 52nd-3rd Judicial District of the order of the Police Department for the destruction of such dog.
(Code 1996, § 91.11; Ord. No. 6.21, 2-24-2020)

**Sec. 4-12. Barking, yelping, etc., dogs.**

No person shall harbor or keep any dog which by loud or frequent or habitual barking, yelping or howling shall cause a serious annoyance to the neighborhood or to people passing to and fro upon the street.
(Code 1996, § 91.12; Ord. No. 6.21, 2-24-2020)

**Sec. 4-13. Maximum number of dogs or cats.**

No person or group of persons occupying a single residential or business premises shall own, harbor or keep at such premises more than three cats or dogs in total over the age of six months. This prohibition shall not be applicable to the business premises of a licensed veterinarian.
(Code 1996, § 91.13; Ord. No. 6.21, 2-24-2020)

**Sec. 4-14. Confining animal for observation.**

Any person who shall have in his or her possession a dog, cat or other domestic animal which has contracted rabies, or which has been subjected to rabies, or which is suspected of having rabies, or which has bitten any person shall, upon demand of the Police Department or of the Animal Control Officer, produce and surrender such dog, cat or other domestic animal to the Police Department or the Animal Control Officer, to be held in the Village dog pound for treatment and observation for a period of ten days. In lieu of such surrender of such dog, cat or other domestic animal, such person shall have the option of delivering such dog, cat or other domestic animal to an approved kennel, to be held there for treatment and observation for such ten-day period, and shall furnish to the Police Department written evidence that such dog, cat or other domestic animal has been so delivered; provided, however, that if such dog, cat or other domestic animal is confined to a private kennel, such confinement shall be at the sole expense of the owner of such dog, cat or other domestic animal, and without expense or risk on the part of the Village. If the dog, cat or other domestic animal is kept in the Village pound, the owner shall be liable for the board of such dog, cat or other domestic animal as hereinafter provided for an impounded dog, cat or other domestic animal.
(Code 1996, § 91.14; Ord. No. 6.21, 2-24-2020)

**Sec. 4-15. Animal bitten by another animal.**

It shall be the duty of any person owning or harboring a dog, cat or other domestic animal which has been attacked or bitten by another dog, cat or other domestic animal showing symptoms of rabies to immediately notify the Police Department or the Animal Control

Officer that such person has such dog, cat or other domestic animal in his or her possession. Such person shall comply with all lawful orders and requirements of the Police Department and the Animal Control Officer.
(Code 1996, § 91.15; Ord. No. 6.21, 2-24-2020)

**Sec. 4-16. Disposition of unclaimed animals.**

(a) All dogs, cats and other domestic animals not claimed and released within seven days after being impounded shall be destroyed or, if the animal is deemed valuable, the same may be sold by the Police Department provided that such dogs or cats are properly immunized and licensed at the cost of the purchaser; however, such animals shall not be sold to laboratories or research programs. If the dog or cat has a collar, license or other evidence of ownership, the operator of the pound or shelter shall notify the owner in writing and disposition of the animal shall not be made within seven days from the date of mailing the notice.

(b) Animals impounded having been exposed to rabies, or any animal that has attacked a person shall be kept until such time and under such conditions as shall be required by the Police Department or the Health Department.
(Code 1996, § 91.16; Ord. No. 6.21, 2-24-2020)

**Sec. 4-17. Sanitary conditions maintained when keeping birds, dogs, cats, or other domesticated household pets.**

(a) It shall be unlawful for any person to maintain or permit to be maintained an unclean building, yard or premises. All manure and excreta shall be removed and disposed of in such manner so as to prevent the breeding or harboring of insects or vermin.

(b) All yards where such animals are kept shall be well drained, maintained in a sanitary condition, and treated so as to effectively prevent the breeding or harboring of flies, mosquitoes or rodents.
(Code 1996, § 91.17; Ord. No. 7.01, 10-11-1971; Ord. No. 6.21, 2-24-2020)

**Sec. 4-18. Violations.**

Any person, firm or corporation determined to have been in violation of the provisions of this chapter shall be responsible for a municipal civil infraction and subject to the provisions of section 1-18(1)b.
(Code 1996, § 91.18; Am. Ord. No. A-3, 1-13-1997; Ord. No. 6.21, 2-24-2020)

Chapter 5

**RESERVED**

Chapter 6

# BUILDINGS

## Article I. In General

Secs. 6-1—6-18. Reserved.

## Article II. State Construction Code

Sec. 6-19. Administration and enforcement of Michigan Construction Code act and code.
Sec. 6-20. Enforcing agency.
Sec. 6-21. Violations and enforcement.
Sec. 6-22. Designation of regulated floodprone hazard areas.
Sec. 6-23. Construction Board of Appeals.
Sec. 6-24. Fees.
Sec. 6-25. Electrical code.
Sec. 6-26. State registration and licensing.
Sec. 6-27. Mechanical code.
Sec. 6-28. Building code.
Sec. 6-29. Plumbing code.
Secs. 6-30—6-46. Reserved.

## Article III. Property Maintenance

### Division 1. Generally

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Sec. 6-48. Definitions.
Sec. 6-49. Environmental requirements.
Sec. 6-50. Plumbing and fixture requirements.
Sec. 6-51. Mechanical and electrical requirements.
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Secs. 6-53—6-77. Reserved.

### Division 2. Condemnation of Dangerous Buildings

Sec. 6-78. Dangerous housing prohibited.
Sec. 6-79. Definitions.
Sec. 6-80. Notice of unsafe or dangerous condition; contents; Hearing Officer; service.
Sec. 6-81. Hearing; testimony; order; noncompliance; notice; lien; collection.
Sec. 6-82. Appeals.
Sec. 6-83. Violations.

## ARTICLE I. IN GENERAL

**Secs. 6-1—6-18. Reserved.**

## ARTICLE II. STATE CONSTRUCTION CODE

### Sec. 6-19. Administration and enforcement of Michigan Construction Code act and code.

(a) The Village assumes responsibility for administering and enforcing the Stille-DeRossett-Hale single state construction code act, Act. No. 230 of the Public Acts of 1972 (MCL 125.1501 et seq.), and state construction code prepared and promulgated as provided in that act (referred to in this article as the state construction code and act) within the boundaries of the Village.

(b) Pursuant to the provisions of the Michigan Construction Code, in accordance with section 8(b) of Public Act No. 230 (MCL 125.1508b), of the Public Acts of 1972, appendix G of the Michigan Building Code shall be enforced by the Village Building Official within the Village.
(Code 1996, § 150.01; Ord. No. 31.23, 3-28-2005; Am. Ord. No. 31.24, 10-10-2006)

### Sec. 6-20. Enforcing agency.

(a) The position of Village Building Official is hereby established and designated as the enforcing agency to administer and enforce the Michigan Construction Code and act in the Village. The Village Building Official shall be an official or agent of a governmental subdivision that is registered under the Michigan skilled trades regulation act, Public Act No. 407 of 2016 (MCL 339.5101 et seq.), building officials and inspectors registration act, 1986 Public Act No. 54, MCL 338.2301 to 338.2313, that is qualified by experience or training to perform the duties associated with construction code administration and enforcement and shall be appointed by resolution of the Village Council.

(b) To assist and allow the Village Building Official to fulfill the responsibilities of the Village and its enforcing agency in the manner required by the Michigan Construction Code and act, the Village Council shall contract for, appoint or otherwise secure the services of necessary:

(1) Building, electrical, plumbing and mechanical officials, inspectors and plan reviewers registered under the Michigan skilled trades regulation act, Public Act No. 407 of 2016 (MCL 339.5101 et seq.), building officials and inspectors registration act, 1986 Public Act No. 54, MCL 338.2301 to 338.2313, that are qualified by experience or training to perform the duties associated with construction code administration and enforcement; and

(2) Administrative and clerical personnel.

(c) The Village Manager, as the Village Chief Administrative Officer responsible for supervision and management of Village services and enforcement of ordinances of the Village and laws of the state pursuant to the Village Charter, shall be responsible for communications to, from or regarding the enforcing agency, authorizing court enforcement actions in the name of the Village, coordination of the enforcing agency's administration and enforcement of the Michigan Construction Code and act with the administration and enforcement of other Village ordinances and codes, and notices or reports to the enforcing agency and Village Council regarding the enforcing agency's administration and enforcement of the Michigan Construction Code and act.
(Code 1996, § 150.02; Ord. No. 31.23, 3-28-2005)

**Sec. 6-21. Violations and enforcement.**

Violations of the Michigan Construction Code and/or act are municipal civil infractions related to the use or occupancy of land, with violations punishable by a civil fine of up to $500.00 plus costs, all of which shall be established and enforceable as provided in Public Act No. 12 of the Public Acts of 1994 (MCL 600.113 et seq.), and may be enforced by the Village with the same power and authority it possesses for violations of Village ordinances, with the Village to retain any fines imposed upon a finding of responsibility. In addition, a person determined to be responsible shall pay damages and expenses incurred by the Village in responding to a violation, including any costs in securing or placing a structure or property in a safe condition. Each occurrence of a violation of the Michigan Construction Code and/or act, and each day a violation exists, shall constitute a separate offense. Violations of the Michigan Construction Code and/or act are considered to be a nuisance per se, with such violations and correction of any conditions resulting from violations, subject to abatement by, an injunctive or other appropriate order of a court of competent jurisdiction. Violations of the Michigan Construction Code and/or act subject the violator to Village enforcement through one or more of the remedies provided in this section, and the election by the Village to pursue one form of remedy does not waive or restrict the Village's option to pursue other remedies at the same or later time.
(Code 1996, § 150.03; Ord. No. 31.23, 3-28-2005)

**Sec. 6-22. Designation of regulated floodprone hazard areas.**

The Federal Emergency Management Agency (FEMA) flood insurance study (FIS) titled "Flood Insurance Study, Oakland County, Michigan and Incorporated Areas," and dated September 29, 2006, the flood insurance rate maps (FIRMS) panel numbers 26125CO236F, 26125CO238F, 261125CO217F, and 25125CO219F dated September 29, 2006, are adopted by reference and declared to be part of section 1612.3 of the Michigan Building Code.
(Code 1996, § 150.04; Am. Ord. No. 31.24, 10-10-2006)

**Sec. 6-23. Construction Board of Appeals.**

A Village Construction Board of Appeals is hereby created to consist of five members appointed by resolution of the Village Council. Appointees shall be qualified by experience or training to perform the duties of members of the Construction Board of Appeals, shall be appointed for two-year terms and shall perform their duties as provided in section 14 of the Michigan Construction Code act.
(Code 1996, § 150.05; Ord. No. 31.23, 3-28-2005)

**Sec. 6-24. Fees.**

Reasonable fees charged and collected for the acts and services performed by the enforcing agency or Construction Board of Appeals under the Michigan Construction Code and act being administered and enforced by the Village shall be established and may be amended from time to time by resolution of the Village Council, with said fees to bear a reasonable relation to the cost, including overhead, in administering and enforcing the Michigan Construction Code and act and to only be used for the operation of the enforcing agency and/or Construction Board of Appeals.
(Code 1996, § 150.06; Ord. No. 31.23, 3-28-2005)

**Sec. 6-25. Electrical code.**

The electrical code is part of the Michigan Construction Code being administered and enforced by the Village.
(Code 1996, § 150.07; Ord. No. 31.23, 3-28-2005)

**Sec. 6-26. State registration and licensing.**

An electrical contractor, master electrician, electrical journeyman, fire alarm contractor, fire alarm specialty technician, sign specialty contractor, sign specialist and others shall be licensed, and an apprentice electrician, fire alarm specialty apprentice technician and others shall be registered as required and provided in the skilled trades regulation act, Public Act No. 407 of 2016 (MCL 339.5101 et seq.), electrical administrative act, Public Act No. 217 of the Public Acts of 1956.
(Code 1996, § 150.08; Ord. No. 31.23, 3-28-2005)

**Sec. 6-27. Mechanical code.**

The mechanical code is part of the Michigan Construction Code being administered and enforced by the Village.
(Code 1996, § 150.09; Ord. No. 31.23, 3-28-2005)

**Sec. 6-28. Building code.**

The building code is part of the Michigan Construction Code being administered and enforced by the Village.
(Code 1996, § 150.10; Ord. No. 31.23, 3-28-2005)

**Sec. 6-29. Plumbing code.**

The plumbing code is part of the Michigan Construction Code being administered and enforced by the Village.
(Code 1996, § 150.11; Ord. No. 31.23, 3-28-2005)

**Secs. 6-30—6-46. Reserved.**

## ARTICLE III. PROPERTY MAINTENANCE

### DIVISION 1. GENERALLY

**Sec. 6-47. Short title; intent and purpose.**

(a) This article shall be known and may be cited as the "Village of Lake Orion Property Maintenance Ordinance."

(b) In the Council's considerations and deliberations with respect to the adoption of the ordinance from which this article is derived, the Council has determined that the protection and promotion of the public health, safety and welfare requires the adoption of regulations that apply to existing residential and nonresidential structures, including, without limitation, in the following respect:

(1) Establishing minimum maintenance standards.

(2) Providing for the completion of structures, and ongoing maintenance, in light of the recognition that if a significant number of structures in a given area were not completed, or existed in a condition of disrepair for extended periods of time, such conditions could lead to a state of frustration and disincentive in and to other property owners in the area in relation to completion and maintenance of other properties and would result in the public nuisance condition of widespread reduction of property values, deterioration of existing structures, and the general blighting of the Village and its residents and property.

(3) Fixing the responsibilities of owners, operators, and occupants of all structures.

(4) Providing for administration, enforcement and penalties.
(Code 1996, § 154.01; Ord. No. 30.02, 6-22-1987)

**Sec. 6-48. Definitions.**

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

*Condition of disrepair* means the condition of all, or any portion, of a structure that has not been maintained in a workmanlike manner, normal wear and tear for reasonable periods excepted, including, without limitation, instances where structures have windows and/or doors boarded up or which otherwise violate a provision of this article, and also means the lack of substantially continuous and material pursuit of initial construction of a structure toward obtaining a certificate of occupancy or other required approval for a period in excess of six months.

*Structure* means any building or structure for which a permit must be obtained for construction under any ordinance or code of the Village.

*Workmanlike* means the care in carrying out such activities as maintenance and repair in a reasonably skillful manner, i.e., the manner in which a reasonably prudent person would expect or require if another person were hired to perform maintenance or repairs on his or her structure of the type in question.
(Code 1996, § 154.02; Ord. No. 30.02, 6-22-1987)

**Sec. 6-49. Environmental requirements.**

(a) *Generally.*

(1) All exterior property areas and premises shall be maintained in a clean, safe and sanitary condition free from accumulation of rubbish or garbage, except when assembled regularly for removal for transport to a proper receptacle.

(2) The owner and person in possession of every establishment producing garbage, vegetable wastes, or other putrescible materials shall provide, and at all times cause to be used, leakproof-approved containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal.

(b) *Exterior structure.*

(1) The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to impose a threat to the health, safety, or welfare of the occupants and so as to protect the occupants from the adverse effects of the environment. Construction of the exterior of a building or structure shall, following issuance of a building permit, be pursued to completion and issuance of a certificate of occupancy, with work being regularly and actively performed, and such pursuit shall not be completely or substantially discontinued for a period in excess of six months. Moreover, the exterior of the building or structure shall be maintained so as not to be in a condition of disrepair for a period of six months.

(2) All supporting structural members of all structures shall be kept structurally sound and free of deterioration and maintained capable of safely bearing the dead and live loads imposed upon them.

(3) Every foundation, exterior wall, roof, and all other exterior surfaces shall be maintained in a workmanlike state of maintenance and repair.

(4) All foundation walls shall be maintained so as to carry the safe design and operating dead and live loads and shall be maintained plumb and free from open cracks and breaks, so as not to be detrimental to public safety and welfare.

(5) Every exterior wall, window, trim and the like shall be free of holes, breaks, loose or rotting boards or timbers, and other conditions that might admit rain or dampness to the interior portions of the walls or to the occupied spaces of the building. All exterior surface materials, including, without limitation, wood, composition, or metal siding, shall be maintained weatherproof and shall be properly surface-coated when required to prevent deterioration.

(6) All cornices, entablatures, felt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe workmanlike condition.

(7) All canopies, marquees, signs, metal awnings, stairways, fire escapes, stand pipes, exhaust ducts, and similar overhang extensions shall be maintained in good repair and be properly anchored so as to be kept in a safe and sound condition. They shall be protected from the elements and against decay and rust by the periodic application of a weather-coating material, such as paint or other protective treatment.

(8) Every stair, porch, fire escape, balcony, and all appurtenances attached thereto shall be so constructed as to be safe to use and capable of supporting the anticipated loads and shall be maintained in sound condition and good workmanlike repair.

(9) Every window, door and frame shall be constructed and maintained in much relation to the adjacent wall construction so as to exclude rain as reasonably possible, and to substantially exclude wind from entering the dwelling or structure. Windows and exterior doors shall be fitted reasonably in their frames to be weathertight and constructed so as to exclude wind or rain from entering the dwelling or structure. Windows, other than fixed windows, shall be capable of being opened with reasonable ease and shall be held in position by appropriate window hardware.

(10) Every basement hatchway shall be so constructed and maintained as to prevent the entrance of vermin, rain and surface drainage water into the structure.

(c) *Interior structure.*

(1) The interior of a structure and its equipment shall be maintained in good repair, structurally sound and in a sanitary condition so as not to pose a threat to the health, safety or welfare of the occupants or visitors and to protect the occupants from the environment.

(2) The supporting structural members of every building shall be maintained structurally sound, not showing any evidence of deterioration that would render them incapable of carrying the imposed loads.

(3) The interior of every structure shall be maintained free from any accumulation of rubbish, refuse or garbage, other than normal accumulations made for limited periods for disposal purposes. Any rubbish, garbage and/or refuse accumulated on the property for disposal purposes shall be kept inside temporary storage facilities and/or containers.

(Code 1996, § 154.03; Ord. No. 30.02, 6-22-1987)

**Sec. 6-50. Plumbing and fixture requirements.**

(a) Every dwelling unit shall include its own plumbing facilities for sanitary purposes, which are in proper operating condition, and which can be used in private and are adequate for personal cleanliness and the disposal of human waste.

(b) All plumbing fixtures shall be maintained in a safe, sanitary and usable condition. All plumbing fixtures shall be approved nonabsorbent material.

(Code 1996, § 154.04; Ord. No. 30.02, 6-22-1987)

**Sec. 6-51. Mechanical and electrical requirements.**

(a) All cooking and heating equipment shall be maintained free from fire, health and accident hazards. All installations and repairs shall be made in accordance with the provisions of the building code, and other laws or ordinances applicable.

(b) All fuel-burning equipment shall be connected to an approved chimney, flue or vent or shall otherwise be approved by the Fire Marshal.

(c) All required clearances to combustible materials shall be maintained.

(d) Fireplaces, and other construction and devices intended for use similar to a fireplace, shall be stable and structurally safe and connected to approved chimneys.

(e) All electrical equipment, wiring and appliances shall be installed and maintained in a condition that will not result in a hazard to life and/or property. Applicable laws and codes shall be utilized in determining the existence of a hazard. However, the mere fact that there is not compliance with an applicable code adopted subsequent to installation of the equipment, wiring, appliances, or the like shall not, in and of itself, be proof of a hazard.

(f) If, in the opinion of the duly authorized Village official inspecting the system, the electrical system in a structure constitutes a hazard to life and/or property by reason of inadequate service, improper fusing, inefficient outlets, improper wiring or installation, deterioration or damage, or for similar reasons, such condition shall constitute a material violation of this article.

(Code 1996, § 154.05; Ord. No. 30.02, 6-22-1987)

**Sec. 6-52. Administration and enforcement.**

(a) Whenever the Village Manager, the Building Official, or designate determines that there has been a material violation of this article, or has reasonable ground to believe that a material violation has occurred, the Village may proceed by way of appearance ticket, Circuit Court action, or giving a notice to the owner or the person responsible for the premises in the manner prescribed in this section.

(b) The notice referenced in subsection (a) of this section shall:

(1) Be in writing.

(2) Include a description of the real property sufficient for identification.

(3) Include a statement of the reason or reasons why the notice is being issued.

(4) Include a correction order allowing a reasonable time for the repairs, actions and/or improvements required to bring the structure into compliance with the provisions of this article.

(5) Include a statement that if all corrections ordered to be made in the notice have not been completed within a reasonable time, as specified in the notice, a hearing shall be conducted before the Village Council at a time, date and place, also specified in the notice, and that at such hearing, the property owner, or the property owner's representative, shall be entitled to be heard with respect to why the ordered corrective repairs, actions and/or improvements shall not be required.

(c) The notice shall be sent by certified mail to the person or entity responsible for the property, which may be based upon the name and address on the records of the Assessing Department. In addition, if the notice specifies an order requiring the vacation of occupancy and/or the physical demolition of all or part of a structure, a copy of the notice shall be posted on the property in a conspicuous place.

(d) After the expiration of the time established in the notice for curing of all violations, but before the date fixed in the notice for the hearing, the Building Official, or designate, shall ascertain and report to the Village Manager whether the corrections have been complete.

(e) If all corrections of violations have not been completed within the time required by the notice referenced in subsection (a) and (b) of this section, the Village Manager shall direct that an additional notice be sent by regular mail to the person or entity responsible for the property clarifying the position of the Village that the corrections required in the prior notice have not been made and that a hearing shall be conducted. The notice shall reiterate the date, time and place of the hearing to be conducted. The Village Council shall conduct a hearing on the date fixed in the notices, which hearing may be adjourned from time to time by the Council as needed to properly complete the hearing.

(f) The property owner, and/or representative, shall be given an opportunity to be heard at the hearing.

(g) At the conclusion of the hearing, the Council shall determine, in its discretion, whether a violation exists. If the Council determines that a violation does exist, it shall order specific corrective repairs, actions, and/or improvements, including, if necessary and in the discretion of the Council, a vacation of occupancy and/or a physical demolition of the structure; provided, however, demolition of the structure shall not be ordered unless a health or safety hazard exists, or unless a condition of disrepair shall have existed for a continuous period of at least one year. The Council shall prescribe a time within which the corrective repairs, actions and/or improvements must be completed.

(h) If the corrective repairs, actions and/or improvements ordered by the Council include the vacation of occupancy of the premises and/or a physical demolition of all or part of a structure, and the property owner or other responsible person has not completed all curative repairs, actions and/or improvements within the time fixed in the order, the Village may commence an action in the Circuit Court seeking a declaratory judgment, based upon the record made at the Village Council hearing, praying for an adjudication that:

(1) The procedure undertaken by the Village was proper.

(2) The Village's action and order did not constitute a breach of discretion and/or violate the constitution of law.

(3) The Village is authorized to carry out the curative order, with all costs and expenses incurred by the Village in taking such curative action to be paid by the property owner within 30 days of billing from the Village, and failing full payment by the property owner, the balance due shall be deemed delinquent and be placed on the tax roll with respect to the property and billed and collected along with the real property taxes of the Village according to law.

(Code 1996, § 154.06; Ord. No. 30.02, 6-22-1987)

**Secs. 6-53—6-77. Reserved.**

## DIVISION 2. CONDEMNATION OF DANGEROUS BUILDINGS

### Sec. 6-78. Dangerous housing prohibited.

It is unlawful for any owner or agent thereof to keep or maintain any dwelling or part thereof that is a dangerous building as defined in section 6-79.

(Code 1996, § 154.20; Ord. No. 31.03, 6-14-1976)

**Sec. 6-79. Definitions.**

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

*Dangerous building* means any building or structure that has any of the following defects or is in any of the following conditions:

(1) Whenever any door, aisle, passageway, stairway or other means of exit does not conform to the approved fire code of the community wherein the property lies, it shall be considered that such dwelling does not meet the requirements of this division.

(2) Whenever any portion has been damaged by fire, wind, flood, or by any other cause in such a manner that the structural strength or stability is appreciably less than it was before such catastrophe and is less than the minimum requirements of this division or any building code of the Village for a new building or similar structure, purpose or location.

(3) Whenever any portion or member or appurtenance is likely to fall or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

(4) Whenever any portion has settled to such an extent that walls or other structural portions have materially less resistance to winds than is required in the case of new construction by this division or the building code of the Village.

(5) Whenever the building or structure or any part, because of dilapidation, deterioration, decay, faulty construction, or because of the removal or movement of some portion of the ground necessary for the purpose of supporting such building or portion thereof, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning is likely to fall or give way.

(6) Whenever for any reason whatsoever the building or structure or any portion is manifestly unsafe for the purpose for which it is used.

(7) Whenever the building or structure has been so damaged by fire, wind or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance to children who might play therein to their danger, or as to afford a harbor for vagrants, criminals or immoral persons, or as to enable persons to resort thereto for the purpose of committing a nuisance or unlawful or immoral acts.

(8) Whenever a building or structure used or intended to be used for dwelling purposes, because of dilapidation, decay, damage or faulty construction or arrangement or otherwise, is unsanitary or unfit for human habitation or is in a condition that is likely to cause sickness or disease when so determined by the Health Officer, or is likely to work injury to the health, safety or general welfare of those living within.

(9) Whenever any building becomes vacant, dilapidated and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

(Code 1996, § 154.21; Ord. No. 31.03, 6-14-1976)

**Sec. 6-80. Notice of unsafe or dangerous condition; contents; Hearing Officer; service.**

(a) Notwithstanding any other provision of this division, when the whole or any part of any building or structure is found to be in a dangerous or unsafe condition, the enforcing agency shall issue a notice of the dangerous and unsafe condition.

(b) Such notice shall be directed to each owner of or party in interest in the building in whose name the property appears on the last local tax assessment records.

(c) The notice shall specify the time and place of a hearing on the condition of the building or structure at which time and place the person to whom the notice is directed shall have the opportunity to show cause why the building or structure should not be ordered to be demolished or otherwise made safe.

(d) The Hearing Officer shall be appointed by the Village President to serve at his pleasure. The enforcing agency shall file a copy of the notice of the dangerous and unsafe condition with the Hearing Officer.

(e) All notices shall be in writing and shall be served upon the person to whom they are directed personally or, in lieu of personal service, may be mailed by certified mail, return receipt requested, addressed to such owner or party in interest at the address shown on the tax records, at least ten days before the date of the hearing described in the notice. If any person to whom a notice is directed is not personally served in addition to mailing the notice, a copy thereof shall be posted upon a conspicuous part of the building or structure.

(Code 1996, § 154.22; Ord. No. 31.03, 6-14-1976)

**Sec. 6-81. Hearing; testimony; order; noncompliance; notice; lien; collection.**

(a) The Hearing Officer shall take testimony of the enforcing agency, the owner of the property and any interested party. The Hearing Officer shall render his decision either closing the proceedings or ordering the building to be demolished or otherwise made safe.

(b) If it is determined by the Hearing Officer that the building or structure should be demolished or otherwise made safe, he shall so order, fixing a time in the order for the owner, agent or lessee to comply therewith.

(c) If the owner, agent or lessee fails to appear or neglects or refuses to comply with the order, the Hearing Officer shall file a report of his findings and a copy of his order with the legislative body of the Village and request that the necessary action be taken to demolish or otherwise make safe the building or structure. A copy of the findings and order of the Hearing Officer shall be served on the owner, agent or lessee in the manner prescribed in section 6-80.

(d) The Village Council shall fix a date for hearing, reviewing the findings and order of the Hearing Officer and shall give notice to the owner, agent or lessee in the manner prescribed in section 6-80 of the time and place of the hearing. At the hearing the owner, agent or lessee shall be given the opportunity to show cause why the building should not be demolished or otherwise made safe, and the Village Council shall either approve, disapprove or modify the order for the demolition or making safe of the building or structure.

(e) The cost of the demolition or making the building safe shall be a lien against the real property and shall be reported to the Village Assessing Officer, who shall assess the cost against the property on which the building or structure is located.

(f) The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified of the amount of such cost by first class mail at the address shown on the records. If he fails to pay the same within 30 days after mailing by the Assessor of such notice of the amount thereof, the Assessor shall add the same to the next tax roll of such Village and the same shall be collected in the same manner in all respects as provided by law for the collection of taxes by such Village.
(Code 1996, § 154.23; Ord. No. 31.03, 6-14-1976)

**Sec. 6-82. Appeals.**

An owner aggrieved by any final decision or order of the Village Council under section 6-81 may appeal the decision or order to the circuit court by filing a petition for an order of superintending control within 20 days from the date of the decision.
(Code 1996, § 154.24; Ord. No. 31.03, 6-14-1976)

**Sec. 6-83. Violations.**

In addition to the enforcement provisions set forth in this division, any person, firm or corporation determined to have been in violation of the provisions of this division shall be responsible for a municipal civil infraction and subject to the provisions of section 1-18(1)b.
(Code 1996, § 154.25; Am. Ord. No. A-3, 1-13-1997)

Chapter 7

**RESERVED**

Chapter 8

# BUSINESSES

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## ARTICLE I. IN GENERAL

**Secs. 8-1—8-18. Reserved.**

## ARTICLE II. PEDDLERS, ITINERANT MERCHANTS, AND SOLICITORS

### Sec. 8-19. Purpose.

The purpose of this article is to license and regulate the movement, location, business practices and hours of operation of commercial vendors, peddlers and solicitors in the Village; to reduce vehicular and pedestrian traffic congestion; to promote the safe use of the streets and sidewalks; to protect the citizens' quiet enjoyment and peace while leaving ample business opportunity and means for commercial vendors, peddlers and solicitors; and to protect the health, safety and welfare of the people of the Village.
(Code 1996, § 110.01; Ord. No. 13.01, 9-11-2017)

### Sec. 8-20. Definitions.

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

*Canvasser* means a person who is a representative of a nonprofit organization or agency and as benefit to the agency or organization approaches persons, businesses or homes for the purpose of soliciting contributions or collecting signatures, distributing information or seeking volunteers. The term "canvassers" also includes persons engaged in noncommercial religious canvassing and persons engaged in the distribution of handbills and/or pamphlets, signed or unsigned, political or otherwise.

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

*Solicit* means the act of offering or attempting to offer wares, merchandise, services, items of personal property, or real property, either for immediate or future delivery; or the act of seeking or attempting to seek contributions, either in money or services, for charitable or commercial purposes.

*Soliciting material* means printed or similar materials, including, but not limited to, the labels, posters, brochures, flyers, pamphlets, magazines, booklets, books and other like items used in the course of and for the purposes of soliciting.

*Solicitor* means any person or commercial enterprise that travels by foot or automotive vehicle from place to place or from street to street or a person who hires, uses, or occupies any building, structure, room, shop, or any other place for the purpose of exhibiting samples or

soliciting material, taking orders for future delivery, or those that carry, convey, or transport goods, wares and merchandise, including food products, offering and exposing the same for sale or making sales and delivering articles to purchasers, or taking or attempting to take orders for the sale of goods, wares, and merchandise, books or magazines, personal property of any nature whatsoever for future delivery, or for services to be furnished presently or performed in the future, whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale or whether the subject is collecting advance payments on such sales or not. The term "solicitor" includes, but is not limited to, commercial vendors, canvassers, peddlers, and hawkers.

*Special event vendor* means any vendor, solicitor or canvasser engaged in the sale of goods, wares or merchandise, including food products, or in the activities of a canvasser, while at a stationary or fixed location during a special event in the physical footprint of the special event, and shall be controlled and approved at the discretion of the special event director and is exempt from the requirements of this article.

*Temporary special event director* means the person, entity, corporation, and/or organization that is sponsoring and/or conducting a temporary event and the holder of the permit to do so.
(Code 1996, § 110.02; Ord. No. 13.01, 9-11-2017; Ord. No. 13.06, § 110.02, 8-28-2023)

**Sec. 8-21. License requirement.**

No person shall engage in commercial vending, soliciting or peddling without a license authorized and issued by the Village Clerk, as required under this article. Applications shall be completed in person and given to the Village Clerk no later than seven days prior to the requested effective date. Commercial vendor applications shall be filed with the Village Clerk no later than 14 days prior to the requested effective date. In the event that the application is made by an organization, group, association, partnership, corporation, trust, business entity or any combination of the above, an application must be made for each and every agent or employee who shall be engaging in the act of soliciting. Special event vendors must comply with license requirements of article V of this chapter.
(Code 1996, § 110.03; Ord. No. 13.01, 9-11-2017; Ord. No. 13.06, § 110.03, 8-28-2023)

**Sec. 8-22. Application procedures.**

(a) Form. The license application shall be made upon a form provided by the Village Clerk.

(b) Fees. License and application fees shall be set from time to time by the Village Council by resolution.

(c) The following persons shall be exempt from the licensing requirements, administration and/or license fee, and license identification card requirements of this article, but shall be subject to the other provisions herein:

(1) Persons engaging in the occupation of sale or of distribution of newspapers.

(2) Persons engaging in soliciting on foot within one-half mile of their residence.

(3) Persons engaged in noncommercial, religious or charitable canvassing.

(4) Persons engaged in the distribution of handbills, signed and unsigned, political or otherwise.

(5) Persons duly licensed under Public Act No. 359 of 1921, MCL 35.441 et seq. (qualified veterans).

(6) Special event vendors.

(d) License period. The license term for special event vendors, solicitors, and peddlers shall be limited to the timeframe as the application and permit fees allow.
(Code 1996, § 110.04; Ord. No. 13.01, 9-11-2017; Ord. No. 13.06, § 110.04, 8-28-2023)

**Sec. 8-23. Requirements for all applications.**

(a) All applicants for a license under this article shall pay to the Village the fee required, and file with the Village Clerk a sworn application in the form required by the Village Clerk, which shall include the following:

(1) The name of the person who will engage in vending, soliciting or peddling within the Village, including the person's current address of residence and length of residence at such address, business address if other than the residence address, business and residence telephone numbers, driver's license number, and a physical description, including height, weight, and color of hair and eyes.

(2) A brief description of the business or activity to be conducted, including the methods to be used and a description of the types of goods or services to be sold.

(3) The dates, hours and location for which the right to engage in vending, soliciting or peddling is sought.

(4) Proof that the applicant has obtained all licenses or permits required by state law.

(5) The place where the wares, merchandise, services, items or personal property or real property are located, manufactured or produced, where such items are located at the times said application is filed and the proposed method of delivery.

(6) If employed and acting as an agent, the name, address and telephone number of the parent organization who is being represented, and when and where this organization was formed, including the form of its organization.

(7) A statement as to whether the applicant or its parent organization has ever been found to have violated a municipal ordinance regulating vending, soliciting or peddling.

(8) A statement as to whether the applicant or an officer or director of the applicant's parent organization has ever been convicted of a felony and, if so, the date and location of such conviction, and a brief description of the offense.

(9) One photograph of the applicant by state identification card or from the applicant's state driver's license, and a copy of said state driver's license or state identification card to be attached to the applicant's application.

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

(11) The application shall be signed by the applicant stating that the information contained therein is true and correct, that the Village shall have the right to investigate and verify the information contained in the application, and that the applicant has read the vendors, solicitors and peddlers ordinance and agrees to abide by its terms.

(12) Such other information as the Village Clerk shall determine to be appropriate.

(13) Any vehicle used in soliciting must be identified on the application, with a copy of the state registration.

(b) The application will be denied if the applicant has had a conviction for any felony crime or any crime involving theft, embezzlement, larceny, home invasion, burglary, or crimes of indecencies, including misdemeanors.

(Code 1996, § 110.05; Ord. No. 13.01, 9-11-2017)

**Sec. 8-24. Requirements of all vendors, solicitors and peddlers.**

(a) Generally.

(1) No loud noises, speaking devices, lights, drums, loudspeaker, amplifier, or other instrument or device which creates noise, or flashing lights which are for the purpose of attracting attention to commercial or noncommercial enterprises so as to annoy or disturb the quiet, comfort or repose of persons in any office, dwelling or other residence, or other place of employment or repose shall be used and may be treated as a violation.

(2) Frozen confection vendors shall not utilize any bell, chime or other noisemaking device beyond a moderate noise level for the purpose of attracting persons to buy the frozen confection. This prohibition shall not be construed to exclude the customary horn required under the motor vehicle laws of the state.

(3) Off-limit locations. No vendor, peddler or solicitor shall conduct business within 50 feet of any school, church, synagogue or place of worship during services or within one hour of services; courthouse; police station; or other public location unless specifically authorized pursuant to the terms of the license. In addition, the Village Manager shall

have power to designate such streets, sidewalks, parts of streets, or sidewalks, districts or areas where it shall be unlawful for any licensee to operate or conduct her/his business, such designation to be made based upon congested traffic conditions, character of the neighborhood, or if the conduct of such business constitutes a public nuisance.

(4) "No Soliciting" signs and "No Soliciting" list. No solicitor or peddler shall enter into property that has a posted "No Soliciting' sign or shall remain on property after being requested to leave by the occupant. No solicitor or peddler shall solicit or peddle their wares or enter any property that is listed on the no soliciting list on file at the Village Clerk's office.

(5) Threatening or harassing behavior. No vendor, solicitor or peddler shall threaten or harass any citizen in the course of their activities or in any way engage in conduct that threatens the health and safety of another or causes a nuisance.

(6) Effect of delinquent personal property taxes. No vendor, solicitor or peddler license shall be granted to any person owing any personal property taxes or other indebtedness to the Village, or who contemplates using any personal property on which personal property taxes are owed, in the operation of such business.

(7) Sales limited to products on application. Vendors, solicitors and peddlers shall be limited to the sale of products specified on their application. Amendments to originally approved applications must be submitted to the Village Clerk for review and approval and shall not be effective prior to such approval. An application fee of an amount established in the schedule of fees, charges, bonds and insurance must accompany each request for an amendment.

(8) Licenses non-sellable and non-transferable. Vendor, solicitor and peddler's licenses issued under the authority of this article shall be non-sellable and non-transferable, either as to persons or as to location.

(b) Traffic regulations, obstructing public places.

(1) Vendors, solicitors and peddlers shall observe all traffic and parking regulations. Unless specifically approved, vendors, peddlers and solicitors shall not conduct business in a congested area or occupy a stationary location on a public street, sidewalk, parkway, park, parking lot, or any other public property which is to be used by pedestrians or persons operating motor vehicles. Such vendors, peddlers and/or solicitors shall be presumed to have occupied a location if he/she has conducted business in any such public place for a period in excess of ten minutes.

(2) Solicitation from and sales to any person standing in roadways, vehicles at red lights and vehicles in moving traffic lanes are prohibited.

(c) Display of license required.

(1) All vendors, solicitors and peddlers shall display the license provided by the Village Clerk on his or her person or in a prominent place on their vehicle or removable or non-permanent stand. The failure of a vendor, peddler and/or solicitor to conspicuously and constantly exhibit such license when engaged in his/her licensed business shall be sufficient cause for the suspension or revocation of his/her license.

(2) Any certificate or license required by the county health department shall also be prominently displayed on any vehicle or stand subject to this article.

(d) Prices posted. A vendor and frozen confection vendor shall have posted on their vehicle, removable stand or non-permanent stand the current prices charged for each item sold, and no item shall be sold for more than the posted price.

(e) Litter cleanup required. Vendors shall (at their own expense) keep the sidewalks, streets, and other public places adjoining and adjacent to their locations of business clean and free from any refuse generated or resulting from the operation of their business.

(1) Under no circumstances may any vendor, solicitor or peddler use any Village trash can, dumpster or other receptacle, drain or sewer to dispose of any litter, refuse, substance, fluid, liquid or grease.

(2) Violation of this subsection (e) more than twice during one license year may constitute license revocation.

(f) Deposit for litter cleanup. Vendors shall file with the Village a deposit for the removal of any litter on any sidewalk, street and/or other public place adjoining and adjacent to their locations in the event the vendor fails to maintain such areas in compliance with this article. The amount of the deposit shall be set forth in the schedule of fees, charges, bonds and insurance. If the vendor fails to remove any such litter, the Village may remove the litter and charge the costs against the deposit. In the event a vendor exhausts its deposit, the vendor shall be invoiced by the Village for any restoration or litter on Village property in excess of the amount of the deposit.

(g) Peddlers and solicitors shall obtain insurance as set forth in the schedule of fees, charges, and bonds. Insurance is required for permits for 90 days and more.

(h) Commercial vendors shall agree to indemnify and hold the Village harmless, the language of which is set forth in the schedule of fees, charges, and bonds.
(Code 1996, § 110.06; Ord. No. 13.01, 9-11-2017)

**Sec. 8-25. Revocation; appeal process.**

(a) The Village Clerk or Police Department is authorized to revoke any license issued under this article for violation of the provisions of this article, including, but not limited to, the following:

(1) The vendor, solicitor or peddler has violated any provision of this article, any provision of this Code, state or federal laws or rules or regulations.

(2) The vendor, solicitor or peddler has made a false material statement in the application or has otherwise become disqualified for issuance of the license.

(3) The vendor, solicitor or peddler has had a written complaint filed against it for violation of this article and probable cause exists for substantiation of the complaint.

(4) The vendor, solicitor or peddler has acted in a manner contrary to the public health, safety or welfare of the citizens of Village.

(b) The Village Clerk shall provide the vendor, solicitor or peddler with written notice at the address on the application for the license for the revocation of the license. The written revocation notice will clearly set forth in writing the grounds for revocation and allow the vendor, solicitor or peddler to file a written request with the Village Clerk's office for a hearing to appeal the revocation; such request shall be filed with the Village Clerk within 15 days from the date appearing on the notice of revocation. The hearing shall be held by the Village Clerk.

(c) If a vendor's, solicitor's or peddler's appeal of the revocation to the Village Clerk is not reversed, the vendor, solicitor or peddler has seven days to file a written appeal of the revocation to the Village Council so that the appeal can be placed on the next available Village Council agenda for consideration of the appeal. The order and findings of the Village Council shall be final.
(Code 1996, § 110.07; Ord. No. 13.01, 9-11-2017)

**Sec. 8-26. Time limits.**

Soliciting may take place within the Village between the hours of 9:00 a.m. and 9:00 p.m. from April 1 through October 31; from November 1 through March 31, the hours of solicitation are from 9:00 a.m. to 7:00 p.m.
(Code 1996, § 110.08; Ord. No. 13.01, 9-11-2017)

**Sec. 8-27. Violations; penalty.**

The Police Chief and officers of the Police Department, or such code officials as are designated by the Village Manager, are hereby authorized to issue and serve appearance tickets

to any person, firm or corporation determined to have been in violation of the provisions of this article and shall be responsible for a misdemeanor and subject to the provisions of section 1-18(1)b.
(Code 1996, § 110.99; Ord. No. 13.01, 9-11-2017)

**Secs. 8-28—8-57. Reserved.**

## ARTICLE III. AMUSEMENTS

### DIVISION 1. GENERALLY

**Secs. 8-58—8-87. Reserved.**

### DIVISION 2. PINBALL ARCADES

**Sec. 8-88. Definitions.**

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

*Operator* means the proprietor, lessee, manager or employee of any pinball arcade.

*Pinball arcade* means any place of business or establishment containing three or more mechanical or electrical devices that provide amusement or entertainment, which may be operated or set in motion upon the insertion of a coin or token. The term "pinball arcade" does not apply to any place of business or establishment licensed by the state liquor control commission providing for consumption of alcoholic beverages, beer or wine, upon the premises so licensed.

*Pinball machine* means any mechanical or electrical device that provides amusement or entertainment, which may be operated or set in motion upon the insertion of a coin or token. A jukebox or coin-operated music reproducing machine shall not be included in the definition of the term "pinball machine."
(Code 1996, § 111.01; Ord. No. 9.02, 7-24-1978; Am. Ord. No. 9.03, 8-10-1981)

**Sec. 8-89. License required.**

No pinball arcade shall be established, maintained or conducted in the Village by any person or corporation without first obtaining a license to operate such place from the Village Council, and no operator, as defined in section 8-88, shall allow or permit the use of a pinball machine unless a license for such use shall have been obtained from the Village Council.
(Code 1996, § 111.02; Ord. No. 9.02, 7-24-1978)

**Sec. 8-90. License application.**

(a) Every person or operator as defined herein desiring to obtain a license as required by this division shall file a written application to the Village Clerk on forms approved by the Village Clerk together with an application fee of $100.00 or as hereinafter provided by resolution of the Council.

(b) The application shall include the following information:

(1) a. The applicant's age, correct name, post office address and residence, the length of time the applicant has resided within the state, and where, and his places of residence for the past five years immediately before the time of such application;

b. Whether or not he has ever been convicted of any crime involving moral turpitude; and giving references in such applications to at least five reputable citizens of such community wherein he has last resided within this state; and

c. The written recommendations of at least two such citizens of such community respecting his moral character.

(2) a. Every such application shall be accompanied by a fee as herein specified payable to the Village Treasurer for the use of the Village upon issuing of license to the applicant; and

b. The applicant shall specify in such application the type of business and the exact location of the place thereof for which he requests a permit.

(3) a. In case the applicant for such license is a corporation authorized to do business in the state, the application shall be made by the agent of such corporation who will have principal charge of the place proposed to be established, and such application shall contain all of the statements and furnish all the facts and recommendations in respect to such agent as are required in the case of a private individual herein.

b. Such license to a corporation shall be revocable upon the occurrence of a change in the agent so managing such place, and a new license may be required by the Village Council before any new agent shall take charge of such place for such corporation.

c. In case of a partnership, each active partner in such business shall join in the application for such license and shall furnish all of the information and recommendations required of an individual applicant.

(4) Information included on the application shall describe machines to be covered by the license, including type, name mechanical features, name of manufacturer and serial number, a statement as to ownership of machines to be covered by the license and the

fingerprints of the applicant or, in the case of a corporation, the fingerprints of the executive officers of said corporation, together with the names of all stockholders of said corporation.

(Code 1996, § 111.03; Ord. No. 9.02, 7-24-1978)

**Sec. 8-91. Inspection of premises.**

Before any pinball arcade license shall be issued, investigation of the application and inspection of the premises shall be made by the Village Building Department, Fire Chief, Police Department and such other Village departments or agencies as may be deemed necessary to determine whether the premises fully comply with all pertinent provisions of this Code and any other ordinances and regulations of the Village. Before any pinball arcade license may be recommended for approval, it must be determined by the Police Department and such other agencies or departments as deemed necessary that the applicant is providing sufficient off-street parking and sufficient aids and regulations whereby vehicular traffic shall not constitute a nuisance or danger. For a standard for such determination, minimum off-street parking facilities shall be as required by the zoning code adopted by reference in chapter 38, with additional facilities for general peak load parking requirements of the business being operated. Before the Fire Chief approves the same, he must determine that adequate space is provided between the pinball machines to permit safe ingress and egress in the premises.

(Code 1996, § 111.04; Ord. No. 9.02, 7-24-1978)

**Sec. 8-92. Regulations.**

Each licensee shall:

(1) At all times, open each and every portion of the licensed premises for inspection by the Police Department and other Village departments for the purpose of enforcing any provisions of this division.

(2) At all times, display the license granted hereunder in a conspicuous place near the entrance to the licensed establishment.

(3) Have at least one adult operator on the premises at all times that the premises are open to the public who has not been convicted of a crime involving moral turpitude and who has been so certified by the Police Department.

(4) Not open the licensed premises for business between the hours of 1:00 a.m. and 7:30 a.m. (local time). However, premises may open for business during the aforesaid hours on the granting of a special permit by the Police Chief upon the showing by the licensee:

   a. That the premises are being used for the holding of a tournament; or

   b. That the licensee desires the premises to remain open during said hours on a legal holiday.

(Code 1996, § 111.05; Ord. No. 9.02, 7-24-1978)

**Sec. 8-93. Denial of license.**

No license shall be issued:

(1) Where the individual operator, managing agent of a corporation, or active partner has been convicted of a felony or of a crime involving moral turpitude.

(2) For any premises unless the building code, fire code and other pertinent provisions of this Code and any other Village ordinance, as far as can be determined, are being complied with.

(3) For any pinball arcade proposed to be located within 1,000 feet of another pinball arcade.

(4) For any premises, unless the applicant gives notice by regular mail to all property owners located within 300 feet of the premises on which the business is operated of his intention to seek a license.

(5) For any premises that are located within 1,000 feet of any school building attended by students below 16 years of age. Measurement shall be made from front door to front door, along the street line.

(6) For any premises that do not provide space for safe ingress and egress in such premises.

(7) For any premises that have living quarters with direct entry to the premises.

(8) Whenever the Council deems that the granting of such license will not be in the best interest of the public health, safety and welfare of the Village.

(Code 1996, § 111.06; Ord. No. 9.02, 7-24-1978; Am. Ord. No. 9.03, 8-10-1981)

**Sec. 8-94. License fees.**

The fee to be paid upon granting of licenses issued hereunder shall be $100.00, plus $10.00 for each pinball machine on the premises, or as set by resolution of the Village Council. The application fee established in section 8-90 shall be applied toward the payment of fees established in this section.

(Code 1996, § 111.07; Ord. No. 9.02, 7-24-1978)

**Sec. 8-95. Granting of licenses.**

After review and recommendation by all Village agencies and departments, but in no event later than 45 days from the date of filing the application, the Village Manager shall present the application to the Village Council at its next regular meeting. The Village Council, upon receiving such application, if presented in due form, shall pass upon the same at its next regular meeting or any adjournment thereof and, if satisfied, that such applicant possesses the qualifications herein prescribed, shall grant such licenses for a term expiring on December 31 of each year. All such licenses shall be in such form as the Village Council may prescribe and shall

contain the name, address, place of business, the number of pinball machines on the premises, and the date of expiration of the license, and shall be authenticated by the signature of the Village Clerk.
(Code 1996, § 111.08; Ord. No. 9.02, 7-24-1978)

**Sec. 8-96. Conduct of premises.**

No licensee, by himself, directly or indirectly, or by any servant, agent or employee shall:

(1) Permit any indecent, immoral or profane language, or indecent, immoral or disorderly conduct.

(2) Permit the licensed premises to become a resort for disorderly persons of any type.

(3) Permit gambling or the use, possession or presence of gambling paraphernalia in the premises. The winning of anything of value as a result of the operation of a pinball machine shall constitute gambling. However, the winning of a prize that does not exceed $100.00 in value in a scheduled tournament shall not constitute gambling.

(4) Permit intoxicated persons to loiter on the premises.

(5) Permit any persons under the age of 16 years to be upon the premises during the hours in which the Village's public schools are in session.

(6) Permit the possession or use of any alcoholic liquor on the premises, nor shall the licensed premises be accessible in any way to any place where alcoholic liquor is kept, sold, distributed or given away. This prohibition shall not apply while a state liquor control commission license is in effect at the licensed premises.

(7) Permit the possession or use of any unlawful drug or narcotic, including marijuana, on the premises.

(8) Permit noise or music to emerge from licensed premises which is disturbing to the surrounding area.

(Code 1996, § 111.09; Ord. No. 9.02, 7-24-1978)

**Sec. 8-97. Renewal and transferability.**

Any license issued in accordance with this act may be renewed for an additional year upon the same terms and subject to the same requirements as provided herein for an original license. Whenever the holder of such license desires to effect a change of place of doing business, he shall notify the Village Council and make application for a license for such new place in the same manner as in the first instance, excepting that proof of good character may be dispensed with by such Village Council. No license issued pursuant to this act shall be assignable or transferable, nor shall any person excepting the person to which it was issued be permitted to do business thereunder, either directly or indirectly.
(Code 1996, § 111.10; Ord. No. 9.02, 7-24-1978)

**Sec. 8-98. Revocation.**

The Village Council shall have the right to revoke any license once granted or deny annual renewal thereof when it appears to their satisfaction that any licensee has violated this division or any other ordinance of the Village or state statute. The revocation of any license or the denial of renewal thereof shall not be made without a hearing. Notice must first be given to the applicant or licensee setting forth the time and place of hearing and the reasons for such revocation or denial of renewal of said license. Any conviction of a violation of this division, this Code or any other ordinance of the Village or state statute involving moral turpitude by the licensee or his employees shall be grounds for revocation of any license or the refusal to renew the same.
(Code 1996, § 111.11; Ord. No. 9.02, 7-24-1978)

**Sec. 8-99. Violations.**

Any person, firm or corporation determined to have been in violation of the provisions of this division shall be responsible for a municipal civil infraction and subject to the provisions of section 1-18(1)b.
(Code 1996, § 111.12; Am. Ord. No. A-3, 1-13-1997)

**Secs. 8-100—8-126. Reserved.**

## ARTICLE IV. MARIHUANA

**Sec. 8-127. Marihuana establishments; regulations.**

This article is created to regulate the sale of marihuana in the Village; to allow certain medical marihuana facilities and marihuana establishments to operate in the Village pursuant to the medical marihuana facilities licensing act and Michigan regulation and taxation of marihuana act; to provide for standards and procedures to permit and regulate such facilities; to provide for the imposition of permit application fees; to provide penalties; and to impose conditions for the operation of such facilities.
(Code 1996, § 114.01; Ord. No. 13.03, 11-3-2020)

**Sec. 8-128. Definitions.**

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

*Applicant* means a person who applies for a permit to operate a medical marihuana provisioning center or marihuana retailer under this article.

*Church* means a building used for regular public worship services and exempt from taxation under the general property tax act of the state.

*Department* means the State Department of Licensing and Regulatory Affairs or its successor agency.

*Marihuana* means as that term is defined in the MRTMA.

*Marihuana accessories* means any equipment, product, material, or combination of equipment, products, or materials, which is specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marihuana into the human body.

*Marihuana establishment* means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed under the MRTMA.

*Marihuana grower* means a person licensed under the MRTMA to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

*Marihuana microbusiness* means a person licensed under the MRTMA to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.

*Marihuana processor* means a person licensed under the MRTMA to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.

*Marihuana retailer* means a person licensed under the MRTMA to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.

*Marihuana safety compliance facility* means a person licensed to test marihuana, including certification for potency and the presence of contaminants.

*Marihuana secure transporter* means a person licensed under the MRTMA to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

*Medical marihuana facility* means any facility, entity, establishment or center that is required to be licensed under the MMFLA and this article, including a medical marihuana grower, medical marihuana processor, medical marihuana provisioning center, medical marihuana safety compliance facility, and/or a medical marihuana secure transporter.

*Medical marihuana grower* means the term "grower" as defined in the MMFLA.

*Medical marihuana processor* means the term "processor" as defined in the MMFLA.

*Medical marihuana provisioning center* means the term "provisioning center" as defined in the MMFLA.

*Medical marihuana safety compliance facility* means the term "safety compliance facility" as defined in the MMFLA.

*Medical marihuana secure transporter* means the term "secure transporter" as defined in the MMFLA.

*MMFLA* means the medical marihuana facilities licensing act, Public Act No. 281 of 2016, MCL 333.27101 et seq.

*MRTMA* means the Michigan regulation and taxation of marihuana act, Initiated Law 1 of 2018, MCL 333.27951 et seq.

*Park* means an area of land dedicated for public use and accepted by the Village, with or without facilities for rest and recreation.

*Permittee* means a person who receives a permit to operate a medical marihuana facility or marihuana establishment under this article.

*School* means a public or private school offering education to students enrolled in kindergarten, or one or more grades of one through 12.

*Stakeholders* means the officers, directors, and managerial employees of an applicant and any persons who hold any direct or indirect ownership interest in the applicant.
(Code 1996, § 114.02; Ord. No. 13.03, 11-3-2020)

**Sec. 8-129. Prohibitions.**

(a) Notwithstanding anything in this article, no person shall sell marihuana or sell or display marihuana accessories within a 1,000-foot radius of any parcel upon which is located any preexisting school, within a 1,500-foot radius of any parcel upon which is located any preexisting church, within a 1,500-foot radius of any parcel upon which is located any preexisting park, within a 250-foot radius of any Village Single-Family Residential Zoning District (RV), within a 250-foot radius of any Lake Single-Family Residential Zoning District (RL), or within a 250-foot radius of any Multiple-Family Residential Zoning District (RM). This subsection shall apply if the school, church, park, or Residential Zoning Districts RV, RL, and RM are located within the Village.

(b) No person shall operate a medical marihuana facility or a marihuana establishment in the Village without first obtaining any relevant license required by the MMFLA or MRTMA and a permit from the Village in accordance with the provisions of this article. A separate permit is required for each medical marihuana facility or marihuana establishment.

(c) No person shall consume marihuana in a public place within the boundaries of the Village.
(Code 1996, § 114.03; Ord. No. 13.03, 11-3-2020)

**Sec. 8-130. Medical marihuana provisioning centers and marihuana retailers.**

(a) Pursuant to section 205(1) of the MMFLA and section 6 of the MRTMA, the Village authorizes two permits total for medical marihuana provisioning centers and marihuana retailers; provided, however, for purposes of this limitation on the number of authorized permits in the Village, the Village shall be deemed to have issued only one permit to a permittee who receives a permit to operate a medical marihuana provisioning center and also a permit to operate a marihuana retailer at the same location as the medical marihuana provisioning center.

(b) Except as otherwise provided in this section, the Village shall not permit or authorize the operation of any other type of marihuana establishment or medical marijuana facility.

(c) This section shall not be interpreted to allow the operation of marihuana establishments and medical marihuana facilities at more than two locations in the Village at the same time.
(Code 1996, § 114.04; Ord. No. 13.03, 11-3-2020)

**Sec. 8-131. Permit applications.**

(a) Any person seeking to operate a medical marihuana provisioning center or marihuana retailer shall file a permit application with the Clerk upon a form provided by the Village. The application shall include the following information:

(1) The full name, date of birth, physical address, email address, and telephone number of the applicant in the case of an individual, or, in the case of an entity, all stakeholders thereof;

(2) If the applicant is an entity, the entity's articles of incorporation or organizational documents;

(3) If the applicant is an entity, the entity's employer identification number;

(4) If the applicant is an entity, the entity's operating agreement or bylaws;

(5) A proposed marketing, advertising, and business promotion plan for the proposed medical marihuana provisioning center or marihuana retailer;

(6) A description of planned tangible capital investment in the Village;

(7) An explanation of the economic benefits to the Village and job creation to be achieved, including the number and type of jobs the medical marihuana provisioning center or

marihuana retailer is expected to create, the amount and type of compensation expected to be paid for such jobs, and the projected annual budget and revenue of the medical marihuana provisioning center or marihuana retailer;

(8) A description of the financial structure and financing for the proposed medical marihuana provisioning center or marihuana retailer;

(9) Short-term and long-term business goals and objectives for the proposed medical marihuana provisioning center or marihuana retailer;

(10) A criminal background report of the applicant's criminal history; such reports shall be obtained by the applicant through the Internet Criminal History Access Tool (ICHAT) for applicants residing in the state and/or through another state sponsored or authorized criminal history access source for applicants who reside in other states or have resided in other states within five years prior to the date of the application. The applicant is responsible for all charges incurred in requesting and receiving the criminal history report and the report must be dated within 30 days of the date of the application;

(11) A description of proposed community outreach and education strategies;

(12) A description of proposed charitable plans, whether through financial donations or volunteer work;

(13) A description of the security plan for the proposed medical marihuana provisioning center or marihuana retailer that is consistent with the requirements of the department;

(14) A floor plan of the proposed medical marihuana provisioning center or marihuana retailer;

(15) A scale diagram illustrating the property upon which the proposed medical marihuana provisioning center or marihuana retailer is to be operated, including all available parking spaces, and specifying which parking spaces are disability-accessible;

(16) A depiction of any proposed text or graphic materials to be shown on the exterior of the proposed medical marihuana provisioning center or marihuana retailer;

(17) An affidavit that neither the applicant nor any stakeholder of the applicant is in default to the Village for any fees or taxes;

(18) Proof of premises liability and casualty insurance consistent with the requirements of the department;

(19) A location area map that identifies the relative locations of, and distances from, the nearest school, church, park, Village Single-Family Residential Zoning District, Lake Single-Family Residential Zoning District, or Multiple-Family Residential Zoning District, and computed by measuring a straight line from the nearest property line of

the parcel used for the purposes stated in this subsection to the nearest property line of the parcel to be used as a medical marihuana provisioning center or marihuana retailer.

(b) Except as provided by law, all materials submitted to the Village as part of an application shall be exempt from disclosure under the Freedom of Information Act.
(Code 1996, § 114.05; Ord. No. 13.03, 11-3-2020)

**Sec. 8-132. Application fee.**

An application for a permit shall be accompanied by an application fee to help defray administrative and enforcement costs associated with the operation of the medical marihuana provisioning center or marihuana retailer, which shall be set by resolution of the Council, but shall not exceed $5,000.00.
(Code 1996, § 114.06; Ord. No. 13.03, 11-3-2020)

**Sec. 8-133. Application review.**

(a) After the effective date of the ordinance from which this section is derived, the Clerk shall begin accepting applications for medical marihuana provisioning centers and marihuana retailers within 45 days. The Clerk must set a 30-day application period during which applicants may apply for a permit to operate a medical marihuana provisioning center or marihuana retailer.

(b) The Clerk shall review each application to ensure that it is complete, that the information required by this article has been submitted, and that the application fee has been paid. The Clerk may reject any application that is not complete and may deny an application for failure to pay the application fee.

(c) Upon receipt of a completed application meeting the requirements of this article and the appropriate permit application fee, the Clerk shall refer a copy of the application to each of the following for their approval: the Village Fire Department, the Building Department, the Planner, and the Treasurer.

(d) No application shall be approved unless:

(1) The Village Fire Department and the Building Department have inspected the proposed location for compliance with all laws for which they are charged with enforcement and for compliance with the requirements of this article;

(2) The Village Planner has confirmed that the proposed location complies with the Village zoning ordinance and this article;

(3) The Treasurer has confirmed that the applicant and each stakeholder of the applicant are not in default to the Village.

(e) The Clerk shall assess, evaluate, score and rank all applications for permits to operate a medical marihuana provisioning center or marihuana retailer submitted during the 30-day application period set forth in this article.

(f) In its application assessment, evaluation, scoring, ranking, and deliberations related to permits to operate a medical marihuana provisioning center or a marihuana retailer, the Clerk shall assess, evaluate, score, and rank each application based upon a scoring and ranking procedure developed by the Clerk consistent with the requirements, conditions, and provisions of this article in each of the following categories:

(1) Whether the proposed medical marihuana provisioning center or marihuana retailer will be consistent with land use for the surrounding neighborhood and not have a detrimental effect on traffic patterns and resident safety. The maximum number of scoring points in this category shall be ten points.

(2) Planned outreach on behalf of the proposed medical marihuana provisioning center or marihuana retailer, and whether the applicant or its stakeholders have made, or plan to make, significant physical improvements to the building housing the medical marihuana provisioning center or marihuana retailer, including plans to eliminate or minimize traffic, noise, and odor effects on the surrounding neighborhood. The maximum number of scoring points in this category shall be ten points.

(3) Whether the applicant has reasonably and tangibly demonstrated it possesses sufficient financial resources to fund, and the requisite business experience to execute, the submitted business plan and other plans required by this article. The maximum number of scoring points in this category shall be 15 points.

(4) Whether the applicant has applied for and proposes to co-locate a medical marihuana provisioning center and marihuana retailer. The maximum number of scoring points in this category shall be 20 points.

(5) Whether adequate off-street parking is provided by the applicant. The maximum number of scoring points in this category shall be ten points.

(6) Whether the proposed facility will have a detrimental impact on children and areas where children congregate in the Village or surrounding region, as judged by the proximity of the proposed medical marihuana provisioning center or marihuana retailer to other structures or properties, including any parcel upon which is located an existing school, church, and park, or any parcel located within an RV, RL, or RM Residential Zoning District. This subsection shall apply if the school, church, park, or Residential Zoning Districts RV, RL, and RM are located within the Village. Such distance between the school, church, or park, or Residential Zoning Districts RV, RL, and RM, and the contemplated location shall be computed by measuring a straight line from the nearest property line of the parcel used for the purposes stated in this subsection to the nearest property line of the parcel to be used as a medical marihuana

provisioning center or marihuana retailer. The maximum number of scoring points in this category shall be 20 points, with the maximum points being awarded if the proposed medical marihuana provisioning center or marihuana retailer will be located more than 50 percent further than the applicable distances provided under section 8-129.

(7) Whether the applicant has demonstrated an economic commitment to the Village by a proposal to create no less than five full-time jobs and proposes a living wage to all employees. The maximum number of scoring points in this category shall be 15 points and shall be awarded based upon the number of jobs proposed and the pay structure proposed by the applicant;

(g) Overall scoring and ranking shall be conducted and applied by the Clerk on the basis of assigned points from zero points to 100 points, with the lowest overall total score as zero points and the highest possible total score being 100 points.

(h) The Clerk shall award permits to the two highest scoring applicants. In the event of an evaluation scoring tie that causes there to be more than two applicants who achieve scores sufficient to qualify for a permit, the scoring-tied applicants will be entered into a random draw. Those applications randomly selected shall be eligible to receive a permit to operate a medical marihuana provisioning center or a marihuana retailer, as applicable. If, after awarding the first two permits to the highest scoring applicants, additional permits may be issued for one or more of the same locations in accordance with section 8-130(a), the Clerk shall award such other permits to eligible applicants. In the event that the number of medical marihuana provisioning center and/or marihuana retailer permits initially awarded is less than the maximum number authorized under this article or subsequently falls below the maximum number authorized under this article, the Clerk shall not be required to score applicants. Instead, the Clerk shall evaluate applications in the order that they are submitted and shall award permits for medical marihuana provisioning centers and/or marihuana retailers to an applicant who submits a complete application, receives the approvals required in this article, and otherwise meets the requirements of this article. However, in no event shall the number of medical marihuana provisioning center or marihuana retailer permits exceed the maximum number authorized under section 8-130.

(i) The Clerk shall award permits to operate a marihuana retailer to the two highest scoring marihuana retailer applicants. In the event of an evaluation scoring tie, which causes there to be more than two applicants who achieve scores sufficient to qualify for a marihuana retailer permit, the scoring-tied applicants will be entered into a random draw. Those applications randomly selected shall be eligible to receive a permit to operate a marihuana retailer. In the event that the number of marihuana retailer permits initially awarded is less than the maximum number authorized under this article or subsequently falls below the maximum number authorized under this article, the Clerk shall not be required to score applicants. Instead, the

Clerk shall evaluate applications in the order that they are submitted and shall award permits for marihuana retailers to an applicant who submits a complete application, receives the approvals required in this article, and meets the requirements of this article. However, in no event shall the number of marihuana retailer permits exceed the maximum number authorized under this article.

(j) Nothing in this article is intended to confer a property or other right, duty, privilege or interest in a permit of any kind or nature whatsoever, including, but not limited to, any claim of entitlement.

(k) The Clerk may engage professional expert assistance in performing the Clerk's duties and responsibilities under this article.
(Code 1996, § 114.07; Ord. No. 13.03, 11-3-2020)

**Sec. 8-134. Permit requirements.**

(a) A medical marihuana provisioning center or marihuana retailer permit issued under this article shall be subject to the following conditions:

(1) Compliance with the requirements of this article, other applicable Village ordinances and codes, and applicable state laws;

(2) For a medical marihuana provisioning center, compliance with the provisions of the MMFLA and any rules promulgated thereunder;

(3) For a marihuana retailer, compliance with the provisions of the MRTMA and any rules promulgated thereunder;

(4) Medical marihuana provisioning centers and marihuana retailers shall not operate and be open to the public before 9:00 a.m. or after 9:00 p.m. daily;

(5) Signs displayed on the exterior and interior of any medical marihuana provisioning center or marihuana retailer shall conform to Village ordinance requirements. No signs shall contain the words "marihuana, "marijuana," or "cannabis," nor shall any sign contain marihuana leaves, or green crosses;

(6) Operation of a marihuana facility or marihuana establishment shall not cause or create, directly or indirectly, any noise, dust, vibration, glare, fumes, or odors constituting a nuisance and which are detectable to normal human senses beyond the boundaries of the property on which the marihuana facility or marihuana establishment is operated.

(b) A permit that is issued under this article shall be posted at all times inside the medical marihuana provisioning center or marihuana retailer in a conspicuous location near the entrance.
(Code 1996, § 114.08; Ord. No. 13.03, 11-3-2020)

**Sec. 8-135. Transfer of permits.**

(a) Permittees may transfer a permit issued under this article to a different location upon receiving written approval from the Clerk and the Department pursuant to the MMFLA or MRTMA and rules promulgated by the department. In order to request municipal approval to transfer a permit location, the permittee must make a written request to the Clerk, indicating the current location of the medical marihuana provisioning center or marihuana retailer and the proposed new location. Upon receiving the written request, the Clerk shall refer a copy of the written request to the Village Fire Department and the Village Planner. No permit transfer shall be approved unless each such department or entity gives written approval that the proposed permit location meets the standards identified in this article and the department or Board approves the transfer.

(b) Permittees may transfer a permit issued under this article to a different individual or entity upon receiving written approval from the Clerk and the Department pursuant to the MMFLA or MRTMA and rules promulgated by the department. For purposes of this section, a change in, transfer of, or acquisition of control of the permittee is considered to be a transfer. In order to request municipal approval to transfer a permit to a different individual or entity, the permittee must make a written request to the Clerk, indicating the current permittee and the proposed permittee. The Clerk shall grant the request so long as the department authorizes the transfer pursuant to the MMFLA or MRTMA and rules promulgated by the department.
(Code 1996, § 114.09; Ord. No. 13.03, 11-3-2020)

**Sec. 8-136. Term of permits.**

Approval of a permit shall be for a period of one calendar year from the date of issuance, subject to review by the Clerk upon continued compliance with the regulations of this article.
(Code 1996, § 114.10; Ord. No. 13.03, 11-3-2020)

**Sec. 8-137. Annual permit renewal.**

(a) Application for a permit renewal shall be made in writing to the Clerk at least 30 days prior to the expiration of an existing permit.

(b) An application for a permit renewal required by this article shall be made under oath on forms provided by the Clerk and shall contain all of the information required in an initial application.

(c) An application for a permit renewal shall be accompanied by a renewal fee to help defray administrative and enforcement costs associated with the operation of the medical marihuana provisioning center or marihuana retailer, which shall be set by resolution of the Council, but shall not exceed $5,000.00.

(d) Upon receipt of a completed application for a permit renewal meeting the requirements of this article and the permit renewal fee, the Clerk shall refer a copy of the renewal application to the Fire Department and the Building Department.

(e) No application for a permit renewal shall be approved unless:

(1) The Fire Department and the Building Department or another relevant department have, within the past calendar year, inspected the location for compliance with all state and local building, electrical, fire, mechanical and plumbing requirements;

(2) The Village Planner or another relevant department has confirmed that the location complied with the Village zoning ordinance at the time the permit was granted;

(3) The permittee possesses the necessary state licenses or approvals, including those issued pursuant to the MMFLA or MRTMA;

(4) The permittee has operated the medical marihuana provisioning center or marihuana retailer in accordance with the conditions and requirements of this article;

(5) The permittee is operating the medical marihuana provisioning center or marihuana retailer in accordance with MMFLA or MRTMA.

(f) If written approval is given by each department or entity identified in this section, the Clerk shall issue a permit renewal to the permittee. The renewal shall be deemed approved if the Village has not issued formal notice of denial within 60 days of the filing date of the application.
(Code 1996, § 114.11; Ord. No. 13.03, 11-3-2020)

**Sec. 8-138. Revocation or suspension of a permit.**

Each medical marihuana provisioning center or marihuana retailer within the Village for which a permit is granted shall be operated and maintained in accordance with all applicable laws, rules, and regulations. Upon any violation of this section or any section of this article, the Clerk may, after a notice and hearing, revoke or suspend such permit as hereinafter provided.
(Code 1996, § 114.12; Ord. No. 13.03, 11-3-2020)

**Sec. 8-139. Procedure for nonrenewal, suspension, or revocation of permit.**

The Clerk shall notify an applicant or permittee of the reasons for denial of an application for a permit or permit renewal or for revocation of a permit or any adverse decision under this article and provide the applicant or permittee with the opportunity to be heard. Any applicant or permittee aggrieved by the denial or revocation of a permit or adverse decision under this article may appeal to the Clerk, who shall appoint a hearing officer to hear and evaluate the appeal and make a recommendation to the Clerk. Such appeal shall be taken by filing with the Clerk, within 14 days after notice of the action complained of has been mailed to the applicant or permittee's last known address on the records of the Clerk, a written statement setting forth

fully the grounds for the appeal. The Clerk shall review the report and recommendation of the hearing officer and make a decision on the matter. The Clerk's decision may be further appealed to the Council if applied for in writing to the Council no later than 30 days after the Clerk's decision. The review on appeal of a denial or revocation or adverse action shall be by the Council pursuant to this article. Any decision by the Council on an appeal shall be final for purposes of judicial review. The Clerk may engage professional experts to assist with the proceedings under this section.
(Code 1996, § 114.13; Ord. No. 13.03, 11-3-2020)

**Sec. 8-140. Criteria for nonrenewal, suspension, or revocation of permit.**

In addition to any other reasons set forth in this article, the Village may refuse to issue a permit or grant renewal of the permit or suspend or revoke the permit for any of the following reasons:

(1) A material violation of any provision of this article.

(2) Any conviction of a disqualifying felony by the permittee or any stakeholder of the permittee that would disqualify that person from obtaining a state license under the MMFLA or MRTMA.

(3) Failure of the permittee to obtain or maintain a license from the state pursuant to section 14 of the MMFLA or MRTMA.

(Code 1996, § 114.14; Ord. No. 13.03, 11-3-2020)

**Sec. 8-141. Penalty.**

Any person who violates this article shall be responsible for a municipal civil infraction as defined in section 1-18.
(Code 1996, § 114.99; Ord. No. 13.03, 11-3-2020)

**Secs. 8-142—8-165. Reserved.**

## ARTICLE V. MOBILE FOOD ESTABLISHMENTS

**Sec. 8-166. Definitions.**

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

*Applicant* means an individual, corporation, association, partnership, trust, firm, or similar entity.

*Mobile food establishment* means a licensed and operable motor vehicle or trailer which includes any commercial kitchen equipment used for cooking that operates in a transient or

static location and involves the preparation, cooking, and sale of food and/or nonalcoholic beverages in a ready-to-consume state for consumption either on or off the premises, but not within the motor vehicle and/or trailer.

*Private event* means an event that is not open to the general public, including, but not limited to, private parties, church events, private fundraisers, and block parties.

*Static mobile food establishment* means a mobile food establishment parked and/or operating in a fixed location for greater than a five-hour period.

*Temporary or transient mobile food establishment* means a mobile food establishment parked and/or operating in any one area for less than a five-hour period.

*Village event* means events coordinated or sponsored by the Village and located within the Village or designated as such by resolution of the Village Council.
(Ord. No. 13.05, § 115.01, 5-23-2022)

**Sec. 8-167. General provisions.**

Mobile food establishments shall comply with the following standards:

(1) *Property owner permission.* Mobile food establishments operating on private or public property must receive the property owner's written consent prior to operation.

(2) *Location.* Mobile food establishments that meet the standards of this article may be permitted in all zoning districts, unless restricted, prohibited, or otherwise regulated by the Village zoning ordinance or any other applicable Village ordinance.

(3) *Insurance.* All mobile food establishments shall have proper vehicle registrations and current/valid registration plates. All vehicles shall be properly insured in accordance with state law.

(4) *Alcoholic liquor.* Mobile food establishments shall not serve alcoholic liquor or allow the consumption of alcoholic liquor in their service areas or dining areas unless the applicant has obtained all appropriate permits required by the state and any necessary approvals from the Village.

(5) *Hours of operation.* Mobile food establishments shall not operate before 6:00 a.m. or after 10:00 p.m. unless otherwise permitted expressly in writing by the Village as part of a Village event.

(6) *Service area.* The area where customers stand in line to place or pick up an order (service area) for mobile food establishments shall not be located on a street, road, or within the road right-of-way, and, if in a parking lot, shall be located a safe distance from the travel lanes of a parking lot. Allowable service areas are subject to Village and Township Fire Department approval.

(7) *Dining areas.* The areas where customers may sit or stand at tables to consume food or beverages (dining areas) shall not be located on a street, road, or within the road right-of-way, and, if in a parking lot, shall be located safe distance from the travel lanes of a parking lot. Allowable dining areas are subject to Village and Township Fire Department approval.

(8) *Preparation and storage.* Food shall not be prepared, sold, or displayed outside of the mobile food establishment as follows:

a. *Outdoor preparation.* Outdoor cooking facilities, including grills not contained within a mobile food establishment, are prohibited.

b. *Materials, food, and supplies.* All materials, food, and supplies must be stored within a mobile food establishment or may be adjacent to a mobile food establishment if in an enclosed container. Food and condiments may be displayed on shelving attached to the mobile food establishment.

(9) *Obstructions.* Mobile food establishments and their respective service areas and dining areas shall not obstruct or impede vehicular, pedestrian, or non-motorized travel or movement, nor create visual obstructions for vehicular traffic.

(10) *Awnings.* Any awning shall have a minimum clearance of seven feet between the ground and the lowest point of the awning when fully extended.

(11) *Waste.* Waste associated with mobile food establishments shall be managed as set forth as follows:

a. *Waste container.* Mobile food establishments must be equipped with sufficient garbage or refuse containers to handle their waste, including one provided for patrons.

b. *Daily cleaning.* All waste, spilled food, food byproducts, and litter left by customers associated with each mobile food establishment (collectively "waste") shall be cleaned up and collected, and thereafter properly and lawfully disposed of, by the mobile food establishment operator at least daily.

c. *Dumping of fluids.* Dumping of gray water, grease, or any other fluid onto land or any street or into any storm sewer is prohibited.

(12) *Noise.* Mobile food establishments shall not make or cause any unreasonable or excessive noise that is in violation of Village ordinances.

(13) *Lighting.* Lighting associated with mobile food establishments shall not cause distractions for motorists or create negative impacts for surrounding properties.

a. *Non-steady lights.* Flashing, blinking, or moving lights are prohibited when a mobile food establishment is parked or serving customers.

b. *Shielding.* All exterior lights greater than 800 lumens, equivalent to a 60-watt incandescent light bulb, shall have an opaque shield to direct illumination downwards.

(14) *Signage.* Only signs attached to, or mounted on, the mobile food establishment shall be authorized, and all signs shall conform to the location, size, height, number, and other standards set forth in chapter 38, article III.

(15) *Fire code.* Mobile food establishments shall be subject to an annual inspection by the Orion Township Fire Department to confirm compliance with Michigan Fire Protection Code standards, including, but not limited to, standards required for fire extinguishers, fire extinguishing systems, compressed gas/liquid propane gas, generators, electrical, location, and general fire safety.

(16) *Water.* Mobile food establishments shall not be temporarily connected to a water source unless the applicant provides verification to the Village and Township that it is a potable water source.

(17) *Sewer.* Mobile food establishments shall not be connected to sanitary or storm sewer facilities.

(18) *Wheel chocks.* Mobile food establishments shall use wheel chocks while parked to prepare or distribute food.

(19) *Overnight parking and equipment storage.*

a. In any zoning district, other than commercial or industrial zones, unless stored entirely within an enclosed building, overnight parking of a mobile food establishment and outside overnight storage of any equipment associated with a mobile food establishment, including, but not limited to, tables, chairs, and waste receptacles (associated equipment), is prohibited, except as may be expressly permitted for mobile food establishments associated with a Village event.

b. On properties within commercial or industrial zoning districts, and if allowed by the terms of its permit, a mobile food establishment may be parked outside overnight; however, overnight storage of a mobile food establishment's associated equipment outside of an enclosed building, or outside of a mobile food establishment, is prohibited.

(20) *Display of permits.* Mobile food establishments shall prominently display any required permits and licenses while in operation.

(Ord. No. 13.05, § 115.02, 5-23-2022)

**Sec. 8-168. Licenses, permits, and approvals.**

It shall be a violation of this article to operate a mobile food establishment without the necessary licenses, permits, and approvals, as set forth below.

(1) *Mobile food establishment permit.* Open mobile food establishments shall obtain a permit on an annual basis as set forth in more detail below, which shall be valid for one calendar year, provided that the applicant remains in compliance with the permit requirements.

(2) *County health department permit.* All mobile food establishments must obtain and maintain any permits and approvals required by the county health department.

(3) *State of Michigan.* All mobile food establishments must obtain and maintain any permits, licenses, and approvals required by the state department of agriculture and rural development.

(4) *Others.* All mobile food establishments must obtain and maintain any other permits, approvals, or licenses required by law.

(5) *Transferability.* A license or permit issued under this article shall not be transferred from person to person or to another mobile food establishment.

(Ord. No. 13.05, § 115.03, 5-23-2022)

**Sec. 8-169. Enforcing agency.**

The Township of Orion, a Michigan Municipal Corporation, whose address is 2525 Joslyn Road, Lake Orion, MI 48360, and its Fire Department, Fire Code Official and personnel shall serve as the Village enforcing agency that shall administer and enforce this article in and on behalf of the Village as authorized by the urban cooperation act of 1967, 1967 Public Act No. 7, MCL 124.501 et seq. The Township of Orion shall be vested with all lawful authority to administer and enforce this article, and it shall be deemed sufficient in any action for enforcement of the provisions hereof as a violation of this Code.

(Ord. No. 13.05, § 115.04, 5-23-2022)

**Sec. 8-170. Administration.**

This article shall be administered by the Charter Township of Orion, Fire Chief and/or their designee, as outlined below:

(1) *Order of process.* The following shall be the order of process in obtaining a mobile food establishment permit:

a. The applicant submits a permit application to the Orion Township Fire Department.

b. The Fire Department schedules an inspection with the applicant.

c. The Fire Department conducts the inspection.

d. If the mobile food truck establishment meets all requirements of this article and the Village zoning ordinance (where applicable), the Fire Department shall issue a permit under this article. The Fire Department shall also provide the applicant with a mobile food truck sticker, and the applicant shall prominently display its sticker on the outside of the mobile food establishment.

(2) *Mobile food establishment permit application.* A mobile food establishment permit shall include the following materials:

a. A signed and completed application form.

b. A description of the proposed annual events;

c. Depictions of all locations where the mobile food establishment will be parked and providing services and where dining areas will be located, and, if in a parking lot, how the service/dining areas will be delineated for safety purposes;

d. Any necessary written permission from property owners;

e. A fee, as adopted by resolution of the Township Board; and

f. Any additional information necessary to determine compliance with this article and other applicable ordinances, laws, permits, and regulations.

(3) *Timely submission.* Mobile food establishments shall submit a permit application two business days before any needed inspection to operate. In the event an applicant requests a permit for a mobile food establishment and is in need of an inspection with less than two business days' notice, the applicant shall be subject to payment of an increased permit fee as set forth by resolution of the Township Board.

(4) *Complete and accurate.* Submission of an application constitutes a representation that all of the information is complete and accurate.

(5) *Issuance.* Annual mobile food establishment permits shall be issued by the Township Fire Chief and/or their designee after the permit applicant has passed an inspection conducted by the Fire Department. All permits issued by the Fire Department shall expire on December 31 of every calendar year as long as the applicant remains in compliance with the provisions of this article and other applicable ordinances, permits, regulations, and laws. The review shall be conducted in consultation with the Fire Chief or their designee and other applicable entities and agencies.

(6) *Operating without a permit.* In the event a mobile food establishment is found to be operating without a permit, it shall constitute a violation of this article and shall constitute a civil infraction as defined by state law and shall be subject to a civil fine of not more than $500.00, as set forth in this article.

(7) *Withholding permit.* Issuance of any license or permit may be withheld pending verification that any other necessary approvals have been granted.

(8) *Conditions.* Reasonable conditions may be placed on approvals, as outlined below:

a. *Health, safety, and welfare.* Conditions shall be designed to protect the health, safety, and welfare of the patrons, vendors, adjacent property owners, and the community as a whole.

b. *Police power.* Conditions shall be related to the valid exercise of the police power and purposes affected by the activity.

c. *Compliance.* Conditions shall be designed to ensure compliance with the provisions of this article, other Village ordinances, county requirements, and state and federal law.

(9) *Suspension and revocation.* As outlined below, an approval may be immediately suspended on a temporary or permanent basis by the Orion Fire Chief and/or their designee.

a. *Notice.* The applicant shall receive written notice of the possible suspension or revocation, including the reason for the suspension or revocation, and actions necessary, if any, to prevent the suspension or revocation.

b. *Decision criteria.* The Township Board of Trustees may issue an order to suspend or revoke a mobile food establishment permit if the Board of Trustees makes any of the following findings:

1. An imminent threat exists to the health, safety, or welfare of persons or neighboring properties; or

2. The applicant has violated or currently fails to comply with any condition of its license or permit or with any applicable ordinance, county requirement, or state or federal law.

c. *Effect.* Upon revocation of an approval, all activity shall cease immediately, except for work related to securing the site or correcting a violation, as determined by the Fire Chief and/or their designee.

(10) *Appeal.* Appeals of decisions made in the administration of this article shall be heard and decided by the Village Council.

(Ord. No. 13.05, § 115.05, 5-23-2022)

**Sec. 8-171. Enforcement and penalties.**

A violation of this article or any license, permit, or condition issued under this article is a municipal civil infraction and subject to enforcement, as set forth below:

(1) *Party to violation.* Any person who violates this article, or fails to comply with its terms, or with any of the conditions of any license or permit, shall be responsible for a municipal civil infraction. Any property owner who violates or allows a violation of this article on his/hers property shall be responsible for a municipal civil infraction.

(2) *Each day.* Each day that any violation exists or continues shall be deemed a separate offense.

(3) *Penalty.* Any person or other entity who causes or permits to continue a public nuisance as prohibited by this article is responsible for a municipal civil infraction as defined by state law and is subject to a civil fine of not more than $500.00, plus costs, which may include all direct or indirect expenses to which the Township has incurred in connection with the violation. A violator of this article shall also be subject to such additional sanctions, remedies, and judicial orders as are authorized under state law. Each day a violation of this article continues to exist constitutes a separate violation.

(Ord. No. 13.05, § 115.06, 5-23-2022)

Chapter 9

**RESERVED**

Chapter 10

# EMERGENCY SERVICES

## Article I. In General

Secs. 10-1—10-18. Reserved.

## Article II. Emergency Response Cost Recovery

Sec. 10-19. Title.
Sec. 10-20. Intent and purpose.
Sec. 10-21. Definitions.
Sec. 10-22. Presumptions.
Sec. 10-23. Liability for costs.
Sec. 10-24. Itemization and bill for services.
Sec. 10-25. Failure to pay costs of emergency response.
Sec. 10-26. Nature of liability.
Secs. 10-27—10-55. Reserved.

## Article III. Security Alarm Systems

Sec. 10-56. Short title.
Sec. 10-57. Definitions.
Sec. 10-58. Audible or visual alarms.
Sec. 10-59. Separate systems required.
Sec. 10-60. False alarm fees.
Sec. 10-61. Exception to alarm fees.
Sec. 10-62. False alarm notice.
Sec. 10-63. Waiver requests.
Sec. 10-64. Defective alarms.
Sec. 10-65. Violations.

## ARTICLE I. IN GENERAL

**Secs. 10-1—10-18. Reserved.**

## ARTICLE II. EMERGENCY RESPONSE COST RECOVERY

### Sec. 10-19. Title.

This article shall be known and may be cited as the "Village of Lake Orion Emergency Response Cost Recovery Ordinance."
(Code 1996, § 93.01; Ord. No. 2.17, 9-14-1992; Am. Ord. No. 2.20, 11-28-1994; Am. Ord. No. 2.31, 3-14-2005)

### Sec. 10-20. Intent and purpose.

In the Council's consideration and deliberation with respect to the regulations in this article, the Council has determined that the protection and promotion of the public health, safety, and welfare requires the adoption of this article to provide a means for the Village to recover costs and expenses of emergency response and prosecution as part of a sentence for the conviction of persons committing certain offenses as permitted by and described in Public Act No. 345 of 1998 (MCL 38.551 et seq.), or a local ordinance substantially corresponding to those offenses, and to exercise the authority in Public Act No. 102 of 1990 (MCL 41.801 et seq.), and other laws that provide for the assessment and collection of fees or costs for emergency responses. In addition to any other penalty authorized by law, the court may order the person convicted to reimburse the Village for expenses incurred in relation to that incident, including, but not limited to, expenses for an emergency response and expenses for prosecuting the person as provided in this article.
(Code 1996, § 93.02; Ord. No. 2.17, 9-14-1992; Am. Ord. No. 2.20, 11-28-1994; Am. Ord. No. 2.31, 3-14-2005; Am. Ord. No. 2.32, 3-23-2009)

### Sec. 10-21. Definitions.

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

*Emergency response* means:

(1) The dispatch, provision, or utilization of the police, firefighting, and/or medical and rescue services by the Village to or at an accident involving a motor vehicle where one or more of the drivers were operating a motor vehicle while intoxicated or visibly impaired as such terms are defined in the Michigan Motor Vehicle Code, or a local ordinance substantially corresponding thereto; or were persons under 21 years of age operating a motor vehicle with a blood alcohol level of 0.02 to 0.07.

(2) The making of a traffic stop and arrest by a police officer when the driver was either operating a motor vehicle while intoxicated or visibly impaired as such terms are defined in the Michigan Motor Vehicle Code, or a local ordinance substantially corresponding thereto; or were persons under 21 years of age operating a motor vehicle with a blood alcohol level of 0.02 to 0.07.

(3) The dispatch, provision or utilization of the police, firefighting and/or medical and rescue services by the Village, resulting in the arrest and/or finding of guilt for criminal contempt for a violation of a personal protection order issued under section 2950 or 2950a of the revised judicature act of 1961, Public Act No. 236 of 1961 (MCL 600.2950 or 600.2950a), or for the violation of a foreign protection order that satisfies the conditions of validity provided in section 2950i of the revised judicature act of 1961, Public Act No. 236 of 1961 (MCL 600.2950i), or a local ordinance substantially corresponding to that section.

(4) The making of a stop and arrest by a police officer when the driver was either operating a snowmobile under the influence of intoxicating liquor or a controlled substance or both; with unlawful blood alcohol content; or while visibly impaired in violation or attempted violation of section 82127 of the natural resources and environmental protection act, Public Act No. 451 of 1994 (MCL 324.82127), or a local ordinance substantially corresponding to that section.

(5) The making of a stop and arrest by a police officer when the driver was either operating an off-road vehicle (ORV) under the influence of intoxicating liquor or a controlled substance or both; with unlawful blood alcohol content; or while visibly impaired in violation or attempted violation of section 81134 or 81135 of the natural resources and environmental protection act, Public Act No. 451 of 1994 (MCL 324.81134 or 324.81135), or a local ordinance substantially corresponding to that section.

(6) The making of an arrest by a police officer when a pilot or crew member was operating an aircraft under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft; or who was operating an aircraft with an unlawful blood alcohol content in violation or attempted violation of section 185 of the Michigan Aeronautics Code, Public Act No. 327 of 1945 (MCL 259.185), or a local ordinance substantially corresponding to that section.

(7) The making of a stop and arrest by a police officer when the driver was either operating a vessel on the waters of the state under the influence of intoxicating liquor or a controlled substance or both; with unlawful blood alcohol content; or while visibly impaired in violation or attempted violation of section 80176(1), (3), (4), or (5) of the natural resources and environmental protection act, Public Act No. 451 of 1994 (MCL

324.80176(1), (3), (4) or (5)), or a local ordinance substantially corresponding to section 80176(1) or (3) of the natural resources and environmental protection act, Public Act No. 451 of 1994 (MCL 324.80176(1) or (3)).

(8) The making an arrest of a person who intentionally makes a false report of the commission of a crime, or intentionally causes a false report of the commission of a crime to be made, to a peace officer, police agency of the state or of a local unit of government, 9-1-1 operator, or any other governmental employee or contractor or employee of a contractor who is authorized to receive reports of a crime, knowing the report is false, in violation or attempted violation of section 411a(2) of the Michigan Penal Code, Public Act No. 328 of 1931 (MCL 750.411a), or a local ordinance substantially corresponding to that section.

(9) The making of a traffic stop and arrest by a police officer for a violation of the Michigan Vehicle Code, or any uniform traffic code that is adopted as an ordinance of the Village under chapter 32, for a misdemeanor offense of operating a motor vehicle without a valid operator's license.

*Expenses and costs of emergency response* means the direct and reasonable costs incurred by the Village associated with the occurrence of an emergency response and prosecution, including, but not limited to, the following:

(1) The salaries or wages, including overtime pay, of law enforcement personnel for time spent responding to the emergency, arresting and processing the person after an arrest for a crime causing the emergency, preparing reports on the emergency, investigating the emergency, and collecting and analyzing evidence, including, but not limited to, determining bodily alcohol level and determining the presence of and identifying controlled substances in the blood, breath, or urine.

(2) The salaries, wages, or other compensation, including overtime pay, of Fire Department and emergency medical service personnel, including volunteer firefighters or volunteer emergency medical service personnel, for time spent in responding to and providing firefighting, rescue, and emergency medical services in relation to the emergency.

(3) The cost of medical supplies lost or expended by Fire Department and emergency medical service personnel, including volunteer firefighters or volunteer emergency medical service personnel, in providing services in relation to the emergency.

(4) The salaries, wages, or other compensation, including, but not limited to, overtime pay of prosecution personnel for time spent investigating and prosecuting the crime creating the emergency.

(5) The cost of extraditing a person from another state to this state, including, but not limited to, all of the following:

a. Transportation costs.

b. The salaries or wages of law enforcement and prosecution personnel, including overtime pay, for processing the extradition and returning the person to the state.

*Vessel,* consistent with the natural resources and environmental protection act, means every description of watercraft used or capable of being used as a means of transportation on water.
(Code 1996, § 93.03; Ord. No. 2.17, 9-14-1992; Am. Ord. No. 2.20, 11-28-1994; Am. Ord. No. 2.31, 3-14-2005; Am. Ord. No. 2.32, 3-23-2009)

**Sec. 10-22. Presumptions.**

For the purpose of this article, a person is presumed to be responsible for an emergency response if he or she meets the standards of prohibited conduct as they are defined in section 10-23.
(Code 1996, § 93.04; Ord. No. 2.17, 9-14-1992; Am. Ord. No. 2.20, 11-28-1994; Am. Ord. No. 2.31, 3-14-2005)

**Sec. 10-23. Liability for costs.**

(a) Any person who is arrested for the following violations shall be liable for the costs and expenses incurred by the Village for providing emergency response services and prosecution:

(1) Operating a motor vehicle while visibly intoxicated or impaired in violation of section 625 of the Michigan Vehicle Code, Public Act No. 300 of 1949 (MCL 257.625), or a local ordinance substantially corresponding thereto.

(2) Person under 21 years of age operating a motor vehicle with a blood alcohol level of 0.02 to 0.07, pursuant to section 625(6) of the Michigan Vehicle Code, Public Act No. 300 of 1949 (MCL 257.625(6)), or a local ordinance substantially corresponding thereto.

(3) Violating the terms and conditions of a personal protection order issued under section 2950 or 2950a of the revised judicature act of 1961, Public Act No. 236 of 1961 (MCL 600.2950 or 600.2950a), or for the violation of a foreign protection order that satisfies the conditions of validity provided in section 2950i of the revised judicature act of 1961, Public Act No. 236 of 1961 (MCL 600.2950i), or a local ordinance substantially corresponding thereto.

(4) Operating a snowmobile in violation or attempted violation of section 82127 of the natural resources and environmental protection act, Public Act No. 451 of 1994 (MCL 324.82127), or a local ordinance substantially corresponding thereto.

(5) Operating an ORV in violation or attempted violation of section 81134 or 81135 of the natural resources and environmental protection act, Public Act No. 451 of 1994 (MCL 324.81134 or 324.81135), or a local ordinance substantially corresponding thereto.

(6) Acting as the pilot or a crew member of an aircraft that is in violation or attempted violation of section 185 of the Michigan Aeronautics Code, Public Act No. 327 of 1945 (MCL 259.185), or a local ordinance substantially corresponding thereto.

(7) Operating a vessel on the waters of the state in violation or attempted violation of section 80176(1), (3), (4), or (5) of the natural resources and environmental protection act, Public Act No. 451 of 1994 (MCL 324.80176(1), (3), (4) or (5)), or a local ordinance substantially corresponding to section 80176(1) or (3) of the natural resources and environmental protection act, Public Act No. 451 of 1994 (MCL 324.80176(1) or (3)).

(8) Making a false report of the commission of a crime, or intentionally causing a false report of the commission of a crime to be made, to a peace officer, police agency of the state or of a local unit of government, 9-1-1 operator, or any other governmental employee or contractor or employee of a contractor who is authorized to receive reports of a crime, knowing the report is false, in violation or attempted violation of section 411a(2) of the Michigan Penal Code, Public Act No. 328 of 1931 (MCL 750.411a(2)), or a local ordinance substantially corresponding thereto.

(9) A misdemeanor offense of operating a motor vehicle without a valid operator's license in violation of the Michigan Vehicle Code or any uniform traffic code that is adopted as an ordinance of the Village under chapter 32.

(b) The expense of an emergency response shall be a charge against the person liable for costs and expenses under this article. The cost and expense of an emergency response constitutes a debt of that person and is collectible by the Village for incurring those costs and expenses in the same manner as in the case of an obligation under a contract, express or implied, or as an assessment under the Village Charter.

(c) As part of the sentence for a conviction of violations set forth in subsection (a) of this section, in addition to any other penalty authorized by law, the court may order the person convicted to reimburse the Village for expenses incurred in relation to that incident, including, but not limited to, expenses for emergency response, and expenses for prosecuting the person as provided in this section. The amount ordered to be paid shall be paid to the clerk of the court, who shall transmit the appropriate amount to the Village to receive reimbursement. If not otherwise provided by the court, the reimbursement ordered shall be made immediately unless the court allows the responsible person to make the reimbursement within a specified period or in specified installments. The court shall be authorized by resolution of the Village Council to collect the subject debt for the Village and may charge a reasonable service fee for such collection in an amount mutually agreed upon by the court and the Village.

(d) In the event that the person responsible for the costs and expenses of emergency response and prosecution is a minor under the age of 18 years, the parents, guardians or other persons legally responsible for the care, custody, control or support of that minor are responsible and liable for the debt, in the event it is not paid by the minor in accordance with the order of the court.
(Code 1996, § 93.05; Ord. No. 2.17, 9-14-1992; Am. Ord. No. 2.20, 11-28-1994; Am. Ord. No. 2.31, 3-14-2005; Am. Ord. No. 2.32, 3-23-2009)

**Sec. 10-24. Itemization and bill for services.**

(a) The liability of the person or persons responsible for the emergency response shall be enforceable by reimbursement orders of the county circuit court and the 52-3 judicial district court, with said courts authorized to collect the costs and expenses of emergency response and prosecution for the Village and charge a service fee for such collection in an amount mutually agreed upon by the courts and the Village.

(b) The Village Council shall establish and amend by resolution a schedule of the costs and expenses of emergency response and prosecution for use in determining the hourly or other rates and charges to be used in the calculation of the costs and expenses of emergency response for which the person responsible for the emergency response shall be liable. Such schedule shall be available to the public at the Village Clerk's Office.

(c) The Police Chief, or the designee thereof, shall prepare a written itemization of the costs for any emergency response and prosecution which shall be submitted to the court in which the complaint for one or more of the violations identified in section 10-23 is filed.

(d) The court shall order payment of the costs and expenses by the responsible person in accordance with section 10-23(c).
(Code 1996, § 93.06; Ord. No. 2.17, 9-14-1992; Am. Ord. No. 2.20, 11-28-1994; Am. Ord. No. 2.31, 3-14-2005)

**Sec. 10-25. Failure to pay costs of emergency response.**

(a) Any failure by the responsible person to pay the itemized emergency response costs as required by a court order under section 10-23(c), or, if the court has denied such an order, within 30 days of service of the Village billing in accordance with section 10-24, shall be considered a default. In case of default, the Village may commence a civil suit to recover the unpaid costs and expenses of an emergency response allowed by law.

(b) Additionally, as part of the sentence for a conviction of the violations enumerated in section 10-23(a), if the person convicted is placed on probation or paroled, any reimbursement ordered under section 10-23 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, number of dependents, 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. 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.
(Code 1996, § 93.07; Ord. No. 2.17, 9-14-1992; Am. Ord. No. 2.20, 11-28-1994; Am. Ord. No. 2.31, 3-14-2005)

**Sec. 10-26. Nature of liability.**

This article shall not be construed to conflict, contravene or enlarge any criminal liability or responsibility on the part of the responsible person. In the event that the responsible person pays the costs and expenses of the emergency response pursuant to a conviction and court order in accordance with section 10-23(c), no additional payment to the Village shall be made. This section does not allow the Village to be fully reimbursed more than once for any expense incurred by the Village.
(Code 1996, § 93.08; Ord. No. 2.17, 9-14-1992; Am. Ord. No. 2.20, 11-28-1994; Am. Ord. No. 2.31, 3-14-2005)

**Secs. 10-27—10-55. Reserved.**

## ARTICLE III. SECURITY ALARM SYSTEMS

**Sec. 10-56. Short title.**

This article shall be known and referred to as the "Alarm System Ordinance."
(Code 1996, § 97.01; Ord. No. 34.01, 11-13-1984)

**Sec. 10-57. Definitions.**

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

*Alarm system* means any mechanical or electrical device that when activated emits a sound or transmits a signal or message and to which the Police or Fire Department may be summoned to respond. An alarm system is designed for use for one or any combination of the following: the detection of an unauthorized entry or attempted entry into a building, structure or facility; the alerting of others to the commission of an unlawful act within a building, structure or facility; and/or the detection of fire, smoke or heat within a building, structure or facility.

*Alarm user* means any person on whose premises an alarm system is maintained within the Village, except for alarm systems on motor vehicles.

*False alarm* means the activation of an alarm system through mechanical failure, malfunction, improper installation, or the negligence of the owner or user of an alarm system, or negligence of the occupant of the residence and/or building in which the alarm system is located or of their employees or agents. The term "false alarm" also means any activation of an alarm system that indicates a crime or situation other than that which it was designed to indicate or, in the case of a fire alarm, any alarm condition not resulting from a fire or potential fire condition.
(Code 1996, § 97.02; Ord. No. 34.01, 11-13-1984)

**Sec. 10-58. Audible or visual alarms.**

(a) No person, firm or corporation shall maintain an alarm system that when activated causes an audible and/or visible signal that can be heard or seen outside the premises and that is disturbing to the peace and quiet of the surrounding area, unless that person has first provided the Police Department with the following information: his name and telephone number, the name and telephone number of one other person who, having access to the alarmed premises, can be contacted at any time and can respond within 30 minutes to deactivate the alarm system.

(b) No person, firm or corporation shall use, install or direct to be installed any audio alarm system that emits a sound alarm for a period of longer than 15 minutes.
(Code 1996, § 97.03; Ord. No. 34.01, 11-13-1984)

**Sec. 10-59. Separate systems required.**

Buildings having more than one occupant who utilize separate entrances for access to the individual unit shall have separate alarm systems for each unit. This section shall not be construed to require the installation of alarm systems but only to require separate systems for separate units.
(Code 1996, § 97.04; Ord. No. 34.01, 11-13-1984)

**Sec. 10-60. False alarm fees.**

(a) Notwithstanding any penalties provided for upon conviction for any violation of this article and notwithstanding the fact that prosecution for violation of this article has or has not commenced, any person, firm or corporation operating an alarm system that signals more than two false alarms as defined herein within one calendar year shall pay to the Village a false alarm fee based upon the following schedule:

| *Number of False Alarms* | *Fee* |
|---|---|
| First and second false alarms | No fee |
| Third false alarm | $50.00 |
| Fourth false alarm | $100.00 |
| Fifth and subsequent false alarms | $150.00 |

(b) Failure to pay said false alarm fee within 30 days of the issuance by the Village of an invoice therefor shall constitute a violation of this article.
(Code 1996, § 97.05; Ord. No. 34.01, 11-13-1984)

**Sec. 10-61. Exception to alarm fees.**

Alarm conditions existing under the following circumstances shall not constitute a false alarm and no fee shall be assessed:

(1) Alarm system malfunctions, if corrective measures have been instituted within a 72-hour period with notification to the Police Department, provided that the alarm user presents documentation of repair service having been performed by the alarm company to remedy a malfunction.

(2) Alarm conditions being activated by a person working on the alarm system with prior notification to the Police Department and notification to the Police Department when work has been completed.

(3) Alarms that can be substantiated as being activated by disruption or disturbance of Michigan Bell Telephone Company facilities or motor vehicle utility pole accidents or by storm conditions.

(Code 1996, § 97.06; Ord. No. 34.01, 11-13-1984)

**Sec. 10-62. False alarm notice.**

The Police or Fire Department shall mail a false alarm notice to the alarm user following each false alarm occurrence indicating therein the appropriate warning or fee as prescribed by this article.
(Code 1996, § 97.07; Ord. No. 34.01, 11-13-1984)

**Sec. 10-63. Waiver requests.**

(a) Within ten working days of the receipt of a false alarm notice, an alarm user wishing a waiver based on one of the conditions enumerated in section 10-61 may file a written request for waiver of the false alarm fee.

(b) The request for waiver shall be directed to the Police Chief and shall contain documentation of the condition, as outlined in section 10-61, that is the basis of the application for waiver.

(c) Within ten working days of the receipt of the application for waiver of fee by the Police Department, the Police Chief shall make a determination, approving or disapproving the application, and shall notify the alarm user of his decision in writing.

(d) In the event that the alarm user is not satisfied with the decision rendered by the Police Chief, within ten working days of the receipt of the written decision of the Police Chief, the alarm user may file an additional written request for waiver of the false alarm fee and required documentation with the Village Manager.

(e) Within ten working days of the receipt of the request for waiver, the Village Manager or his designated representative shall review the request, make a determination, approving or disapproving the application, and shall notify the alarm user of his decision in writing. The decision of the Village Manager shall be final.
(Code 1996, § 97.08; Ord. No. 34.01, 11-13-1984)

**Sec. 10-64. Defective alarms.**

An alarm system signaling more than five false alarms within the calendar year is presumed to be defective and, upon written notice to owner or lessee of the alarm system by the Police Department, the owner or lessee shall have the system inspected and if necessary repaired by a licensed alarm system contractor who shall, within ten working days, file a written report to the Police Department of the results of its inspection of the system. Failure to complete said inspection and required repairs within the ten-day period shall constitute a violation of this article.
(Code 1996, § 97.09; Ord. No. 34.01, 11-13-1984)

**Sec. 10-65. Violations.**

Any person, firm or corporation determined to have been in violation of the provisions of this article shall be responsible for a municipal civil infraction and subject to the provisions of section 1-18(1)b.
(Code 1996, § 97.10; Am. Ord. No. A-3, 1-13-1997)

Chapter 11

**RESERVED**

Chapter 12

# ENVIRONMENT

## Article I. In General

Secs. 12-1—12-18. Reserved.

## Article II. Tree Regulations

Sec. 12-19. Public tree removal.
Sec. 12-20. Spacing of shade trees.
Sec. 12-21. Public tree protection.
Sec. 12-22. Excavation near trees.
Sec. 12-23. Covering surface near trees.
Sec. 12-24. Private trees clearance.
Sec. 12-25. Corner clearance.
Sec. 12-26. Violations.

## ARTICLE I. IN GENERAL

**Secs. 12-1—12-18. Reserved.**

## ARTICLE II. TREE REGULATIONS

### Sec. 12-19. Public tree removal.

The Village shall have the right to plant, trim, spray, preserve and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares, and public grounds, as may be necessary to ensure safety or to preserve the symmetry and beauty of such public grounds. The Village Manager may remove, or cause or order to be removed, any tree or part thereof that is in an unsafe condition or that is a prohibited species, such as poplar, willow, box elder, walnut, mulberry or catalpa, or is affected with any injurious disease, fungus, insect or other pest. Whenever the Village shall remove any tree, plant or shrub solely for the purpose of constructing any public work, the Village Manager shall, if practicable, replace the same at public expense at some nearby location by planting another tree, plant or shrub, not necessarily of the same type.
(Code 1996, § 92.25; Ord. No. 8.01, 10-11-1971)

### Sec. 12-20. Spacing of shade trees.

(a) Future planting of shade and ornamental trees in the streets, parks and public places of the Village may be done by the Village upon payment of certain fees and charges and in accordance with such rules and regulations as may be established by the Village Council insofar as such rules and regulations do not conflict with any other provisions of this article.

(b) No future planting of shade and any other ornamental trees or shrubs in the streets, parks and public places by owners or anyone employed by them shall be permitted without the approval of the Village Manager and in compliance with the following rules as to spacing:

(1) Elm trees shall be spaced not less than 35 feet;

(2) Oak trees shall be spaced not less than 30 feet; and

(3) Other shade trees and ornamental trees shall be spaced not less than 25 feet.

(c) However, any owner of a single lot may, in order to provide a shade or ornamental tree in front of his lot, secure special permission from the Village to plant a shade or ornamental tree within a lesser distance from an existing tree than the spacing mentioned in subsection (b) of this section, but shall in no case make a special planting within 20 feet of an existing shade or ornamental tree located in the street or other public place.

(d) No tree shall be planted in the parkways, between the curb and sidewalks less than 3 ½ feet from the curbline, nor less than three feet from the sidewalks; provided, however, when the parkways are less than six feet, six inches in width, any trees planted therein shall be located not less than two feet, six inches from the curb and as near midway between the curb and sidewalk as possible. No trees shall be planted nearer to the intersection of any streets than 20 feet from the corner of such intersection.
(Code 1996, § 92.26; Ord. No. 8.01, 10-11-1971)

**Sec. 12-21. Public tree protection.**

(a) No person shall break, injure, mutilate, kill or destroy any tree or shrub, or set any fire within ten feet of any tree or permit any fire or the heat thereof to injure any portion of any tree.

(b) No toxic chemicals or other injurious materials shall be allowed to seep, drain or be emptied on, near or about any trees.

(c) No electric wires shall be permitted to come in contact with any tree or shrub in any manner that shall cause damage thereto, and no person shall attach any electric insulation to any tree.

(d) No person shall use any tree as an anchor except by special written permit from the Village Manager.

(e) No material shall be fastened to or hung on any tree.

(f) All persons having under their care, custody and control facilities that may interfere with the trimming or removal of any tree shall, after notice thereof by the Village Manager, promptly abate such interference in such a manner as shall permit the trimming or removal of such tree by the Village.
(Code 1996, § 92.27; Ord. No. 8.01, 10-11-1971)

**Sec. 12-22. Excavation near trees.**

Excavation and driveways shall not be placed within five feet of any tree without written permit from the Village Manager. Any person making such excavation or construction shall guard any tree within six feet thereof, and all building material or other debris shall be kept at least four feet from any tree.
(Code 1996, § 92.28; Ord. No. 8.01, 10-11-1971)

**Sec. 12-23. Covering surface near trees.**

No person shall place within the street right-of-way any stone, brick, sand, concrete or other material that will in any way impede the full and free passage of water, air or fertilizer to the roots of any tree, except a sidewalk of authorized width and location.
(Code 1996, § 92.29; Ord. No. 8.01, 10-11-1971)

**Sec. 12-24. Private trees clearance.**

Every owner of any tree on private property overhanging any street right-of-way within the Village shall trim the branches so that such branches shall not obstruct the light from any streetlamp or obstruct the view of any street intersection and so that there shall be a clear space of ten feet above the surface of the street right-of-way. The owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The Village shall have the right to trim any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight or interferes with visibility of any traffic control device or sign, such trimming to be confined to the area immediately above the right-of-way.
(Code 1996, § 92.30; Ord. No. 8.01, 10-11-1971)

**Sec. 12-25. Corner clearance.**

All shrubs, bushes and signs located on the triangle formed by two right-of-way lines at the intersection of two streets and extending for a distance of 20 feet each way from the intersection of the right-of-way lines on any corner lot within the Village shall not be permitted to grow to a height of more than 30 inches from top of curb at street level, in order that the view of the driver of a vehicle approaching a street intersection shall not be obstructed. Trees may be planted and maintained on private property in this area, provided that all branches are trimmed to maintain a clear vision for a vertical height of ten feet above the roadway surface. Any owner or any property failing to trim any trees, shrubs or bushes in conformity with this article shall be notified by the Village Manager to do so and such notice shall require trimming in conformity with this article within ten days after the date of such notice. Upon the expiration of such period, the Manager may cause the trimming to be done, and the cost thereof may be collected from the owner of said property as single lot assessment in accordance with the Village Charter.
(Code 1996, § 92.31; Ord. No. 8.01, 10-11-1971)

**Sec. 12-26. Violations.**

Any person, firm or corporation determined to have been in violation of the provisions of this article shall be responsible for a municipal civil infraction and subject to the provisions of section 1-18(1)b.
(Code 1996, § 92.32; Am. Ord. No. A-3, 1-13-1997)

Chapter 13

**RESERVED**

Chapter 14

# FIRE PREVENTION AND PROTECTION

## Article I. In General

Sec. 14-1. Building or starting fires within Village limits.
Sec. 14-2. Exemptions.
Sec. 14-3. Single purpose fires.
Secs. 14-4—14-24. Reserved.

## Article II. Fire Prevention Code

Sec. 14-25. Title.
Sec. 14-26. Purpose.
Sec. 14-27. Adoption of code by reference.
Sec. 14-28. Changes in code.
Sec. 14-29. Code on file.
Sec. 14-30. Enforcement.
Sec. 14-31. Authority at fires and other emergencies.
Sec. 14-32. Authorized emergency vehicles.
Sec. 14-33. Protection of Fire Department.
Sec. 14-34. Fireworks.
Secs. 14-35—14-66. Reserved.

## Article III. Open Burning Requirements

Sec. 14-67. Title.
Sec. 14-68. Definitions.
Sec. 14-69. Nuisances.
Sec. 14-70. Open burning regulations.
Sec. 14-71. Authority of Fire Department.
Sec. 14-72. Reference to International Fire Code.
Sec. 14-73. Violation and penalties.
Secs. 14-74—14-104. Reserved.

## Article IV. False Fire Alarms

Sec. 14-105. Title.
Sec. 14-106. Definitions.
Sec. 14-107. Alarm requirements and prohibited acts.
Sec. 14-108. Enforcement authority.
Sec. 14-109. Enforcement and penalties.
Secs. 14-110—14-131. Reserved.

## Article V. Fire Department Cost Recovery

Sec. 14-132. Title.
Sec. 14-133. Definitions.
Sec. 14-134. Purpose, enabling authority and enforcing authority.
Sec. 14-135. Services for which the Fire Department may recover costs.
Sec. 14-136. Billing of charges.

## ARTICLE I. IN GENERAL

### Sec. 14-1. Building or starting fires within Village limits.

No person, firm or corporation shall build, start or institute any fire, open or enclosed, in any area, public or private, within the limits of the Village.
(Code 1996, § 94.01; Ord. No. 22.02, 10-12-1976)

### Sec. 14-2. Exemptions.

Outdoor fires for the purpose of cooking only, contained in receptacles intended for cooking and in good repair for such, and indoor fires in fireplaces in good repair and meeting minimum building code restrictions are exempt from the provisions of this chapter.
(Code 1996, § 94.02; Ord. No. 22.02, 10-12-1976)

### Sec. 14-3. Single purpose fires.

The Fire Department Chief or his assistant or designee, in his absence, has authority to grant a permit upon application upon a form prescribed by the Fire Chief for the purpose of allowing a single purpose fire. The permit shall be issued only after the Fire Chief is satisfied that due precautions will be taken to ensure the health, comfort and safety of persons and the protection of property.
(Code 1996, § 94.03; Ord. No. 22.02, 10-12-1976)

### Secs. 14-4—14-24. Reserved.

## ARTICLE II. FIRE PREVENTION CODE

### Sec. 14-25. Title.

This article shall be known and cited as the "Village Fire Prevention Ordinance," and it shall be deemed sufficient in any action for enforcement of the provisions hereof to define the same by such short title and by reference to the number hereof.
(Code 1996, § 94.15; Ord. No. 22.03, 12-28-1982; Ord. No. 22.06, § 94.15, 8-9-2021)

### Sec. 14-26. Purpose.

The purposes of this article shall be:

(1) To further secure and protect the general health, welfare, and safety of the citizens and other persons within the Village.

(2) To adopt the 2021 International Fire Code.

(3) To establish and regulate fire lanes.

(4) To provide for the inspection of buildings and premises.

(5) To designate authority at fires and other emergencies.

(6) To provide for the operation and protection of authorized emergency vehicles, and other Fire Department equipment, property, and personnel.

(7) To require water systems for fire protection.

(8) To provide for enforcement of the provisions of this article.

(9) To provide for penalties upon the violation of these provisions.

(Code 1996, § 94.16; Ord. No. 22.03, 12-28-1982; Ord. No. 22.06, § 94.16, 8-9-2021)

**Sec. 14-27. Adoption of code by reference.**

The 2021 International Fire Code with all appendixes, as promulgated and published by the International Code Council, is hereby adopted as the Village code for regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the Village and providing for the issuance of permits for fire suppression systems, fire alarm systems and other uses or operations; and each and all of the regulations, provisions, conditions and terms of such International Fire Code, are hereby referred to, adopted and made a part hereof as if fully set out in this article.

(Code 1996, § 94.17; Ord. No. 22.03, 12-28-1982; Ord. No. 22.06, § 94.17, 8-9-2021)

**Sec. 14-28. Changes in code.**

The following sections of the 2021 International Fire Code are amended, deleted, supplemented or additional sections added as follows:

*Section 101.1 Title.* Amended to read:

> These regulations shall be known as the Village Fire Code, hereinafter referred to as "this code."

*Section 112.4. Violation penalties.* Amended to read:

> Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive the Fire Code Official, or of a permit or certificate used under provisions of this code, shall be guilty of a misdemeanor as set forth in section 1-18 in the Village Code. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

*Section 113.4. Failure to comply.* Amended as follows:

> Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty of a misdemeanor as set forth in section 1-18 in the Village Code.

*Section 1103.5.3. Group I-2, Condition 2.* Amended to read as follows:

> In addition to the requirements of section 1103.5.2, existing buildings of Group I-2, Condition 2 occupancy shall be equipped throughout with an approved automatic sprinkler system in accordance with section 903.3.1.1. The automatic sprinkler system shall be installed within six months from the notice provided by the Fire Code Official.

*Section 5704.2.9.6.1. Locations where above-ground tanks are prohibited.* Amended as follows:

> Storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited.

*Section 5706.2.4.4. Locations where above-ground tanks are prohibited.* Amended as follows:

> Storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited.

*Section 6104.2. Maximum capacity within established limits.* Amended as follows:

> This capacity limit shall be determined by the Fire Code Official, after consideration of special features such as topographical conditions, nature of occupancy, and proximity to buildings, capacity of proposed LP gas containers, degree of fire protection to be provided and capabilities of the Fire Department.

(Code 1996, § 94.18; Ord. No. 22.03, 12-28-1982; Ord. No. 22.06, § 94.18, 8-9-2021)

**Sec. 14-29. Code on file.**

A complete copy of the 2021 International Fire Code is available for public inspection at the office of the Village Clerk.

(Code 1996, § 94.19; Ord. No. 22.03, 12-28-1982; Ord. No. 22.06, § 94.19, 8-9-2021)

**Sec. 14-30. Enforcement.**

The Township of Orion, a Michigan Municipal Corporation, whose address is 2525 Joslyn Road, Lake Orion, MI 48360, and its Fire Department, Fire Code Official and personnel shall serve as the Village enforcing agency that shall administer and enforce this article in and on behalf of the Village as authorized by the urban cooperation act of 1967, 1967 Public Act No.

7, MCL 124.501 et seq. The Township of Orion shall be vested with all lawful authority to administer and enforce this article, and it shall be deemed sufficient in any action for enforcement of the provisions hereof as a violation of this Code.
(Code 1996, § 94.20; Ord. No. 22.03, 12-28-1982; Ord. No. 22.06, § 94.20, 8-9-2021)

**Sec. 14-31. Authority at fires and other emergencies.**

(a) The Fire Chief or his duly authorized representative, as may be in charge at the scene of a fire or other emergency involving the protection of life and/or property, is empowered to direct such operations as may be necessary to extinguish or control any suspected or reported fires, gas leaks, or other hazardous conditions or situations or of taking any other action necessary in the reasonable performance of their duty. The Fire Official may prohibit any person, vehicle or object from approaching the scene and may remove or cause to be removed from the scene any person, vehicle or object that may impede or interfere with the operations of the Fire Department. The Fire Official may remove or cause to be removed any person, vehicle or object from hazardous areas. All persons ordered to leave a hazardous area shall do so immediately and shall not re-enter the area until authorized to do so by the Fire Official.

(b) It shall be unlawful to interfere with, attempt to interfere with, conspire to interfere with, obstruct or restrict the mobility of, or block the path of travel of any Fire Department emergency vehicle in any way, or to interfere with, attempt to interfere with, conspire to interfere with, obstruct or hamper any Fire Department operation.

(c) A person shall not willfully fail or refuse to comply with any lawful order or direction of the Fire Official nor shall any interfere with the compliance attempts of another individual.

(d) A vehicle shall not be driven or propelled over any unprotected fire hose of the Fire Department when laid down on any street, alleyway, private drive or any other vehicular roadway without the consent of the Fire Official in command of the operation.
(Code 1996, § 94.22; Ord. No. 22.03, 12-28-1982; Ord. No. 22.06, § 94.22, 8-9-2021)

**Sec. 14-32. Authorized emergency vehicles.**

(a) Authorized emergency vehicles shall be restricted to those that are defined and authorized under the laws of the state.

(b) A person shall not without proper authorization from the Fire Official in charge of the Fire Department emergency equipment, cling to, attach himself to, climb upon or into, board or swing upon any Fire Department emergency vehicle, whether the same is in motion or at rest, or sound the siren, horn, bell or other sound-producing device thereon, or to manipulate or tamper with, or attempt to manipulate or tamper with any levers, valves, switches, starting devices, brakes, pumps, or any equipment or protective clothing on, or a part of any Fire Department emergency vehicle.
(Code 1996, § 94.23; Ord. No. 22.03, 12-28-1982; Ord. No. 22.06, § 94.23, 8-9-2021)

**Sec. 14-33. Protection of Fire Department.**

It shall be unlawful for any person to damage or deface, or attempt or conspire to damage or deface, any Fire Department emergency vehicle or property at any time, or to injure, or attempt to injure or conspire to injure, Fire Department personnel while performing departmental duties.
(Code 1996, § 94.24; Ord. No. 22.03, 12-28-1982; Ord. No. 22.06, § 94.24, 8-9-2021)

**Sec. 14-34. Fireworks.**

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

*Act* means the Michigan fireworks safety act, Public Act No. 256 of 2011, MCL 28.451 to 28.471, which is hereby adopted by reference as a part of this section.

*Articles pyrotechnic,* as defined in the act, means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction.

*Consumer fireworks,* as defined in the act, means fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the Federal Consumer Product Safety Commission and that are in compliance with the construction, chemical composition, labeling, and other requirements in the act. Novelties and low-impact fireworks as defined in the act are not consumer fireworks.

*Display fireworks,* as defined in the act, means large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration, or detonation.

*Fireworks,* as defined in the act, means any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation, and consisting of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, and special effects.

*Low-impact fireworks,* as defined in the act, means ground and handheld sparkling devices.

*Minor* means an individual who is less than 18 years of age.

*National holiday* means:

(1) New Year's Day (January 1);

(2) Birthday of Martin Luther King, Jr. (third Monday in January);

(3) Washington's Birthday (third Monday in February);

(4) Memorial Day (last Monday in May);

(5) Independence Day (July 4);

(6) Labor Day (first Monday in September);

(7) Columbus Day (second Monday in October);

(8) Veterans Day (November 11);

(9) Thanksgiving Day (fourth Thursday in November); and

(10) Christmas Day (December 25).

*Novelties,* as defined in the act, means all of the following:

(1) Toy plastic or paper caps for toy pistols in sheets, strips, rolls, or individual caps containing not more than one-quarter of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap.

(2) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in subsection (1) of this definition are used, that are constructed so that the hand cannot come in contact with the cap when in place for the explosion, and that are not designed to break apart or be separated so as to form a missile by the explosion.

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

(4) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacturer's name and the quantity contained in each box are printed on the box; and

(5) Toy smoke devices.

*Special effects,* as defined in the act, means a combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and designed and intended to produce an audible, visual, mechanical, or thermal effect as an integral part of a motion picture, radio, television, theatrical, or opera production or live entertainment.

(b) *Prohibited ignition, discharge, and use.*

(1) Consumer fireworks shall not be ignited, discharged or used in the Village except as delineated in subsection (b)(2) of this section.

(2) Consumer fireworks may be ignited, discharged or used on the day preceding, the day of, and the day after a national holiday except:

a. Consumer fireworks shall not be ignited, discharged, or used on public, school, church, or private property of another person without the express written permission from the person or entity legally in possession and control of that property.

b. Consumer fireworks shall not be ignited, discharged or used except from:

1. 11:00 a.m. on December 31 to 1:00 a.m. on January 1;

2. 11:00 a.m. to 11:45 p.m. on the Saturday and Sunday immediately preceding Memorial Day;
3. 11:00 a.m. to 11:45 p.m. on June 29 and 30 and July 1, 2, 3 and 4;
4. 11:00 a.m. to 11:45 p.m. on July 5, if that date is a Friday or Saturday; and
5. 11:00 a.m. to 11:45 p.m. on the Saturday and Sunday immediately preceding Labor Day.

(c) *Minors.* A minor shall not possess, use, discharge or ignite any consumer fireworks at any time.

(d) *Under the influence.* An individual shall not discharge ignite or use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and controlled substance.

(e) *Unmanned free-floating device.* Any unmanned free-floating device (sky lantern) which requires fire underneath to propel it and is not moored to the ground while aloft, has an uncontrolled and unpredictable flight path and descent area so as to pose a potential fire risk and is, therefore, prohibited.

(f) *Novelties; inapplicability of section.* This section does not apply to novelties. Nothing in this section regulates the sale, storage, display for sale, transportation, use, or distribution of novelties.

(g) *Zoning ordinances.* Any person selling, distributing or transporting fireworks shall otherwise comply with the act, and is required to comply with the zoning ordinances of the Village, including obtaining necessary approvals thereunder. Failure to obtain necessary zoning approvals is subject to penalty as provided in the Village zoning ordinances.

(h) *Imminent dangers.* Notwithstanding the act, no person shall use, discharge or ignite fireworks thereby creating or causing an imminent danger or threat to the public health, safety, or welfare, and such fireworks being used, ignited or discharged may be immediately seized.

(i) *Seizure.* All fireworks possessed, used, discharged, and/or ignited in violation of the act and/or this section are subject to seizure. Any costs incurred by the Village to seize and store the fireworks shall be paid by the responsible party.

(j) *Display fireworks.* This section does not prohibit any person from igniting, discharging or using display fireworks that has received the required permit and approvals from the Village in accordance with the act.

(k) *Violation.* The sanction for a violation of this section is deemed a municipal civil infraction, punishable by a civil fine from $500.00 to $1,000.00, plus costs, damages, and expenses and any other relief allowed under law. Of said fine, $500.00 must be remitted to the Village.

(Code 1996, § 94.29; Ord. No. 22.04, 8-12-2013; Am. Ord. No. 22.05, 3-11-2019)

**Secs. 14-35—14-66. Reserved.**

## ARTICLE III. OPEN BURNING REQUIREMENTS

### Sec. 14-67. Title.

This article shall be known and cited as the "Village Open Burning Requirements," and it shall be deemed sufficient in any action for enforcement of the provisions hereof to define the same by such short title and by reference to the number hereof
(Ord. No. 22.07, § 94.30, 5-23-2022)

### Sec. 14-68. Definitions.

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

*Approved* means acceptable to the Fire Chief or his designee.

*Approved container* includes the following:

(1) A noncombustible barrel with lid or cover to suppress sparks;

(2) An outdoor fireplace;

(3) A portable outdoor fireplace used in accordance with the manufacturer's instructions; or

(4) A below-grade enclosure.

*Bonfire* means an outdoor fire utilized for ceremonial purposes. These are usually large fires that are associated with crowd activity and size is no larger than six feet in height and six feet in width.

*Open burning* means a fire where any material is burned on the ground or in an open receptacle other than a furnace, incinerator, or other equipment connected to a stack or chimney. The term "open burning" also includes campfires.

*Portable outdoor fireplace* means a portable, outdoor, solid fuel-burning fireplace that may be constructed of steel, concrete, clay or other noncombustible material. A portable outdoor fireplace may be open in design or may be equipped with a small hearth opening and a short chimney or chimney opening in the top.

*Recreational fire* means an outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, portable outdoor fireplace, barbeque grill or barbecue pit and has a total fuel area of three feet or less in diameter and two feet or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purpose.
(Ord. No. 22.07, § 94.31, 5-23-2022)

**Sec. 14-69. Nuisances.**

Burning is prohibited if it is offensive or a nuisance due to smoke, odor, fire, or debris (embers, sparks, or ash) or when atmospheric conditions (winds exceeding ten miles per hour or prolonged drought) create a fire hazard. Burning may also be prohibited when deemed necessary by the Fire Chief or his designee.
(Ord. No. 22.07, § 94.32, 5-23-2022)

**Sec. 14-70. Open burning regulations.**

(a) *Allowable burning.*

(1) Natural wood material, including dry, seasoned tree trunks, and branches/limbs may be burned. Additionally, a small amount of paper product, including cardboard, wood kindling, or commercially available fire starters, may be used to aid in the ignition of an open flame. Open burning shall always be tended to by a competent adult over 18 years of age until the fire is extinguished.

(2) No person shall open burn or otherwise burn any allowable material prior to calling the burn hotline number at (248) 693-1838, to ensure there is no burn ban in effect.

(b) *Prohibited burning.* Gasoline, kerosene, fuel oil, or any other flammable or combustible liquid may not be used to start a fire. Burning of leaves or any other material other than tree cuttings or brush is prohibited.

(c) *Recreation fires.* Recreation fires shall not be conducted within 25 feet of a structure, combustible material and lot of lines. Conditions that could cause a fire to spread within 25 feet of a structure shall be eliminated prior to ignition.

(d) *Bonfire.* A bonfire shall not be conducted within 50 feet of a structure, combustible material and lot of lines. Conditions that could cause a fire to spread within 50 feet of a structure shall be eliminated prior to ignition.

(e) *Fires in portable outdoor fireplaces.* Fires in portable outdoor fireplaces shall be used in accordance with manufactures recommendations and shall not be operated within 15 feet of a structure, combustible material and lot of lines. Portable outdoor fireplaces shall not be used on combustible decks.

(f) *Open burning on easements or common areas.*

(1) Open burning on easements or common areas requires written permission from the Fire Chief or his designee.

(2) Written permission is also required by the entity having control over or any legal interest in the easement or common area (i.e., homeowners association, etc.).

(g) *Proper extinguishment.*

(1) An individual shall provide adequate means of extinguishment that is immediately available to extinguish any burning operation. Examples of extinguishment include a fire extinguisher (minimally Class A rated), a shovel with dirt or sand, or a garden hose.

(2) Conditions that could cause fire to spread to nearby combustibles shall be eliminated before the ignition of any open burning.

(Ord. No. 22.07, § 94.33, 5-23-2022)

**Sec. 14-71. Authority of Fire Department.**

(a) The Township of Orion, a Michigan Municipal Corporation, whose address is 2525 Joslyn Road, Lake Orion, MI 48360, and its Fire Department, Fire Code Official and personnel shall serve as the Village Enforcing Agency that shall administer and enforce this article in and on behalf of the Village as authorized by the Urban Cooperation Act of 1967, 1967 Public Act No. 7, MCL 124.501 et seq. The Township shall be vested with all lawful authority to administer and enforce this article and it shall be deemed sufficient in any action for enforcement of the provisions hereof as a violation of this Code.

(b) If the Fire Department receives any complaints, it has the authority to inspect the fire at issue. If the Fire Department determines that the burning has created or added to a hazardous situation or has become a nuisance, a Fire Department representative is authorized to order the extinguishment of the open burning operation. If noncompliance of this article is found, the Fire Department representative also has the authority to issue a Village civil infraction at his or her discretion.

(Ord. No. 22.07, § 94.34, 5-23-2022)

**Sec. 14-72. Reference to International Fire Code.**

The Village has adopted the International Fire Code and all appendixes in the Village fire prevention code, article II of this chapter. This article shall comply with all sections of the International Fire Code as stated, except for section 307 of the International Fire Code, which governs open burning, recreational fires and portable outdoor fireplaces. Henceforth, all open burning in the Village shall be regulated by this article. The Village fire prevention code is not repealed; however, the sections of the International Fire Code in conflict therewith should be considered subordinate to this article.

(Ord. No. 22.07, § 94.35, 5-23-2022)

**Sec. 14-73. Violation and penalties.**

(a) *Municipal civil infraction/payment of fine.* Any person, firm, or corporation violating a provision of this article, upon an admission or a finding of responsibility for such violation, shall be deemed responsible for a Village municipal civil infraction as that term is defined and

used in MCL 600.101 et seq., being Public Act No. 236 of 1961, and MCL 600.8701 et seq., being chapter 87 of Public Act No. 236 of 1961, and a civil fine of not more than $500.00 shall be ordered, or as otherwise determined by the district court, district court judge, or district court magistrate.

(b) *Costs.* A person, firm, or corporation ordered to pay a fine under subsection (a) of this section shall, in addition to any fine, be ordered by the district court judge or magistrate civil costs of not more than $500.00, which costs may include all expenses, direct and indirect, to which the Village and/or the enforcing agency on behalf of the Village has been put in connection with the violation of this article up to the entry of the court's judgment or order to pay fine and costs.

(c) *Additional writs and orders.* A person who admits or is found responsible for violation of this article shall comply with any order, writ, or judgment issued by the district court to enforce this article pursuant to chapter 83 and chapter 87 of the revised judicature act, MCL 600.101 et seq.

(d) *Default on payment of fines and costs.* A default in payment of a civil fine, costs, or damages or expenses ordered under subsection (a) or (b) of this section or an installment of the fine, costs, or damages or expenses as allowed by the court, may be collected by the Village by a means authorized for the enforcement of a judgment under chapter 40 or 60 of the revised judicature act, MCL 600.101 et seq.

(e) *Failure to comply with judgment or order.* If a defendant fails to comply with an order or judgment issued pursuant to this section within the time prescribed by the court, the court may proceed under subsection (g) of this section.

(f) *Failure to appear in court.* A defendant who fails to answer a citation or notice to appear in court for a violation of this article is guilty of a misdemeanor, punishable by a fine of not more than $500.00, plus costs and/or imprisonment not to exceed 90 days.

(g) *Civil contempt.*

(1) If a defendant defaults in the payment of a civil fine, costs, or other damages or expenses, or installment as ordered by the district court, upon motion of the Township of Orion or upon its own motion, the court may require the defendant to show cause why the defendant should not be held in civil contempt and may issue a summons, order to show cause, or bench warrant of arrest for the defendant's appearance.

(2) If a corporation or an association is ordered to pay a civil fine, costs, or damages or expenses, the individuals authorized to make disbursements shall pay the fine, costs, or damages or expenses, and their failure to do so shall be civil contempt unless they make the showing required in this subsection.

(3) Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on his or her part to make a good

faith effort to obtain the funds required for payment, the court shall find that the default constitutes a civil contempt and may order the defendant committed until all or a specified part of the amount due is paid.

(4) If it appears that the default in the payment of a fine, costs, or damages or expenses does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of payment or of each installment or revoking the fine, costs, or damages or expenses.

(5) The term of imprisonment on civil contempt for nonpayment of a civil fine, costs, or damages or expenses shall be specified in the order of commitment and shall not exceed one day for each $30.00 due. A person committed for nonpayment of a civil fine, costs, or damages or expenses shall be given credit toward payment for each day of imprisonment and each day of detention in default of recognizance before judgment at the rate of $30.00 per day.

(6) A defendant committed to imprisonment for civil contempt for nonpayment of a civil fine, costs, or damages or expenses shall not be discharged from custody until one of the following occurs:

a. A defendant is credited with an amount due pursuant to subsection (g)(5) of this section.

b. The amount due is collected through the execution of process or otherwise.

c. The amount due is satisfied pursuant to a combination of subdivisions (g)(6)a and b of this section.

(7) The civil contempt shall be purged upon discharge of the defendant pursuant to subsection (g)(6) of this section.

(Ord. No. 22.07, § 94.36, 5-23-2022)

**Secs. 14-74—14-104. Reserved.**

## ARTICLE IV. FALSE FIRE ALARMS

### Sec. 14-105. Title.

This article shall be known and cited as the "Village False Fire Alarms Ordinance" and it shall be deemed sufficient in any action for enforcement of the provisions hereof to define the same by such short title and by reference to the number hereof.

(Ord. No. 22.08, § 94.40, 5-23-2022)

**Sec. 14-106. Definitions.**

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

*Alarm system* means any assembly of equipment and devices, or a single device, except for an alarm system on a motor vehicle, that emits, transmits or relays any signal intended to summon, or that would reasonably be expected to summon firefighters or emergency medical services response by the Township of Orion Fire Department.

*Alarm user* includes the owner of the land or premises within which a fire alarm system is installed; the tenant, occupant or person having possession or control of any premises in which a fire alarm system is installed; and any person having actual or constructive possession of a fire alarm system when such alarm system signals an emergency.

*Commercial occupant* means all nonresidential facilities engaged in business or commerce, whether for profit or not for profit or publicly or privately owned.

*Contractor* means a person that is engaged in the business of testing, erecting, installing, altering, repairing, servicing, or maintaining wiring, devices, appliances or equipment of an alarm system.

*False alarm* means the activation of an fire alarm system causing a sound or visual signal through mechanical failure, faulty equipment, malfunction, improper installation, improper testing, failure to provide notice, lack of prudent maintenance, and/or the negligence of the alarm user or its employees, agents, guests, residents or invitees. A false fire alarm shall be presumed when an alarm is tested without prior notice to the Orion Township Fire Department and alarm user's monitoring company, and when a Fire Department investigation reveals no fire, potential fire or need for medical or fire attention, upon the activation of the alarm system, with the following exceptions:

(1) Activation by tornadoes, storms or other violent conditions beyond the control of the alarm user;

(2) False alarms activated by disruption or disturbance of telephone or public utility company facilities;

(3) Utility pole accidents;

(4) Testing of the alarm system after prior notification has been received and confirmed by the Fire Department and the alarm users monitoring company; and

(5) Intentional and non-malicious activation of an alarm or emergency response system due to a good faith belief of a real or perceived need for fire, police or medical assistance, regardless of whether fire or medical assistance was actually necessary.

(Ord. No. 22.08, § 94.41, 5-23-2022)

**Sec. 14-107. Alarm requirements and prohibited acts.**

(a) *Purpose.* This article is intended to facilitate the more efficient use of fire, medical, and public personnel resources for true emergencies and for people who genuinely believe they need fire, medical or public personnel assistance. The focus of this article is on mechanical failure, faulty equipment, improper installations, and the negligence of fire alarm users and those engaged in the maintenance, repair or testing of all life safety systems located in a commercial building. This article is not intended to discourage or otherwise inhibit the use of alarms or 9-1-1 systems to seek emergency assistance. Therefore, this article shall always be construed in a manner that serves to prompt residents and businesses to correct mechanical and operational fire alarm system deficiencies, but not to discourage residents and businesses from seeking emergency help. All fire alarm users shall be responsible for properly maintaining their life safety systems; this shall include ensuring all life safety systems within the user's control are inspected annually, kept in good operating order, and code compliant.

(b) *Fee charged for responding to false fire alarms, generally.* Every fire alarm user shall pay to the Township of Orion a fee for responding to the second and any subsequent false fire alarm signaled by that person's alarm system within a calendar year. The schedule of false fire alarm fees shall be periodically set by resolution of the Township of Orion. The fee shall be reasonably based on the Township's direct and indirect costs of responding to false fire alarms, administering the system of recording and classifying the alarms, staffing costs, and collecting and accounting for the user fees charged. Such fee shall be paid within 30 days of written notice. The failure to pay within said time shall be a debt in favor of the Township of Orion, and the obligation of the alarm user and/or property owner subject to any collection process set forth here and/or allowed by law.

(c) *Responding to false alarms, commercial occupant.* A contractor and/or his or her employer conducting an inspection, repair, replacement, and/or installation of a fire alarm system within a commercial occupancy shall be responsible for alerting the Fire Department and any other monitoring agency of testing an alarm system at least one hour before completing any testing, repairing or maintenance procedures. The commercial occupant is also responsible for ensuring its contractor has provided adequate notice to the Township of Orion in accordance with this section.

(1) In the event the notice requirements set forth in this section are not met, the commercial occupant, the contractor, and the contractor's employer shall all be held responsible, jointly and severally, and shall pay the Township of Orion a fee and/or fine for responding to the second and any subsequent false fire alarms signaled within any calendar year due to a contractor and/or contractor's employer failing to give the Township of Orion adequate notice that it is testing, repairing or performing maintenance of the alarm system.

(2) Commercial occupants shall only be responsible for fees and penalties arising from the second and any subsequent false fire alarm signaled by the commercial occupant's alarm system within a calendar year.

(3) The contractor and contractor's employer may be held responsible for fees and penalties arising from the second and any subsequent false fire alarm signaled by each separate commercial occupancy for which it conducts an inspection, repair, replacement, or installation of the alarm system during a calendar year.

(d) *First false alarm.* All fire alarm users shall ensure fire alarm systems within its control are inspected annually by a licensed contractor. The Fire Department shall conduct a follow-up inspection within 48 hours of the initial false fire alarm. Such inspections shall be provided free of charge. At the time of inspection, the Fire Department shall provide notice of the associated fees should the fire alarm user trigger an additional false fire alarm response in that current calendar year. Such notice may be provided to the fire alarm user, commercial occupant, contractor, and/or contractor's employer at his, her or its last known address by first class mail or personal service at the time of inspection or within 30 days thereafter. The notice shall indicate the potential penalties, as set forth in this article, for future false fire alarm occurrences.

(e) *Automatic dialing prohibited.* No person shall install or use a device or combination of devices which will, upon activation, either mechanically, electronically or by other means, initiate the automatic intrastate calling, dialing or connection to any telephone number assigned to the Township Sheriff Substation, Fire Department, Department of Public Works or the 9-1-1 emergency number which connects or assigns the call to the Department or its dispatchers.

(f) *Due care in operation required.* Every fire alarm user shall exercise due care to install, maintain, and use every fire alarm system so as to avoid false fire alarms. Every fire alarm user shall diligently instruct, supervise, and control those having access to the fire alarm system and the alarmed premises and shall take all reasonable steps to prevent the system from signaling false alarms.
(Ord. No. 22.08, § 94.42, 5-23-2022)

**Sec. 14-108. Enforcement authority.**

The Township of Orion, a Michigan Municipal Corporation, whose address is 2525 Joslyn Road, Lake Orion, MI 48360, and its Fire Department, Fire Code Official and personnel shall serve as the Village enforcing agency that shall administer and enforce this article in and on behalf of the Village as authorized by the urban cooperation act of 1967, 1967 Public Act No. 7, MCL 124.501 et seq. The Township of Orion shall be vested with all lawful authority to administer and enforce this article, and it shall be deemed sufficient in any action for enforcement of the provisions hereof as a violation of this Code.
(Ord. No. 22.08, § 94.43, 5-23-2022)

**Sec. 14-109. Enforcement and penalties.**

(a) *Generally.* Fire alarm users shall pay the Township of Orion a fee or fine, as provided in this section, for each false fire alarm and shall also be held responsible as follows:

(1) First false fire alarm requiring fire response: warning.

(2) Second false fire alarm requiring fire response within the calendar year: assessment of a portion or all of the cost of fire response, as established by resolution.

(3) Third or subsequent false fire alarm requiring fire response within the calendar year: assessment of a portion or all of the cost of fire response, as established by resolution.

(4) Fourth false fire alarm requiring fire response within the calendar year shall constitute an excessive number of false fire alarms, which shall constitute a civil infraction punishable by assessment of a portion or all of the cost of fire response, as established by resolution, a fine of up to $500.00, and mandatory restitution to the Township for the cost of fire response. An alarm system signaling more than three false fire alarms within a calendar year shall be inspected and modified to be more false alarm-resistant. Upon written notice, the owner or fire alarm user of the building, residence or commercial occupation shall have the fire alarm system inspected and modified, at the owner or user's expense, by a licensed alarm system contractor within 14 days of the date of the notice and shall forward to the Fire Department the contractor's report of the probable cause of the false fire alarms and the measures instituted to eliminate same.

(b) *Invoicing for false fire alarms.* The Township of Orion shall administer the invoicing for assessment of the false fire alarm fees established by this section. The Fire Department shall promptly prepare and deliver to the fire alarm user who is deemed liable under this article for the payment of the cost of the fire response an invoice by first class mail or personal service. The amount of the invoice shall constitute a debt in favor of the Township of Orion and the obligation of the fire alarm user. The invoice shall also include the following provision: "A person aggrieved by this false fire alarm determination may submit a letter of appeal to the Township of Orion Board of Trustees for review of the determination or penalty being appealed." An alarm user who is liable for the payment of the cost of fire response shall make payment in full to the Township of Orion Treasurer within 30 days of the invoice date.

(c) *Appeal.* Fire alarm users, commercial occupants, contractors, and/or contractor's employers aggrieved by receipt of a warning letter for the occurrence of a false fire alarm, or by a false fire alarm determination that results in the imposition of a fee for the cost of fire response, may submit a letter of appeal to the Township of Orion Board of Trustees for review of the determination of a false alarm occurrence. Such appeal letters must be submitted within 14 days of the date of the warning letter or fee invoice. Persons or entities who are cited for a municipal civil infraction may not avail themselves of this appeal provision but may instead

defend against the charge in the district court if desired. The fees prescribed by the Township of Orion may not be appealed or modified by appeal; only the actual determination of a false fire alarm occurrence may be appealed pursuant to this section. The following appeal process shall be afforded upon receipt of an appeal letter:

(1) Upon receipt of an appeal letter, the Township of Orion Board of Trustees shall forward a copy of the letter (and supporting documentation provided with the letter, if any) to the Fire Chief for review.

(2) The Fire Chief and/or his or her designee shall independently review the letter and, within 30 days, advise the Township of Orion Board of Trustees in writing whether, after reasonable investigation, the appeal should be granted. In order to recommend that an appeal be granted, the independent review must result in the conclusion that the original false fire alarm determination was clearly erroneous. To reach such a conclusion, irrefutable evidence must support the finding that the occurrence did not fit the definition of the term "false alarm" as set forth in section 14-106.

(3) The Township of Orion Board of Trustees shall decide the matter based upon their review of the conclusions of the Fire Department, subject to the standards set forth in subsection (c)(2) of this section. The Board's decision shall be rendered in writing no later than 60 days from the date the appeal was received by the Township unless the Township Supervisor issues a written notice that the review is subject to circumstances beyond its control that require up to an additional 30 days to complete the review. The Board's decision shall be final, and if the Board makes a finding that the appeal is denied, all outstanding false fire alarm fees owed shall be paid within ten days of the date the Township of Orion Board of Trustees forwards the final decision to the alarm user via first class mail or personal service.

(4) If an appeal is granted, the result shall be that the determination of a false fire alarm shall be overturned, and the fire alarm occurrence shall not be counted with future false fire alarm occurrences for purposes of the progressive penalties in subsection (a)(1) through (3) of this section.

(5) If the appeal is denied, the result shall be that the determination of a false fire alarm shall stand, and the false fire alarm occurrence may be counted with future false fire alarm occurrences for purposes of the progressive penalties in subsection (a)(1) through (3) of this section.

(d) *Payment of invoice.* An alarm user who is liable for the payment of the cost fire response shall make payment in full to the Township of Orion Treasurer within 30 days of the invoice date.

(e) *Failure to pay invoice.* When payment of the Township of Orion's invoice is not timely made, the Township may commence a civil action against a person who is liable for the payment of the cost of fire response and who fails to make payment in full to the Township as required by this section. The Township shall be entitled to recover the expenses, statutory interest, court costs, and reasonable attorney fees incurred for pursuing the civil action.
(Ord. No. 22.08, § 94.44, 5-23-2022)

**Secs. 14-110—14-131. Reserved.**

## ARTICLE V. FIRE DEPARTMENT COST RECOVERY

### Sec. 14-132. Title.

This article shall be known and cited as the "Village Fire Department Cost Recovery Ordinance" and it shall be deemed sufficient in any action for enforcement of the provisions hereof to define the same by such short title and by reference to the number hereof.
(Ord. No. 22.09, § 95.50, 5-23-2022)

### Sec. 14-133. Definitions.

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

*Cost of emergency response* means all direct and reasonable costs related to an emergency response incurred by the Township of Orion Fire Department. These costs shall include, but are not limited to, the costs of firefighting, emergency medical and rescue services; the salaries, wages, fringe benefits of any personnel engaged in investigating the incident and all costs of any related reports; and all costs connected with the supervision of personnel responding to or investigating any incident.

*Downed power line or other non-hazmat public utility hazard response* means the disabling of any transmission, distribution or service line, cable, conduit, pipeline, wire, or the like used to provide, collect or transport electricity, natural gas, communication, or electronic signals (including, but not limited to, telephone, computer, cable television, and stereo signals or electronic impulses), water or sanitary or storm sewage.

*Emergency response* means providing, sending, or utilizing firefighting, specialized rescue, hazardous materials mitigation, or emergency medical service by the Township of Orion Fire Department, by another municipality under the mutual aid guidelines, or by a private individual or corporation operating at the request or direction of the Township of Orion Fire Department.

*Fire watch* means a temporary measure intended to ensure continuous surveillance of a building or portion thereof by one or more qualified individuals for the purposes of identifying and controlling fire hazards, detecting early signs of unwanted fire, raising an alarm of fire, and notifying the Fire Department.

*Public safety personnel* includes police officers, deputy sheriffs, 9-1-1 dispatchers, firefighters, EMS/ALS personnel, first responders, and other employees of the Township who provide emergency services to persons and/or to property within the Township, including, but not limited to, its Department of Public Works.

*Public utility* includes, but is not limited to, any transmission, distribution or service line, cable, conduit, pipeline, wire, or the like used to provide, collect or transport electricity, natural gas, electronic signals, telephone, computer, cable television, stereo signals, electronic impulses, water, or sanitary or storm sewage.

*Safeguard a scene* means all activities, personnel costs, and expenditures related to the Township of Orion's response to downed wires, gas line or main breaks, or any other non-hazmat response to a public utility hazard response and as set forth in herein.
(Ord. No. 22.09, § 95.51, 5-23-2022)

**Sec. 14-134. Purpose, enabling authority and enforcing authority.**

The purpose of this article is to provide financial assistance to the Township of Orion in the operation of a Fire Department that serves and protects the Village from those receiving direct benefits from the fire protection service and to provide recovery for emergency costs. A significant number of fire/rescue incidents involve acts by nonresidents.
(Ord. No. 22.09, § 95.52, 5-23-2022)

**Sec. 14-135. Services for which the Fire Department may recover costs.**

The following enumerated services may be charged to a recipient of any of the following services:

(1) Motor vehicle-related incident, initial response/rescue/medical treatment.

(2) Motor vehicle-related incident cleanup using hazmat kit.

(3) Intentional fire in a commercial establishment or residential structure.

(4) Intentional fire in an industrial or manufacturing establishment or residential structure.

(5) Confined space rescue (emergency response, first operational hour).

(6) Confined space rescue (emergency response, second hour and beyond).

(7) Confined space rescue (nonemergency/continuous on-site standby).

(8) Hazardous materials operation (initial response, first operational hour).

(9) Hazardous materials operation (second hour or more).

(10) Emergency ice rescue services (per person).

(11) Watercraft rescue (per person).

(12) Aircraft and boat fires (nonresident).

(13) Annual fire code compliance inspections (fines set by resolution).

(14) Standby fee for utility providers/downed power line or other non-hazmat public utility hazard response: second hour or more, per hour.

(15) Response for a violation of open burning requirements ordinance.

(16) Special events cost recovery (per event, per personnel, per apparatus and equipment provided for event): personnel and/or resources made available and dedicated to a specific event for the purpose of providing emergency service response or other agreed-upon assistance.

(17) Fire watch (per personnel, per equipment and per apparatus provided for response): any Fire Department response to a fire watch for a commercial or multifamily occupancy.

(Ord. No. 22.09, § 95.53, 5-23-2022)

**Sec. 14-136. Billing of charges.**

(a) *Fees set by resolution.* Periodically, the Township Fire Department shall evaluate the actual costs incurred in making the emergency responses listed in section 14-135 and determine an average cost during emergency responses for submission to the Township Board of Trustees. The Township Board of Trustees shall adopt a cost schedule by resolution.

(b) *Motor vehicle-related incidents.* Billing for motor vehicle response services shall be submitted by the Township Fire Department to the insurance carriers of all involved vehicles. If payment is not received from the insurance carrier, the fee for service will be forwarded to the individual involved in the accident. If the owner/operator of the motor vehicle is a resident of the Village, all fees are waived unless the operator of the vehicle was under the influence of alcohol or operating the motor vehicle in a reckless or hazardous manner with disregard for public safety. The full fee for services will be imposed if the nonresident driver was operating the motor vehicle illegally. Illegal operation of the motor vehicle includes, but is not limited to, the following:

(1) Operation of a motor vehicle while under the influence of intoxicants or drugs (or a combination thereof).

(2) Operation of a motor vehicle without a valid license.

(3) Operation of a motor vehicle in a reckless or hazardous manner with disregard for public safety.

(4) Operation of a motor vehicle that results in a traffic citation being issued by any law enforcement officer.

(5) Determination that the driver was the at-fault driver in an accident, as designated by the Police Department in the accident investigation report.

(c) *Necessity of additional fees.* Additional fees may apply other than those expressly adopted by resolution if off-duty personnel are recalled or if outside agencies are required. Fees applied for other municipal service providers (Police Department, Department of Public Works, etc.) and for private contractors will reflect actual billing as submitted.

(d) *Time of payment for run.* All of the charges adopted by resolution shall be due and payable within 30 days from the date the service is rendered, and payment in default shall be collectible through proceedings in the district or circuit court or in any court of competent jurisdiction as a matured debt.

(e) *Collection of charges.* The Township of Orion may proceed in district court or circuit court by suit to collect any monies remaining unpaid and shall have any and all other remedies provided by law for the collection of said charges.

(f) *Exemptions.* The following properties and services shall be exempt from the foregoing charges:

(1) Fires caused by railroad trains, which are the specific statutory responsibility of railroad companies.

(2) Fire involving Village buildings, grounds, and/or property.

(g) *Nonexclusive charge.* The foregoing rates and charges shall not be exclusive of the charges that may be made by the Township of Orion for the costs and expenses of maintaining a Fire Department but shall only be supplemental thereto.

(h) *Multiple property protection.* When a particular service rendered by the Township Orion Fire Department directly benefits more than one person or property, the owner of each property so benefitted, and each person so benefitted where property protection is not involved shall be liable for the payment of the full charge for such service hereinbefore outlined. The interpretation and application of this subsection is hereby delegated to the Township of Orion Fire Chief or his or her designee subject only to appeal, within the time limits for payment, to the Township of Orion Board and shall be administered so that charges shall only be collected from the recipients of the service.

(i) *Appeal.*

(1) Any person in receipt of a fee invoice to cover the cost of a fire response may submit a letter of appeal to the Township of Orion Board of Trustees for review. Such appeal

letters must be submitted within 14 days of the date of the fee invoice. Such fee may be adjusted and/or waived based upon hardship or other considerations. The following appeal process shall be afforded upon receipt of an appeal letter.

(2) The Township of Orion Board of Trustees shall decide the matter based upon its review of the letter of appeal and any supporting materials. The Board's decision shall be rendered in writing no later than 60 days from the date the appeal was received by the Township unless the Township Supervisor issues a written notice that the review is subject to circumstances beyond its control that require up to an additional 30 days in order to complete the review. The Board's decision shall be final, and if the Board makes a finding that the appeal is denied, all outstanding fees owed shall be paid within ten days of the date the Township of Orion Board of Trustees forwards the final decision to the recipient of Fire Department services.

(Ord. No. 22.09, § 95.54, 5-23-2022)

Chapter 15

**RESERVED**

Chapter 16

# FRANCHISES

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## ARTICLE I. IN GENERAL

### Sec. 16-1. Short title.

This chapter shall be known and may be cited as the "Village Electric and Gas Supply Franchise Ordinance."
(Code 1996, § 113.01; Ord. No. 19.01, 6-12-2000)

### Sec. 16-2. Purpose and findings.

(a) Pursuant to Mich. Const. 1963 art. 7, § 29, use of the highways, streets, alleys and other public places for operation of a public utility requires the consent of the Village and the transaction of local business in the Village by a public utility requires that a franchise first be obtained. This chapter is adopted for the purpose of confirming and providing the process, terms and conditions for suppliers of electricity and natural gas to obtain the required consents and franchises and to fully exercise the Village's constitutional authority which includes the reasonable control of its highways, streets, alleys and public places.

(b) As a result of regulatory changes that have or may occur, and interpretations of existing laws, at the state and federal levels, specifically including the state public service commission (deregulation), the persons that may be authorized to supply electricity and natural gas to customers in the Village are no longer limited to the public utility that owns and operates the facilities used to deliver electricity and natural gas to customers. This chapter is adopted in recognition of the deregulations which has and may continue to occur, with the intent and purpose of confirming that all persons supplying electricity or natural gas to customers in the Village are required to have a franchise as provided in this chapter, regardless of whether it is required as a condition of state or federal regulatory permits, approvals or certificates.

(c) The Village will incur costs and expenses in reviewing and acting on franchise requests and, upon granting a franchise, monitoring and enforcing its terms and conditions. Such costs and expenses should be paid by franchise applicants and holders as provided in this chapter.
(Code 1996, § 113.02; Ord. No. 19.01, 6-12-2000)

### Sec. 16-3. Definitions.

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

*Customer* means a residential, commercial or industrial end-user of electricity or natural gas in the Village.

*Disruption* means a physical change, modification, alteration, disturbance, injury and/or damage to or in a right-of-way, including, but not limited to, construction, installation,

location, maintenance, modification, alteration, replacement or repair of facilities, and the removal or alteration of a right-of-way surface grade or material, tree, sign, marker, hydrant or other material or object.

*Facility* means any overhead or underground cable, wire line, main, pipe, pole, building, structure, equipment and all other man-made or placed materials or objects, or combinations thereof, for the transmission or distribution of electricity or natural gas to customers.

*Franchise* means a nonexclusive limited authorization to transact a local business and the right to incidental use of right-of-way under this chapter.

*Grantee* means the holder of a valid and effective franchise granted by the Village.

*MPSC* means the Michigan Public Service Commission.

*Right-of-way* means any and all public rights-of-way, streets, highways, roads, sidewalks, alleys, thoroughfares, public easements and public places located within the Village.

*Supplier* means a person that supplies electricity (electric generation) or natural gas to customers in the Village through facilities in the Village in which it has no ownership, operation, leasehold, repair or maintenance rights or responsibilities.

*Utility* means a person that owns, operates, and maintains facilities used to provide electricity or natural gas to customers in the Village.
(Code 1996, § 113.03; Ord. No. 19.01, 6-12-2000)

**Sec. 16-4. Franchise requirement.**

Being a supplier of electricity or natural gas to customers in the Village is a transaction of local business of a public utility, which shall not be done without a franchise.
(Code 1996, § 113.04; Ord. No. 19.01, 6-12-2000)

**Sec. 16-5. Right-of-way limitations.**

A franchise granted under this chapter constitutes the Village's consent to grantee's limited and incidental use of right-of-way to the extent that facilities are located within it.
(Code 1996, § 113.05; Ord. No. 19.01, 6-12-2000)

**Sec. 16-6. No waiver.**

Nothing in this chapter shall be construed as a waiver of any of the rights, remedies and/or authority of the Village pursuant to any laws, ordinances, codes or regulations of the Village, and the Village reserves the right to exercise all authority and take any and all action granted to it by any constitution, law, Village ordinance, code and/or regulation. Nothing in this section shall be construed to limit and/or preclude the Village from exercising its right of eminent domain.
(Code 1996, § 113.06; Ord. No. 19.01, 6-12-2000)

**Sec. 16-7. Notices.**

Any notices required to be sent to the grantee by this chapter may be delivered or may be sent by first class mail to the grantee at the address listed in the franchise application or such other address as grantee has provided to the Clerk in writing.
(Code 1996, § 113.07; Ord. No. 19.01, 6-12-2000)

**Secs. 16-8—16-32. Reserved.**

## ARTICLE II. FRANCHISE APPLICATION REQUIREMENTS AND PROCESS

**Sec. 16-33. Application information.**

Applications for franchises shall be made to the Clerk by providing the following written information and documents:

(1) A nonrefundable franchise application fee of $3,500.00.

(2) The name, age if an individual, and address of the applicant, and if the applicant is not a natural person, the date, state and form of business organization.

(3) A description of the local business the applicant proposes to transact.

(4) Copies of certificates, articles, permits, approvals, licenses, last annual report and other written documentation of the applicant's lawful incorporation, organization, existence, authorization and good standing to conduct its proposed business in the state. If any of the listed items have not been received, documentation that they have been applied for must be provided.

(5) If applicable, the applicant's minimum quantity requirements of existing and potential customers.

(6) The length of the franchise term being requested, which shall have a duration of not longer than ten years.

(7) An acknowledgment and agreement to accept and comply with a franchise in the form of an ordinance that contains and incorporates by reference all of the terms and conditions contained in article III of this chapter.
(Code 1996, § 113.20; Ord. No. 19.01, 6-12-2000)

**Sec. 16-34. Application processing.**

(a) Upon receipt of a franchise application, the Clerk shall schedule the application and a proposed ordinance that would grant the franchise requested for introduction at the first available Village Council meeting.

(b) The applicant or its representative shall receive notice and may appear at the meeting when its franchise request is introduced. If the application meets the requirements of this chapter, the proposed ordinance will be accepted for introduction and scheduled for possible adoption at the first meeting thereafter that allows time to satisfy any publication and legal requirements for adoption of a valid franchise ordinance.

(c) After all publication and other legal requirements for adoption of a valid franchise ordinance have been satisfied, at a regular or special meeting, the Village Council may adopt, reject or table adoption of a proposed franchise ordinance.
(Code 1996, § 113.21; Ord. No. 19.01, 6-12-2000)

**Sec. 16-35. Franchise approvals.**

After a franchise ordinance is adopted and all publication and other legal requirements for it to become effective are satisfied, a certified copy of the ordinance shall be delivered or mailed to the approved grantee together with a written acceptance for the approved grantee to sign under oath, confirming its acknowledgment, agreement and acceptance of the franchise and all of its terms and conditions. If the required signed and notarized acceptance is not delivered to the Clerk within 30 days of the delivery or mailing of the franchise ordinance and agreement to the grantee, the effectiveness of the ordinance will be automatically terminated. Upon the approved grantee's timely acceptance of the franchise ordinance, it shall constitute a contract between the Village and grantee.
(Code 1996, § 113.22; Ord. No. 19.01, 6-12-2000)

**Sec. 16-36. Franchise terms and conditions.**

Unless amended by the individual franchise ordinance, all of the definitions in section 16-3, terms and conditions in articles III and IV of this chapter, and penalties and relief in article V of this chapter shall apply and be incorporated by reference as part of every supplier's individual franchise ordinance. Any amendments to this chapter shall be automatically included in every franchise.
(Code 1996, § 113.23; Ord. No. 19.01, 6-12-2000)

**Secs. 16-37—16-60. Reserved.**

## ARTICLE III. GENERAL FRANCHISE TERMS AND CONDITIONS

**Sec. 16-61. Franchise rights.**

Subject to all terms and conditions in this article and the individual franchise ordinance, a franchise grants the grantee the right to transact a local business of supplying electricity or gas, as designated in the individual franchise ordinance, to customers in the Village using facilities of an identified utility to the extent that it is lawful under applicable legislation, administrative

rules, including those of the MPSC, and express or implied contract or agreement with the utility. A franchise does not grant the right to own, construct, operate, maintain or repair facilities in the Village.
(Code 1996, § 113.35; Ord. No. 19.01, 6-12-2000)

**Sec. 16-62. Revocation and termination.**

The term of a franchise, which shall be stated in the individual franchise ordinance, is subject to revocation at the will of the Village and may be surrendered and terminated by the grantee on 30 days' written notice to the Village. Any unsatisfied obligations of grantee to the Village shall survive revocation or termination and be enforceable by the Village as provided in the franchise.
(Code 1996, § 113.36; Ord. No. 19.01, 6-12-2000)

**Sec. 16-63. Nonexclusive.**

A franchise is nonexclusive and does not restrict the Village from approving additional franchises or establish any priority between grantees to transact local business and the incidental use of right-of-way.
(Code 1996, § 113.37; Ord. No. 19.01, 6-12-2000)

**Sec. 16-64. Assignment.**

A franchise may not be sold, leased, assigned, transferred or used by any person other than the grantee without the written approval of the Village by ordinance amendment.
(Code 1996, § 113.38; Ord. No. 19.01, 6-12-2000)

**Sec. 16-65. Compliance with laws and ordinances.**

A franchise requires grantee compliance with all applicable current and future Village, state and federal ordinances, laws, rules and regulations and any permit, approval, certificate or license requirements and conditions under such laws and shall not be construed as a waiver by the grantee of any of its rights under state or federal law.
(Code 1996, § 113.39; Ord. No. 19.01, 6-12-2000)

**Sec. 16-66. Right-of-way disruption prohibited.**

Disruption or obstruction of, and physical entry in or upon, a right-of-way by a grantee, its personnel or equipment is prohibited.
(Code 1996, § 113.40; Ord. No. 19.01, 6-12-2000)

**Sec. 16-67. Village rights paramount.**

A franchise and the rights granted by it shall at all times be subject to the paramount rights of the Village in its right-of-way, and shall be subject to immediate suspension or termination by the Village in the interest of the public health, safety and welfare.
(Code 1996, § 113.41; Ord. No. 19.01, 6-12-2000)

**Sec. 16-68. Vacation.**

If a right-of-way is vacated, discontinued, abandoned, terminated or released, a grantee's incidental right to use the right-of-way shall immediately terminate.
(Code 1996, § 113.42; Ord. No. 19.01, 6-12-2000)

**Sec. 16-69. Public emergencies.**

Without prior notice, the Village has the right to remove, damage, destroy or otherwise disrupt and/or order a cessation of use of facilities used by grantee or its customers when necessary due to a public emergency. The term "public emergency" means any situation which, in the opinion of the Village official authorized to declare an emergency, presents an immediate threat to persons or property in the Village. The Village shall have no liability or responsibility for repairing or restoring facilities damaged by actions taken under this section.
(Code 1996, § 113.43; Ord. No. 19.01, 6-12-2000)

**Sec. 16-70. Interpretation.**

A franchise shall not be construed in any manner as a waiver or limitation of the Village's discretion and authority or rights to regulate and control the use of right-of-way.
(Code 1996, § 113.44; Ord. No. 19.01, 6-12-2000)

**Sec. 16-71. Assumption of risk.**

A grantee assumes all risks of damages or injuries to its officers, employees, agents and contractors from dangerous right-of-way conditions, if any.
(Code 1996, § 113.45; Ord. No. 19.01, 6-12-2000)

**Sec. 16-72. No Village liability.**

The Village and its officials, employees, agents and contractors shall have no liability for damages or injuries to any person or property, including the grantee, that arise from the granting, enforcement or exercise of rights under a franchise.
(Code 1996, § 113.46; Ord. No. 19.01, 6-12-2000)

**Sec. 16-73. Indemnity.**

A grantee shall, at its sole cost and expense, defend, indemnify and hold harmless the Village and its officials, employees, agents, contractors, right-of-way and property from all claims and liability for damages or injury to persons or property caused by or resulting from the actions or omissions of the grantee and/or its officers, employees, agents and contractors. This obligation extends to all costs and expenses, including attorney fees that may be incurred by the beneficiaries of the grantee's obligation. The Village shall notify the grantee of any claim or liability that is covered by the grantee's obligation and shall not be prevented from participating in the defense of any claim by its own attorney, the cost of which shall be the grantee's responsibility.
(Code 1996, § 113.47; Ord. No. 19.01, 6-12-2000)

**Sec. 16-74. Insurance.**

The Village reserves the right to require the grantee to have, maintain and provide specified liability insurance coverages.
(Code 1996, § 113.48; Ord. No. 19.01, 6-12-2000)

**Sec. 16-75. Disclosures.**

The grantee shall provide and update written disclosure to the Village Clerk of its contact person, address, telephone numbers, fax numbers, email addresses, if applicable, and procedures for service requests and complaints, together with a written disclosure of pricing, billing, warranty and contract rates, terms, policies and procedures.
(Code 1996, § 113.49; Ord. No. 19.01, 6-12-2000)

**Sec. 16-76. Supply requirements.**

The grantee shall supply electricity or natural gas in accordance with all applicable laws.
(Code 1996, § 113.50; Ord. No. 19.01, 6-12-2000)

**Sec. 16-77. Franchise fees.**

Every three years commencing after December 31, 2001, the Village has the right, after providing prior notice and an opportunity to comment to grantee, to require the payment by the grantee on a periodic basis of a franchise fee, provided that any such fee is applied equally to all grantees under this article that are supplying the same commodity (electricity or natural gas) as the grantee. Such a franchise fee would be an additional franchise term and condition, to be adopted and presented to the grantee for acknowledgment, agreement and acceptance as an ordinance amendment as provided in section 16-35. In any such fee review, the grantee shall disclose and the Village may consider if the grantee pays a franchise fee, charge or other periodic payment for a franchise to any other state municipalities and the manner in which such fees are computed. It is a condition of a franchise that the grantee notify the Village of any such

fees that are paid and the Village shall have the right to inspect the grantee's books and records to monitor, enforce and determine the grantee's compliance and the accuracy of amounts paid or to be paid by the grantee under this section.
(Code 1996, § 113.51; Ord. No. 19.01, 6-12-2000)

**Sec. 16-78. Village costs.**

The grantee shall reimburse the Village for any costs it incurs, including reasonable attorney fees, in enforcing franchise terms and conditions.
(Code 1996, § 113.52; Ord. No. 19.01, 6-12-2000)

**Sec. 16-79. Reservation of Village rights.**

A franchise shall at all times be subject to the rights of the Village, which are hereby reserved, to make all regulations, take all actions and do all things provided for in its Charter.
(Code 1996, § 113.53; Ord. No. 19.01, 6-12-2000)

**Secs. 16-80—16-101. Reserved.**

## ARTICLE IV. FRANCHISE TERMS AND RENEWALS

**Sec. 16-102. Term.**

No franchise granted under this chapter shall be for longer than ten years. The term of each franchise shall be stated in the individual franchise ordinance.
(Code 1996, § 113.65; Ord. No. 19.01, 6-12-2000)

**Sec. 16-103. Renewals and extensions.**

There is no right to a franchise renewal or extension. Franchise renewal or extension may be applied for and approved as provided in article II of this chapter.
(Code 1996, § 113.66; Ord. No. 19.01, 6-12-2000)

**Secs. 16-104—16-134. Reserved.**

## ARTICLE V. VIOLATIONS AND PENALTIES

**Sec. 16-135. Transactions of business without franchise.**

Any person transacting business without a franchise required by this chapter shall be responsible for a municipal civil infraction and shall pay a fine in the following amount:

(1) First offense: . . . . . $3,500.00.

(2) Second or subsequent offense: . . . . . $5,000.00.

(Code 1996, § 113.80; Ord. No. 19.01, 6-12-2000)

**Sec. 16-136. Right-of-way restoration.**

Any person in violation of the franchise requirement of this chapter or a franchise issued under it who damages a right-of-way shall be responsible for restoration of the right-of-way to the condition that existed prior to the violation. If such person fails or refuses to restore the right-of-way after 30 days' notice from the Village, and if the Village determines that the civil infraction remedy is inadequate under the circumstances, the Village may initiate proceedings in the appropriate court to recover the cost estimated to accomplish the restoration, or recover such costs as have been actually expended by the Village in achieving the restoration, as the case may be. Such costs shall include finance and reasonable administrative costs estimated or incurred.

(Code 1996, § 113.81; Ord. No. 19.01, 6-12-2000)

**Sec. 16-137. Separate offenses.**

Each occurrence of a violation, and each day a violation exists, shall constitute a separate offense.

(Code 1996, § 113.82; Ord. No. 19.01, 6-12-2000)

**Sec. 16-138. Injunctive relief.**

Violations of this chapter or a franchise issued under it are considered to be a nuisance per se, with such violations and correction of any conditions resulting from violations subject to abatement by injunctive or other appropriate order by a court of competent jurisdiction.

(Code 1996, § 113.83; Ord. No. 19.01, 6-12-2000)

**Sec. 16-139. Election of remedies.**

Violations of this chapter and franchises issued under it subject the violator to franchise revocation, if applicable, and Village enforcement through one or more of the remedies provided in this article, and the election by the Village to pursue one form of remedy does not waive or restrict the Village's option to pursue other remedies at the same or later time.

(Code 1996, § 113.84; Ord. No. 19.01, 6-12-2000)

Chapter 17

**RESERVED**

Chapter 18

# HUMAN RIGHTS


Sec. 18-1. Intent.
Sec. 18-2. Definitions.
Sec. 18-3. Discriminatory housing practices.
Sec. 18-4. Discriminatory public accommodations practices.
Sec. 18-5. Discriminatory employment practices.
Sec. 18-6. Other prohibited practices.
Sec. 18-7. Information and investigation.
Sec. 18-8. Exceptions.
Sec. 18-9. Rights and remedies.

**Sec. 18-1. Intent.**

It is the intent of the Village that no person be denied equal protection of the laws; nor shall any person be denied the enjoyment of his or her civil or political rights or be discriminated against because of actual or perceived race, color, religion, national origin, sex, age, height, weight, condition of pregnancy, marital status, physical or mental limitation, source of income, family status, sexual orientation or gender identity.
(Code 1996, § 130.100; Ord. No. 6.18, 9-26-2016)

**Sec. 18-2. Definitions.**

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

*Age* means chronological age.

*Discriminate* or *discrimination* means to make a decision, offer to make a decision or refrain from making a decision based in whole or in part on the race, color, religion, national origin, sex, age, height, weight, condition of pregnancy, marital status, physical or mental limitation, source of income, family status, sexual orientation or gender identity of another person, that person's relatives, or that person's associates.

(1) Discrimination based on sex includes sexual harassment, which means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature when:

   a. Submission to the conduct or communication is made a term or condition either explicitly or implicitly of obtaining or maintaining employment, public accommodations or housing;

   b. Submission to or rejection of the conduct or communication by an individual is used as a factor in decisions affecting the individual's employment, public accommodations or housing; and/or

   c. The conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or housing, or creating an intimidating, hostile, or offensive employment, public accommodations or housing environment.

(2) Discrimination based upon actual or perceived physical or mental limitation includes discrimination because of the use by an individual of an adaptive device or aid.

*Educational institution* means a public or private institution, or a separate school or department thereof, including an academy, college, elementary or secondary school, extension course, kindergarten, nursery, local school system, university, or a business, nursing, professional, secretarial, technical, or vocational school. The term "educational institution" includes an agent of the institution.

*Employer* means any person employing one or more persons and includes an agent of the employer.

*Employment agency* means a person regularly undertaking, with or without compensation, to procure, refer, recruit, or place an individual in an employment relationship with an employer.

*Family status* means two or more individuals related by blood within three degrees of consanguinity, marriage, adoption, foster care relationship or other legal custody relationship. For purposes of this definition, family status shall include an individual who is pregnant.

*Gender* means the actual biological state of being male or female as of birth, or subsequent alteration through surgical procedure, and without regard to any outward physical display or expression of gender identity.

*Gender identity* means a person's actual or perceived gender, including a person's appearance, expression, identity or behavior as being either male or female, whether or not that appearance, expression, identity or behavior is different from that traditionally associated with the person's sex at birth as being either female or male.

*Housing accommodation* means any improved or unimproved real property or part thereof, dwelling unit or facility used or intended, arranged, or designed to be used or occupied as a home, domicile, or residence of one or more individuals.

*Labor organization* means an organization of any kind, an employee representation committee, group, association, or plan which employees participate in or are members of, and which exists for the purpose, in whole or part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment of its participants or members, whether or not such organization is subordinate to or affiliated with a national or international labor organization.

*Marital status* means the state of being married, unmarried, divorced or widowed.

*Perceived* means the perception of the person who acts, and not the perception of the person for or against whom the action is taken.

*Physical or mental disability* means a determinable physical or mental characteristic of an individual, which may result from disease, injury, congenital condition of birth, or functional disorder, if the characteristic substantially limits a major life activity of that individual and is unrelated to the individual's ability to perform the duties of a particular job or position, is unrelated to the individual's ability to utilize and benefit from a place of public accommodation, or is unrelated to the individual's ability to acquire, rent, or maintain property. The term "physical or mental disability" does not include any condition caused by the current illegal use of a controlled substance or the use of intoxicating liquors by an individual.

*Place of public accommodation* means a business, educational, refreshment, entertainment, recreational, health, or transportation facility, organization or institution of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

*Private club* means an establishment that is not open to the public. A private club is one whose members' association with each other and the club is sufficiently intimate, small and exclusive that it is not open to the public.

*Sexual orientation* means male or female homosexuality, heterosexuality or bisexuality, whether by orientation or practice.

*Source of income* means any legal source from which a person obtains money.

*Village Manager* means the Village Manager or his or her designee.
(Code 1996, § 130.101; Ord. No. 6.18, 9-26-2016)

**Sec. 18-3. Discriminatory housing practices.**

Except as otherwise provided in this chapter:

(1) No person shall discriminate in leasing, selling or otherwise making available any housing accommodation;

(2) No person shall discriminate in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection with any housing accommodation;

(3) No person shall discriminate in providing financing for the purchase, repair, or remodeling of any housing accommodations;

(4) No person shall discriminate in making referrals, listings or otherwise providing information regarding housing accommodations; and

(5) No person shall promote real estate transactions by representing that changes are occurring or will occur in an area with respect to race, religion or national origin.
(Code 1996, § 130.102; Ord. No. 6.18, 9-26-2016)

**Sec. 18-4. Discriminatory public accommodations practices.**

Except as otherwise provided in this chapter:

(1) No person shall discriminate in making available full and equal access to all goods, services, facilities, privileges, advantages or accommodations of any place of public accommodation; and

(2) No person shall prohibit a breastfeeding mother from, or segregate a breastfeeding mother within, any public accommodation where she and the child would otherwise be authorized to be.

(Code 1996, § 130.103; Ord. No. 6.18, 9-26-2016)

**Sec. 18-5. Discriminatory employment practices.**

Except as otherwise provided in this chapter:

(1) No person shall discriminate in the employment, compensation, work classifications, conditions or terms, promotion or demotion, or termination of employment of any person;

(2) No person shall discriminate in limiting membership, conditions of membership, or termination of membership in any labor organization; and

(3) No employment agency shall discriminate in the procurement, referral, recruitment, or placement of an individual in an employment relationship with an employer.

(Code 1996, § 130.104; Ord. No. 6.18, 9-26-2016)

**Sec. 18-6. Other prohibited practices.**

Except as otherwise provided in this chapter:

(1) No person shall adopt, enforce or employ any policy or requirement, publish, post, or broadcast any advertisement, sign, solicitation or notice in the Village which discriminates or suggests discrimination in providing housing, public accommodations, or employment;

(2) No person shall discriminate in the publication or distribution of advertising material, information, or solicitation in the Village regarding housing, public accommodations, or employment;

(3) No agent, broker, labor union, employment agency, or any other intermediary shall discriminate in making referrals, listings, or providing information with regard to housing, public accommodations, or employment;

(4) No person shall coerce, threaten, or retaliate against a person for making a complaint or assisting in any investigation regarding a violation or alleged violation of this chapter. A person shall not require, request, conspire with, assist, or coerce another person to retaliate against a person for making a complaint or assisting in an investigation; and

(5) No person shall conspire with, assist, coerce, or request another person to discriminate in any manner prohibited by this chapter.

(Code 1996, § 130.105; Ord. No. 6.18, 9-26-2016)

**Sec. 18-7. Information and investigation.**

(a) Any person claiming a violation of this chapter shall file a signed, written complaint with the Village Manager setting forth the details, including the names, dates, witnesses, and other factual matters relevant to the claim, within 180 days of the incident forming the basis of the complaint.

(b) No person shall provide false information to any authorized Village official investigating a complaint regarding a violation of this chapter.

(c) Within 30 days of a written complaint being filed, the Village Manager or his or her designee shall review the complaint and undertake an investigation of any complaint alleging a violation of this chapter not currently recognized or proscribed by Michigan or federal anti-discrimination statutes and cause all other complaints to be referred to an appropriate state or federal agency for review.

(d) In the course of the investigation, the Village Manager may request a person to produce books, papers, records, or other documents which may be relevant to a violation or alleged violation of this chapter. If said person does not comply with such request, the Village Attorney may apply to the county district court for an order requiring production of the requested materials.

(e) After the completion of an investigation, the Village Manager or his or her designee shall provide written notice of the results of the investigation to the person filing the complaint and to the person accused of the violation. If the investigation establishes that a violation of this chapter occurred, the Village Manager or his or her designee shall, by using informal methods of conference, conciliation and persuasion, endeavor to work with the person filing the complaint and the accused person to correct the violation or prevent a further violation from occurring. During the course of informal negotiations, the Village may enter into a conciliation agreement with the person accused of the violation whereby said individual shall agree to methods of terminating discrimination or to reverse the effects of past discrimination. A violation of a conciliation agreement shall be a violation of this chapter. The Village Attorney may commence a civil action to enforce a conciliation agreement.

(f) If, after 90 days, the Village Manager or his or her designee is unable through informal methods to resolve the violation or prevent further violations, the Village Manager or his or her designee shall cause a civil infraction citation to issue to the person accused of the violation and shall refer the matter to the Village Attorney to prosecute the violation as a municipal civil infraction.

(Code 1996, § 130.106; Ord. No. 6.18, 9-26-2016)

**Sec. 18-8. Exceptions.**

Notwithstanding anything contained in this chapter, the following practices shall not be violations of this chapter:

(1) For a religious organization or institution to restrict any of its housing facilities or accommodations which are operated as a direct part of religious activities to persons of the religion involved or to restrict employment opportunities for officers, religious instructors and clergy to persons of that religion. It is also permissible for a religious organization to restrict employment opportunities, educational facilities, housing facilities, and homeless shelters or dormitories that are operated as a direct part of its religious activities to persons who are members of that religious organization.

(2) For the owner of an owner-occupied one-family or two-family dwelling, or a housing facility or public accommodation facility, respectively, devoted entirely to the housing and accommodation of individuals of one gender, to restrict occupancy and use on the basis of gender.

(3) To limit occupancy in a housing project or to provide public accommodations or employment privileges or assistance to persons of low income, persons over 55 years of age, or disabled persons.

(4) To engage in a bona fide effort to establish an affirmative action program to improve opportunities in employment for minorities and women consistent with applicable state and federal law.

(5) To discriminate based on a person's age when such discrimination is required by state, federal or local law.

(6) To refuse to enter a contract with an unemancipated minor.

(7) To refuse to admit to a place of public accommodation serving alcoholic liquor a person under the legal age for purchasing alcoholic liquor.

(8) To refuse to admit persons under 18 years of age to a business providing entertainment or selling literature which the operator of said business deems unsuitable for minors.

(9) For an educational institution to limit the use of its facilities to those affiliated with such institution.

(10) To provide discounts on products or service to students, minors and senior citizens.

(11) To discriminate in any arrangement for the shared ownership, lease, or residency of a dwelling unit in which the person acting is one of the sharing parties.

(12) To restrict use of lavatories and locker room facilities on the basis of gender.

(13) For a governmental institution to restrict any of its facilities or to restrict employment opportunities based on duly adopted institutional policies that conform to federal and state laws and regulations.

(14) To restrict participation in an instructional program, athletic event, or on an athletic team on the basis of age, gender, height, or weight.

(15) To restrict membership in a private club that is not open to the public except to the extent that private clubs which permit members to invite guests on the premises are not exempted as it concerns a member's guest.

(16) To restrict employment opportunities with respect to members of one's family.

(17) To provide for marital or family status limitations in a health or pension plan if such limitations conform to federal and state laws and regulations.

(Code 1996, § 130.107; Ord. No. 6.18, 9-26-2016)

**Sec. 18-9. Rights and remedies.**

Nothing contained in this chapter shall be construed to limit in any way the remedies, legal or equitable, which are available to the Village or to the person claiming a violation of this chapter for the prevention or correction of discrimination.

(Code 1996, § 130.108; Ord. No. 6.18, 9-26-2016)

Chapter 19

**RESERVED**

Chapter 20

# NUISANCES

## Article I. In General

Sec. 20-1. Definitions.
Secs. 20-2—20-20. Reserved.

## Article II. Nuisance Buildings and Dwellings

Sec. 20-21. Health Officer to correct conditions or condemn.
Sec. 20-22. Unlawful to occupy condemned premises.
Sec. 20-23. Unlawful to remove condemnation sign.
Sec. 20-24. Right of entry.
Sec. 20-25. Enforcing officers.
Sec. 20-26. Rules and regulations.
Sec. 20-27. Owner and occupants responsible for premises being kept clean.
Sec. 20-28. Owner to keep residences in habitable condition; agreement.
Sec. 20-29. Village to be kept clean.
Sec. 20-30. Abatement of nuisances.
Secs. 20-31—20-48. Reserved.

## Article III. Noxious Weeds

Sec. 20-49. Definitions.
Sec. 20-50. Prohibitions and obligations.
Sec. 20-51. Notices and actions by Village.
Sec. 20-52. Fines, orders and recovery of expenses by Village.
Sec. 20-53. Commissioner authority and procedures.
Sec. 20-54. Violations.

## ARTICLE I. IN GENERAL

### Sec. 20-1. Definitions.

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

*Health Officer* means an officer of health as appointed by the Village Council.

*Nuisance* means:

(1) Whatever is dangerous or injurious to human life, health or habitation;

(2) Whatever causes or has a tendency to cause the air, food, water or other drink in any place or manner in the Village to be injurious to or to endanger the health, safety, welfare, or comfort of any person or of the public;

(3) Whatever building, erection, structure, cellar, or part thereof is overcrowded or not provided with adequate means of ingress or egress or for the disposal of human excreta, or for obtaining a reasonably necessary amount of clean water for use on the premises, or is unfit for human habitation, or is not sufficiently supported, ventilated, drained, cleaned or lighted;

(4) Any and all conditions, premises, building, or structures that harbor or are conducive to the harboring or breeding of insects, vermin, rats or other rodents;

(5) All ponds of stagnant water;

(6) All cellars and foundations of and excavations for houses, the bottoms of which contain stagnant or putrid water;

(7) All dead and putrefied animals or rubbish lying about the roadways, lanes, streets, alleys, vacant lots, or yards, or upon the surface of the ground or not buried in the ground a sufficient depth;

(8) All methods of human excreta disposal, except toilets or water closets properly maintained and connected with a sanitary sewer or septic tank that have been constructed and are being maintained in accordance with laws and the ordinances of the Village and which are screened against flies and which are maintained in compliance with health measures, or other disposal system authorized by and maintained in accordance with the provisions of law and Village;

(9) All abandoned or discarded ice boxes or refrigerators wherein the doors have not been removed;

(10) All choked or clogged sewers and house drains;

(11) All slaughterhouses;

(12) All unreasonable accumulation of garbage, ashes or refuse;

(13) All pig pens and stables, and all wells, cisterns and reservoirs from which water for drinking or other domestic purposes may be obtained which are not constructed or maintained in accordance with the provisions of the Village ordinances and which show pollution;

(14) The storing, depositing or dumping of so-called foundry sand, after its use in any foundry, ash residue or similar substances upon any vacant lot or property with a dwelling or building, unless such foundry sand is covered with adequate stable soil, all of which is to be approved by the Health Officer as to quantity and type of soil covering.

*Public nuisances* means those things, acts, or uses or property that annoy, injure, or endanger the safety, health, comfort or repose of the public, or in any way render the public insecure in life or in the use of their property, and said term "nuisance" shall be held to embrace public nuisances as known at common law or in equity jurisprudence, and whatever is dangerous to human life, detrimental to health or makes the free and unrestricted use of a person's property undesirable or whatever renders the air or human food or drink unwholesome are all nuisances and as such are hereby declared illegal.
(Code 1996, § 95.01; Ord. No. 7.01, 10-11-1971)

**Secs. 20-2—20-20. Reserved.**

## ARTICLE II. NUISANCE BUILDINGS AND DWELLINGS

### Sec. 20-21. Health Officer to correct conditions or condemn.

(a) The Health Officer, if satisfied upon examination that the building, tenement, room, or cellar in the Village which is occupied as a dwelling place, or any other place where human beings reside, congregate, work or have access to, has become, by reason of its being inhabited or used, unclean or unfit for use as herein stated, or is likely to become a nuisance as herein declared, or to be the cause of sickness to tenants, occupants or to those who have access to the place as being unfit for human habitation or use, shall demand by written notice that the occupant or owner of the premises put such place in a sanitary and habitable condition within a reasonable time as stated in the notice. If such occupant or owner shall fail or refuse to comply with the terms of the notice within the time specified, the Health Officer may declare the premises a nuisance and make and file a complaint against such occupant or owner or both as herein provided, or he may cause the condition of the premises to be corrected at the owner's expense, or he may do whatever is reasonably necessary to abate the nuisance at the expense of the owner.

(b) The reasonable cost and expense incurred by the Health Officer in repairing the premises and abating such nuisance shall be determined by the Health Officer, and the amount thus determined shall be charged to the owner of the premises involved, as well as any tenant occupying the premises, and shall be due and payable forthwith and said costs and expense shall immediately become a lien on the premises. In the event the charges are not paid for a period of six months after same have become due they may be certified to the Village Assessor by the Village Council and assessed against the property on the next Village tax roll, in which event the charge shall be collected and returned in the same manner as other Village taxes are collected and returned. In addition to all other remedies contained herein, the charges may be collected against the owner and the tenant occupying the premises in an action of assumpsit.

(c) If such premises are vacated, the Health Officer may in his discretion refuse to permit and shall condemn the use of any premises for human habitation declared by him to be a nuisance, and the premises shall not again be occupied as a human habitation until they are put in a sanitary and habitable condition.

(d) The Health Officer shall have the power, and he is hereby authorized and empowered, to condemn any premises declared by him to be a nuisance which are occupied as a residence and may order said premises vacated until repaired or the conditions corrected to make them habitable.
(Code 1996, § 95.15; Ord. No. 7.01, 10-11-1971)

**Sec. 20-22. Unlawful to occupy condemned premises.**

It shall be unlawful for any unauthorized person to occupy or use such premises thus condemned by the Health Officer until put in a sanitary and habitable condition in accordance with the laws and the ordinances of the Village and satisfactory to the Health Officer.
(Code 1996, § 95.16; Ord. No. 7.01, 10-11-1971)

**Sec. 20-23. Unlawful to remove condemnation sign.**

It shall be unlawful for any unauthorized person to remove any sign or notice posted on any premises condemning the use of the premises as a human habitation or declaring the premises to be a nuisance.
(Code 1996, § 95.17; Ord. No. 7.01, 10-11-1971)

**Sec. 20-24. Right of entry.**

The Health Officer shall have the right to enter private property as provided in the state housing law at any reasonable hour of the day or night for the purpose of making a sanitary or health survey of the premises, obtaining a sample of water used thereon, or collecting other data and material pertaining to public health, and enforcing the provisions of the housing law and this article, and it shall be unlawful for any person to resist or attempt to prevent the Health Officer from carrying out the purpose herein set forth; provided, however, that such Health

Officer shall have in his possession and carry upon his person at all times while carrying out the duties above outlined, sufficient credentials identifying himself as the Health Officer, or showing his official capacity or relationship to the Village Department of Health, which credentials shall include a picture of the bearer and a brief description of his appearance indicating his age, height, weight, race, complexion, color of hair and eyes and sex, and which credentials shall be exhibited by the bearer on demand to any person in charge of any premises which such Health Officer is about to enter.
(Code 1996, § 95.18; Ord. No. 7.01, 10-11-1971)

**Sec. 20-25. Enforcing officers.**

The Health Officer and any deputy, agents, or inspectors designated by him, are hereby empowered to perform the duties and functions and are hereby given like authority of regularly authorized and appointed police officers of the Village in the enforcement of the provisions of this article.
(Code 1996, § 95.19; Ord. No. 7.01, 10-11-1971)

**Sec. 20-26. Rules and regulations.**

The Health Officer is hereby authorized to prepare such reasonable rules and regulations that he deems necessary to carry out and enforce the provisions of this article, subject to the approval of the Village Council.
(Code 1996, § 95.20; Ord. No. 7.01, 10-11-1971)

**Sec. 20-27. Owner and occupants responsible for premises being kept clean.**

All persons who own, manage, lease, rent or occupy any premises whatsoever shall be equally responsible for keeping said premises in a clean and habitable condition and shall take all necessary precautions to prevent any nuisance as herein declared, or other condition detrimental to public health from arising thereon, and particularly to take all reasonable precautions to prevent rodents and vermin, including rats, bedbugs, and cockroaches from being attracted thereto or existing thereon.
(Code 1996, § 95.21; Ord. No. 7.01, 10-11-1971)

**Sec. 20-28. Owner to keep residences in habitable condition; agreement.**

Every building or portion thereof that shall be used as a home or residence for one or more families shall be kept by the owner thereof or the landlord in a habitable condition to prevent the premises from becoming a nuisance, in accordance with the state housing law and the standards of maintenance and any other ordinance of the Village, except the tenant or occupant may, by agreement in writing, with such owner or landlord, agree to make certain repairs.
(Code 1996, § 95.22; Ord. No. 7.01, 10-11-1971)

**Sec. 20-29. Village to be kept clean.**

No person, firm or corporation shall cause or permit any junk, scrap metal, scrap lumber, wastepaper products, discarded building materials, garbage or abandoned, disabled, inoperable, or wrecked motor vehicles or trailers, used, damaged, or disabled machinery or machinery parts, or any other waste materials or old salvage materials, to be in or upon a yard, garden, lawn, vacant lot, gas station, outbuilding, street, alley or public property, or other premises in the Village.
(Code 1996, § 95.23; Ord. No. 7.01, 10-11-1971)

**Sec. 20-30. Abatement of nuisances.**

In the event any dwelling, building, structure or lot is maintained as a nuisance or in the event any nuisance exists on a lot, dwelling or building, the Health Officer shall order the abatement of such nuisance by written notice served upon such owner or person causing the same. Such notice shall prescribe the time when the nuisance shall be abated. Upon failure to abate such nuisance the Health Officer may, by bill or petition, duly verified, set forth the facts and apply to the circuit court in Chancery for the county or to any judge thereof for an order granting the relief for which the action or proceeding is brought or for an order enjoining all persons from doing or maintaining the nuisance and the Health Officer in the petition may also apply to the circuit or any judge thereof for an order authorizing him to execute and carry out the provisions of the notice, to remove any violation specified in the notice or to abate any nuisance in or about the dwelling, building or structure or the lot upon which it is situated or upon any vacant lot where a nuisance exists.
(Code 1996, § 95.24; Ord. No. 7.01, 10-11-1971)

**Secs. 20-31—20-48. Reserved.**

## ARTICLE III. NOXIOUS WEEDS

**Sec. 20-49. Definitions.**

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

*Commissioner* means a competent person appointed by the Village Council as the Village's Commissioner of Noxious Weeds, with the Village Police Chief so appointed by this article and subsequent appointments allowed by Village Council resolution.

*Noxious weeds.*

(1) The term "noxious weeds" means:

a. Canada thistle (*Cirsium arvense*), dodders (any species of *Cuscuta*), mustards (charlock, black mustard, and Indian mustard, species of *Brassica* or *Sinapis*),

wild carrot (*Daucus carota*), bindweed (*Convolvulus arvensis*), perennial sowthistle (*Sonchus arvensis*), hoary alyssum (*Berteroa incana*), ragweed (*Ambrosia elatior,* var. L), poison ivy (*Rhus toxicodendron*) and poison sumac (*Toxicodendron verni*); and

b. Weeds, grasses and vegetation other than live flowers, trees, shrubs and fruit or vegetable plants, that exceed a height of eight inches above ground level.

(2) Noxious weeds are declared to be a public nuisance and shall be abated as provided in this article.

(Code 1996, § 95.35; Ord. No. 7.01, 10-11-1971; Am. Ord. No. 7.12, 5-12-2008)

**Sec. 20-50. Prohibitions and obligations.**

(a) Unless exempt under subsection (c) of this section, owners, occupants and agents of owners of land upon which noxious weeds specified in the definition of the term "noxious weeds" in section 20-49 are growing shall destroy the weeds before they reach a seed-bearing stage and prevent their re-growth or prevent the weeds from becoming a detriment to public health.

(b) Unless exempt under subsection (c) of this section, owners, occupants and agents of owners of land shall maintain the land free from noxious weeds in the definition of the term "noxious weeds" in section 20-49 by necessary removal, cutting or mowing.

(c) Land that is located within a conservation area or easement, open space or natural area that has been approved by the Village to be left in its natural state without the removal, cutting or mowing otherwise required by subsection (a) and/or (b) or this section shall be exempt from those requirements. For purposes of this exemption, Village approval may be by a permit or plan approval under chapter 38, article IV, or the Village zoning ordinance.

(d) No person shall deposit, store or allow the deposit or storage of noxious weeds, grass or weed clippings, tree branches, leaves or cut dead plants of any nature on any property:

(1) Without the written permission of the owner of the property;

(2) In a manner that violates other applicable laws or Village ordinances; or

(3) That creates or constitutes a nuisance or for a longer period than necessary to the lawful disposal of the materials.

(Code 1996, § 95.36; Ord. No. 7.01, 10-11-1971; Am. Ord. No. 7.12, 5-12-2008)

**Sec. 20-51. Notices and actions by Village.**

(a) On an annual basis in March, the Commissioner may cause a notice to be published in a newspaper of general circulation in the Village that noxious weeds existing on a property as of May 1 of that year may be cut, mowed, destroyed or removed by the Village, with the property

owner charged with the Village's actual and administrative costs and expenses in doing so, as many times that calendar year as necessary to keep the property free from noxious weeds. Such a notice shall also contain the information described in subsection (b) of this section.

(b) (1) The Commissioner shall provide written notice, based on the most recent tax assessment roll, to owners of property upon which noxious weeds exist, and to occupants and agents of owners of property, known to the Commissioner:

a. To cut, mow, destroy or remove the noxious weeds within five days of the date of the notice;

b. To thereafter maintain the property free from noxious weeds;

c. That, upon a failure or refusal to do so, the Commissioner, by Village employees or contractors, will enter upon the property and perform the required cutting, mowing, destruction or removal;

d. That payment of the Village's actual and administrative expenses incurred in cutting, mowing, destruction or removal is the responsibility of the property owners and is secured by a lien on the property;

e. That the existence of noxious weeds is a public nuisance; and

f. That describes methods of treating and eradicating noxious weeds and summarizing the requirements to do so.

(2) The notice under this subsection (b) shall be given by personal delivery, certified mail with return receipt requested or by posting on the property and first class mail unless the notice under subsection (a) of this section has been published, in which case the notice may be by first class mail only.

(c) If, at any time during the remainder of the calendar year commencing five days after the mailing of the notice under subsection (b) of this section, noxious weeds exist on a property, the Commissioner may cause the noxious weeds to be cut, mowed, destroyed or removed by Village employees or contractors as many times that calendar year as necessary to keep the property free from noxious weeds, and after each such cutting, mowing or removal shall bill the property owners for the Village's expenses incurred consisting of actual costs and expenses and a 30 percent administrative fee on those expenses. If Village employees perform cutting, mowing or removal work, the actual cost shall be based on the involved employees' total hourly costs to the Village (wages and benefits) and the rental rate at the closest equipment rental store for the equipment used by the Village in performing the work. No additional notices shall be required to be given prior to such actions unless the Village has received written notice of a change in ownership by property transfer affidavit or otherwise. In that event, the Commissioner shall provide the new owner with a notice under subsection (b) of this section and wait the required five days before taking actions under this subsection.

(d) The Commissioner's bill for Village expenses shall be paid within 30 days, after which a penalty of one percent per month shall be added and due on any unpaid balance. Payment of all expenses and penalties shall be secured by a lien on the property as of the date the Village first performed work and if not paid within the time required, may be placed on the tax roll for collection in the same manner as delinquent special assessments under the Village Charter.
(Code 1996, § 95.37; Ord. No. 7.01, 10-11-1971; Am. Ord. No. 7.12, 5-12-2008)

**Sec. 20-52. Fines, orders and recovery of expenses by Village.**

A person that fails to remove, cut or mow noxious weeds as required in this article is responsible for a municipal civil infraction, the fine for which shall be $100.00 or such greater amount as may be authorized by law, for each failure that results in the Commissioner having the required work performed. In addition, the court judgment, writ or order against a person determined to be responsible for a violation of this article may include an order for payment of damages to the Village for all unpaid expenses and penalties for noxious weed cutting, mowing or removal, interest and attorney fees incurred in enforcement.
(Code 1996, § 95.38; Ord. No. 7.01, 10-11-1971; Am. Ord. No. 7.12, 5-12-2008)

**Sec. 20-53. Commissioner authority and procedures.**

In administering and enforcing the noxious weeds regulations in this article, the Commissioner shall have the same rights and authority to declare nuisances, file complaints, certify charges for collection on the tax roll, condemn and post properties, enter upon properties and to designate sworn Village police or ordinance officers to assist the Commissioner as are granted to the Health Officer in sections 20-21 through 20-25.
(Code 1996, § 95.39; Ord. No. 7.01, 10-11-1971; Am. Ord. No. 7.12, 5-12-2008)

**Sec. 20-54. Violations.**

(a) Any person, firm or corporation determined to have been in violation of the provisions of this article shall be responsible for a municipal civil infraction and subject to the provisions of section 1-18(1)b. Nothing in this subsection should be construed as to prevent the Village pursuing an action to abate the nuisance pursuant to section 20-30.

(b) The owner of any dwelling or any building or structure upon the same lot with a dwelling or the owner of any lot, either improved or unimproved, where a nuisance exists shall be guilty of a violation of this article, and any person who shall violate or assist in violating any provisions of this article shall also jointly and severally for each such violation of each such nuisance be subject to the penalty of this article.
(Code 1996, § 95.98; Ord. No. 7.01, 10-11-1971; Am. Ord. No. A-3, 1-13-1997)

Chapter 21

**RESERVED**

Chapter 22

# OFFENSES

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## ARTICLE I. IN GENERAL

### Sec. 22-1. Definitions.

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

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

### Sec. 22-2. Loitering near place of illegal occupation or business.

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

**State law reference—**Such person deemed a disorderly person, MCL 750.167(1)(j).

### Sec. 22-3. Window peeping.

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

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

### Sec. 22-4. Skateboarding, bicycling and electric personal assistive mobility devices.

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

*Bicycle* means a device propelled by human power upon which a person may ride, having either two or three wheels in a tandem or tricycle arrangement, all of which are over 14 inches in diameter.

*Central business district* means that area bounded by and including the east sidewalk of Woodward, north to the north sidewalk of Oakland Avenue, west to the north sidewalk of Willits Avenue, west to the west sidewalk of Chester to the north sidewalk of Maple to the west sidewalk of Southfield Road, south to the south sidewalk of Merrill Street, east to the west sidewalk of Bates Street, south to the south sidewalk of Townsend Street, east to the west sidewalk of Henrietta, south to the south sidewalk of Brown Street, east to the east sidewalk of Woodward. (See Exhibit A on file in the office of the Village Clerk.)

*Electric bicycle* means a device upon which an individual may ride that satisfies all of the following:

(1) The device is equipped with all of the following:

a. A seat or saddle for use by the rider.

b. Fully operable pedals for human propulsion.

c. An electric motor of not greater than 750 watts.

(2) The device falls within one of the following categories:

a. *Class 1 electric bicycle.* The term "Class 1 electric bicycle" means an electric bicycle that is equipped with an electric motor that provides assistance only when the rider is pedaling and that disengages or ceases to function when the electric bicycle reaches a speed of 20 miles per hour.

b. *Class 2 electric bicycle.* The term "Class 2 electric bicycle" means an electric bicycle that is equipped with a motor that propels the electric bicycle to a speed of no more than 20 miles per hour, whether the rider is pedaling or not, and that disengages or ceases to function when the brakes are applied.

c. *Class 3 electric bicycle.* The term "Class 3 electric bicycle" means an electric bicycle that is equipped with a motor that provides assistance only when the rider is pedaling and that disengages or ceases to function when the electric bicycle reaches a speed of 28 miles per hour.

*Electric personal assistive mobility device* means a self-balancing nontandem two-wheeled device, designed to transport only one person at a time, having an electrical propulsion system with average power of 750 watts or one horsepower and a maximum speed on a paved level surface of not more than 15 miles per hour.

*Electric skateboard* means a wheeled device that has a floorboard designed to be stood upon when riding that is no more than 60 inches long and 18 inches wide, is designed to transport only one person at a time, has an electrical propulsion system with power of no more than 2,500 watts, and has a maximum speed on a paved level surface of not more than 25 miles per hour. An electric skateboard may have handlebars and, in addition to having an electrical propulsion system with power of no more than 2,500 watts, may be designed to also be powered by human propulsion.

*Parking structure* means any public structure designed for the parking of motor vehicles.

*Pedestrian* means a person on foot or on skateboard, excluding a person on foot walking a bicycle or moped.

*Plaza* means that open space area between the main entrance to a building and the street.

*Sidewalk* means that portion of a highway designed or ordinarily used for pedestrian travel.

*Skateboard* means a single platform mounted on wheels, which is propelled solely by human power and which has no mechanism or other device with which to steer or to control the movement or direction of the platform.

(b) *Prohibitive.*

(1) Skateboarding, bicycling and use of any electric personal assistive mobility device shall be prohibited upon any sidewalk in the central business district, on the Village Hall plaza, on the library plaza or in any parking structure.

(2) Notwithstanding their status as pedestrians, operators on sidewalks shall yield the right-of-way to all vehicular and to all other pedestrian traffic upon the sidewalk.

(3) No person upon roller skates, riding in or by means of any coaster, toy vehicle, or similar device, shall go upon any roadway except while crossing a street on a crosswalk and when so crossing, such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. No person shall use, or ride on or in, any device described in this section on or in any Village-owned public parking facility.

(4) A person who violates this section is responsible for a civil infraction with a $100.00 fine.

(5) In addition to any penalty prescribed in subsection (b)(4) of this section, a police officer or other law enforcement agent may confiscate the skateboard and obtain the person's name, address, telephone number and age. A skateboard confiscated under this subsection shall be returned to persons 17 years of age or older, not earlier than 24 hours after the violation, upon their appearance at the Village Police Department and the execution of a declaration of ownership. Skateboards confiscated from those persons under the age of 17 years shall be returned, not earlier than 24 hours after the violation, to the person's parent or guardian upon their appearance at the Village Police Department and the execution of a declaration of ownership. If a skateboard is confiscated under this subsection from a person other than the owner of the skateboard, the skateboard shall be returned, not earlier than 24 hours after the violation, to the owner or the parent or guardian of the owner, if the owner is under 17 years of age, upon the appearance of the owner or the parent or guardian of the owner at the Village Police Department and the execution of a declaration of ownership.

(c) *Disability or medical-use exception.* This section of the Code does not apply to wheelchairs or other devices used to aid persons with disabilities or medical assistance.

(d) *Exhibit incorporated by reference.* The exhibit referred to in this section is not set out at length herein, but is on file in the office of the Village Clerk.

**Sec. 22-5. In-line skating.**

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

*In-line skates* means skates propelled solely by human power by means of wheels which are attached in a straight line to the bottom of the boots of the skates.

*Parking structure* means any public structure designed for the parking of motor vehicles.

*Pedestrian* means a person on foot, on in-line skates or on a skateboard, excluding a person on foot walking a bicycle or moped.

*Sidewalk elevation* means the line, grade, slope and specifications established by the Village Engineer for the construction or repair of any sidewalk.

(b) Notwithstanding their status as pedestrians, in-line skaters operating on sidewalks shall yield the right-of-way to all vehicular traffic and to all other pedestrian (non-in-line skating) traffic upon the sidewalk.

(c) In-line skating shall be prohibited on any surface that deviates from the adjacent sidewalk elevation, including, but not limited to, ramps, steps, retention walls, handrails, planters, curb or gutter edges, barriers and barricades, benches and picnic tables, monument or sculpture surfaces located on all property owned or operated by the Village.

(d) In-line skating shall be prohibited in all parking decks and inside all buildings owned or operated by the Village.

(e) Any person in-line skating on any sidewalk, street or other place open to the general public, including any area designated for the parking of vehicles, in a careless or negligent manner, likely to endanger any person or property shall be in violation of this section.

(f) A violation of this section is a civil infraction subject to a fine of not more than $25.00 for the first offense, $50.00 for the second offense, and $100.00 for the third offense and each offense thereafter committed.

**Sec. 22-6. Leisure activity pass fraud.**

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

*Leisure activity pass* means a photo identification card issued by the Department of Engineering and Public Services to qualified applicants upon payment of an annual fee which varies according to whether the applicant is a resident or employee of the Village, a nonresident owning real property within the Village, a nonresident owning a business within the Village, a

nonresident working in the Village as an employee of a business residing in the Village, or a nonresident of the Village not working or owning real property within the Village, which evidences membership to, and permits the holder to use, the two municipal golf courses, Springdale and Lincoln Hills, for themselves and up to three guests on each use of the pass. The pass also entitles residents, Village employees and persons who own real property within the Village to use the Village ice sports arena at reduced rates and to reserve other Village recreation facilities, or utilize other programs.

(b) No person shall, for the purpose of obtaining a leisure activity pass as a resident of the Village, intentionally present a state driver's license displaying a false or fictitious address or an address which is not the current address of the person attempting to obtain a leisure activity pass.

(c) No person shall, for the purpose of obtaining a leisure activity pass as the owner of a business within the Village, falsely represent oneself to be the owner of a business in the Village or present any false or fictitious documentation of such business ownership.

(d) No person shall, for the purpose of obtaining a leisure activity pass as a nonresident working primarily in the Village for a business residing in the Village, falsely represent oneself as such or present any false or fictitious documentation of such employment status.

(e) No person shall, for the purpose of obtaining a leisure activity pass as a nonresident owning real property within the Village, falsely represent oneself to be the owner of real property within the Village or present any false or fictitious documentation of such ownership.

(f) No person shall, for the purpose of assisting another person to obtain a leisure activity pass, falsely represent or present any false or fictitious documentation regarding the eligibility of the person attempting to obtain a leisure activity pass.

(g) Any leisure activity pass issued in violation of this section shall be null and void.

(h) A violation of this section shall be a misdemeanor punishable as set forth in section 1-18.

**Sec. 22-7. Assignment to status of youthful trainee; exceptions.**

(a) If an individual pleads guilty to a criminal offense, committed on or after the individual's 17th birthday but before his or her 21st birthday, the court of record having jurisdiction of the criminal offense may, without entering a judgment of conviction and with the consent of that individual, consider and assign that individual to the status of youthful trainee. This section of youthful trainee statutes does not apply to traffic offenses pursuant to the Michigan Motor Vehicle Code, the Uniform Traffic Code, or like local ordinance.

(b) The court shall not assign an individual to the status of youthful trainee if any of the following apply:

(1) The individual was previously convicted of or adjudicated for a listed offense for which registration is required under the sex offenders registration act, 1994 Public Act No. 295, MCL 28.721 to 28.732.

(2) The individual has previously received the youthful trainee status in a prior case, whether under this section or any similar provision under the laws of the state or another local unit of government.

**Sec. 22-8. First time offender deferral of conviction status.**

(a) If an individual pleads guilty to a criminal offense under this Code, and that individual has not previously been convicted of a criminal offense of any law of this Code, the United States, any state, or any ordinance of another local unit of government, that individual may be eligible for deferral of conviction under this section. Individuals who have already received a dismissal of a criminal offense, or who are eligible for dismissal under section 22-7 or 22-505, are not eligible for dismissal under this section. The court shall contact the department of state police and determine whether the individual has been previously convicted of a crime or has previously obtained dismissal of a charge under any law, statute or ordinance.

(b) When an individual pleads guilty to an offense under this Code, the court, without entering a judgment of guilt, and with the consent of the accused and the Village's prosecuting attorney, may defer further proceedings and place the individual on probation upon terms which may include, but are not limited to, payment of a probation supervision program, community service, fines and costs, educational programs, and alcohol or drug treatment programs as the court deems appropriate.

(c) Upon violation of a term or condition of probation, the court shall enter an adjudication of guilt and proceed as otherwise deemed appropriate by the court. Upon fulfillment of terms and conditions of probation, the court shall discharge the individual and dismiss the proceedings. Discharge and dismissal under this section shall be without adjudication of guilt.

(d) This section does not apply to traffic offenses under the Michigan Motor Vehicle Code, the Uniform Traffic Code or similar local ordinance.

(e) The records and identifications division of the department of state police shall retain a nonpublic record of an arrest and discharge or dismissal under this section. This record shall be furnished to any or all of the following:

(1) To a court, police agency, or prosecuting attorney upon request for the purpose of showing that a defendant in a criminal action has already once utilized this section or any other law, statute or ordinance for a dismissal of a criminal offense.

(2) To a court, police agency, or prosecuting attorney upon request for the purpose of determining whether the defendant in a subsequent criminal action is eligible for discharge and dismissal of proceedings.

**Secs. 22-9—22-34. Reserved.**

## ARTICLE II. OFFENSES AFFECTING GOVERNMENTAL FUNCTIONS

### Sec. 22-35. Hindering officers and employees.

No person shall hinder, resist or oppose any Village officer or employee, including police officers and firefighters, in the performance of their duties.

**State law reference—**Obstruction of police officer, MCL 750.479.

### Sec. 22-36. Resisting officer.

It shall be unlawful for any person to resist any police officer or other law enforcement agent while in the discharge or apparent discharge of his duty, or in any way interfere with or hinder him in the discharge of his duty.

**State law reference—**Resisting officer in discharge of duty, MCL 750.479.

### Sec. 22-37. Impersonation of officers.

It shall be unlawful for any person to falsely assume or pretend to be an employee of the Village, an employee of the county, an employee of the state, or an employee of any public utility for the purpose of gaining entry into any home or business located in the Village.

**State law reference—**False personation of officers, MCL 750.215.

### Sec. 22-38. Obstructing, disobeying firefighters.

It shall be unlawful for any person within the Village to knowingly and willfully hinder, obstruct or interfere with any firefighter in the performance of his duties or to, while in the vicinity of any fire, willfully disobey and/or disregard any order, rule or regulation of the officer commanding any fire department at such fire.

### Sec. 22-39. False alarm of fire.

Any person who shall knowingly and willfully commit any one or more of the following actions shall be guilty of a misdemeanor:

(1) Raise a false alarm of fire at any gathering or in any public place.

(2) Ring any bell or operate any mechanical apparatus, electrical apparatus or combination thereof, for the purpose of creating a false alarm of fire.

(3) Raise a false alarm of fire orally, by telephone or in person.

**State law reference—**Similar provisions, MCL 750.240.

**Sec. 22-40. Alarm systems.**

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

*Alarm notification form* means a form to be designed at the direction of the police chief and used as required under this section.

*Alarm system* means a device or assembly of equipment and devices arranged to signal the presence of a hazard requiring urgent attention and to which police officers are expected, directly or indirectly, to respond. In this section, the term "alarm system" shall include, but is not limited to, the terms "automatic holdup alarm system," "burglar alarm system," "intrusion alarm system," "(holdup) alarm system," and "manual holdup alarm system."

*Alarm user* means any person on whose premises an alarm system is maintained within the Village, except for alarm systems on motor vehicles. If, however, an alarm system on a motor vehicle is connected with an alarm system at a premises, the person using such system is an alarm user. Excluded from the definition of the term "alarm user" are persons who use alarm systems to alert or signal persons within the premises in which the alarm is located of an attempted unauthorized intrusion or holdup attempt. If such a system, however, employs an audible signal emitting sounds or flashing lights or beacons designed to signal persons outside the premises, such system shall be within the definition of the term "alarm system" and shall be subject to this section.

*False alarm* means any activation of an alarm system which is registered at the police department or elsewhere, which is not the result of a criminal activity which it was designed to indicate.

(b) *Audible alarms.* No person shall own or operate an audio alarm system which emits a sound alarm for a period longer than 15 minutes from the time of the initial sounding of the device.

(c) *False alarm fees.* The owner of property on which an alarm system is located shall pay to the Village a false alarm fee to defray a portion of the cost of response to false alarms if the alarm system signals two or more false alarms within one calendar year. Such fee shall be set forth in the schedule of fees, charges, bonds and insurance. Such payment shall be required notwithstanding any penalties imposed on conviction of a violation of this section, and regardless of whether prosecution for a violation of this section has been commenced.

(1) *Payment due.*

a. Payment of the false alarm fee shall be due within 30 days after the date that the Village mails written notice of the false alarm and the fee therefor to the address where the alarm system is located.

b. Payment shall be due to the Village within 30 days of the bill being sent to the property owner for the performance of such services. The bill shall notify the property owner of his or her right to dispute all or any part of the bill before a hearing officer, as established in this Code, prior to the due date of the bill. Except as otherwise determined by the hearing officer, if payment is not received by the Village within 30 days after such billing, the Village Finance Director/Treasurer shall add an additional penalty of one percent per month to the delinquent bill.

(2) *Fees, lien.* The fees for false alarms are a lien on the premises immediately upon the occurrence of two or more false alarms within one calendar year.

(3) *Failure to pay fee.* If the false alarm fee is not paid within the time specified in subsection (c)(1) of this section, the Finance Director/Treasurer shall annually, on May 1, certify any delinquent false alarm fee, or any part thereof, together with all accrued interest and penalty, to the commission; and it shall be transferred and reassessed, with an additional 15 percent penalty, on the next annual Village tax roll. Such charges so assessed shall be collected in the same manner as general Village taxes.

(d) *Exceptions to alarm fees.* Alarms resulting from alarm system malfunctions, if corrective measures have been instituted within a 96-hour period following the false alarm with notification to the Police Department, will not constitute a false alarm provided that the alarm user presents documentation of repair service having been performed by the alarm company to remedy a malfunction.

(1) Where the Police Department has been previously notified, alarm conditions activated by a person working on the alarm system shall not constitute a false alarm within the meaning of this section.

(2) Any alarm activated by severe weather or other violent conditions, or alarms activated by the disruption or disturbance of telephone or other communication systems shall not constitute a false alarm.

(e) *Alarm notification form.*

(1) The Police Department shall mail an alarm notification form to the alarm user of any alarm system signaling a false alarm indicating therein the appropriate warning or fee prescribed by this section.

(2) Within ten days of the date of receipt of the alarm notification form, the alarm user shall return the completed form to the Police Department.

(f) *Request for exception.* Within ten working days of the receipt of an alarm notification form, an alarm user wishing to qualify for an exception described in subsection (d) of this section may do so by a written request. The request to the Police Department shall contain

documentation of the circumstances involved. Within ten days of the receipt of the waiver request, the Police Chief or his designee shall make a determination on the waiver request and shall notify the alarm user of the decision in writing.

(g) *Excessive alarms.* Any alarm system which signals more than three alarms within one consecutive 12-month period shall be deemed to constitute a public nuisance and such alarms in excess of three within such period shall constitute excessive alarms subject to corrective action as set forth in subsection (h) of this section.

(h) *Corrective action.* The Village Manager may institute a corrective action in the event excessive false alarms are signaled by any alarm system. Such corrective action may include one or more of the remedies enumerated in this chapter, institution of ordinance violation proceedings, imposition and collection of user fees by billing and/or by institution of civil action, and institution of civil proceedings for court-ordered abatement of nuisances. All remedies shall be cumulative.

**Sec. 22-41. Automatic dialing devices.**

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

*Telephone number* includes any additional numbers assigned by a public utility company engaged in the business of providing communications services and facilities to be used by means of a rotary or other system to connect with the subscriber to such primary number when the primary telephone number is in use.

(b) No person engaged in the business of providing communications services and facilities shall use or operate, attempt to use or operate or cause to be used or operated, or arrange, adjust, program or otherwise provide or install any device or combination of devices that will, upon activation, either mechanically, electronically or by other automatic means, initiate the intrastate calling, dialing or connection to any telephone number assigned to any subscriber by a public telephone company without the prior written consent of such subscriber.

**Sec. 22-42. False police reports.**

It shall be unlawful for any person to willfully make any false, misleading or unfounded report to any police officer or other law enforcement agent for any purpose which shall interfere or mislead any police officer or law enforcement agent in the performance of their duties.

**Sec. 22-43. Treatment of police dog or police horse.**

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

*Physical harm* means any injury to a dog's or horse's physical condition.

*Police dog* means a dog used by a law enforcement agency of the state or of a local unit of government of the state that is trained for law enforcement work.

*Police horse* means a horse used by a law enforcement agency of the state or of a local unit of government of the state for law enforcement work.

(b) It shall be unlawful for any person to intentionally cause physical harm to a police dog or police horse, or to willfully tease, taunt, torment, strike, kick, mutilate, disable, or otherwise injure, kill, or interfere or meddle with any police dog or police horse.

(c) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law committed by that individual while violating this section.

**Sec. 22-44. Person informed of criminal investigation by peace officer; prohibited conduct; violation; penalty; exception; definitions.**

(a) Except as provided in this section, a person who is informed by a peace officer that he or she is conducting a criminal investigation shall not do any of the following:

(1) By any trick, scheme, or device, knowingly and willfully conceal from the peace officer any material fact relating to the criminal investigation.

(2) Knowingly and willfully make any statement to the peace officer that the person knows is false or misleading regarding a material fact in that criminal investigation.

(3) Knowingly and willfully issue or otherwise provide any writing or document to the peace officer that the person knows is false or misleading regarding a material fact in that criminal investigation.

(b) A person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 93 days or a fine of not more than $500.00.

(c) This section does not apply to either of the following:

(1) Any statement made or action taken by an alleged victim of the crime being investigated by the peace officer, where the person who was acting under duress or out of a reasonable fear of physical harm to himself or herself or another person.

(2) A person who was acting under duress or out of a reasonable fear of physical harm to himself or herself or another person from a spouse or former spouse, a person with whom he or she has or has had a dating relationship, a person with whom he or she has had a child in common, or a resident or former resident of his or her household.

(d) This section does not prohibit a person from doing either of the following:

(1) Invoking the person's rights under the Fifth Amendment of the Constitution of the United States or section 17 of article I of the State Constitution of 1963.

(2) Declining to speak to or otherwise communicate with a peace officer concerning the criminal investigation.

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

*Dating relationship* means frequent, intimate associations primarily characterized by the expectation of affectional involvement. The term "dating relationship" does not include a casual relationship or an ordinary fraternization between two persons in a business or social context.

*Peace officer* means any of the following:

(1) A sheriff or deputy sheriff of a county of the state.

(2) An officer of the police department of a city, village, or township of the state.

(3) A marshal of a city, village, or township of the state.

(4) A constable of any local unit of government of the state.

(5) An officer of the state police.

(6) A motor carrier officer appointed under section 6d of Public Act No. 59 of 1935, MCL 28.6d.

**Secs. 22-45—22-61. Reserved.**

## ARTICLE III. OFFENSES AGAINST THE PERSON

### Sec. 22-62. Assault and battery.

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

(b) Any person who assaults or assaults and batters his or her own spouse or former spouse, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(c) A police officer may arrest a person for violating subsection (b) of this section regardless of whether the police officer has a warrant or whether the violation was committed in his or her presence, if the police officer has reasonable cause to believe both of the following:

(1) The violation has occurred or is occurring.

(2) The person has had a child in common with the victim, resides or has resided in the same household as the victim, or is the spouse or former spouse of the victim.

(d) When an individual who has not been convicted previously of an assaultive crime pleads guilty to a violation of subsection (b) of this section and the victim of the assault is the offender's spouse or former spouse, an individual who has had a child in common with the offender, or an individual residing or having resided in the same household as the offender, the court, without entering a judgment of guilt and with the consent of the accused and of the prosecuting attorney in consultation with the victim, may defer further proceedings and place the accused on probation as provided in this section. However, before deferring proceedings under this subsection, the court shall contact the department of state police and determine whether, according to the records of the department of state police, the accused has previously been convicted of an assaultive crime or has previously availed himself or herself of this subsection, MCL 769.4a, or similar local ordinance. If the search of the records reveals an arrest for an assaultive crime but no disposition, the court shall contact the arresting agency and the court that had jurisdiction over the violation to determine the disposition of that arrest for purposes of this subsection.

(1) Upon a violation of a term or condition of probation, the court may enter an adjudication of guilt and proceed as otherwise determined by the court.

(2) An order of probation entered under this subsection may include any condition of probation authorized under section 3 of chapter XI of the Code of Criminal Procedure, Public Act No. 175 of 1927, MCL 771.3, including, but not limited to, requiring the accused to participate in a mandatory counseling program. The court may order the accused to pay the reasonable costs of the mandatory counseling program. The court also may order the accused to participate in a drug treatment program, or may order the defendant to be imprisoned for not more than 93 days at the time or intervals, which may be consecutive or nonconsecutive and within the period of probation, as the court determines.

(3) The court shall enter an adjudication of guilt and proceed as otherwise provided in this subsection if any of the following circumstances exist:

a. The accused commits a crime during the period of probation.

b. The accused violates an order of the court.

c. The accused violates an order of the court that he or she have no contact with a named individual.

(4) Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against the person. Discharge and dismissal under this subsection shall be without adjudication of guilt and is not a conviction for purposes of this subsection or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(5) There may be only one discharge and dismissal under this subsection with respect to any individual. The department of state police shall retain a nonpublic record of an

arrest and discharge and dismissal under this subsection. This record shall be furnished to a court or police agency upon request pursuant to this subsection or to an office of prosecuting attorney for the purpose of showing that a defendant in a criminal action under this subsection has already once availed himself or herself of these provisions or for the purpose of determining whether the defendant in a criminal action is eligible for discharge and dismissal of proceedings.

**State law reference—**Similar provisions, MCL 750.81.

**Sec. 22-63. Insulting, accosting, etc., others in public.**

No person shall insult, accost, molest or otherwise annoy, either by word of mouth, sign or motion, any person in any public place.

**Sec. 22-64. Malicious annoyance by writing.**

It shall be unlawful for any person within the Village to knowingly send or deliver, or to make, for the purpose of being delivered, or sent, or part with the possession of any letter, postal card or writing containing any obscene language with or without a name subscribed thereto, or signed with a fictitious name, or with any letter, mark or other designation with the intent thereby to cause annoyance to any person within the Village or with a view or intent to extort or gain any money or property of any description belonging to another.

**State law reference—**Similar provisions, MCL 750.390.

**Sec. 22-65. Malicious acts by telephone.**

(a) Any person is guilty of a misdemeanor who maliciously uses any service provided by a communications common carrier with intent to terrorize, frighten, intimidate, threaten, harass, molest or annoy any other person, or to disturb the peace and quiet of any other person by any of the following:

(1) Threatening physical harm or damage to any person or property in the course of a telephone conversation.

(2) Falsely and deliberately reporting by telephone or telegraph message that any person has been injured, has suddenly taken ill, has suffered death, or has been the victim of a crime, or of an accident.

(3) Deliberately refusing or failing to disengage a connection between a telephone and another telephone or between a telephone and other equipment provided for the transmission of messages by telephone, thereby interfering with any communications service.

(4) Using any vulgar, indecent, obscene or offensive language or suggesting any lewd or lascivious act in the course of a telephone conversation.

(5) Telephoning any person repeatedly or cause the same to be done for the primary purpose of harassing such other person or his family, whether or not conversation ensues.

(b) An offense under this section shall be committed if the telephone call either originates or terminates, or both originates and terminates within the Village.

**State law reference—**Similar provisions, MCL 750.540e.

**Sec. 22-66. Nonsupport of family.**

It shall be unlawful for any person of sufficient ability within the Village to refuse or neglect to support his family.

**State law references—**Desertion and nonsupport, MCL 750.161; person neglecting family deemed a disorderly person, MCL 750.167(1)(a).

**Secs. 22-67—22-90. Reserved.**

## ARTICLE IV. OFFENSES AGAINST PROPERTY

### DIVISION 1. GENERALLY

**Sec. 22-91. Theft; prosecution; jurisdiction.**

(a) Any conduct prohibited in this division and division 2 of this article may be prosecuted for any of the following:

(1) If the offense occurred within the borders and limits of the Village.

(2) Where the information used to commit the crime was used within the borders and limits of the Village.

(3) If the victim resides in the Village.

(b) Jurisdiction described under subsection (a) of this section applies to conduct prohibited under one or more of the following laws, and conduct that is done in furtherance of, or arising from, the same transaction as conduct prohibited under one or more of the following laws:

(1) The identity theft protection act, Public Act No. 452 of 2004, MCL 445.61 through 445.79(c).

(2) MCL 257.310 and 257.903 of the Michigan Vehicle Code.

(3) Each and every crime from division 2 of this article.

**Secs. 22-92—22-110. Reserved.**

## DIVISION 2. THEFT

### Sec. 22-111. Larceny of goods valued up to $200.00.

It shall be unlawful for any person within the Village to steal or unlawfully take any money, goods, chattels or property of any other person of the value of $200.00 or less.

**State law reference—**Similar provisions, MCL 750.356.

### Sec. 22-112. Unauthorized entry onto property.

(a) No person shall break and enter, or enter without breaking, any dwelling, house, tent, hotel, office, store, shop, warehouse, barn, granary, factory or other building, automobile, camper, motor home, boat, ship, railroad car or structure used or kept for public or private use, or any private apartment therein, or any cottage, clubhouse, boathouse, hunting or fishing lodge, garage or the outbuildings belonging thereto, or any other structure, whether occupied or unoccupied, without first obtaining permission to enter from the owner or occupant, agent, or person having immediate control thereof. Such person shall be guilty of a misdemeanor, provided that this section shall not apply to entering without breaking into any place which, at the time of such entry, was open to the public, unless such entry has been expressly denied.

(b) This section shall not apply in cases where the breaking and entering without breaking was committed by a peace officer or someone under his direction in the lawful performance of his duties as such peace officer.

(c) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $100.00, or both.

### Sec. 22-113. Larceny from vacant buildings.

It shall be unlawful for any person within the Village to steal or unlawfully remove or in any manner damage any fixture, attachment, or other property belonging to, connected with, or used in the construction of any vacant structure or building, whether built or in the process of construction, or to break into any vacant structure or building with the intention of unlawfully removing, taking therefrom, or in any manner damaging any fixture, attachment or other property belonging to, connected with, or used in the construction of such vacant structure or building, whether built or in the process of construction.

**State law reference—**Similar provisions, MCL 750.359.

### Sec. 22-114. Larceny from public libraries.

It shall be unlawful for any person within the Village to procure or take in any way from the public library in the Village any book, pamphlet, map, chart, painting, picture, photograph, periodical, newspaper, magazine, manuscript or exhibit or any part thereof, with intent to convert the same to his own use.

**State law reference—**Similar provisions, MCL 750.364.

**Sec. 22-115. Bad checks.**

Any person who, with intent to defraud, shall make or draw or utter or deliver within the Village any check, draft or order for the payment of money, to apply on account or otherwise, upon any bank or other depository, knowing at the time of such making, drawing, uttering or delivering that the maker, or drawer, has not sufficient funds in or credit with such bank or other depository for the payment of such check, draft or order, in full, upon its presentation, or any person who, with the intent to defraud, shall make, draw, utter or deliver within the Village any check, draft or order for the payment of money to apply on account or otherwise upon any bank or other depository and who shall not have sufficient funds for the payment for same when presentation for payment is made to the drawee, except where such lack of funds is due to garnishment, attachment, levy or other lawful cause, and such fact was not known to the person who made, drew, uttered or delivered the instrument at the time of so doing, shall, if the amount payable in the check is $100.00 or less, be guilty of a misdemeanor punishable, for a first offense, by a fine of not more than $500.00 and/or imprisonment for up to 93 days.

**State law reference—**Similar provisions, MCL 750.131.

**Sec. 22-116. Receiving, concealing, stolen, etc., property.**

(a) A person who buys, receives, possesses, conceals, or aids in the concealment of stolen, embezzled, or converted money, goods, or property knowing the money, goods, or property to be stolen, embezzled or converted is guilty of a misdemeanor, if the value of the stolen, embezzled, or converted money, goods, or property is $200.00 or less.

(b) A person who is a dealer in or collector of merchandise or personal property, or the agent, employee, or representative of a dealer or collector who fails to make reasonable inquiry that the person selling or delivering the stolen, embezzled, or converted property to the dealer or collector has a legal right to do so or who buys or receives stolen, embezzled, or converted property which has a registration, serial, or other identifying number altered or obliterated on an external surface of the property, shall be presumed to have bought or received the property knowing the property to be stolen, embezzled, or converted. This presumption may be rebutted by proof.

**State law reference—**Similar provisions, MCL 750.535.

**Sec. 22-117. Retail fraud.**

It shall be unlawful for any person to do any of the following in a store or in its immediate vicinity:

(1) While a store is open to the public, alter, transfer, remove and replace, conceal, or otherwise misrepresent the price at which property is offered for sale, with the intent not to pay for the property or to pay less than the price at which the property is offered for sale.

(2) While a store is open to the public, steal property of the store that is offered for sale.

(3) With intent to defraud, obtain or attempt to obtain money or property from the store as a refund or exchange for property that was not paid for and belongs to the store.

**Sec. 22-118. False pretenses with intent to defraud.**

No person shall, with the intent to defraud or cheat, use any false pretenses to cause any person to grant, convey or provide any money, personal property, service or other valuable thing with the value of $200.00 or less. As used in this section, the term "person" includes any person, partnership, corporation or association.

**Sec. 22-119. Defrauding of hotel, motel, inn, restaurant, café, boardinghouse keepers, parking lots and parking structures.**

(a) Any person who shall stop, stay, put up, board or lodge at any boardinghouse, hotel, motel, inn, restaurant or cafe as a guest and shall procure any food, entertainment or accommodation without paying therefor, except when credit is given therefor by express agreement, with intent to defraud such keeper thereof out of the pay for the same, or who intends to defraud such keeper out of the pay for the same, is guilty of a misdemeanor.

(b) Any person who shall park in any Village-owned and Village-operated lot or structure or privately owned lot or structure, and exits without paying therefor, except when credit is given by express agreement, with the intent to defraud the Village or owner of said lot, out of the parking costs for the same, is guilty of a misdemeanor.

**Sec. 22-120. Embezzlement by agent, servant or employee, or trustee, bailee, or custodian; penalty; prima facie proof of intent; enhanced sentence based on prior convictions; consecutive sentence; conditions.**

(a) A person who, as the agent, servant, or employee of another person or other legal entity or who, as the trustee, bailee, or custodian of the property of another person, or other legal entity, fraudulently disposes of or converts to his or her own use, or takes or secretes with the intent to convert to his or her own use without the consent of his or her principal, any money or other personal property of his or her principal that has come to that person's possession or that is under his or her charge or control by virtue of his or her being an agent, servant, employee, trustee, bailee, or custodian, is guilty of embezzlement.

(b) If the money or personal property embezzled has a value of less than $200.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00.

**Sec. 22-121. Illegal use of state personal identification card.**

(a) No person shall intentionally reproduce, alter, counterfeit, forge, or duplicate an official state personal identification card photograph, the negative of the photograph, an official state personal identification card image, an official state personal identification card, or the electronic data contained on an official state personal identification card or a part of an official state personal identification card or who uses an official state personal identification card, image, or photograph that has been reproduced, altered, counterfeited, forged, or duplicated.

(b) No person shall possess with the intent to deliver to another a reproduced, altered, counterfeited, forged, or duplicated official state personal identification card photograph, negative of the photograph, official state personal identification card image, official state personal identification card, or electronic data contained on an official state personal identification card or part of an official state personal identification card.

(c) A person who is in possession of an altered, counterfeited, forged, or duplicated official state personal identification card photograph, negative of the photograph, official state personal identification card image, official state personal identification card, or electronic data contained on an official state personal identification card or part of an official state personal identification card violates this section.

(d) No person shall steal, or without the cardholder's permission, knowingly take or knowingly remove an official state personal identification card from the person or possession of another. A person shall not use an official state personal identification card that is stolen or knowingly removed from the person or possession of another.

(e) Any person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or by a fine of not more than $500.00.

**Sec. 22-122. Definitions.**

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

*Credit account* means the account through which a business organization or financial institution allows a person or organization to obtain goods, property, services, or any other thing of value on credit.

*Credit card* means either of the following:

(1) Any instrument or device which is sold, issued, or otherwise distributed by a business organization or financial institution for the use of the person or organization identified on the instrument or device for obtaining goods, property, services, or anything of value on credit.

(2) An instrument or device which is issued or otherwise distributed by an organization for the use of the person identified on the instrument or device for obtaining health care services or goods or reimbursement or payment for health care services or goods. As used in this subsection, the term "organization" means any of the following:

a. A dental care corporation incorporated under Public Act No. 125 of 1963, being MCL 550.351 to 550.373.

b. A health care corporation incorporated under the nonprofit health care corporation reform act, Public Act No. 350 of 1980, being MCL 550.1101 to 550.1704.

c. A health maintenance organization licensed under article 17 of the Public Health Code, Public Act No. 368 of 1978, being MCL 333.20101 to 333.22181.

d. An insurer as defined in section 106 of the Insurance Code of 1956, Public Act No. 218 of 1956, being MCL 500.106.

e. A third party administrator operating under a certificate of authority issued by the Commissioner pursuant to the third-party administrator act, Public Act No. 218 of 1984, being MCL 550.901 to 550.962.

*Deposit account* includes share, deposit, member, and savings accounts of financial institutions.

*Device holder* means either of the following:

(1) The person or organization who requests a financial transaction device and to whom or for whose benefit a financial transaction device is subsequently issued.

(2) The person or organization to whom a financial transaction device was issued and who used or accepted a financial transaction device, whether the issuance of the financial transaction device was requested or not.

*Financial institution* means a bank, savings and loan association, or credit union, and includes a corporation wholly owned by a financial institution or by the holding company parent of a financial institution.

*Financial transaction device* means any of the following:

(1) An electronic funds transfer card.

(2) A credit card.

(3) A debit card.

(4) A point-of-sale card.

(5) Any instrument, device, card, plate, code, account number, personal identification number, or a record or copy of a code, account number, or personal identification number or other means of access to a credit account or deposit account, or a driver's

license or state identification card used to access a proprietary account, other than access originated solely by a paper instrument, that can be used alone or in conjunction with another access device, for any of the following purposes:

a. Obtaining money, cash refund or credit account, credit, goods, services, or any other thing of value.

b. Certifying or guaranteeing to a person or business the availability to the device holder of funds on deposit to honor a draft or check payable to the order of that person or business.

c. Providing the device holder access to a deposit account for the purpose of making deposits, withdrawing funds, transferring funds between deposit accounts, obtaining information pertaining to a deposit account, or making an electronic funds transfer as defined in section 3(4) of Public Act No. 322 of 1978, being MCL 488.3(4).

*Proprietary account* means the account which is maintained by a business organization in the name of an individual person or organization and through which the business organization allows the person or organization to obtain goods, property, services, or any other thing of value on credit.

**Sec. 22-123. Stealing, taking title, or removing financial transaction device; possession of fraudulent or altered financial transaction device.**

(a) No person shall knowingly take, or knowingly remove a financial transaction device from the person or possession of a device holder, or knowingly retain, possess, secrete, or use a financial transaction device without the consent of the device holder.

(b) No person shall knowingly possess a fraudulent or altered financial transaction device.

(c) No person shall have in his or her possession, or under his or her control, or receive from another person a financial transaction device with the intent to use, deliver, circulate, or sell the financial transaction device, or to permit, cause, or procure the financial transaction device to be used, delivered, circulated, or sold, or knowingly possess, control, receive, use, deliver, circulate, or sell without the consent of the device holder.

(d) No person shall deliver, circulate, or sell a financial transaction device which was obtained or held by that person under circumstances proscribed under subsection (a), (b), or (c) of this section, or use, permit, cause, or procure the financial transaction device to be used, delivered, circulated, or sold, knowing the device to have been obtained or held under circumstances proscribed under subsection (a), (b) or (c) of this section.

(e) No person shall, with intent to defraud, forge, materially alter, simulate, or counterfeit a financial transaction device.

(f) Any person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or by a fine of not more than $500.00.

**Sec. 22-124. Use of revoked or cancelled financial transaction device with intent to defraud.**

(a) No person shall, for the purpose of obtaining goods, property, services, or anything of value, knowingly and with intent to defraud use one or more financial transaction devices that have been revoked or cancelled by the issuer of the devices, as distinguished from expired, and has received notice of the revocation or cancellation.

(b) Any person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or by a fine of not more than $500.00.

**Sec. 22-125. Sales to or services performed for violators.**

(a) No person shall sell or deliver goods or property or anything of value, or render any service to any other person knowing that such other person has committed or is reasonably believed to have committed a theft, larceny, or any offense involving stolen property, in violation of state law including but not limited to MCL 750.535. It shall be unlawful to engage in commerce or provide aid that furthers the concealment, possession, sale, or disposition of any stolen, converted, or embezzled property.

(b) Any person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or by a fine of not more than $500.00.

**Sec. 22-126. Causing device holder to be charged or overcharged.**

(a) No person to whom a device holder presents a financial transaction device for the purpose of obtaining goods, property, services, or anything of value on credit, or for any purpose for which the device may be used, who, by using the financial transaction device, by forging or aiding in the forgery of the device holder's signature, or by filling out or completing an application or form to be furnished to the issuer of the financial transaction device, shall cause the device holder to be charged for a purchase or other transaction that was not authorized by the device holder, to be overcharged for a purchase or other transaction that was authorized by the device holder, or to otherwise incur a financial loss.

(b) Any person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or by a fine of not more than $500.00.

**Sec. 22-127. False statement of identity for purpose of procuring issuance of financial transaction device.**

(a) No person shall knowingly and with the intent to defraud, make or cause to be made, directly or indirectly, a false statement in writing regarding his or her identity or that of any other person for the purpose of procuring the issuance of a financial transaction device.

(b) Any person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or by a fine of not more than $500.00.

**Sec. 22-128. Fraudulent use of financial transaction device to withdraw or transfer funds in violation of contractual limitations.**

(a) No person shall knowingly, and with the intent to defraud, use a financial transaction device to withdraw or transfer funds from a deposit account in violation of the contractual limitations imposed on the amount or frequency of withdrawals or transfers or in an amount exceeding the funds then on deposit in the account.

(b) Any person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or by a fine of not more than $500.00."

**Sec. 22-129. Intent to defraud for services.**

(a) No person shall knowingly, and with the intent to commit an illegal act or to defraud, provide any other person's identity, such as their name, address, phone number, financial account numbers, financial transaction device or device numbers, date of birth, social security number or any other part of a person's identity, with the intent to cause another to provide to that person telephone services, utility services, insurance or insurance policies, or any other type of service regardless of financial loss or to use such identifying information to commit an illegal act.

(b) A violation of this section shall be punishable by a fine not exceeding $500.00, and/or a term of probation, and/or imprisonment for a term not to exceed 93 days.

**Secs. 22-130—22-156. Reserved.**

## DIVISION 3. DESTRUCTION OF PROPERTY

**Sec. 22-157. Malicious destruction of property generally.**

It shall be unlawful for any person within the Village to willfully and maliciously destroy or injure the real or personal property of another, or the appurtenances thereof, and where the damage done shall be $200.00 or less.

**State law reference—**Similar provisions, MCL 750.377a.

**Sec. 22-158. Malicious destruction of public property.**

It shall be unlawful for any person within the Village to maliciously destroy, damage, injure, mar or deface any building, monument, sign or structure or fence, tree, shrub, plant, park or public property of any kind which is owned, controlled, or managed by the state, county,

Village, any school district within the Village, or by any other unit or agency of government whose operating budget is raised in whole or in part by public taxation, or to commit any act of vandalism on or in any such property.

**Sec. 22-159. Tampering with utility appurtenances.**

It shall be unlawful to tamper with, injure, deface, destroy, or remove any sign, notice, marker, fire alarm box, fire hydrant, topographical survey instrument, water meter, water stop box or any other personal property erected or placed by the Village; or to make unauthorized taps into the water lines or any unauthorized use of fire hydrants.

**State law reference—**Tampering with property of utility, MCL 750.383a.

**Sec. 22-160. Tampering with motor vehicle.**

Any person shall be guilty of a violation of this Code who shall:

(1) Intentionally and without authority from the owner, start or cause to be started the motor of any motor vehicle, or maliciously shift or change the starting device or gears of a standing motor vehicle to a position other than that in which it was left by the owner or driver of the motor vehicle;

(2) Intentionally cut, mark, scratch or damage the chassis, running gear, body, sides, top, covering or upholstering of any motor vehicle or the property of another, or intentionally cut, mash, mark, destroy or damage such motor vehicle, or any of the accessories, equipment, appurtenances or attachments thereof, or any spare or extra parts thereon being or thereto attached, without the permission of the owner thereof; or

(3) Intentionally release the brake upon any standing motor vehicle, with intent to injure such machine and cause the same to be removed without the consent of the owner, provided that this subsection shall not apply in case of moving or starting of motor vehicles by the police under authority of local ordinance or by members of fire departments in case of emergency in the vicinity of a fire.

**State law reference—**Similar provisions, MCL 750.416.

**Secs. 22-161—22-188. Reserved.**

## DIVISION 4. TRESPASS

**Sec. 22-189. Upon lands or premises of another.**

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

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

**State law reference—**Similar provisions, MCL 750.552.

**Sec. 22-190. Breaking and entering; entering without authority.**

(a) Any person who shall break and enter, or shall enter without breaking, any dwelling, house, tent, hotel, office, store, shop, warehouse, barn, granary, factory or other building, boat, ship, railroad car or structure used or kept for public or private use, or any private apartment therein, or any cottage, clubhouse, boathouse, hunting or fishing lodge, garage or the outbuildings belonging thereto, or any other structure, whether occupied or unoccupied, without first obtaining permission to enter from the owner or occupant, agent, or person having immediate control thereof, shall be guilty of a misdemeanor.

(b) This section shall not apply:

(1) To entering without breaking of any place which at the time of such entry was open to the public, unless such entry has been expressly denied.

(2) Where the breaking and entering or entering without breaking was committed by a peace officer or other person authorized by law to break and enter or otherwise enter without breaking, provided the breaking and entering or entering without breaking was committed in the lawful performance of their duties as a peace officer or other person authorized by law to break and enter or otherwise enter without breaking.

(3) Where the breaking and entering or entering without breaking was committed by someone under the direction of a person exempted from the applicability of this section as noted in subsection (b)(2) of this section.

(c) Complaint for violation of this section may be made by the owner, lessee or occupant of the structure, place, or area as set out in subsection (a) of this section, or the agent thereof, or the Police Department. The Police Department shall enforce this section.

**State law reference—**Similar provisions, MCL 750.115.

**Sec. 22-191. Unauthorized entrance upon private parking area.**

(a) Any person who enters upon or loiters upon any private parking area, either in a vehicle or on foot, without the express or implied permission of the owner, lessee, occupant or agent shall be guilty of a misdemeanor.

(b) Before this section shall be effective in any parking area, suitable signs must be first posted which would apprise the ordinarily observant person of the restricted use of the parking area. For the purpose of this section, implied permission shall be deemed granted to any person

for the use designated by such signs. Implied permission shall not be deemed granted to any person found upon any private parking area after business hours of the owner, lessee, occupant or agent of the parking area.

(c) The posting of signs upon a parking area pursuant to this section shall constitute authority by the owner, lessee, occupant or agent of the property for the Police Department to enforce this section.

(d) Complaint for violation of this section may be made by the owner, lessee or occupant of the parking area, or the agent thereof, or the Police Department, and the police department shall enforce this section.

**Secs. 22-192—22-220. Reserved.**

## DIVISION 5. RAILROAD VIADUCT GRAFFITI

### Sec. 22-221. Definitions.

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

*Graffiti* means any letter, number, word, symbol, mark, picture or defacement in any medium which is visible on railroad viaducts to the public. The term "graffiti" does not include any signs allowed to be placed on railroad viaducts under section 22-223.

*Railroad viaduct* means a structure constructed or erected to carry a railroad over other railroads or roads.

### Sec. 22-222. Prohibited.

Except as provided in section 22-223, no person shall cause or permit any graffiti on a railroad viaduct, and no person having ownership, possession, and/or control of a railroad viaduct shall permit graffiti to remain on such viaduct for more than 14 calendar days following receipt of notice from the Village by certified mail, return receipt requested, that graffiti in violation of this division exists.

### Sec. 22-223. Permissible signs.

Notwithstanding anything in this division to the contrary, the following signs may legally be placed and exist on railroad viaducts even though such signs or any part thereof may be included in the definition of graffiti in this division:

(1) Signs identifying the railroad which owns the railroad viaduct.

(2) Any and all warning statements or devices regarding the operation and/or danger of the railroad or the railroad viaduct.

(3) Statements or devices placed on the railroad viaduct by the railroad which owns the viaduct relating to railroad business, provided that such expressions are normally and customarily placed on railroad viaducts.

**Secs. 22-224—22-254. Reserved.**

## DIVISION 6. LITTER

### Sec. 22-255. Definitions.

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

*Litter* means all rubbish, refuse, waste material, garbage, offal, paper, glass, cans, bottles, trash, debris or other foreign substances of every kind in description.

*Public or private property or waters* includes, but is not limited to:

(1) The right-of-way of any road or highway, any body of water or watercourse, or the shores or beaches thereof, and including the ice above such waters;

(2) Any park, playground, building, refuge or conservation or recreation area;

(3) Any residential, commercial or industrial properties.

### Sec. 22-256. Declared unlawful.

It is declared to be unlawful for any person, firm or corporation knowingly, without the consent of the public authority having supervision of public property or the owner of private property, to dump, deposit, place, throw or leave or cause or permit the dumping, depositing, placing, throwing or leaving of litter on any public or private property or waters other than property designated and set aside for such purposes within the Village.

### Sec. 22-257. Permissible signs.

All public authorities having supervision of public property of the Village or any political subdivision thereof may post notice signs or otherwise to publicize the requirements of this act.

### Sec. 22-258. Permissible receptacles.

All public authorities having supervision of public property in the Village may establish and maintain receptacles for the deposit of litter on the property and publicize the location thereof.

**Secs. 22-259—22-281. Reserved.**

## ARTICLE V. OFFENSES AGAINST PUBLIC PEACE

### Sec. 22-282. Breach of peace.

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

**State law reference—**Disturbing public places, MCL 750.170.

### Sec. 22-283. Permitting gathering of disorderly persons.

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

### Sec. 22-284. Jostling.

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

**State law reference—**Such person defined as a disorderly person, MCL 750.167(1)(l).

### Sec. 22-285. Fighting.

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

### Sec. 22-286. Disorderly intoxication.

It shall be unlawful for any person within the Village to be intoxicated in a public place and to either endanger the safety of another person or themselves or property or act in a manner that causes a public disturbance.

**State law reference—**Intoxicated person defined as a disorderly person, MCL 750.167(1)(e).

### Sec. 22-287. Dangerous substances.

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

*Dangerous substance* means any substance ingested, injected or inhaled into the body capable of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction or dulling of the senses or nervous system or impairing the normal motor functions.

(b) No person shall be under the influence of any narcotic drug or dangerous substance in any public place.

(c) This section shall not apply to substances taken as prescribed for the user by a licensed physician.

**Sec. 22-288. Gatherings and meetings.**

It shall be unlawful for any person within the Village to willfully interrupt or disturb on any day of the week any assembly of people met for the worship of God within the place of such meeting or out of it, or to make or excite any disturbance or contention in any tavern, dance hall, beer garden, store or grocery, manufacturing establishment or any other business place or in any street, lane, alley, highway, public building, ground or park or at any election or other public meeting in the Village where any persons are peaceably and lawfully assembled.

**State law references—**Disturbance of religious worship, MCL 750.169, 752.525; disturbing public places, MCL 750.170.

**Sec. 22-289. Loitering.**

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

*Loitering* means remaining idle in essentially one location and shall include the concept of spending time idly, to be dilatory, to linger, to stay, to saunter, to delay, to stand around, and also includes the colloquial expression "hanging around."

*Public place* means any place to which the general public has access and a right of resort for business, entertainment or for lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. The term "public place" also includes the front or immediate area of any store, shop, restaurant, tavern or other place of business and also public grounds, areas or parks.

(b) It shall be unlawful for any person within the Village to loiter, loaf, wander, stand or remain idle either alone or in consort with others in a public place in such manner so as to:

(1) Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians after having been told to move on by a police officer.

(2) Commit in or upon any public street, public highway, public sidewalk or any other public place or building any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk or any other public place or building, all of which prevents the free and uninterrupted ingress, egress and regress, therein, thereon and thereto after having been told to move on by a police officer.

(3) Obstruct the entrance to any business establishment, without so doing for some lawful purpose, if contrary to the expressed wish of the owner, lessee, managing agent or person in control or charge of the building or premises.

**State law reference—**Certain loiterers deemed disorderly persons, MCL 750.167.

**Sec. 22-290. Causing alarm.**

(a) No person shall loiter or prowl in a place at a time or in a manner under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity.

(b) Among such circumstances which may be considered in determining whether such alarm or immediate concern is warranted is the fact that the person takes flight upon appearance of a law enforcement officer, refuses to identify himself, or manifestly endeavors to conceal himself or any object.

(c) Unless flight by the person or other circumstances makes it impracticable, a law enforcement officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm or immediate concern which would otherwise be warranted by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this section if the law enforcement officer did not comply with this procedure or if it appears at trial that the explanation given by the person is true and, if believed by the officer at the time, would have dispelled the alarm or immediate concern.

**Sec. 22-291. Interfering at elections.**

No person shall solicit, petition, canvass, or in any way interfere with the access of persons to and from polling places in local, state or national elections, either at or within such polling places or within 100 feet from the entrance to such polling places.

**Sec. 22-292. Picketing of dwellings.**

No person shall engage in picketing directed against the occupant of a residence or other dwelling where such picketing occurs in front of or about such residence or dwelling.

**Sec. 22-293. Prohibit possession or consumption of open alcoholic beverages in public place.**

It shall be unlawful for any person to possess or consume any alcoholic beverage in a container which is opened, uncapped, or upon which the seal is broken in any public park or public place. The term "public place" for this section means a place to which the public or a substantial group of persons has access, and includes, but is not limited to, highways, streets, transportation facilities, schools, public places of amusement, parks and playgrounds.

**Secs. 22-294—22-319. Reserved.**

# ARTICLE VI. OFFENSES AGAINST PUBLIC SAFETY

## DIVISION 1. GENERALLY

### Sec. 22-320. Abandonment of refrigerators, trunks, etc., with airtight doors.

It shall be unlawful for any person to leave outside of any building or dwelling, or in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator, trunk, or any other container of any kind which has an airtight door or lock which may not be released for opening from the inside of the icebox, refrigerator, trunk or other container, without first removing the locks or doors therefrom.

**State law reference—**Similar provisions, MCL 750.493d.

### Sec. 22-321. Throwing stones or missiles.

It shall be unlawful for any person within the Village to throw any stone, brick, snowball or any other missile at or from any motorbus, automobile or other motor vehicle.

### Sec. 22-322. Sale or use of fireworks.

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

*Act* means the Michigan fireworks safety act, MCL 28.451 et seq., as that statute may be amended from time to time, which is hereby adopted by reference as part of the ordinance from which this section derives.

*Agricultural and wildlife fireworks* means fireworks devices distributed to farmers, ranchers, and growers through a wildlife management program administered by the United States Department of the Interior or the state department of natural resources.

*Articles pyrotechnic* means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but not intended for consumer use, that meet the weight limits for consumer fireworks but are not labeled as such, and that are classified as UN0431 or UN0432 under 49 CFR 172.101.

*Consumer fireworks* means fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 CFRs 1500 and 1507, and that are listed in APA standard 87-1, 3.1.2, 3.1.3, or 3.5. The term "consumer fireworks" does not include low-impact fireworks.

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

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

*Low-impact fireworks* means ground and handheld sparkling devices as that phrase is defined under APA standard 87-1, 3.1, 3.1.1 to 3.1.1.8, and 3.5.

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

(1) Toy plastic or paper caps for toy pistols in sheets, strips, rolls, or individual caps containing not more than 0.25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap.

(2) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in subsection (1) of this definition are used, that are constructed so that the hand cannot come in contact with the cap when in place for the explosion, and that are not designed to break apart or be separated so as to form a missile by the explosion.

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

(4) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacturer's name and the quantity contained in each box are printed on the box; and toy smoke devices.

*Special effects* means a combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and designed and intended to produce an audible, visual, mechanical, or thermal effect as an integral part of a motion picture, radio, television, theatrical, or opera production or live entertainment.

**Sec. 22-323. Use of consumer fireworks prohibited.**

(a) It shall be unlawful for any person to ignite, discharge or use consumer fireworks, as such term is defined in section 22-322, except for the use of consumer fireworks on the following days after 11:00 a.m.:

(1) December 31 until 1:00 a.m. on January 1;

(2) The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days;

(3) June 29 to July 4 until 11:45 p.m. on each of those days;

(4) July 5, if that date is a Friday or Saturday, until 11:45 p.m.; and

(5) The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.

(b) A person shall not ignite, discharge, or use consumer fireworks on public property, school property, church property, or the property of another person without that organization's or person's express written permission to use those fireworks on those premises. Except as otherwise provided in this section, a person that violates this subsection is responsible for a civil infraction and may be ordered to pay a civil fine of not more than $500.00.

(c) An individual shall not discharge, ignite, or use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance. A person that violates this subsection is responsible for a civil infraction and may be ordered to pay a civil fine of not more than $1,000.00. As used in this subsection:

*Alcoholic liquor* means that term as defined in section 1d of the Michigan Vehicle Code, 1949 Public Act No. 300, MCL 257.1d.

*Controlled substance* means that term as defined in section 8b of the Michigan Vehicle Code, 1949 Public Act No. 300, MCL 257.8b.

(d) Unmanned free-floating devices. Any unmanned free-floating device (sky lantern) which requires fire underneath to propel it and is not moored to the ground while aloft, has an uncontrolled and unpredictable flight path and descent area so as to pose a potential fire risk and are therefore prohibited.

(e) Novelties. This section does not apply to novelties.

(f) Unless otherwise provided in this section, if a person knowingly, intentionally, or recklessly violates this section, the person is responsible for a civil infraction and may be ordered to pay a fine of not more than $1,000.00. $500.00 of the fine must be remitted to the Village Fire Department or Village Police Department who issued the citation.

(g) If a person intentionally or recklessly damages the property of another person from the use of fireworks, the person is then guilty of a misdemeanor punishable by up to 90 days in jail and/or a fine of not more than $500.00.

(h) If a person intentionally or recklessly causes litter and/or debris from the use of fireworks onto the property of another, or public property, the person is responsible for a civil infraction punishable by a fine of up to $500.00.

**State law reference—**Fireworks, MCL 28.451 et seq.

**Sec. 22-324. Display and articles pyrotechnic fireworks.**

(a) Pursuant to MCL 28.451 et seq. (the act), the Village may grant a permit, upon application in writing on forms provided by the department of licensing and regulatory affairs, for the use of the following:

(1) Agricultural or wildlife fireworks (as defined in the act);

(2) Articles pyrotechnic;

(3) Display fireworks; or

(4) Special effects manufactured for outdoor pest control.

(b) Such a permit granted by the Village shall be subject to payment of a fee to the Village and shall be for either public or private displays within the Village by the Village, fair associations, amusement parks, or other organizations or individuals approved by the Village, as long as the applicable conditions and requirements of the are complied with.

(c) Before a permit for display fireworks or articles pyrotechnic firework ignition is granted, the person, firm, or corporation applying for the permit shall furnish proof of financial responsibility by a bond or insurance in an amount, character, and form deemed necessary by the Village to satisfy claims for damages to property or personal injuries arising out of an act or omission on the part of the person, firm, or corporation or an agent or employee of the person, firm, or corporation, and to protect the public.

(d) The Village shall not approve or otherwise grant a permit for display fireworks or pyrotechnic fireworks ignition to a nonresident person, firm, or corporation until the person, firm, or corporation has appointed in writing a resident member of the bar of the state or a resident agent to be the legal representative upon whom all process in an action or proceeding against the person, firm, or corporation may be served.

(e) Pursuant to this section, the Village shall rule on the competency and qualification of articles pyrotechnic and display fireworks operators as required under NFPA 1123, as the operator has furnished in his or her application form, and on the time, place, and safety aspects of the display of articles pyrotechnic or display fireworks before granting permits.

**State law reference—**Fireworks, MCL 28.451 et seq.

**Secs. 22-325—22-351. Reserved.**

## DIVISION 2. WEAPONS

**Sec. 22-352. Definitions.**

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

*Bow* means a device for propelling an arrow from a string drawn, held, and released by hand where the force used to hold the string in the drawn position is provided by the archer's muscles.

*Brandish* means to point, wave about, or display in a threatening manner with the intent to induce fear in another person.

*Crossbow* means a weapon consisting of a bow mounted transversely on a stock or frame and designed to fire an arrow, bolt, or quarrel by the release of a bow string that is controlled by a mechanical or electric trigger and has a working safety.

*Firearm* means any weapon which will, is designed to, or may readily be converted to expel a projectile by action of an explosive.

*Pneumatic gun* means any implement, designed as a gun that will expel a BB or pellet by spring, gas, or air. The term "pneumatic gun" includes a paintball gun that expels by pneumatic pressure plastic balls filled with paint for the purpose of marking the point of impact.

*Portable device or weapon* means a portable device or weapon capable of creating an electro-muscular disruption and directing an electrical current, impulse, wave, or beam, used or intended to be used as a defensive device capable of temporarily incapacitating or immobilizing a person through conducted energy, consistent with MCL 750.224a.

**State law reference—**Similar provisions, MCL 750.222(g).

**Sec. 22-353. Persons exempt.**

Police officers, peace officers and persons in the military service, in pursuit of official duty, and persons duly authorized by federal or state law to carry firearms, are exempt from the provisions of this division.

**Sec. 22-354. Confiscation.**

All weapons, guns, pistols, firearms, portable device or weapon directing electrical current, knives, dirks, razors, stilettos, bows and arrows, crossbows, or any other sharp-edged or pointed instruments, or weapons carried, possessed or used contrary to this division are hereby declared forfeited to the Village.

**Sec. 22-355. Discharge.**

No person shall discharge any bow and arrow, crossbow, firearm, air rifle, air pistol, or pneumatic gun, or portable device or weapon directing electrical current, impulse, wave or beam in the Village, except when lawfully acting in the defense of persons or property or the enforcement of law or at a duly established range, the operation of which has been approved by the Commission. This includes target practice and sighting-in on private property and public property.

**Sec. 22-356. Possession.**

(a) No person shall, except as provided in subsection (b) of this section, possess a bow and arrow, crossbow, a firearm, portable device or weapon directing electrical current, impulse, wave or beam, or pneumatic gun on the premises of any of the following:

(1) A depository financial institution or a subsidiary or affiliate of a depository financial institution.

(2) A church or other house of religious worship.

(3) A school.

(4) A court.

(5) A theater.

(6) A sports arena.

(7) A day care center.

(8) A hospital.

(9) An establishment licensed under the Michigan Liquor Control Code of 1998, designated as Public Act No. 58 of 1998 (MCL 436.1101 et seq.).

(b) This section does not apply to any of the following:

(1) A person who owns or is employed by or contracted by an entity described in subsection (a) of this section if the possession of that firearm is to provide security services for that entity.

(2) A peace officer.

(3) A person licensed by the state or another state to carry a concealed weapon.

(4) A person who possesses a firearm in a school for purposes of providing or receiving instruction in firearms safety.

(5) A person who possesses a firearm on the premises of an entity described in subsection (a) of this section if that possession is with the permission of the owner or an agent of the owner of that entity.

(6) The possession and reasonable use of a portable device or weapon directing electrical current, impulse, wave or beam may only be possessed in the Village by an individual who holds a valid license to carry a concealed pistol under section 5b of Public Act No. 372 of 1927, MCL 28.425, and who has been trained in the use, effects and risks of the device.

(c) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $100.00, or both.

**Sec. 22-357. Transporting a loaded firearm or pneumatic gun in a vehicle.**

(a) Except as otherwise permitted by law, a person shall not transport or possess either of the following in or upon a sailboat, motor vehicle, aircraft, motorboat, or any other vehicle propelled by mechanical means:

(1) A firearm, other than a pistol, that is loaded.

(2) A pneumatic gun that is loaded and expels a metallic BB or metallic pellet greater than 0.177 caliber.

(b) A person who violates this section is guilty of a 90-day misdemeanor.

**State law reference**—Similar provisions, MCL 750.227c.

**Sec. 22-358. Transporting or possessing firearm in or upon motor vehicle or self-propelled vehicle designed for land travel.**

(a) Except as otherwise permitted by law, a person shall not transport or possess in or upon a motor vehicle or any self-propelled vehicle designed for land travel any of the following:

(1) A firearm, other than a pistol; or

(2) A pneumatic gun that expels a metallic BB or metallic pellet greater than 0.177, unless the firearm or pneumatic gun is one or more of the following:

a. Taken down;

b. Enclosed in a case;

c. Carried in the trunk of a vehicle;

d. Inaccessible from the interior of the vehicle; or

(3) A portable device or weapon directing electrical current, impulse, wave or beam.

(b) A person who violates this section is guilty of a 90-day misdemeanor.

**State law reference**—Similar provisions, MCL 750.227d.

**Sec. 22-359. Brandishing.**

(a) No person shall, except as provided in subsection (b) of this section, knowingly brandish a firearm or weapon in public.

(b) Subsection (a) of this section does not apply to any of the following:

(1) A peace officer lawfully performing his duties as a peace officer.

(2) A person lawfully engaged in the sale, purchase, repair, or transfer of that firearm or weapon.

(c) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $100.00, or both.

**Sec. 22-360. Intentionally aiming a firearm without malice.**

It shall be unlawful for any person to intentionally, without malice, point or aim any firearm or weapon at or toward any other person.

**State law reference—**Similar provisions, MCL 750.233.

**Sec. 22-361. Hunting within Village prohibited.**

It shall be unlawful for any person within the Village to hunt wild game, or in any manner carry any gun, weapon or firearm within the Village for the purpose of hunting any wild game or fowl at any time.

**State law reference—**Game law, MCL 311.1 et seq.

**Sec. 22-362. Unauthorized taking, killing of birds, animals.**

No person shall by use of any pit, pitfall, deadfall, cage, snare, trap, net, baited hook, or any similar device, or of any drug, poison, chemical or explosive, injure, capture or kill any bird, or any game or fur bearing animal; nor shall any person at any time or in any manner whatever molest, harass, or annoy any such bird or any game or fur bearing animal within the limits of the Village; except under authority of a written license issued by the police chief, or someone by him duly authorized.

**Sec. 22-363. Possession of knives, daggers, etc., by minors.**

It shall be unlawful for any minor under 18 years of age to have in his possession or control, except within his own domicile, or carry or use in any manner any knife with a blade in excess of three inches, dagger, dirk, razor, stiletto or any other sharp-edged or pointed instrument; provided, however, that such person shall not be in violation of this section if:

(1) His possession of such bladed weapon is necessary for his employment, trade or occupation;

(2) He is engaged in or is proceeding to or returning from a place of hunting, trapping or fishing and, whenever required, is also carrying a currently valid license issued to him by the state department of natural resources;

(3) Such person is a duly enrolled member of the Boy Scouts of America or a similar organization or society and such possession is necessary to participate in the activities of such organization or society; or

(4) Such bladed weapon is required under circumstances that tend to establish that its possession is for a lawful purpose.

**State law reference—**Carrying firearm or dangerous weapon, MCL 750.226.

**Sec. 22-364. Carrying concealed weapon under the influence.**

(a) Acceptance of a license to carry a concealed pistol constitutes implied consent to submit to a chemical analysis under this section.

(b) An individual shall not carry a concealed pistol while he or she is under the influence of alcoholic liquor or a controlled substance or while having a bodily alcohol content prohibited under this section. An individual who violates this section is responsible for a municipal civil infraction or guilty of a misdemeanor crime as follows:

(1) If the person was under the influence of alcoholic liquor or a controlled substance or a combination of alcoholic liquor and a controlled substance, or had a bodily alcohol content of 0.10 or more grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of $100.00, or both. The court shall order the county clerk in the county in which the individual was issued a license to carry a concealed pistol to revoke the license. The county clerk shall notify the department of state police of the revocation in a manner prescribed by the department of state police. The department of state police shall immediately enter that revocation into the law enforcement information network.

(2) If the person had a bodily alcohol content of 0.08 or more but less than 0.10 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of $100.00, or both. The court shall order the county clerk in the county in which the individual was issued a license to carry a concealed pistol to suspend the license for three years. The county clerk shall notify the department of state police of that suspension in a manner prescribed by the department of state police. The department of state police shall immediately enter that suspension into the law enforcement information network.

(3) If the person had a bodily alcohol content of 0.02 or more but less than 0.08 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is responsible for a municipal civil infraction and shall be fined $100.00. The peace officer shall notify the state police department of a civil infraction under this subdivision. The state police department shall notify the county clerk in the county in which the individual was issued the license, who shall suspend the license for one year. The state police department shall immediately enter that suspension into the law enforcement information network.

(c) This section does not prohibit an individual licensed to carry a concealed pistol who has any bodily alcohol content from transporting that pistol in the locked trunk of his or her motor vehicle or another motor vehicle in which he or she is a passenger or, if the vehicle does not have a trunk, from transporting that pistol unloaded in a locked compartment or container that is separated from the ammunition for that pistol.

(d) A peace officer who has probable cause to believe an individual is carrying a concealed pistol may require the individual to submit to a chemical analysis of his or her breath, blood, or urine.

(e) Before an individual is required to submit to a chemical analysis under subsection (d) of this section, the peace officer shall inform the individual of all of the following:

(1) The individual may refuse to submit to the chemical analysis, but if he or she chooses to do so, all of the following apply:

a. The officer may obtain a court order requiring the individual to submit to a chemical analysis.

b. The refusal shall result in his or her license to carry a concealed pistol being suspended for six months.

(2) If the individual submits to the chemical analysis, he or she may obtain a chemical analysis described in subsection (d) of this section from a person of his or her own choosing.

(f) The collection and testing of breath, blood, and urine specimens under this section shall be conducted in the same manner that breath, blood, and urine specimens are collected and tested for alcohol- and controlled-substance-related driving violations under the Michigan Vehicle Code, Public Act No. 300 of 1949, MCL 257.1 to 257.923.

(g) If a person refuses to take a chemical test authorized under this section, the person is responsible for a municipal civil infraction and shall be fined $100.00. A peace officer shall promptly report the refusal in writing to the state police department. The department of state police shall notify the county clerk in the county in which the license was issued, who shall suspend the license for six months. The department of state police shall immediately enter that suspension into the law enforcement information network.

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

*Alcoholic liquor* means that term as defined in section 105 of the Michigan Liquor Control Code of 1998, Public Act No. 58 of 1998, MCL 436.1105.

*Controlled substance* has the meaning as that term is defined in section 7104 of the Public Health Code, Public Act No. 368 of 1978, MCL 333.7104.

*Under the influence of alcoholic liquor or a controlled substance* means that the individual's ability to properly handle a pistol or to exercise clear judgment regarding the use of that pistol was substantially and materially affected by the consumption of alcoholic liquor or a controlled substance.

**State law reference—**Firearms, MCL 28.425k.

**Secs. 22-365—22-386. Reserved.**

## ARTICLE VII. OFFENSES AGAINST PUBLIC MORALS

### DIVISION 1. GENERALLY

**Sec. 22-387. Indecent exposure.**

It shall be unlawful for any person within the Village to knowingly make any open or indecent exposure of his person or of the person of another, including, but not limited to, urinating in any public place.

**State law reference—**Similar provisions, MCL 750.335a.

**Sec. 22-388. Indecent or obscene conduct.**

It shall be unlawful for any person within the Village to engage in any indecent or obscene conduct, including but not limited to, urinating in any public place.

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

**Secs. 22-389—22-419. Reserved.**

### DIVISION 2. PROSTITUTION

**Sec. 22-420. Lewd conduct and related activities.**

(a) It shall be unlawful for any person within the Village to commit or offer or agree to commit a lewd act or an act of prostitution or moral perversion.

(b) It shall be unlawful for any person within the Village to secure or offer another for the purpose of committing a lewd act or an act of prostitution or moral perversion.

(c) It shall be unlawful for any person within the Village to be in or near any place frequented by the public or any public place for the purpose of inducing, enticing or procuring another to commit a lewd act or an act of prostitution or moral perversion.

(d) It shall be unlawful for any person within the Village to knowingly transport any person to any place for the purpose of committing a lewd act or an act of prostitution or moral perversion.

(e) It shall be unlawful for any person within the Village to knowingly receive or offer to or agree to receive any person into any place or building for the purpose of performing a lewd act or an act of prostitution or moral perversion or to knowingly permit any person to remain in any place or building for any such purpose.

(f) It shall be unlawful for any person within the Village to direct or offer to direct any person to any place or building for the purpose of committing any lewd act or act of prostitution or moral perversion.

**Sec. 22-421. Patronizing houses of ill fame.**

(a) It shall be unlawful for any person within the Village to patronize, frequent, be found in or be an inmate of any house of ill fame or assignation or place for the practice of prostitution or lewdness.

(b) It shall be unlawful for any person to accept the solicitation of or solicit a prostitute for the practice of fornication, prostitution or lewdness.

**State law references**—Admitting to place for purpose of prostitution, MCL 750.449; engaging or offering to engage services of female, MCL 750.449a.

**Sec. 22-422. Soliciting and accosting.**

It shall be unlawful for any person within the Village, male or female, 17 years of age or older to accost, solicit or invite another in any public place or in or from any building or vehicle by word, gesture or any other means to commit prostitution or to do any other lewd or illegal act. This section shall not apply to a law enforcement officer while in the performance of his duties as an Enforcement Officer.

**State law reference**—Similar provisions, MCL 750.448.

**Secs. 22-423—22-442. Reserved.**

## DIVISION 3. OBSCENE THEATRICAL PRODUCTIONS

**Sec. 22-443. Definitions.**

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

*Obscene theatrical production* means any theatrical production which:

(1) The average person applying contemporary community standards and considering the production as a whole would find appealing to the prurient interest;

(2) Depicts or describes in a patently offensive way prohibited sexual conduct; and

(3) Taken as a whole, lacks serious literary, artistic, political or scientific value.

*Prohibited sexual conduct* means:

(1) Patently offensive representations or descriptions of ultimate sexual act normal; or

(2) Patently offensive representations or descriptions of masturbation, excretory functions and lewd exhibition of the genitals.

*Theatrical production* means any play, skit, drama, revue, act or other presentation to which the public is admitted, whether or not an admission charge is made.

**Sec. 22-444. Declared unlawful.**

Any person who sings, dances, acts, speaks, performs or otherwise participates in an obscene theatrical production shall be guilty of a misdemeanor.

**Sec. 22-445. Restraining order; hearing.**

In addition to enforcing this division by complaint and warrant, the Village Council, upon being presented with reasonable grounds from which to conclude that a theatrical production proposed for presentation in the Village is obscene within the scope of this division, may authorize the Village Attorney to bring suit in the county circuit court for the purpose of seeking an order restraining presentation of the theatrical production and for violation of this division. If such judicial relief is authorized and sought, the Village Attorney shall secure from the court the earliest possible date upon which a hearing can be held on the Village's request for injunctive relief and shall thereafter waive any statutory or court rule notice requirements to the end that the named defendant is accorded the earliest possible hearing on the request for the injunctive order.

**Secs. 22-446—22-473. Reserved.**

## DIVISION 4. GAMBLING

**Sec. 22-474. Keeping or occupying building for gambling.**

It shall be unlawful for any person, or his agent or employee, within the Village to directly or indirectly keep or occupy, or assist in keeping or occupying any common gambling house, or any building or room therein, or place within the Village where gaming is permitted or suffered, or to suffer or permit on any premises owned, occupied or controlled by him any apparatus used for gaming or gambling, or to use such apparatus for gaming or gambling in any place within the Village.

**State law reference—**Similar provisions, MCL 750.302.

**Sec. 22-475. Gambling and frequenting prohibited.**

It shall be unlawful for any person to deal in, play or engage in gaming such as faro, roulette, dice, cards, or other device or game of chance, hazard or skill, either as bookmaker, dealer, keeper, player or otherwise for the purpose of gambling for money or other valuable thing or to knowingly attend or be found frequenting any place where gambling is permitted or allowed or is taking place.

**Sec. 22-476. Cappers, steerers, loiterers.**

It shall be unlawful for any person to engage in the work or occupation of a roper, steerer, doorman, or capper so-called for any gambling room, gaming house, or place where gaming is carried on, or for any gambling, game of chance, trick or device, or for any place where gambling or games of chance may be permitted or allowed or are being carried on. It shall be unlawful for persons to knowingly frequent, attend, or be found present in any of such places.

**Sec. 22-477. Keeping gaming room for hire, gain or reward.**

It shall be unlawful for any person within the Village to keep or maintain for hire, gain or reward a gaming room or gambling table or any game of skill or chance, or partly of skill and partly of chance, used for gaming, or to knowingly suffer a gaming room or gaming table, or any such game to be kept, maintained or played on any premises within the Village occupied or controlled by him, or for any person to aid, assist or abet in the keeping or maintaining of any such gaming room, gaming table or game within the Village.

**State law reference—**Similar provisions, MCL 750.303.

**Sec. 22-478. Gambling place and equipment.**

It shall be unlawful for any person, or his agent or employee, within the Village to directly or indirectly keep, maintain, operate or occupy any building or room, or any part thereof, or any place with apparatus, books, or any device for registering bets, or buying or selling pools upon the result of a game, competition, political competition, appointment, or election, or any purported event of like character, or to register bets, or to buy or sell pools, or to be concerned in buying or selling pools, or to knowingly permit any grounds or premises owned, occupied, or controlled by him to be used for any of the purposes aforesaid.

**State law reference—**Similar provisions, MCL 750.304.

**Sec. 22-479. Policy or pool tickets and confiscation of articles of gaming.**

It shall be unlawful, within the Village, for any person to be in possession of any policy or pool tickets, slips or checks, memoranda, or any combination thereof, bet slips, numbers slips, or any article associated and/or connected with commercial gambling. Any and all such articles may be confiscated and destroyed by the Police Department or used in evidence in any prosecution for violation of this Code.

**State law reference—**Similar provisions, MCL 750.306.

**Secs. 22-480—22-496. Reserved.**

## DIVISION 5. CONTROLLED SUBSTANCES

### *Subdivision I. In General*

**Sec. 22-497. Possession, sale, etc., prohibited generally.**

It shall be unlawful for any person to manufacture, administer, deliver, possess, use, create, transport, distribute, prescribe or dispense any controlled substance as defined in Public Act No. 368 of 1978 (MCL 333.7101 et seq.), except as authorized by this division and the Public Health Code.

**Sec. 22-498. Lawful possession, dispensation.**

(a) A manufacturer, wholesaler, apothecary, medical doctor, osteopathic physician, dentist, veterinarian, chiropodist, public or private hospital, sanitarium or institution maintained or conducted in whole or in part for the treatment of disability, disease, inebriety or drug addiction may purchase, receive, possess, sell, distribute, prescribe, administer or dispense the controlled substances described in section 22-497, provided he or they shall have complied with all provisions as required by the United States Internal Revenue Code, as the same now exists or may be hereafter amended.

(b) No medical doctor, osteopathic physician or other person specified in this section in any manner authorized to prescribe controlled substances shall prescribe such substances for his own use, nor shall any druggist honor such a prescription.

(c) All controlled substances obtained pursuant to this section shall be kept in the original package or container in which they were received, provided that this requirement should not be construed to apply to any duly licensed medical doctor, osteopathic physician, dentist, veterinarian, or chiropodist, or to any authorized person or persons acting directly under their supervision or control.

**Sec. 22-499. Possession of hypodermic syringes, needles, etc.**

No person shall at any time have or possess a hypodermic syringe or needle or any other instrument or implement adapted for the use of controlled substances by subcutaneous injection or intracutaneous injection or any other manner or method of introduction and which is possessed for that purpose, unless such possession is authorized by the certificate of a licensed medical doctor or osteopathic physician issued within the period of one year, provided that the prohibition contained in this section shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, technologists, nurses, hospitals, research teaching institutions, clinical laboratories, medical doctors, osteopathic physicians, dentists, chiropodists, veterinarians, pharmacists and embalmers in the normal legal course of their respective business or profession, nor to persons suffering from diabetes, asthma or any other medical condition requiring self-injection.

**Sec. 22-500. Distribution of hypodermic syringes, needles, etc.**

(a) It shall be unlawful for any person to deliver, furnish, supply or give away any empty gelatin capsules or hypodermic syringe or needle or other instrument or implement adapted for the use of controlled substances 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 controlled substances.

(b) For the purpose of this section, the term "nonmedical habitual user of controlled substances" means any person who uses controlled substances merely to satisfy a craving for such substances and who does not have a legitimate medical need for controlled substances.

**Sec. 22-501. Fraud and deceit in obtaining drugs, syringes, etc.**

Any fraud, deceit, misrepresentation, subterfuge, concealment of a material fact, or the use of a false name or the giving of a false address for the purpose of obtaining any controlled substances or barbituric acid or any derivative, compound, preparation or mixture thereof, or 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 division. No person who shall have obtained the possession of any controlled substances, hypodermic syringes, needles or other instruments or implements adapted for the use of such substances or empty gelatin capsules pursuant to the terms of this division shall use the same or permit or authorize their use for any purpose other than that specifically authorized in the prescription or order by means of which such possession was obtained.

**Sec. 22-502. Fraud and deceit in sale, etc., 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 a drug as described in section 22-497, when the same may or may not be the same, shall be deemed a violation of this division.

**Sec. 22-503. Possession for transportation, enforcement of division.**

The provisions of this division restricting the possession of controlled substances 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 such substances by means of subcutaneous injection or intracutaneous injection or any other manner or method of introduction or empty gelatin capsules shall not apply to common carriers or warehousemen or their employees engaged in the lawful transportation or storage of such substances, 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.

**Sec. 22-504. Loitering about, frequenting, etc., places where substances stored, kept.**

No person shall knowingly loiter about, frequent or live in any building, apartment, store, automobile, boat, boathouse, aeroplane or other place of any description whatsoever where controlled substances, hypodermic syringes, needles or other instruments or implements or empty gelatin capsules are manufactured, administered, delivered, possessed, distributed, prescribed, dispensed, stored or kept illegally.

**Sec. 22-505. Probation of individual with no previous conviction.**

(a) When an individual who has not previously been convicted of an offense under section 22-497 or under any law of the United States or of any state or any ordinance of a local unit of government relating to narcotic drugs, coca leaves, marijuana, stimulant, depressant, or hallucinogenic drugs, pleads guilty to possession or use of a controlled substance under section 22-497, the court, without entering a judgment of guilt with the consent of the accused, may defer further proceedings and place the individual on probation upon terms and conditions that shall include, but are not limited to, payment of a probation supervision program, community service, fines and costs and all other conditions determined by the court. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the individual and dismiss the proceedings. Discharge and dismissal under this section shall be without adjudication of guilt and, except as provided in subsection (b)(2) of this section, is not a conviction for purposes of this section. An individual is not eligible for adjudication under this section if the individual has previously received a dismissal under this section (MCL 333.7411), or any other statute or ordinance for a controlled substance offense.

(b) The records and identifications division of the department of state police shall retain a nonpublic record of an arrest and discharge or dismissal under this section. This record shall be furnished to any or all of the following:

(1) To a court, police agency, or prosecuting attorney upon request for the purpose of showing that a defendant in a criminal action involving the possession or use of a controlled substance has already once utilized this section for a dismissal of a controlled substance offense.

(2) To a court, police agency, or prosecuting attorney upon request for the purpose of determining whether the defendant in a subsequent criminal action is eligible for discharge and dismissal of proceedings.

**Sec. 22-506. Marihuana regulations.**

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

*Cultivate* means to propagate, breed, grow, harvest, dry, cure, or separate parts of the marihuana plant by manual or mechanical means.

*Department* means the department of licensing and regulatory affairs.

*Industrial hemp* means a plant of the genus *Cannabis* and any part of that plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry-weight basis, or per volume or weight of marihuana-infused product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus cannabis regardless of moisture content.

*Licensee* means a person holding a state license.

*Marihuana* means all parts of the plant of the genus *Cannabis,* growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marihuana concentrate and marihuana-infused products. For purposes of this section, the term "marihuana" does not include:

(1) The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination;

(2) Industrial hemp; or

(3) Any other ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products.

*Marihuana accessories* means any equipment, product, material, or combination of equipment, products, or materials which are specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marihuana into the human body.

*Marihuana concentrate* means the resin extracted from any part of the plant of the genus *Cannabis.*

*Marihuana establishment* means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the department.

*Marihuana grower* means a person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

*Marihuana microbusiness* means a person licensed to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.

*Marihuana processor* means a person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.

*Marihuana retailer* means a person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.

*Marihuana safety compliance facility* means a person licensed to test marihuana, including certification for potency and the presence of contaminants.

*Marihuana secure transporter* means a person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

*Marihuana-infused product* means a topical formulation, tincture, beverage, edible substance, or similar product containing marihuana and other ingredients and that is intended for human consumption.

*Municipal license* means a license issued by the Village that allows a person to operate a marihuana establishment.

*Municipality* means a city, village, or township.

*Person* means an individual, corporation, limited liability company, partnership of any type, trust, or other legal entity.

*Process* or *processing* means to separate or otherwise prepare parts of the marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products.

*State license* means a license issued by the department that allows a person to operate a marihuana establishment.

*Unreasonably impracticable* means that the measures necessary to comply with the rules or ordinances adopted pursuant to this section subject licensees to unreasonable risk or require such a high investment of money, time, or any other resource or asset that a reasonably prudent businessperson would not operate the marihuana establishment.

(b) *Scope; unauthorized activities with marihuana and marihuana accessories; limitations; application of privileges, rights, immunities, and defenses under other marihuana laws; employer rights; property owner rights.*

(1) No person shall:

a. Operate, navigate, or be in physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat while under the influence of marihuana;

b. Transfer marihuana or marihuana accessories to a person under 21 years of age;

c. Under the age of 21 years, possess, consume, purchase or otherwise obtain, cultivate, process, transport, or sell marihuana;

d. Separate the plant resin by butane extraction or another method that utilizes a substance with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within the curtilage of any residential structure;

e. Consume marihuana in a public place or smoke marihuana where prohibited by the person who owns, occupies, or manages the property;

f. Cultivate marihuana plants if the plants are visible from a public place without the use of binoculars, aircraft, or other optical aids or outside of an enclosed area equipped with locks or other functioning security devices that restrict access to the area;

g. Consume marihuana while operating, navigating, or being in physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat, or smoke marihuana within the passenger area of a vehicle upon a public way;

h. Possess marihuana accessories or possess or consume marihuana on the grounds of a public or private school where children attend classes in preschool programs, kindergarten programs, or grades 1 through 12, or in a school bus;

i. Possess more than 2½ ounces of marihuana within a person's place of residence unless the excess marihuana is stored in a container or area equipped with locks or other functioning security devices that restrict access to the contents of the container or area. The maximum marihuana allowed is ten ounces.

(2) This section does not limit any privileges, rights, immunities, or defenses of a person as provided in the Michigan medical marihuana act, Initiated Law 1 of 2008, MCL 333.26421 to 333.26430, the medical marihuana facilities licensing act, Public Act No. 281 of 2016, MCL 333.27101 to 333.27801, or any other law of this state allowing for or regulating marihuana for medical use.

(3) This section does not require an employer to permit or accommodate conduct otherwise allowed by this section in any workplace or on the employer's property. This section does not prohibit an employer from disciplining an employee for violation of a workplace drug policy or for working while under the influence of marihuana. This section does not prevent an employer from refusing to hire, discharge, discipline, or otherwise take an adverse employment action against a person with respect to hiring, tenuring, terms, conditions, or privileges of employment because of that person's violation of a workplace drug policy or because that person was working while under the influence of marihuana.

(4) This section allows a person to prohibit or otherwise regulate the consumption, cultivation, distribution, processing, sale, or display of marihuana and marihuana accessories on property the person owns, occupies, or manages, except that a lease agreement may not prohibit a tenant from lawfully possessing and consuming marihuana by means other than smoking.

(c) *Lawful activities by person 21 years of age or older; terms, conditions, limitations, and restrictions; denial of custody or visitation prohibited.*

(1) A person 21 years of age or older may:

a. Possess, use or consume, internally possess, purchase, transport, or process 2½ ounces or less of marihuana, except that not more than 15 grams of marihuana may be in the form of marihuana concentrate;

b. Within the person's residence, possess, store, and process not more than ten ounces of marihuana and any marihuana produced by marihuana plants cultivated on the premises and cultivating not more than 12 marihuana plants for personal use, provided that no more than 12 marihuana plants are possessed, cultivated, or processed on the premises at once;

c. Assist another person who is 21 years of age or older in any of the acts described in this section; and

d. Give away or otherwise transfer without remuneration up to 2½ ounces of marihuana, except that not more than 15 grams of marihuana may be in the form of marihuana concentrate, to a person 21 years of age or older, as long as the transfer is not advertised or promoted to the public.

(d) *Civil/criminal penalties.*

(1) A person who possesses, cultivates, or delivers, without receiving any remuneration to a person who is at least 21 years of age, between 2.6 ounces and five ounces of marihuana or not more than 20 ounces in the residence, or is cultivating 13 to 24 plants:

a. For a first violation, is responsible for a civil infraction and may be punished by a fine of not more than $100.00 and forfeiture of the marihuana.

b. For a second violation, is responsible for a state civil infraction and may be punished by a fine of not more than $1,000.00 and forfeiture of the marihuana.

c. For a third or subsequent violation, is guilty of a state misdemeanor and may be punished by a fine of not more than $2,000.00 and forfeiture of the marihuana.

(2) A person under 21 years of age who possesses not more than 2½ ounces of marihuana or who cultivates not more than 12 marihuana plants:

a. For a first violation, is responsible for a civil infraction and may be punished as follows:

1. If the person is less than 18 years of age, by a fine of not more than $100.00, community service, forfeiture of the marihuana, and completion of four hours of drug education or counseling; or

2. If the person is at least 18 years of age, by a fine of not more than $100.00 and forfeiture of the marihuana.

b. For a second violation, is responsible for a civil infraction and may be punished as follows:

1. If the person is less than 18 years of age, by a fine of not more than $500.00, community service, forfeiture of the marihuana, and completion of eight hours of drug education or counseling; or

2. If the person is at least 18 years of age, by a fine of not more than $500.00 and forfeiture of the marihuana.

c. For a third or subsequent violation, is guilty of a state misdemeanor and may be punished by a fine of not more than $2,000.00 and forfeiture of the marihuana.

(3) A person who possesses, or delivers without receiving any remuneration to a person who is at least 21 years of age more than five ounces, more than 20 ounces in the home, and over 24 plants shall be responsible for a 93-day misdemeanor, but shall not be subject to imprisonment unless the violation was habitual, willful, and for a commercial purpose or the violation involved violence.

**Secs. 22-507—22-535. Reserved.**

*Subdivision II. Alcoholic Liquors*

**Sec. 22-536. Transportation of open containers.**

(a) No person upon a highway of the Village or any place open to the general public or generally accessible to motor vehicles, including areas designated for the parking of vehicles, shall transport or possess any alcoholic liquor in a container which is open or uncapped, or upon which the seal is broken, within the passenger compartment of a vehicle. If the vehicle does not have a trunk or compartment separate from the passenger compartment, a container which is open or uncapped or upon which the seal is broken shall be encased or enclosed and not readily accessible to he occupants of the vehicle.

(b) A person who violates this section is guilty of a misdemeanor. As part of the sentence, the person may be ordered to perform community service and undergo substance abuse screening and assessment at his or her own expense as described in Michigan Liquor Control Code of 1998, designated as Public Act No. 58 of 1998 (MCL 436.1101 et seq.). A court shall not accept a plea of guilty or nolo contendere for a violation of this section from a person charged solely with a violation of MCL 257.625(6) or a local ordinance substantially corresponding thereto.

(c) Immediately upon the entry of a conviction for a violation of subsection (a) of this section, the court shall consider all prior convictions for a violation of subsection (a) of this section, MCL 257.624a or MCL 257.624b(i) or a local ordinance or law of another state substantially corresponding to this section, and the court shall do the following:

(1) If the court finds that the person has one such prior conviction, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for not less than 90 days and not more than 180 days. The court may order the secretary of state to issue to the person a restricted license after the first 30 days of the period of the suspension in the manner provided for in MCL 257.319(7). In the case of a person who does not possess an operator's or chauffeur's license, the secretary of state shall deny the application for an operator's or chauffeur's license for the applicable suspension period.

(2) If the court finds that the person has two or more such prior convictions, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for not less than 180 days and not more than one year. The court may order the secretary of state to issue to the person a restricted license after the first 60 days of the period of the suspension in the manner provided for in MCL 257.319(7). In the case of a person who does not possess an operator or chauffeur license, the secretary of state shall deny the application for an operator's or chauffeur's license for the applicable suspension period.

(d) This section does not apply to a passenger in a chartered vehicle authorized to operate by the state department of transportation.

**Sec. 22-537. Sale to minors.**

(a) No person shall sell or furnish alcoholic liquor to a person less than 21 years of age. A person who knowingly sells or furnishes alcoholic liquor to a person who is less than 21 years of age, or who fails to make diligent inquiry as to whether the person is less than 21 years of age, is guilty of a misdemeanor. A retail licensee or a retail licensee's clerk, agent, or employee who violates this subsection shall be guilty of a misdemeanor, except that if the violation is the result of an undercover operation in which the minor received alcoholic liquor under the direction of the state police, the commission, or a local police agency as part of an enforcement action, the retail licensee's clerk, agent or employee is responsible for a civil infraction and may be ordered to pay a civil fine of not more than $100.00. A suitable sign, which describes this section and penalties for violating this section, shall be posted in a conspicuous place in each room where alcoholic liquors are sold. The signs shall be approved and furnished by the state liquor control commission.

(b) If a violation occurs in an establishment that is licensed by the state liquor control commission for consumption of alcoholic liquor on the licensed premises, a person who is a licensee or the clerk, agent, or employee of a licensee shall not be charged with a violation of

subsection (a) of this section unless the licensee or the clerk, agent, or employee of the licensee knew or should have reasonably known with the exercise of due diligence that a person less than 21 years of age possessed or consumed alcoholic liquor on the licensed premises and the licensee or clerk, agent, or employee of the licensee failed to take immediate corrective action.

(c) In an action for violation of this section, proof that the defendant or the defendant's agent or employee demanded and was shown, before furnishing alcoholic liquor to a person under 21 years of age, a motor vehicle operator's license or a registration certificate issued by the federal selective service or other bona fide documentary evidence of the age and identity of that person, shall be a defense to an action under this section or subsection (a) of this section.

**Sec. 22-538. Transportation by minors; impoundment of vehicle.**

(a) No person, upon a highway of this Village or any place open to the general public or generally accessible to motor vehicles, including areas designated for the parking of vehicles, shall, while under the age of 21 years, knowingly transport or possess, in a motor vehicle alcoholic liquor unless the person is employed by a licensee under Public Act No. 8 of 1933, Extra Session (MCL 436.1 et seq.), the liquor control commission, or an agent of the liquor control commission and is transporting or having the alcoholic liquor in a motor vehicle under the person's control during regular working hours and in the course of the person's employment. A person who violates this subsection is guilty of a misdemeanor. As part of the sentence, the person may be ordered to perform community service and undergo substance abuse screening and assessment at his or her own expense. This subsection does not prevent a person less than 21 years of age from knowingly transporting alcoholic liquor in a motor vehicle if a person at least 21 years of age is present inside the motor vehicle and is aware of the presence of alcoholic liquor in the motor vehicle.

(b) Within 30 days after the conviction of a person for the violation of subsection (a) of this section, which conviction has become final, complaint may be made by the arresting officer or the officer's superior before the court from which the warrant was issued, which complaint shall be under oath and shall contain a description of the motor vehicle in which alcoholic liquor was possessed or transported by the person less than 21 years of age in committing the offense and praying that the motor vehicle be impounded as provided in this section. Upon the filing of the complaint, the court shall issue an order to the owner of the motor vehicle to show cause why the motor vehicle shall not be impounded. The order to show cause shall have a date and time fixed in the order for a hearing, which date shall not be less than ten days after the issuance of the order and shall be served by delivering a true copy to the owner not less than three full days before the date of hearing or, if the owner cannot be located, by sending a true copy by certified mail to the last known address of the owner. If the owner is a nonresident of the state, service may be made upon the secretary of state as provided in section 403 of Public Act No. 300 of 1949 (MCL 257.403).

(c) If the court determines upon the hearing of the order to show cause, from competent and relevant evidence, that at the time of the commission of the offense the motor vehicle was being driven by the person less than 21 years of age with the express or implied consent or knowledge of the owner, and that the use of the motor vehicle is not needed by the owner in the direct pursuit of the owner's employment or the actual operation of the owner's employment business, the court may authorize the impounding of the vehicle for a period to be determined by the court, of not less than 15 days nor more than 30 days. The court's order authorizing the impounding of the vehicle shall authorize a law enforcement officer to take possession without other process of the motor vehicle wherever located and to store the vehicle in a public or private garage at the expense and risk of the owner of the vehicle. The owner of the vehicle may appeal the order to the circuit court of the county, and the provisions governing the taking of appeals from judgments for damages shall be applicable to the appeal. This subsection shall not prevent a bona fide lienholder from exercising rights under a lien.

(d) Any person who knowingly transfers title to a motor vehicle for the purpose of avoiding this section is guilty of a misdemeanor.

(e) Immediately upon the entry of a conviction or a probate court order of disposition for a violation of subsection (a) of this section, the court shall consider all prior convictions for a violation of subsection (a) of this section, MCL 257.624b or MCL 257.624a, or a local ordinance or law of another state substantially corresponding to this section, and the court shall do one of the following:

(1) If the court finds that the person has one such prior conviction, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 90 days and not more than 180 days. The court may order the secretary of state to issue to the person a restricted license after the first 30 days of the period of the suspension in the manner provided for in MCL 257.319(7). In the case of a person who does not possess an operator's or chauffeur's license, the secretary of state shall deny the application for an operator's or chauffeur's license for the applicable suspension period.

(2) If the court finds that the person has two or more such prior convictions, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 180 days and not more than one year. The court may order the secretary of state to issue to the person a restricted license after the first 60 days of the period of the suspension in the manner provided for in MCL 257.319(7). In the case of a person who does not possess an operator's or chauffeur's license, the secretary of state shall deny the application for an operator's or chauffeur's license for the applicable suspension period.

(f) A law enforcement agency, upon determining that a person less than 18 years of age allegedly violated this section, shall notify the parent or parents, custodian, or guardian of the person as to the nature of the violation if the name of a parent, guardian, or custodian is

reasonably ascertainable by the law enforcement agency. The notice required by this subsection shall be made not later than 48 hours after the law enforcement agency determines that the person who allegedly violated this section is less than 18 years of age and may be made in person, by telephone, or by first class mail.

**Sec. 22-539. Purchase, consumption, or possession of alcoholic liquor by minor; attempt; violation; fines; sanctions; furnishing fraudulent identification to minor; use by minor; prior violation; screening and assessment; prior judgment; chemical breath analysis; notice to parent, custodian, or guardian; exceptions; recruitment of minor for undercover operation prohibited; affirmative defense; definitions.**

(a) A minor shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, possess or attempt to possess alcoholic liquor, or have any bodily alcohol content, except as provided in this section. A minor who violates this subsection is responsible for a civil infraction or guilty of a misdemeanor as follows:

(1) For the first violation, the minor is responsible for a civil infraction and shall be fined not more than $100.00. The court may order a minor under this subsection to participate in substance use disorder services as defined in section 6230 of the Public Health Code, Public Act No. 368 of 1978, MCL 333.6230, and designated by the administrator of the office of substance abuse services, and may order the minor to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (e) of this section. A minor may be found responsible or admit responsibility only once under this subsection.

(2) If a violation of this subsection (a) occurs after one prior judgment, the minor is guilty of a misdemeanor. A misdemeanor under this subsection (a) is punishable by imprisonment for not more than 30 days if the court finds that the minor violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, or by a fine of not more than $200.00, or both. The court may order a minor under this subsection to complete a term of probation, participate in substance use disorder services as defined in section 6230 of the Public Health Code, Public Act No. 368 of 1978, MCL 333.6230, and designated by the administrator of the office of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (e) of this section.

(3) If a violation of this subsection (a) occurs after two or more prior judgments, the minor is guilty of a misdemeanor. A misdemeanor under this subsection is punishable by imprisonment for not more than 60 days, if the court finds that the minor violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or

juvenile adjudication, or by a fine of not more than $500.00, or both, as applicable. The court may order a minor under this subsection to complete a term of probation, to participate in substance use disorder services as defined in section 6230 of the Public Health Code, Public Act No. 368 of 1978, MCL 333.6230, and designated by the administrator of the office of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (e) of this section.

(b) An individual who furnishes fraudulent identification to a minor or, notwithstanding subsection (a) of this section, a minor who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100.00, or both.

(c) If an individual who pleads guilty to a misdemeanor violation of subsection (a)(2) of this section or offers a plea of admission in a juvenile delinquency proceeding for a misdemeanor violation of subsection (a)(2) of this section, the court, without entering a judgment of guilt in a criminal proceeding or a determination in a juvenile delinquency proceeding that the juvenile has committed the offense and with the consent of the accused, may defer further proceedings and place the individual on probation. The terms and conditions of that probation include, but are not limited to, the sanctions set forth in subsection (a)(3) of this section, payment of the costs, including minimum state cost as provided for in section 18m of chapter XIIA of the Probate Code of 1939, Public Act No. 288 of 1939, MCL 712A.18m, and section 1j of chapter IX of the Code of Criminal Procedure, Public Act No. 175 of 1927, MCL 769.1j, and the costs of probation as prescribed in section 3 of chapter XI of the Code of Criminal Procedure, Public Act No. 175 of 1927, MCL 771.3. If a court finds that an individual violated a term or condition of probation or that the individual is utilizing this subsection in another court, the court may enter an adjudication of guilt, or a determination in a juvenile delinquency proceeding that the individual has committed the offense, and proceed as otherwise provided by law. If an individual fulfills the terms and conditions of probation, the court shall discharge the individual and dismiss the proceedings. A discharge and dismissal under this section is without adjudication of guilt or without a determination in a juvenile delinquency proceeding that the individual has committed the offense and is not a conviction or juvenile adjudication for purposes of disqualifications or disabilities imposed by law on conviction of a crime. An individual may obtain only one discharge and dismissal under this subsection. The court shall maintain a nonpublic record of the matter while proceedings are deferred and the individual is on probation and if there is a discharge and dismissal under this subsection. The secretary of state shall retain a nonpublic record of a plea and of the discharge and dismissal under this subsection. These records shall be furnished to any of the following:

(1) To a court, prosecutor, or police agency on request for the purpose of determining if an individual has already utilized this subsection (c).

(2) To the department of corrections, a prosecutor, or a law enforcement agency, on the department's, a prosecutor's, or a law enforcement agency's request, subject to all of the following conditions:

a. At the time of the request, the individual is an employee of the department of corrections, the prosecutor, or the law enforcement agency, or an applicant for employment with the department of corrections, the prosecutor, or the law enforcement agency.

b. The record is used by the department of corrections, the prosecutor, or the law enforcement agency only to determine whether an employee has violated his or her conditions of employment or whether an applicant meets criteria for employment.

(d) A misdemeanor violation of subsection (a) of this section successfully deferred, discharged, and dismissed under subsection (c) of this section is considered a prior judgment for the purposes of subsection (a)(3) of this section.

(e) A court may order an individual found responsible for or convicted of violating subsection (a) of this section to undergo screening and assessment by a person or agency as designated by the department-designated community mental health entity as defined in section 100a of the Mental Health Code, Public Act No. 258 of 1974, MCL 330.1100a, to determine whether the individual is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. A court may order an individual subject to a misdemeanor conviction or juvenile adjudication of, or placed on probation regarding, a violation of subsection (a) of this section to submit to a random or regular preliminary chemical breath analysis. The parent, guardian, or custodian of a minor who is less than 18 years of age and not emancipated under Public Act No. 293 of 1968, MCL 722.1 to 722.6, may request a random or regular preliminary chemical breath analysis as part of the probation.

(f) The secretary of state shall suspend the operator's or chauffeur's license of an individual convicted of a second or subsequent violation of subsection (a) of this section or of violating subsection (b) of this section as provided in section 319 of the Michigan Vehicle Code, Public Act No. 300 of 1949, MCL 257.319.

(g) A peace officer who has reasonable cause to believe a minor has consumed alcoholic liquor or has any bodily alcohol content may request that individual to submit to a preliminary chemical breath analysis. If a minor does not consent to a preliminary chemical breath analysis, the analysis shall not be administered without a court order, but a peace officer may seek to obtain a court order. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a civil infraction proceeding or criminal prosecution to determine if the minor has consumed or possessed alcoholic liquor or had any bodily alcohol content.

(h) The Village Police Department, on determining that an individual who is less than 18 years of age and not emancipated under Public Act No. 293 of 1968, MCL 722.1 to 722.6, allegedly consumed, possessed, or purchased alcoholic liquor, attempted to consume, possess, or purchase alcoholic liquor, or had any bodily alcohol content in violation of subsection (a) of this section shall notify the parent, custodian, or guardian of the individual as to the nature of the violation if the name of a parent, guardian, or custodian is reasonably ascertainable by the Police Department. The Police Department shall notify the parent, guardian or custodian not later than 48 hours after the Police Department determines that the individual who allegedly violated subsection (a) of this section is less than 18 years of age and not emancipated under Public Act No. 293 of 1968, MCL 722.1 to 722.6. The Police Department may notify the parent, guardian, or custodian by any means reasonably calculated to give prompt actual notice, including, but not limited to, in person, by telephone, or by first class mail. If an individual less than 17 years of age is incarcerated for violating subsection (a) of this section, his or her parents or legal guardian shall be notified immediately as provided in this subsection.

(i) This section does not prohibit a minor from possessing alcoholic liquor during regular working hours and in the course of his or her employment if employed by a person licensed by this act, by the commission, or by an agent of the commission, if the alcoholic liquor is not possessed for his or her personal consumption.

(j) The following individuals are not considered to be in violation of subsection (a) of this section:

(1) A minor who has consumed alcoholic liquor and who voluntarily presents himself or herself to a health facility or agency for treatment or for observation, including, but not limited to, medical examination and treatment for any condition arising from a violation of sections 520b to 520g of the Michigan Penal Code, Public Act No. 328 of 1931, MCL 750.520b to 750.520g, committed against a minor.

(2) A minor who accompanies an individual who meets both of the following criteria:

a. Has consumed alcoholic liquor.

b. Voluntarily presents himself or herself to a health facility or agency for treatment or for observation, including, but not limited to, medical examination and treatment for any condition arising from a violation of sections 520b to 520g of the Michigan Penal Code, Public Act No. 328 of 1931, MCL 750.520b to 750.520g, committed against a minor.

(3) A minor who initiates contact with a peace officer or emergency medical services personnel for the purpose of obtaining medical assistance for a legitimate health care concern.

(k) If a minor who is less than 18 years of age and who is not emancipated under Public Act No. 293 of 1968, MCL 722.1 to 722.6, voluntarily presents himself or herself to a health facility or agency for treatment or for observation as provided under subsection (j) of this section, the health facility or agency shall notify the parent, guardian, or custodian of the individual as to the nature of the treatment or observation if the name of a parent, guardian, or custodian is reasonably ascertainable by the health facility or agency.

(l) This section does not limit the civil or criminal liability of a vendor or the vendor's clerk, servant, agent, or employee for a violation of this section.

(m) The consumption of alcoholic liquor by a minor who is enrolled in a course offered by an accredited postsecondary educational institution in an academic building of the institution under the supervision of a faculty member is not prohibited by this section if the purpose of the consumption is solely educational and is a requirement of the course.

(n) The consumption by a minor of sacramental wine in connection with religious services at a church, synagogue, or temple is not prohibited by this section.

(o) Subsection (a) of this section does not apply to a minor who participates in either or both of the following:

(1) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the person's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.

(2) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the state police, the commission, or a local police agency as part of an enforcement action unless the initial or contemporaneous purchase or receipt of alcoholic liquor by the minor was not under the direction of the state police, the commission, or the local police agency and was not part of the undercover operation.

(p) The state police, the commission, or a local police agency shall not recruit or attempt to recruit a minor for participation in an undercover operation at the scene of a violation of subsection (a) of this section, section 701(1) or 801(2) of Public Act No. 58 of 1998.

(q) In a prosecution for the violation of subsection (a) of this section concerning a minor having any bodily alcohol content, it is an affirmative defense that the minor consumed the alcoholic liquor in a venue or location where that consumption is legal.

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

*Any bodily alcohol content* means either of the following:

(1) An alcohol content of 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(2) Any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.

*Emergency medical services personnel* means that term as defined in section 20904 of the Public Health Code, Public Act No. 368 of 1978, MCL 333.20904.

*Health facility or agency* means that term as defined in section 20106 of the Public Health Code, Public Act No. 368 of 1978, MCL 333.20106.

*Prior judgment* means a conviction, juvenile adjudication, finding of responsibility, or admission of responsibility for any of the following, whether under a law of the state, a local ordinance substantially corresponding to a law of this state, a law of the United States substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of the state:

(1) This section or section 701 or 707 of Public Act No. 58 of 1998.

(2) Section 624a, 624b, or 625 of the Michigan Vehicle Code, Public Act No. 300 of 1949, MCL 257.624a, 257.624b, and 257.625.

(3) Section 80176, 81134, or 82127 of the natural resources and environmental protection act, 1994 Public Act No. 451, MCL 324.80176, 324.81134, and 324.82127.

(4) Section 167a or 237 of the Michigan Penal Code, 1939 Public Act No. 328, MCL 750.167a and 750.237.

**Sec. 22-540. Fraudulent identification.**

No person shall furnish fraudulent identification to a person less than 21 years of age nor shall any person less than 21 years of age use a fraudulent identification to purchase alcoholic liquor in the Village. A person who violates this section is guilty of a misdemeanor and the court shall order the secretary of state to suspend, pursuant to section 319(5) of Public Act No. 300 of 1949 (being MCL 257.319) for a period of 90 days, the operator's or chauffeur's license of a person who is convicted of furnishing or using fraudulent identification in violation of this section and the operator or chauffeur license of that person shall be surrendered to the court. The court shall immediately forward the surrendered license and an abstract of conviction to the secretary of state. A suspension ordered under this section shall be in addition to any other suspension of the person's operator's or chauffeur's license.

**Secs. 22-541—22-558. Reserved.**

*Subdivision III. Open House Parties*

**Sec. 22-559. Definitions.**

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

*Alcoholic liquor* means any beverage containing more than one-half of one percent of alcohol by volume, which is fit for beverage purposes, as defined and classified by the liquor control commission.

*Allow* means to give permission for, or approval of, possession or consumption of an alcoholic liquor or a controlled substance, by any of the following means:

(1) In writing.

(2) By one or more statements.

(3) By any form or conduct, including a failure to take corrective action, that would cause a reasonable person to believe that permission or approval has been given.

*Control* means any form of regulation or dominion, or the authority to regulate, direct, superintend or govern or the authority to exercise restraining or dominating influence over, including a possessory right over property.

*Controlled substance* means any drug, substance or immediate precursor designated and listed in schedules 1 through 5 of sections 7201 to 7231 of the Public Health Code, Public Act No. 368 of 1978 (MCL 333.7201 to 333.7231).

*Corrective action* means any of the following:

(1) Making a prompt demand that the minor or other individual depart from the premises, residence, or other real property, or refrain from the unlawful possession or consumption of the alcoholic beverage or controlled substance on or within that premises, residence, or other real property and taking additional action described in subsection (2) or (3) of this definition if the minor or other individual does not comply with the request.

(2) Making a prompt report of the unlawful possession or consumption of alcoholic liquor or a controlled substance to a law enforcement agency having jurisdiction over the violation.

(3) Making a prompt report of the unlawful possession or consumption of alcoholic liquor or a controlled substance to another person having a greater degree of authority or control over the conduct of persons on or within the premises, residence or other real property.

*House party* means a social gathering at a residence that includes at least one person who is not an owner, tenant or regular legal occupant of the residence.

*Minor* means a person less than 21 years of age.

*Open house party* means a social gathering of persons at a residence, other than the owner or those with rights of possession of their immediate family members.

*Premises* means a permanent or temporary place of assembly other than residence, including, but not limited to, any of the following:

(1) A meeting hall, meeting room or conference room.

(2) A public or private park.

*Residence* means a permanent or temporary place of dwelling, including, but not limited to, any of the following:

(1) A house, apartment, condominium or mobile home and the land around the dwelling to the extent the land is subject to the control of the same person having control of the dwelling unit.

(2) A cottage, cabin, trailer or tent.

(3) A motel unit, hotel unit, or bed and breakfast unit.

**Sec. 22-560. Purpose.**

The Village determines that alcohol and controlled substance use by persons less than 21 years of age should be regulated. Unregulated use creates serious social problems, including, but not limited to, injury and harm to persons and property caused by vehicles operated by persons less than 21 years of age under the influence of alcohol or controlled substances, disturbance of the peace, and other devastating effects upon minors and the public at large. It is further determined that the regulation of house parties, involving alcohol and controlled substance use by persons less than 21 years of age, requires sponsoring persons to assume responsibility. Prohibiting persons less than 21 years of age from attending such parties will significantly reduce the incidence of problems attributable to alcohol and controlled substance use by persons less than 21 years of age.

**Sec. 22-561. Exemptions.**

The provisions of this subdivision shall not apply to legally protected religious observances or legally protected educational activities.

**Sec. 22-562. Control and allowance of party.**

It shall be unlawful for any person having control of any residence to allow a house party to take place or to continue once it has begun at that residence or fail to take corrective action,

when the person knows or reasonably should know an alcoholic liquor or controlled substance is being or has been possessed or consumed at the house party by a person less than 21 years of age.

**Sec. 22-563. Attendance by person less than 21 years of age.**

It shall be unlawful for any person less than 21 years of age to attend a house party while having knowledge that alcohol or controlled substances are being sold, offered for sale or dispensed to or possessed by persons less than 21 years of age.

**Secs. 22-564—22-589. Reserved.**

*Subdivision IV. Host Parties*

**Sec. 22-590. Definitions.**

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

*Alcoholic liquor* means any beverage containing more than one-half of one percent of alcohol by volume, which is fit for beverage purposes, as defined and classified by the Liquor Control Commission.

*Allow* means to give permission for, or approval of, possession or consumption of an alcoholic beverage or a controlled substance, by any of the following means:

(1) In writing.

(2) By one or more statements.

(3) By any form or conduct, including a failure to take corrective action, that would cause a reasonable person to believe that permission or approval has been given.

*Control* means any form of regulation or dominion, or the authority to regulate, direct, superintend or govern or the authority to exercise restraining or dominating influence over, including a possessory right over property.

*Controlled substance* means any drug, substance or immediate precursor designated and listed in Schedules 1—5 of sections 7201 to 7231 of the Public Health Code, Public Act No. 368 of 1978 (MCL 333.7201 to 333.7231)

*Corrective action* means any of the following:

(1) Making a prompt demand that the minor or other individual depart from the premises, residence, or other real property, or refrain from the unlawful possession or consumption of the alcoholic beverage or controlled substance on or within that premises,

residence, or other real property and taking additional action described in subsection (2) or (3) of this definition if the minor or other individual does not comply with the request.

(2) Making a prompt report of the unlawful possession or consumption of alcoholic liquor or a controlled substance to a law enforcement agency having jurisdiction over the violation.

(3) Making a prompt report of the unlawful possession or consumption of alcoholic liquor or a controlled substance to another person having a greater degree of authority or control over the conduct of persons on or within the premises, residence or other real property.

*Host party* means a social gathering at a residence or upon premises as defined within this subdivision that includes at least one person who is not an owner, tenant or regular legal occupant.

*House party* means a social gathering at a residence that includes at least one person who is not an owner, tenant or regular legal occupant of the residence.

*Minor* means a person less than 21 years of age.

*Premises* means a permanent or temporary place of assembly other than residence, including, but not limited to, any of the following:

(1) A meeting hall, meeting room or conference room.

(2) A public or private park.

*Residence* means a permanent or temporary place of dwelling, including, but not limited to, any of the following:

(1) A house, apartment, condominium or mobile home and the land around the dwelling to the extent the land is subject to the control of the same person having control of the dwelling unit.

(2) A cottage, cabin, trailer or tent.

(3) A motel unit, hotel unit, or bed and breakfast unit.

*Social gathering* means an assembly of two or more individuals for any purpose, unless all of the individuals attending the assembly are members of the same household or immediate family.

**Sec. 22-591. Prohibited actions.**

Except as otherwise provided in section 22-592, an owner, tenant, or other person having control over any premises, residence, or other real property shall not do either of the following:

(1) Knowingly allow a minor to consume or possess an alcoholic beverage at a social gathering on or within that premises, residence, or other real property.

(2) Knowingly allow any individual to consume or possess a controlled substance at a social gathering on or within that premises, residence, or other real property.

**Sec. 22-592. Exceptions.**

This subdivision does not apply to the use, consumption or possession of a controlled substance by an individual pursuant to a lawful prescription, or to the use, consumption, or possession of an alcoholic beverage by a minor for religious purposes.

**Sec. 22-593. Penalty for violation of section 22-591.**

(a) Except as provided in subsection (b) of this section, a person who violates section 22-591 is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or by a fine of not more than $500.00, or both.

(b) For a second or subsequent violation of section 22-591, the person is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or by a fine of not more than $500.00, or both.

**Sec. 22-594. Rebuttable presumption.**

Evidence of all of the following gives rise to a rebuttable presumption that the defendant allowed the consumption or possession of an alcoholic beverage or a controlled substance on or within a premises, residence, or other real property, in violation of this subdivision:

(1) The defendant had control over the premises, residence, or other real property.

(2) The defendant knew that a minor was consuming or in possession of an alcoholic beverage or knew that an individual was consuming or in possession of a controlled substance at a social gathering on or within that premises, residence, or other real property.

(3) The defendant failed to take corrective action.

**Sec. 22-595. Selling or furnishing alcoholic beverages to minors.**

This subdivision does not authorize selling or furnishing an alcoholic beverage to a minor.

**Sec. 22-596. Additional criminal penalty.**

A criminal penalty provided for under this subdivision may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct.

**Secs. 22-597—22-625. Reserved.**

## DIVISION 6. MODEL GLUE*

### Sec. 22-626. Definitions.

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

*Model glue* means any glue, adhesive cement, mucilage, dope, plastic solvent or other adhesive of the type commonly used in the construction of model airplanes, automobiles, boats and other unassembled model kits, containing toluene, acetone, xylene, butyl alcohol, hexane, tricresyl phosphate or other toxic ingredient.

### Sec. 22-627. Minors; sale, possession by.

No person under the age of 18 years shall possess or buy any model glue and no person shall sell or transfer possession of any model glue to another person under 18 years of age, except:

(1) A person may sell or transfer possession of model glue to a person under 18 years of age for model building or other lawful use where such juvenile has in his possession and exhibits the written consent of his parent or guardian.

(2) A person may sell or transfer possession to a person under the age of 18 years not more than one assembly kit which contains not more than one container of model glue not to exceed one fluid ounce, as a necessary part of model assembly.

### Sec. 22-628. Parental consent, record of sale required.

A person making a sale or transfer of possession of model glue to a person under 18 years of age who exhibits the written consent of his parent or guardian shall record the name, address, sex and age of the juvenile and the name and address of the consenting parent or guardian. All data required by this section shall be kept in a permanent-type register available for inspection by the Police Department for a period of at least six months.

### Sec. 22-629. Inhalation of fumes.

No person shall inhale, drink, eat or otherwise introduce into his respiratory or circulatory system any compound, liquid, chemical or any substance known as glue, adhesive cement, mucilage, dope, plastic solvent or combination thereof with the intent of becoming intoxicated, elated, dazed, paralyzed, irrational or in any manner changing, distorting the eyesight, thinking process, judgment, balance or coordination of such person. For the purpose of this section, any such condition so induced shall be deemed to be an intoxicated condition.

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***State law reference**—Use of chemical agents, MCL 752.271.

**Sec. 22-630. Medical use.**

The provisions of this division shall not pertain to any person who inhales, drinks, eats or otherwise introduces into his circulatory or respiratory system such material or substance pursuant to the direction or prescription of any doctor, dentist or other person authorized to do so, direct or prescribe.

**Sec. 22-631. Aiding or abetting violation.**

No person shall, for the purpose of violating or aiding another to violate any provision of this division, intentionally possess, buy, sell, transfer possession or receive possession of any model glue. It shall be unlawful for any person to assist, aid, abet or encourage any minor to violate any provisions of this division.

**Secs. 22-632—22-650. Reserved.**

## ARTICLE VIII. OFFENSES ON SCHOOL GROUNDS

**Sec. 22-651. Admission restricted.**

No person who is not a regularly enrolled student or parent or guardian thereof or a school official, teacher, or other public or school employee shall enter or trespass upon or loiter in or upon any public, private, or parochial school building or school property in the Village for any reason whatever unless such person has received written permission from the principal or other person designated by the principal to be in or upon or to remain in or upon such public, private or parochial school building or school property; provided, however, that such written permission need not be secured by persons engaging in or attending a school or recreation board authorized activity or by persons using school playground or playground equipment after school hours or when school is not in session unless such entry or use shall have been otherwise prohibited by a rule or regulation of the school board, school principal or other person, board or committee with the authority to prohibit such use or entry.

**State law reference—**Trespassing, MCL 750.546 et seq.

**Sec. 22-652. Trespass on school property.**

No person shall enter or remain in any public, private or parochial school building in the Village except when in attendance as a regularly enrolled student, teacher, administrator or employee, or when engaged in legitimate school business or pursuits.

**Sec. 22-653. Disturbing schools.**

No person shall willfully or maliciously make or assist in making any noise, disturbance or improper diversion by which the peace, quietude, or good order of any public, private or parochial school is disturbed.

**State law reference—**Disturbing public places, MCL 750.170.

**Sec. 22-654. Duty of person creating disturbance to leave premises.**

Any person, whether lawfully or unlawfully in or upon any public, private or parochial school building or school property who is found to be creating a disturbance in or upon any such school building or property shall leave immediately when so directed by the principal or by any other person designated by the principal.

**State law reference—**Disturbing public places, MCL 750.170.

**Sec. 22-655. Extortion.**

No person shall by violence, threats of violence or other form of coercion force or attempt to force any public, private or parochial school student or other person to give or to lend any money or other thing of value to any person at any time.

**State law reference—**Extortion, MCL 750.213 et seq.

**Sec. 22-656. Borrowing of money or things of value from students in the school or traveling to or from school.**

No person shall borrow or attempt to borrow any money or thing of value from any student in or upon any public, private or parochial school building or school property in the Village or during any time when such student is engaging in, going to or returning from any regularly scheduled session or activity of any such school without first obtaining the written approval of the principal of such school or other person designated by the principal to issue such written approval; provided, however, that this section shall not apply to college students who borrow money or things of value from other college students or adults.

**Sec. 22-657. Destruction of school property.**

No person shall damage, destroy or deface any public, private or parochial school building or the grounds, outbuildings, fences, trees or other appurtenances or fixtures belonging thereto.

**State law reference—**Malicious mischief, MCL 750.377 et seq.

**Secs. 22-658—22-687. Reserved.**

## ARTICLE IX. OFFENSES INVOLVING MINORS

### DIVISION 1. GENERALLY

**Sec. 22-688. Curfew for children under 12 years of age.**

No minor under the age of 12 years shall loiter, idle or congregate in or on any public street, sidewalk, highway, alley or park between the hours of 10:00 p.m. and 6:00 a.m., unless the minor is accompanied by a parent or guardian or an adult delegated by the parent or guardian to accompany the minor.

**State law reference—**Curfew for children under 12 years old, MCL 722.751.

**Sec. 22-689. Curfew for minors under 16 years of age.**

No minor under the age of 16 years shall loiter, idle, congregate in or on any public street, sidewalk, highway, alley or park between the hours of 12:00 midnight and 6:00 a.m., except where the minor is accompanied by a parent or guardian, or an adult delegated by the parent or guardian to accompany the minor, or where the minor is upon an errand or other legitimate business directed by his or her parent or guardian.

**State law reference—**Curfew for children under 16 years old, MCL 722.752.

**Sec. 22-690. Unattended children in motor vehicles.**

Children under the age of eight years shall not be left unattended in a motor vehicle. This offense is punishable by up to 90 days in jail and/or $500.00 fine.

**Secs. 22-691—22-708. Reserved.**

## DIVISION 2. SMOKING

**Sec. 22-709. Definitions.**

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

*Chewing tobacco* means loose tobacco or a flat, compressed cake of tobacco which is inserted into the mouth to be chewed or sucked.

*Nicotine* means a colorless, oily, water-soluble, highly toxic alkaloid found in tobacco.

*School district* means a school district, local act school district or intermediate school district, as those terms are defined in the School Code of 1976, Public Act No. 451 of 1976 (MCL 380.1 et seq.), or a consortium or cooperative arrangement consisting of any combination of these.

*School property* means a building, facility or structure or other real estate owned, leased or otherwise controlled by a school district.

*Smoking* or *smoke* means the carrying by a person of a lighted cigar, cigarette, pipe or other lighted smoking device, including, but not limited to, electronic cigarettes or inhalants.

*Tobacco product* means a preparation of tobacco to be inhaled, chewed or placed in a person's mouth.

*Tobacco snuff* means shredded, powdered or pulverized tobacco which may be inhaled through the nostrils, chewed or placed against the gums.

*Use a tobacco product and/or nicotine product* means any of the following:

(1) The carrying by a person of a lighted cigar, cigarette, pipe, other lighted smoking device and/or electronic cigarette.

(2) The inhaling or chewing of a tobacco product.

(3) The placing of a tobacco product in one's mouth.

**Sec. 22-710. Possession of tobacco by minors.**

A person under 18 years of age shall not possess or smoke cigarettes or cigars; or possess or chew, suck or inhale chewing tobacco or tobacco snuff; or possess or use tobacco or nicotine in any other form, on a public highway, street, alley, park or other lands used for public purposes, in a public place of business or amusement or on school property.

**Sec. 22-711. Smoking on school property.**

(a) Except as otherwise provided in this section, a person shall not use a tobacco product or nicotine on school property.

(b) This section shall not apply to the part of a school property consisting of outdoor dining areas, including, but not limited to, an open air stadium, during either of the following time periods:

(1) Saturdays, Sundays or other days on which there are no regularly scheduled school hours.

(2) After 6:00 p.m. on days during which there are regularly scheduled school hours.

**Sec. 22-712. Penalty.**

(a) A person who violates this division is guilty of a misdemeanor, punishable by a fine of not more than $50.00 for each offense.

(b) In addition to the fine stated in subsection (a) of this section, a minor who violates section 22-710 may be required by the court to participate in a health promotion and risk reduction assessment program, if available. A minor who is ordered to participate in a health promotion and risk reduction assessment program under this section is responsible for the cost of participating in the program. In addition, a minor who violates section 22-710 is subject to the following:

(1) For the first violation, the court may order the minor to do one of the following:

a. Perform not more than 16 hours of community service in a hospice, nursing home or long-term care facility.

b. Participate in a health promotion and risk reduction program, as described in this subsection (b).

(2) For a second violation, in addition to participation in a health promotion and risk reduction program, the court may order the minor to perform not more than 32 hours of community service in a hospice, nursing home or long-term care facility.

(3) For a third or subsequent violation in addition to participation in a health promotion and risk reduction program, the court may order the minor to perform not more than 48 hours of community service in a hospice, nursing home or long-term care facility.

**Sec. 22-713. Sale of tobacco products to minors; prohibition, penalty; public health department sign.**

(a) A person shall not sell, give or furnish any cigarette, cigar, chewing tobacco, nicotine product, tobacco snuff or tobacco in any other form to a person under 18 years of age. A person who violates this section is guilty of a misdemeanor, punishable by a fine of not more than $100.00 for each offense.

(b) Beginning 90 days after the effective date of the ordinance from which this subsection is derived, a person who sells tobacco products at retail shall post, in a place close to the point of sale and conspicuous to both employees and customers, a sign that includes the following statement:

"The purchase of tobacco products by a minor under 18 years of age and the provision of tobacco products to a minor are prohibited by law. A minor unlawfully purchasing or using tobacco products is subject to criminal penalties."

(c) If the sign required under subsection (b) of this section is more than six feet from the point of sale, it shall be 5½ inches by 8 ½ inches, and the statement required under subsection (b) of this section shall be printed in 36-point boldface type. If the sign required under subsection (b) of this section is six feet or less from the point of sale, it shall be two inches by four inches, and the statement required under subsection (b) of this section shall be printed in 20-point boldface type. For purpose of this section, the term "person who sells tobacco products at retail" means a person whose ordinary course of business consists, in whole or in part, of the retail sale of tobacco products subject to state sales tax.

Chapter 23

**RESERVED**

Chapter 24

# PARKS AND RECREATION

## Article I. In General

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Sec. 24-25. Violations.
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## Article III. Park Rules and Regulations

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Sec. 24-58. Animals.
Sec. 24-59. Green's Park.
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## Article IV. Boating Regulations

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Sec. 24-117. Residents use only.
Sec. 24-118. Regulations.
Sec. 24-119. Penalty.
Sec. 24-120. Trespassing.

## ARTICLE I. IN GENERAL

### Sec. 24-1. Intent and purpose.

The intent and purpose of this chapter is the protection and promotion of the public health, safety and welfare by providing regulations for the hours, use, access to and conduct of visitors in the public parks within the Village.
(Code 1996, § 96.01; Am. Ord. No. 12.04, 7-25-2005)

### Sec. 24-2. Village parks.

The Village parks that are subject to this chapter are Green's Park, Children's Park, Atwater Park, Unger Park, Swiss Village Park, Meek's/Linear Park and any other area of land that the Village Council may designate as a Village public park.
(Code 1996, § 96.02; Am. Ord. No. 12.04, 7-25-2005)

### Secs. 24-3—24-22. Reserved.

## ARTICLE II. PARK HOURS

### Sec. 24-23. General park hours.

Unless otherwise established or allowed by ordinance or resolution of the Village, no person shall be in any part of a Village park before sunrise or after sunset. For purposes of this section, sunrise and sunset shall be the times of those events on any given day as reported by the National Weather Service for the Metropolitan Detroit Area.
(Code 1996, § 96.03; Ord. No. 12.02, 11-12-1996; Am. Ord. No. 12.03, 5-10-2005; Am. Ord. No. 12.04, 7-25-2005)

### Sec. 24-24. Green's park hours and dates of operation.

No person shall be in any part of Green's Park outside the established and posted hours and dates that the park is open as determined by resolution of the Village Council and published in a newspaper of general circulation in the Village.
(Code 1996, § 96.04; Ord. No. 12.02, 11-12-1996; Am. Ord. No. 12.03, 5-10-2005; Am. Ord. No. 12.04, 7-25-2005)

### Sec. 24-25. Violations.

Any person, firm or corporation determined to be in violation of sections 24-23 and 24-24 shall be guilty of a misdemeanor and subject to the provisions of section 1-18(1)a.
(Code 1996, § 96.05; Am. Ord. No. 12.04, 7-25-2005)

**Sec. 24-26. Enforcement.**

Police Department officers are hereby authorized to remove and eject any persons from the parks found violating the provisions of sections 24-23 and 24-24.
(Code 1996, § 96.06; Ord. No. 12.02, 11-12-1996; Am. Ord. No. 12.04, 7-25-2005)

**Secs. 24-27—24-55. Reserved.**

## ARTICLE III. PARK RULES AND REGULATIONS

**Sec. 24-56. Prohibited conduct in all parks.**

(a) The possession, use and/or consumption of alcoholic beverages is prohibited in all Village parks.

(b) The possession of glass containers is prohibited in all Village parks.

(c) No person shall start of maintain a fire in any Village park unless it is within a Village-provided grill or designated area or otherwise allowed and in compliance with another provision of this chapter.
(Code 1996, § 96.07; Am. Ord. No. 12.04, 7-25-2005)

**Sec. 24-57. Prohibited conduct in individual parks.**

(a) Swimming, wading or otherwise entering the waters of Paint Creek within or from Children's Park or Meek's/Linear Park is prohibited.

(b) Bicycles, skateboards, roller blades, and roller skates are not allowed to be used or possessed in Children's Park.
(Code 1996, § 96.08; Am. Ord. No. 12.04, 7-25-2005)

**Sec. 24-58. Animals.**

(a) Except for service dogs of persons who are blind or have some other disability requiring the assistance of the dog and police dogs, animals are not allowed to be in Green's Park or Children's Park.

(b) Except for service dogs of persons who are blind or have some other disability requiring the assistance of the dog and police dogs, in Village parks other than Green's Park and Children's Park, animals shall only be allowed in designated areas posted with such notice.

(c) All animals shall be kept on a leash not over six feet in length and shall be under immediate control of a responsible person.

(d) Animal waste shall be removed and properly disposed of by the person in control of or responsible for the animal.
(Code 1996, § 96.09; Am. Ord. No. 12.04, 7-25-2005)

**Sec. 24-59. Green's Park.**

The regulations in this section apply to admittance to, the use of, and conduct in Green's Park.

(1) *Admission.* Green's Park is open to the public during periods of time and hours established by resolution of the Village Council. No person shall enter Green's Park without first obtaining an admission pass as provided in this section and/or by applicable fee established by resolution of the Village Council.

a. Admission passes may be applied for and are issued by the Village offices and may only be issued to persons who are at least 18 years of age upon presentation of photo identification and the payment of any applicable fee established by resolution of the Village Council.

b. Once issued, a pass is valid for the remainder of the calendar year that Green's Park is open and is for immediate family members of the holder of the pass, and up to one guest per each such family member.

c. Persons under the age of 12 years shall not enter or be in Green's Park unless they are accompanied and subject to supervision by a person who is at least 18 years old.

(2) *Supervision and control of park.* Lifeguards and any other personnel the Village may assign to the park are in charge of park usage at all times and are authorized to monitor conduct for compliance with the park regulations, other Village ordinances and for situations that present a threat to the public health, safety and welfare. All persons in or seeking to enter Green's Park shall obey requests or directives of such Village lifeguards or personnel, including directives to not enter or to leave the park. Failure to obey such a request or directive is a violation of this chapter and shall be grounds for immediate removal from the park and may result in suspension or revocation of the applicable admission pass.

(3) *Group activities.* The use of Green's Park by a group of more than ten persons that are not immediate family members of one another must be reserved at least one week in advance through the Village offices by completing a written application and paying the required fee as set by resolution of the Village Council and which may be based upon the day of the week, the size of the group, the length of the gathering, additional lifeguard and/or other staffing required and any other factors the Village Council

determines to be appropriate. Reservations shall be confirmed by a group park pass which shall specify the exact hours between which the pass is valid. The group must leave when the pass expires.

(4) *Rules and regulations.*

a. No person shall start or maintain a fire within the boundaries of the park except in picnic stoves, fireplaces or places provided for such purpose. All fires shall be put out before leaving the park. Charcoal and burning material shall be properly disposed of and shall be placed in receptacles marked for such purposes only.

b. The beach and lake area are for swimming, kayaking, canoeing and paddle boarding only, from dawn to dusk. Specific locations and regulations to be determined by resolution of the Village Council. Open swimming is not allowed during scheduled swimming lessons.

c. Persons wishing to fish must do so at least 100 feet away from the beach and swimming area.

d. Any person wishing to use Green's Park to enter the waters of Lake Orion for the purposes of scuba diving must first obtain a scuba diving permit from the Village office.

(Code 1996, § 96.10; Am. Ord. No. 12.04, 7-25-2005; Am. Ord. No. 12.06, 6-11-2018; Am. Ord. No. 12.08, 4-22-2019)

**Sec. 24-60. Display of rules and regulations.**

Park rules and regulations shall be posted in a visible area within each park in the Village.
(Code 1996, § 96.11; Am. Ord. No. 12.04, 7-25-2005)

**Sec. 24-61. Violations.**

Any person, firm or corporation determined to be in violations of sections 24-56 through 24-59 shall be responsible for a municipal civil infraction and subject to the provisions of section 1-18(1)b.
(Code 1996, § 96.12; Am. Ord. No. 12.04, 7-25-2005)

**Sec. 24-62. Enforcement.**

Police Department officers are hereby authorized to remove and eject any persons from the parks found violating the provisions of sections 24-56 through 24-59.
(Code 1996, § 96.13; Am. Ord. No. 12.04, 7-25-2005)

**Secs. 24-63—24-82. Reserved.**

## ARTICLE IV. BOATING REGULATIONS

### Sec. 24-83. Definitions.

All words and phrases used in this article shall be construed and have the same meanings as those words and phrases defined in Public Act No. 303 of 1967, being MCL 281.1001 et seq. (Code 1996, § 96.15; Ord. No. 2.05, 9-11-1978)

### Sec. 24-84. Changes to Michigan Administrative Code.

The following sections of the 1979 Michigan Administrative Code are amended, deleted, supplemented or additional sections added as follows:

R281.763.9 is amended to read as follows:

Regulation No. 63, Oakland County.

R 281.763.9. Lake Orion; prohibited conduct.

Rule 9.

(1) On the waters of Lake Orion and the canals and channels connected thereto, sections 2, 3, 10, and 11, T4N, Rl0E, Village of Lake Orion and Orion Township, Oakland County, it is unlawful for the operator of a vessel to exceed a slow — no wake speed when within 100 feet of any shore, dock, raft, buoyed or occupied bathing area, or vessel moored or at anchor, except when water skiers are being picked up or dropped off if that operation is otherwise conducted with due regard to the safety of persons and property and in accordance with the state laws.

(2) On the waters of Lake Orion and the canals and channels connected thereto, sections 2, 3, 10, and 11, T4N, R10E, Village of Lake Orion and Orion Township, Oakland County, it is unlawful, during the period of one hour after sunset to one hour before sunrise to:

   a. Operate a vessel at high speed.

   b. Have in tow, or otherwise assist in the propulsion of, a person on water skis, a water sled, kite, surfboard, or other similar contrivance.

(3) On the waters of Lake Orion and the canals and channels connected thereto, sections 2,3, 10, and 11, T4N, R10E, Village of Lake Orion and Orion Township, Oakland County, it is unlawful at any time to operate a vessel at a speed in excess of 40 miles per hour (64 kilometers per hour).

(Code 1996, § 96.16; Ord. No. 2.05, 9-11-1978)

**Sec. 24-85. Motorboats must have mufflers.**

(a) A person shall not operate a motorboat on the waters of Lake Orion unless the motorboat is equipped with a muffler, underwater exhaust, or other modern noise reduction device in good working order and in constant operation from which emission measured at not less than 50 feet from the motorboat, does not exceed 86 decibels on the "A" scale on a sound meter having characteristics of a general purpose sound meter as defined by American Standards Association S1, 4-1966.

(b) If a motorboat is equipped with a muffler or any other modern noise reduction device, including, but not limited to, a water-injected exhaust, but is also equipped with the capability of disengaging that device through the use of any equipment, such as, but not limited to, a water turnoff valve, bypass, or similar device, this shall be prima facie evidence that the muffler or noise reduction device is not in constant use and shall be considered a violation of this article.
(Code 1996, § 96.17; Ord. No. 2.12, 4-27-1987)

**Sec. 24-86. Violations.**

Any person, firm or corporation determined to have been in violation of the provisions of this article shall be responsible for a municipal civil infraction and subject to the provisions of section 1-18(1)b.
(Code 1996, § 96.18; Am. Ord. No. A-3, 1-13-1997)

**Secs. 24-87—24-115. Reserved.**

## ARTICLE V. LAKE STREET BOAT LAUNCH REGULATIONS

**Sec. 24-116. Definitions.**

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

*Resident* means an individual who owns, rents, leases or resides in real property within the boundaries of the Village.
(Code 1996, § 96.30; Ord. No. 12.05, 9-8-2014)

**Sec. 24-117. Residents use only.**

The Lake Street boat launch is provided for the use of the Village residents only. It is a violation of this section for a nonresident to use the launch and, in addition, for a resident to allow a nonresident to use the launch. The penalties for said violation are set forth in section 24-119.
(Code 1996, § 96.31; Ord. No. 12.05, 9-8-2014)

**Sec. 24-118. Regulations.**

(a) In order to utilize the launch, a resident must obtain an access code to the lock on the gate from the Lake Orion Police Department dispatch center.

(b) The resident shall not provide the access code to any other person.

(c) After each use, the resident shall re-secure the gate prior to leaving the launch area.

(d) The residents shall immediately report new or found damage or any other hazardous circumstances to the Lake Orion Police Department.

(e) There shall be no parking, standing or storage of unoccupied vehicles or trailers at or near the launch area or on any public right-of-way on Lake Street or North Shore Street.

(f) Litter and refuse shall be placed in the garbage receptacle at the launch area.

(g) Noise levels shall be at the minimum level required and consistent with normal levels of conversation and boat launching operation.
(Code 1996, § 96.32; Ord. No. 12.05, 9-8-2014)

**Sec. 24-119. Penalty.**

Any violation of section 24-117 or 24-118 shall be a municipal civil infraction and shall result in a 30-day suspension of ramp use. A second violation in the same calendar year shall result in the suspension for the remainder of that calendar year.
(Code 1996, § 96.33; Ord. No. 12.05, 9-8-2014)

**Sec. 24-120. Trespassing.**

Unauthorized use by a nonresident or a suspended resident is considered to be trespassing and will be punished as a misdemeanor.
(Code 1996, § 96.34; Ord. No. 12.05, 9-8-2014)

Chapter 25

**RESERVED**

Chapter 26

# SOLID WASTE

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## ARTICLE I. IN GENERAL

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## ARTICLE II. GARBAGE

### Sec. 26-19. Permission needed for garbage collection.

No firm, person or corporation shall collect garbage, rubbish or trash from any residence within the Village without first obtaining permission from the Village Council.
(Code 1996, § 50.01; Ord. No. 10.01, 10-11-1971)

### Sec. 26-20. Exclusive contracts.

The Village Council may grant an exclusive contract to one or more firms, persons or corporations for the collection of garbage, trash and rubbish within the Village, or any part thereof; provided, however, that any such agreement or contract executed pursuant to the terms hereof shall be for a period of not longer than five years. The terms, provisions and conditions of any such agreement or contract shall be within the discretion of the Village Council.
(Code 1996, § 50.02; Ord. No. 10.01, 10-11-1971)

### Sec. 26-21. Clean premises must be maintained.

It shall be the duty of every person, whether owner, lessee or renter, of any vacant lot, building or premises, including a place of business, hotel, restaurant, apartment house, or other establishments to maintain the premises in a clean, orderly condition. No person shall deposit garbage or refuse matter which may become offensive or dangerous to public health in any alley, street or other public place within the Village limits or in any place or manner where it may become dangerous or offensive to public health.
(Code 1996, § 50.03; Ord. No. 10.01, 10-11-1971)

### Sec. 26-22. Collection regulations.

The following regulations shall govern the collection of garbage, trash or rubbish:

(1) In all areas wherein garbage, trash or rubbish is collected by collectors pursuant to contract with the Village, garbage, trash or rubbish shall be set out in proper waste containers on collection days prior to 6:00 a.m. and placed between the sidewalk and the curb. No garbage, trash or rubbish shall be set out for collection by said contracted collectors except garbage, trash or rubbish which shall be generated by the residential or commercial unit upon which the service charge provided for in section 26-23 is imposed. It shall be the duty of every person, firm or corporation setting containers out

for collection by said contracted collectors to remove empty containers from the curb area promptly after the same have been emptied. In no event shall containers be placed at the curb area for a period longer than 24 hours.

(2) It shall be the duty of every householder to provide himself with proper containers sufficient in number for holding the waste accumulated between regular collections. The containers shall be not more than 20 gallons in size and, when filled, shall not weigh more than 50 pounds.

(3) Containers shall have covers to prevent the scattering of contents.

(4) The Village Council shall have the authority to pass any further regulations necessary to carry out the provisions and intent of this chapter by resolution of the Council.

(Code 1996, § 50.04; Ord. No. 10.01, 10-11-1971; Am. Ord. No. 10.10, 10-13-1992)

**Sec. 26-23. Service charge.**

(a) A service charge is hereby imposed upon each home, apartment, or residential living unit located within the service area wherein garbage, trash, or rubbish is collected by collectors pursuant to contract with the Village. The service charge is also hereby imposed upon each commercial unit located within the service area that uses the services of the contracted collector in accordance with contractual provisions. The service charge shall be as set forth by the Village council in the fee schedule.

(b) Failure of any person, firm or corporation to pay the service charge shall constitute a violation of this chapter and subject said person to the penalties contained herein and in addition thereto said person, firm or corporation shall be liable in a civil action for damages and the Village Council at its discretion may impose a lien against the property and collect same in the same manner as provided for the collection of real estate taxes.

(c) In the event a tenant or lessee is the occupant and fails, refuses or neglects to pay the service charge as contained herein, the owner of said premises shall after notice by the Village Clerk be jointly responsible with the tenant or lessee for all charges falling due after said notice.

(Code 1996, § 50.05; Ord. No. 10.01, 10-11-1971; Am. Ord. No. 10.10, 10-13-1992)

**Sec. 26-24. Violations.**

Any person, firm or corporation determined to have been in violation of the provisions of this chapter shall be responsible for a municipal civil infraction and subject to the provisions of section 1-18(1)b.

(Code 1996, § 50.06; Am. Ord. No. A-3, 1-13-1997)

**Secs. 26-25—26-51. Reserved.**

# ARTICLE III. SEWAGE DISPOSAL SYSTEM

## DIVISION 1. GENERALLY

### Sec. 26-52. Title.

This article shall be known and may be cited as the "Village of Lake Orion Extensions of the Paint Creek Interceptor."
(Code 1996, § 51.01; Ord. No. 23.01, 9-28-1970)

### Sec. 26-53. Definitions.

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

*Area* means the area served by the laterals and shall be deemed to be the entire Village of Lake Orion, including the area served contiguous with the Village boundaries located in the Township of Orion in agreement with the Township of Orion.

*Capital charge* means the amount charged at the time and in the amount hereinafter provided to each premises in the area served by the laterals for connecting or being connected to the new construction or to existing laterals and represents the proportionate cost allocable to such premises for the trunk and treatment facilities by which sewage disposal services are immediately provided to said areas.

*Charges for sewage disposal services* means the amount charged to each premises in the area by the laterals for sewage disposal service which may include a debt service factor.

*Dwelling* means any building or portion thereof which is designed or used exclusively for residential purposes.

*Dwelling group* means a group of two or more detached or semi-detached one-family, two-family or multiple dwellings occupying a parcel of land in common ownership and having yards and courts in common.

*Dwelling unit* means any building or portion thereof which is designed or used for one family exclusively for residential purposes, and having cooking facilities.

*Dwelling, multiple,* means a building having three or more dwelling units.

*Dwelling, one-family,* means a detached building having one dwelling unit.

*Dwelling, two-family,* means a detached building having two dwelling units.

*Family* means one or more persons living together in one dwelling unit and interrelated by bonds of marriage, blood or legal adoption. A family is distinguished from a group occupying a roominghouse, boardinghouse, lodginghouse, club, fraternity house, hotel, motel, tourist home, or foster care group home.

*Inspection, approval and tap fee* means the amount charged to each applicant by the Village to cover the cost of inspecting and approving the physical connection to the system and the issuance of a connection permit.

*Lateral benefit fee* means the amount charged at the time and in the amount hereinafter provided to each premises in the area served by the laterals for the availability to directly serve said premises by the new construction facilities of the system and represents the proportionate cost allocable to such premises for the lateral service made directly available to the premises by the new construction.

*New construction* means the laterals to be construed pursuant to contract dated May 25, 1970, between the county and the Village and any and all future extensions of the Paint Creek Interceptor Disposal System which are being built or may be built by the county under contract with the Village now or hereafter.

*Premises* means the lands included within the boundaries of a single description set forth from time to time on the general tax rolls of the Village as a single item in the name of the taxpayers at one address whether such property is taxable or exempt from taxation, but in the case of platted lots shall be limited to a single platted lot unless a building or structure is so located on more than one lot as to make the same a single description for purposes of assessment or conveyance now or hereafter. In the event single descriptions are combined so that a new description is set forth on the general tax rolls of the Village as a single item, such combination shall not abate the obligation to continue payment of capital or lateral charges to each premises existing prior to the combination.

*Sewage disposal laterals* or *laterals* means the Lake Orion extrusions of the Paint Creek interceptor established under Public Act No. 185 of 1957 (MCL 46.171 through 46.185) to be constructed by the county under a certain contract dated May 25, 1970, between the county and the Village, together with all additions and extensions of such new construction as are hereinafter defined and additions and extensions thereto.

*Sewage disposal service* means the collection, transportation, treatment, and disposal of sanitary sewage emanating from premises now or hereafter in the area served by the sewage disposal laterals.

*System* means the entire sanitary sewer disposal system located within the Village.

*Unit* means that quantity of sanitary sewage ordinarily arising from the occupancy of a residential building by a single family of ordinary size. The number of units or fractional parts thereof to be assigned to types or determined by the Council from time to time, as hereinafter

provided. The determination of units shall be based upon studies relative to the quantity of sewage generated by different types of use and occupancy of premises and shall be kept up-to-date and revised as needed and as new studies are made and through experience gained by the Village in the actual operation of the sewage disposal system.
(Code 1996, § 51.02; Ord. No. 23.01, 9-28-1970; Am. Ord. No. 23.13, 6-12-1978; Am. Ord. No. 23.14, 1-8-1979; Am. Ord. No. 23.16, 9-14-1981)

**Sec. 26-54. Outside privies.**

No privies or outdoor toilets shall be allowed, constructed, or used within the Village.
(Code 1996, § 51.03; Ord. No. 145, 5-23-1966)

**Sec. 26-55. Stormwater system.**

(a) *Authority.* The Village Council shall have authority to authorize the design and construction of a stormwater system.

(b) *Stormwater system.* The stormwater system shall include, but not be limited to, pumping stations, catch basins, pipes and retention ponds.

(c) *Tap-in fee.* All applicants applying for hookup to the stormwater system shall pay a tap-in fee to the Village. The tap-in fee shall be equal to the cost the Village incurs in designing and constructing the system. The tap-in fee shall include all engineering costs and the cost of all off-site improvements.
(Code 1996, § 51.04; Ord. No. 29.01, 4-8-1985)

**Sec. 26-56. Use of sewage disposal laterals.**

All sewage disposal laterals shall be used for the collection and transportation of sanitary sewage only. Yard drains, patio drains, catch basins, downspouts, footing drains, weep tile, water cooled refrigeration and/or water cooled air conditioning, or any conduit that carries stormwater or groundwater along or in combination with sanitary sewage shall not be connected to the laterals directly or indirectly
(Code 1996, § 51.05; Ord. No. 23.01, 9-28-1970)

**Sec. 26-57. Prior existing connections.**

(a) Perimeter and footing drains from buildings existing on or before July 1, 1970, that were legally permitted and connected to a sanitary sewer system in the Village prior to July 1, 1970, shall not be required to disconnect from the sanitary sewer system; provided, however, that roof waters from the buildings permitted and connected in accordance with this section shall not discharge into any flower or shrub bed adjacent to the building wall nor upon the ground within five feet of the building wall. Where local setback, side yard or rear yard requirements result in the building being located less than five feet from the property line, then the downspout shall be

discharged in a manner approved by the local building inspector. The downspout piping used in connection with roof waters from the buildings permitted under this section shall be affixed to the building and installed in such a manner as shall be approved by the Village Manager or his designated representative.

(b) The surface of the ground around such buildings permitted and connected in accordance with this article shall be sloped in such a manner as to provide positive drainage of all roof and surface waters away from the building. The slopes shall be uniform and shall be such that the elevation of the surface of the ground at a point ten feet from the base of the building is a minimum of six inches lower than the ground elevation at the base of the building wall. Where local setback, side yard, or rear yard requirements would result in the building being located less than ten feet from the property line, then the surface water of the ground shall slope away from the building wall at a uniform minimum slope of five-eighths inch per foot and in a manner approved by the local building inspector.
(Code 1996, § 51.06; Ord. No. 23.01, 9-28-1970)

**Sec. 26-58. Industrial and commercial discharge.**

All industrial and commercial waste may be discharged into the system only when in compliance with the standards and regulations of the office of the county water resources commissioner and in compliance with standards and regulations as established by the Great Lakes Water Authority.
(Code 1996, § 51.07; Ord. No. 23.01, 9-28-1970)

**Sec. 26-59. House connection sewer.**

(a) The house connection sewer extending from the lateral sewer in the street or easement to within five feet from the house or other building from which sewage emanated shall be:

(1) Six-inch full diameter extra strength vitrified sewer pipe manufactured in accordance with current N.C.P.I. Designation ER 4-67 Standards, or equal with office of the county water resources commissioner-approved premium joint;

(2) Six-inch diameter Class 2400 asbestos cement pipe with Ring-Tite, Fluid-Tite or office of the county water resources commissioner-approved joint;

(3) Six-inch diameter service strength cast iron soil pipe with hot poured lead joint, or office of the county water resources commissioner-approved equal; or

(4) Other pipe and joints as may be approved by the office of the county water resources commissioner.

(b) Copies of the office of the county water resources commissioner-approved joints shall be on file at the office of the Village.

(c) All house connection sewers shall be six-inch minimum diameter, except that four-inch pipe of comparable strength and joint material may be used when such meets all requirements of the office of the county water resources commissioner and of the Village. All joints shall be tight and when tested for infiltration or exfiltration, shall not exceed the requirements of the office of the county water resources commissioner. Copies of such rules and regulations shall at all times be kept in the office of the Village.

(d) The iron pipes inside any building or structure shall be plugged and leaded and remain plugged and watertight until such time as the plumbing is carried onto the first floor, the basement, if any, backfilled, and the roof is on said building, thereby preventing water from entering the sanitary sewer from the excavated basement or other excavated area beneath said building.

(e) The sewer lateral pipe from the property line to the building on private property shall be installed, repaired and maintained by the owner of the premises. Blockages caused or damages caused by the property owner to the Village's lateral from the main to the property line is also the property owner's responsibility.
(Code 1996, § 51.08; Ord. No. 23.01, 9-28-1970; Am. Ord. No. 23.38, 2-10-2020)

**Sec. 26-60. Connection to laterals required.**

(a) Premises in the areas served by the sewage disposal laterals which abut upon or are crossed by existing facilities or new construction or extensions of either from which sewage emanates, shall not be used or occupied after the effective date of the ordinance from which this section is derived unless said premises shall be connected to the laterals; provided, however, that such premises shall be connected to said laterals within 12 months after the laterals immediately serving such premises are completed and approved for service.

(b) Permits to improve platted or unplatted premises after the effective date of the ordinance from which this section is derived, which premises are within the area served by the laterals and which abut upon existing facilities or new construction or extensions of either, shall not be approved or issued on behalf of the Village and none of said premises shall be improved hereafter by the erection thereupon of a building or structure for human use or occupancy, unless said premises are connected to that part of the system available for service to such premises.

(c) Subsections (a) and (b) of this section are subject to the provisions and conditions of Public Act No. 151 of 1961 (MCL 123.191 through 123.195) and to the Village Charter.
(Code 1996, § 51.09; Ord. No. 23.01, 9-28-1970)

**Sec. 26-61. Management of the system.**

The operation, maintenance, alteration, repair and management of the system shall be under the supervision and control of the Village Council and administered by the Village Manager.

The Village Manager may employ such persons in such capacities as they deem necessary to carry on the efficient management and operation of the system and may make such rules, orders and regulations as he deems advisable and necessary to ensure the efficient management and operation of the system with the approval of the Village Council.
(Code 1996, § 51.10; Ord. No. 23.01, 9-28-1970)

**Sec. 26-62. Enforcement.**

The provisions of this article shall be enforceable through the bringing of appropriate action for injunction, mandamus, or otherwise, in any court having jurisdiction. Any violation of this article is deemed to be a nuisance per se.
(Code 1996, § 51.11; Ord. No. 23.01, 9-28-1970)

**Sec. 26-63. Village reservation of rights.**

The Village specifically reserves the right to amend this article in whole or in part, at one or more times hereafter, or to repeal the same, and by such amendment or repeal to abandon, increase, decrease or otherwise modify the fees, charges or rates herein provided with the understanding, however, that the adoption of the ordinance from which this article is derived or its subsequent amendment or repeal shall in no wise change, relieve or release the contractual and legal obligation of the Village to make the required payments to the county under and as set forth in any contract pertaining to the Paint Creek Interceptor sewage disposal system, the Lake Orion Extensions of the Paint Creek Interceptor sewage disposal system, and any improvements, extensions and enlargements thereof or under applicable law, or relieve or release the contractual and legal obligation pursuant to said contract and applicable law to levy a tax or to use any other means or available funds to make the required payments to the county, and this article shall not be deemed to be a part of any contractual obligation or bond contract pertaining to the laterals.
(Code 1996, § 51.12; Ord. No. 23.01, 9-28-1970)

**Secs. 26-64—26-84. Reserved.**

## DIVISION 2. FEES AND CHARGES

**Sec. 26-85. Capital connection charge.**

(a) Owners of premises within the area served by the laterals from which sanitary sewage emanates on the date of enactment of the ordinance from which this division is derived and which premises are hereafter connected to the system, shall pay a capital charge for connection to the system in an amount to be established by resolution of the Village Council at a regular meeting after public hearing per connection, if paid in cash at the time of obtaining a connection permit from the Village. The owner may elect to pay cash at the time of obtaining

a connection permit or may elect to defer the payment of such charge over a period of 20 equal payments in which event the amount to be paid over such period shall be an additional 50 percent per connection. Any owner electing to pay the capital charge on a time-payment plan may, at any time, prepay the unpaid balance of such capital charge with a 33⅓ percent discount on the then-remaining balance due and owing.

(b) Owners of premises within the area served by the laterals upon which buildings or structures having sanitary or industrial sewage facilities are hereafter constructed, from which sewage shall emanate and which premises are connected to the system, shall pay a capital charge to the system in an amount to be established by resolution of the Village Council at a regular meeting after public hearing per unit or portion thereof, as determined by the office of the county water resources commissioner "Schedule of Unit Assignment Factors, July 1, 1998," in cash, at the time of obtaining a connection permit from the Village. The county schedule of unit assignment factors shall remain on file for public inspection in the office of the Village Clerk.

(c) Owners of premises within the area served by the laterals upon which structures or buildings are located and for which provision has been made for the connection to the system shall be obligated to pay the applicable capital charge for connection to the system on the basis of a deferred payment of such charge over a period of 20 equal payments. This charge shall be an obligation regardless of whether the buildings or structures are connected to the system and a subsequent change in the character of the use or type of occupancy of the premises (including destruction, removal or abandonment of any or all improvements thereon) shall not abate the obligation to continue the payment of this capital charge.
(Code 1996, § 51.25; Ord. No. 23.01, 9-28-1970; Am. Ord. No. 23.11, 5-23-1977; Am. Ord. No. 23.23, 2-10-1986; Am. Ord. No. 23.26, 11-27-1989; Am. Ord. No. 23.30, 3-22-1999; Am. Ord. No. 23.34, 11-9-2015)

**Sec. 26-86. Lateral benefit fee.**

(a) Owners of premises within the area served by the laterals from which sewage emanates on the date of enactment of the ordinance from which this article is derived and which premises are crossed by or abut upon the new construction or which abut upon or are crossed by existing laterals other than those existing laterals previously installed as part of a special assessment district or installed and financed at private cost shall pay a lateral benefit fee upon connecting to the system in an amount established by resolution of the Village Council at a regular meeting after public hearing per connection, if paid in cash at the time of obtaining a connection permit from the Village. The owner may elect to pay cash at the time of obtaining a connection permit or may elect to defer the payment of such charge over a period of 20 equal annual installments, in which event the amount to be paid over such period shall be an additional 50 percent per connection. Any owner electing to pay the lateral benefit fee on a time-payment plan may at any time thereafter prepay the unpaid balance of such lateral benefit fee with a 33⅓ percent discount on the then remaining balance due and owing. In case of a commercial account or

multifamily account, the connection fee will be an amount established by resolution of the Village Council at a regular meeting after public hearing, if paid in cash at the time of obtaining a connection permit, and an additional 50 percent to defer the payment of such charge over 20 equal annual installments.

(b) Owners of premises within the area served by the laterals upon which buildings or structures having sanitary or industrial sewage facilities are hereafter constructed and from which sewage shall emanate and which premises are crossed by or abut upon the new construction or which abut or are crossed by existing laterals, other than those existing laterals previously installed as a part of a special assessment district or installed and financed at private cost, shall pay a lateral benefit fee upon connecting to the system in an amount established by resolution of the Village Council at a regular meeting after public hearing per connection, in cash, at the time of obtaining a connection permit from the Village and prior to the issuance of any construction permit for the erection of buildings or structures on the land.

(c) Owners of premises within the area served by the laterals upon which structures or buildings are located and for which provision has been made for connection to the system and which premises are crossed by or abut upon the new construction or which abut upon or are crossed by existing laterals other than those existing laterals previously installed and financed at private cost, and which premises are not connected to the system shall be billed for the applicable lateral benefit fee for connection to the system on the basis of a deferred payment of such charge over a period of 20 equal payments. Subsequent changes in the character of the use or type of occupancy of the premises (including destruction, removal or abandonment of any or all improvements thereon) shall not abate the obligation to continue the payment of the lateral benefit.

(d) (1) In the event a premises cannot be served by gravity due to the elevation of the sewer, it shall be necessary for the owner to install a grinder or non-grinder pump meeting the specifications of this section to facilitate the proper discharge of the sewage from the premises. The minimum specifications for the grinder pump shall be adopted and may be amended by resolution of the Village Council and will be available at the Village Hall. All installations shall meet these minimum specifications and current state, county and Village requirements, as determined by the Village Manager after consulting with the Village Engineers.

(2) Only the premises not able to be served by gravity as determined by the Village consulting engineers shall be allowed to utilize the grinder pump.

(3) Non-grinder pumps must be capable of passing three-inch or larger spheres and pump suction and discharge openings must be at least four inches in diameter, or meet current state, county and Village requirements as determined by the Village Manager after

consulting with the Village Engineers. It is hereby provided, further, that the Village shall provide to owners, upon request, detailed specifications of grinder and non-grinder pumps.

(Code 1996, § 51.26; Ord. No. 23.01, 9-28-1970; Am. Ord. No. 23.04, 3-12-1973; Am. Ord. No. 23.10, 5-23-1977; Am. Ord. No. 23.11, 5-23-1977; Am. Ord. No. 23.21, 2-11-1985; Am. Ord. No. 23.23, 2-10-1986; Am. Ord. No. 23.30, 3-22-1999; Am. Ord. No. 23.32, 4-22-2002; Am. Ord. No. 23.34, 11-9-2015)

**Sec. 26-87. Number of units assigned.**

(a) The number of units to be assigned to any particular premises shall be determined by the ordinance of the Council and its decision shall be final. The Council, if the circumstances justify, may assign more than one unit to a single-family dwelling. No less than one unit shall be assigned to each premises but for purpose of computing the capital charge and the lateral benefit fee herein set forth, units in excess of one may be computed and assigned to the nearest one-tenth of a unit. Once premises have been connected to the lateral, subsequent changes in the character of the use or type of occupancy of said premises (including destruction, removal or abandonment of any or all improvements thereon) shall not abate the obligation to continue the payment of the capital charge or the lateral benefit fee herein set forth charged to said premises in the amount and for the period hereinbefore provided and if subsequent changes at the time increase the amount of sanitary sewage emanating from the premises, the Council may, in its discretion, increase the number of units assigned to said premises and thereupon any additional capital charge occasioned by such increase in units or fractional parts thereof shall be payable in cash at the time of construction or other permit is issued by the Village for such changes in use occurs if no permit is issued or required.

(b) The schedule of units generated by different types of use and occupancy may be determined and established by separate ordinance enacted by the Council and may, from time to time, thereafter be amended by the Council; providing, however, that such ordinance shall never in any way be changed in such manner as shall be contrary to the obligation and limitation set forth in any contractual agreement, pertaining to the laterals, between the Village and the county, or contrary to the obligations of the contract between the Village and the county pertaining to the Paint Creek interceptor disposal system.

(Code 1996, § 51.27; Ord. No. 23.01, 9-28-1970)

**Sec. 26-88. Sewer disposal service charges.**

Charges for sewage disposal services to each premises in the area served by the laterals shall be as follows:

(1) Usage charges for metered sewage disposal services to each premise in the area served by laterals shall be set by the Village Council in a resolution adopted at a regular meeting, after a public hearing is held on the proposed charges.

(2) Usage charges for unmetered sewage disposal services to each premises in the area served by laterals shall be set by the Village Council using the procedure noted in subsection (a) of this section.

(3) a. In addition to the usage charges listed in subsections (1) and (2) of this section, all nonresidential premises shall be charged a quarterly surcharge based upon meter size. This quarterly surcharge shall be set by the Village Council, using the procedure noted in subsection (1) of this section.

b. Once premises have been assigned debt service charges, subsequent changes in the character of the use or type of occupancy of the premises shall not abate the obligation to continue the payment of the debt service charge herein set forth or decrease the applicable unit factor. If subsequent changes in the character of the use or type of occupancy of the premises increase the applicable unit factor, then such debt service charge shall be increased accordingly to reflect such change; provided, however, that if the charges are increased because of a change of use, further changes in the occupancy thereafter shall be adjusted upward or downward in accordance with the use, but in no event shall the debt service charge be less than that applicable under the unit factor in effect on June 12, 1978.

(4) The charges set by the Village Council shall never in any way be changed in such a manner as shall be contrary to the obligation and limitations set forth in any contractual agreement pertaining to the laterals between the Village and the county, or contrary to the obligations and limitations of the contract between the Village and the county pertaining to the Paint Creek interceptor sewage disposal system.

(Code 1996, § 51.28; Ord. No. 23.01, 9-28-1970; Am. Ord. No. 23.15, 2-13-1979; Am. Ord. No. 23.20, 7-25-1983; Am. Ord. No. 23.22, 12-23-1985; Am. Ord. No. 23.24, 2-10-1986; Am. Ord. No. 23.25, 5-26-1987; Am. Ord. No. 23.30, 3-22-1999; Am. Ord. No. 23.37, 9-25-2017)

**Sec. 26-89. Permit and inspection fees.**

The owner of any premises within the area served by the laterals shall pay such permit and inspection fee as may be established by the Village Council, which fee shall reimburse the Village for any and all cost necessary to issue a permit add inspect the connection of said premises. This fee shall be in addition to all other charges and fees set forth herein.

(Code 1996, § 51.29; Ord. No. 23.01, 9-28-1970)

**Sec. 26-90. Deposit of revenue.**

(a) All revenue derived hereunder shall be set aside as collected and deposited in a bank duly qualified to do business in the state in an account to be designated "Village of Lake Orion Extensions of the Paint Creek Disposal System Receiving Fund" (hereunder referred to as "the receiving fund") and the revenue so deposited shall be transferred from the receiving fund to such other funds as are herein established in the manner and at the times hereinafter set forth.

(1) *Operation and maintenance fund.* Out of the revenue in the receiving fund there shall be first set aside quarter-annually into separate account designated "operation and maintenance fund" a sum sufficient to provide for the payment of the next quarter's current expenses of administration and operation of the system and such current expenses for the maintenance thereof as may be necessary to preserve the same in good repair and working order.

(2) *Bond and interest redemption fund.* Out of the revenues in the receiving fund there shall next be set aside quarter-annually into a separate account designated "bond and interest redemption fund" a sum not less than one-quarter of that amount necessary to meet the next annual payment of interest and bond redemption. All monies received from capital payments and lateral benefit payments shall be put into the bond and interest redemption fund.

(3) *Improvement and reserve fund.* Out of the revenue in the receiving fund there shall lastly be set aside once annually into a separate account designated "improvement and reserve fund," such sums which shall be in excess of the needs and requirements of the operation and maintenance fund, such excess to be held for the purpose of improving, enlarging and extending the Village extensions of the Paint Creek sewage disposal system and for the purpose of providing a reserve fund for all future payments of interest and bond redemption.

(b) All monies belonging to any of the funds or accounts described in subsection (a) of this section may be kept in one bank account, in which event, the monies shall be properly allocated on the books and records of the Village within this single bank account in the manner set forth in subsection (a) of this section.

(c) In the event monies in the receiving fund are insufficient to meet the requirements of the operation and maintenance fund or the requirements of the bond and interest redemption fund, then such funds or securities in the improvement and reserve fund shall be transferred to either or both of such funds to the extent of any deficit that might exist therein.

(d) Monies in any fund or account established by the provisions of this division may be invested in such securities as may hereafter be permitted by law. In the event such investments are made, the securities representing the same shall be kept on deposit with the bank or trust company having on deposit the funds from which such purchase was made. Income received from such investments shall be credited to the fund from which said investments were made.

(e) All funds received under this division from the Lake Orion extensions of the Paint Creek sewage disposal system shall not, under any circumstances, be commingled with any other funds received by the Village.
(Code 1996, § 51.30; Ord. No. 23.01, 9-28-1970)

**Sec. 26-91. Billing; due date; late penalty.**

No free service shall be furnished by the system to the Village or to any person, firm or corporation, public or private, or to any public agency or instrumentality. Charges for services furnished by the Village to any premises shall be billed quarterly on such dates as the Village Manager on an area basis may, from time to time, determine. Such charges shall become due at such times, not exceeding 30 days after established billing dates and if such charges are not paid on or before such due date, then a penalty of ten percent shall be added thereto.
(Code 1996, § 51.31; Ord. No. 23.01, 9-28-1970)

**Sec. 26-92. Charges to be a lien.**

All charges for lateral benefit fee, capital charge and charges for sewage disposal furnished by the Village to any premises shall be a lien thereon, and if any charge is not paid before it becomes delinquent, such charge may be certified to the Village Treasurer by the Village Council and assessed against the property on the next Village tax roll, in which event such charge shall be collected and returned in the same manner as other Village taxes are collected and returned, provided that any charge shall not be so certified which has not been delinquent for a period of at least 30 days.
(Code 1996, § 51.32; Ord. No. 23.01, 9-28-1970; Am. Ord. No. 23.28, 5-22-1995)

**Sec. 26-93. Fiscal year of the system.**

The system shall be operated upon the basis of July l as the beginning of the fiscal year.
(Code 1996, § 51.33; Ord. No. 23.01, 9-28-1970)

**Secs. 26-94—26-114. Reserved.**

## DIVISION 3. SEWER CONNECTIONS

**Sec. 26-115. Definitions.**

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

*Available public sanitary sewer* means a public sanitary sewer system located in the right-of-way, easement, highway, street or public way which crosses, adjoins or abuts upon the property and passing not more than 200 feet at the nearest point from a structure in which sanitary sewage originates.

*Public sanitary sewer system* means a sanitary sewer or a combined sanitary and storm sewer used or intended for use by the public for collection and transportation of sanitary sewage for treatment or disposal.

*Sewage disposal system* means the Village sanitary sewage disposal system.

*Structure* or *structure in which sanitary sewage originates* means a building in which toilet, kitchen, laundry, bathing or other facilities which generate water-carried sanitary sewage are used or are available for use for household, commercial, industrial or other purposes.

*System* means the sewage disposal system.
(Code 1996, § 51.50; Ord. No. 23.05, 3-12-1973)

**Sec. 26-116. Purpose.**

Public sanitary sewer systems are essential to the health, safety and welfare of the people of the state and the septic tank disposal systems are subject to failure due to soil conditions or other reasons. Failure to potential failure or septic tank disposal systems poses a threat to the public health, safety and welfare; presents a potential for ill health, transmission of disease, mortality and potential economic blight, and constitutes a threat to the quality or surface and subsurface waters of the state and the Village. The connection to available public sanitary sewer systems at the earliest reasonable date is a matter for the protection of the public health, safety and welfare and necessary in the public interest which is declared as a matter of legislative determination.
(Code 1996, § 51.51; Ord. No. 23.05, 3-12-1973)

**Sec. 26-117. Connection required.**

Structures in which sanitary sewage originates located in the Village in the area served by the system for which there is an available public sanitary sewer of the system shall not be used or occupied after the effective date of the ordinance from which this division is derived, unless the structures are connected to the sewage disposal system, provided that structures within the Village in which sanitary sewage is originating on the effective date of the ordinance from which this division is derived or in which sanitary sewage originates before availability of the system or any part thereof to serve the structures shall be connected to the system within 12 months after publication of a notice by the Village in the Lake Orion Review, a newspaper of general circulation in the Village, of the availability of the system.
(Code 1996, § 51.52; Ord. No. 23.05, 3-12-1973)

**Sec. 26-118. Failure to connect; notice.**

When the structure in which sanitary sewage originates has not been connected to an available public sanitary sewer system before use and occupancy, or within the 12-month period provided in this division, the Village shall require the connection to be made forthwith after notice, which may be by first class or certified mail or posting on the property, to the owner of the property on which the structure is located. The notice shall give the approximate location of

the public sanitary sewer of the system which is available for connection of the structure involved and shall advise the owner of the requirements and of the enforcement provisions of this division.
(Code 1996, § 51.53; Ord. No. 23.05, 3-12-1973)

**Sec. 26-119. Enforcement.**

Where any structure in which sanitary sewage originates is not connected to an available public sanitary sewer system within 90 days after the date of mailing or posting of the written notice, the provisions of this division shall be enforceable through the bringing of appropriate action or injunction, mandamus, or otherwise, in any court having jurisdiction. Any violation of this division is deemed to be a nuisance per se.
(Code 1996, § 51.54; Ord. No. 23.05, 3-12-1973)

**Secs. 26-120—26-136. Reserved.**

## DIVISION 4. MUNICIPAL SEPARATE STORM SEWER SYSTEM

**Sec. 26-137. Purpose.**

(a) The purpose of this division is to provide for the health, safety, and general welfare of the citizens of the Village through the regulation of stormwater and non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This division establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this division are:

(1) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user.

(2) To prohibit illicit connections and discharges to the municipal separate storm sewer system.

(3) To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this division.

(b) As a requirement of the NPDES stormwater discharge permit and the Village's municipal separate storm sewer system permit, the Village accepts the following county standards for post-construction stormwater runoff:

(1) The county Post-Construction Stormwater Runoff Program, including the county stormwater engineering design standards is hereby adopted by the Village in this division for the control and treatment of stormwater runoff, with the exception that all

developments subject to this division shall provide acceptable water quality treatment BMPs designed to achieve 80 percent removal efficiency of total suspended solids from the runoff produced by a one-inch rainfall event.

(2) The property owner, upon completion of construction, must enter into a binding long-term maintenance agreement with the Village, at their own expense, to document, routinely monitor and maintain the stormwater quantity and quality BMPs so they continue to operate as designed. The agreement shall be set up such that if the property owner should be determined to be nonresponsive to a notice of required maintenance actions, the Village may enter the property to perform the maintenance required.

(3) These standards shall apply to address post-construction stormwater runoff from new development and redevelopment projects that disturb one or more acres, including projects less than one acre that are part of a larger common plan of development or sale, and that discharge into the Village's MS4.

(4) All permanent and temporary stormwater management BMPs, constructed as part of the requirements of this section, are subject to this division.

(5) This division also applies to any activities which may affect the quantity or quality of a private or stormwater conveyance system or any waterway within the Village. Any person engaged in activities that may result in excessive quantities or pollutants entering any stormwater conveyance systems or waterways may be subject to the remedies for violation of this section. Examples of such pollutants may include, but are not limited to, debris, concrete washings, de-icing materials, fertilizers, heavy metals, automobile fluids, topsoil, yard wastes, and commercial or light industrial wastes.

(6) Natural swales and channels should be preserved, whenever possible. If channel modification must occur, the physical characteristics of the modified channel will meet the existing channel in length, cross section, slope, sinuosity, and carrying capacity. Streams and channels will be expected to withstand all events up to the two-year storm without increased erosion.

(7) Channel protection volume control (CPVC) must retain on-site the post-development runoff volume from a 1.3-inch rainfall event and provide infiltration and/or storage/ reuse BMP's to the maximum extent possible (MEP).

(8) Channel protection rate control (CPRC) must provide extended detention for the post development runoff volume from a 1.9-inch rainfall event.

(9) All structural and vegetative BMPs must be installed and implemented to meet the performance standards and shall be operated and maintained in perpetuity. The permittee shall implement and enforce this division or regulatory mechanism program to ensure long-term operation and maintenance of BMPs.

(10) The regulatory mechanism and procedures for site plan approval and the design and construction standards shall apply for projects that disturb one or more acres, including projects less than one acre that are part of a larger common plan of development or sale, and discharge to the permittee's MS4, including projects where the permittee is the developer. The final site plan review and approval shall demonstrate compliance with the performance standards and long-term operation and maintenance requirements stated in this division.

(Code 1996, § 51.60; Ord. No. 23.35, 2-8-2016; Ord. No. 23.29, § 51.60, 4-25-2022)

**Sec. 26-138. Definitions.**

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

*Authorized enforcement agency* means the Building Inspector or designees of the Village Manager for the Village.

*Best management practices (BMPs)* means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

*Channel protection volume control (CPVC)* means the volume of runoff under post development conditions from a 1.3-inch rainfall event that is required to be retained on-site to the maximum extent practicable (MEP).

*Channel protection rate control (CPRC)* means the volume of runoff under post development conditions from a 1.9-inch rainfall event that requires extended detention be provided.

*Clean Water Act* means the Federal Water Pollution Control Act (33 USC 1251 et seq.) and any subsequent amendments thereto.

*Construction activities* means activities subject to NPDES construction permits or the Village's grading ordinance. These include construction projects resulting in land disturbance of five acres or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

*Hazardous material* means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

*Illegal discharge* means any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in section 26-142.

*Illicit connection* means either of the following:

(1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system, including, but not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the authorized enforcement agency; or

(2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the authorized enforcement agency.

*Industrial activity* means activities subject to NPDES industrial permits as defined in 40 CFR 122.26(b)(14).

*National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit* means a permit issued by the EPA (or by a state under authority delegated pursuant to 33 USC 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

*Non-stormwater discharge* means any discharge to the storm drain system that is not composed entirely of stormwater.

*Person* means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

*Pollutant* means anything which causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

*Premises* means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking areas.

*Storm drainage system* means publicly owned or privately owned facilities by which stormwater is collected and/or conveyed, including, but not limited to, any roads with drainage systems,

municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

*Stormwater* means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

*Stormwater pollution prevention plan* means a document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

*Wastewater* means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.
(Code 1996, § 51.61; Ord. No. 23.35, 2-8-2016; Ord. No. 23.29, § 51.61, 4-25-2022)

**Sec. 26-139. Applicability.**

This division shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the authorized enforcement agency.
(Code 1996, § 51.62; Ord. No. 23.35, 2-8-2016)

**Sec. 26-140. Responsibility for administration.**

The Village Manager or the Village Manager's designee, shall administer, implement, and enforce the provisions of this division. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Village Manager to persons or entities acting in the beneficial interest of or in the employ of the agency.
(Code 1996, § 51.63; Ord. No. 23.35, 2-8-2016)

**Sec. 26-141. Ultimate responsibility.**

The standards set forth herein and promulgated pursuant to this division are minimum standards; therefore, this division does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.
(Code 1996, § 51.64; Ord. No. 23.35, 2-8-2016)

**Sec. 26-142. Discharge prohibitions.**

(a) No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.

(b) The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this division if they are identified as not being a significant source of pollutants and/or a significant contributor to violations of state quality standards: water line flushing and discharges from other potable water sources, landscape irrigation or lawn watering runoff, diverted stream flows, rising groundwater and springs, uncontaminated groundwater infiltration and seepage, uncontaminated pumped groundwater (except for groundwater cleanups specifically authorized by NPDES permits), foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, noncommercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools from single-, two- or three-family residences (if dechlorinated, typically less than one PPM chlorine), firefighting activities, and any other water source not containing pollutants.

(2) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

(3) Dye testing is an allowable discharge, but requires authorization from the Michigan Department of Environment, Great Lakes, and Energy (Rule 97 certification of approval) and a verbal notification to the authorized enforcement agency prior to the time of the test.

(4) The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(Code 1996, § 51.65; Ord. No. 23.35, 2-8-2016)

**Sec. 26-143. Prohibition of illicit connections.**

(a) The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited.

(b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(c) A person is considered to be in violation of this division if the person connects a line conveying sewage to the MS4 or allows such a connection to continue.

(Code 1996, § 51.66; Ord. No. 23.35, 2-8-2016)

**Sec. 26-144. Right of entry for inspection.**

The Village Manager and other duly authorized employees of the Village bearing proper credentials and identification shall be permitted to enter upon all properties for the purposes of inspection, observation, measurement, sampling, and testing of suspected illicit discharges or connections in accordance with the provisions of this division.
(Code 1996, § 51.67; Ord. No. 23.35, 2-8-2016)

**Sec. 26-145. Access.**

(a) *Suspension due to illicit discharges in emergency situations.* The authorized enforcement agency may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

(b) *Suspension due to the detection of illicit discharge.* Any person discharging to the MS4 in violation of this division may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the authorized enforcement agency.
(Code 1996, § 51.68; Ord. No. 23.35, 2-8-2016)

**Sec. 26-146. Industrial or construction activity discharges.**

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the authorized enforcement agency prior to the allowing of discharges to the MS4.
(Code 1996, § 51.69; Ord. No. 23.35, 2-8-2016)

**Sec. 26-147. Monitoring of discharges.**

(a) *Applicability.* This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

(b) *Access to facilities.*

(1) The authorized enforcement agency shall be permitted to enter and inspect facilities subject to regulation under this division as often as may be necessary to determine

compliance with this division. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.

(2) Facility operators shall allow the authorized enforcement agency ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

(3) The authorized enforcement agency shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.

(4) The authorized enforcement agency has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the authorized enforcement agency and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing the authorized enforcement agency access to a permitted facility are a violation of a stormwater discharge permit and of this division. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this division.

(7) If the authorized enforcement agency has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this division, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this division or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

(Code 1996, § 51.70; Ord. No. 23.35, 2-8-2016)

**Sec. 26-148. Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.**

All stormwater drainage and erosion control plans shall meet the standards adopted by the Village and the county for design and construction. Authorized enforcement agency may adopt requirements identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the United States. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premises which is, or may be, the source of an illicit discharge may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

(Code 1996, § 51.71; Ord. No. 23.35, 2-8-2016; Ord. No. 23.29, § 51.71, 4-25-2022)

**Sec. 26-149. Watercourse protection.**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(Code 1996, § 51.72; Ord. No. 23.35, 2-8-2016)

**Sec. 26-150. Notification of spills.**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or water of the United States said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the

authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the authorized enforcement agency within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.
(Code 1996, § 51.73; Ord. No. 23.35, 2-8-2016)

**Sec. 26-151. Enforcement agency; notice of violation.**

(a) Whenever the authorized enforcement agency finds that a person has violated a prohibition or failed to meet a requirement of this division, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require, without limitation:

(1) The performance of monitoring, analyses, and reporting;

(2) The elimination of illicit connections or discharges;

(3) That violating discharges, practices, or operations shall cease and desist;

(4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

(5) The payment of a fine to cover administrative and remediation costs; and

(6) The implementation of source control or treatment BMPs.

(b) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.
(Code 1996, § 51.74; Ord. No. 23.35, 2-8-2016)

**Sec. 26-152. Enforcement measures.**

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, then representatives of the authorized enforcement agency may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property upon the issuance of an order from a court of competent jurisdiction. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.
(Code 1996, § 51.75; Ord. No. 23.35, 2-8-2016)

**Sec. 26-153. Cost of abatement of the violation.**

(a) Within 15 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

(b) Any person violating any of the provisions of this division shall become liable to the Village by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of two percent per annum shall be assessed on the balance beginning on the first day following discovery of the violation.
(Code 1996, § 51.76; Ord. No. 23.35, 2-8-2016)

**Sec. 26-154. Injunctive relief.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this division. If a person has violated or continues to violate the provisions of this division, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
(Code 1996, § 51.77; Ord. No. 23.35, 2-8-2016)

**Sec. 26-155. Compensatory action.**

In lieu of enforcement proceedings, penalties, and remedies authorized by this division, the authorized enforcement agency may allow a violator to perform alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.
(Code 1996, § 51.78; Ord. No. 23.35, 2-8-2016)

**Sec. 26-156. Violations deemed a public nuisance.**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this division is deemed a threat to public health, safety, and welfare, and is declared a nuisance, public nuisance and nuisance per se and may be summarily abated or restored at the violator's expense and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.
(Code 1996, § 51.79; Ord. No. 23.35, 2-8-2016)

**Sec. 26-157. Violations.**

(a) Any person, firm or corporation determined to have been in violation of the provisions of this division shall be responsible for a municipal civil infraction and subject to the provisions of this Code.

(b) The Village Council by way of the Building Inspector, in addition to other remedies, may institute any appropriate action or proceeding to prevent, abate or restrain the violation.

(c) Each day's continuance of a violation shall be deemed a separate and distinct offense. Expenses in connection with such action shall be assessed as damages against the violation.
(Code 1996, § 51.80; Ord. No. 23.35, 2-8-2016)

**Sec. 26-158. Remedies not exclusive.**

The remedies listed in this division are not exclusive of any other remedies available under any applicable federal, state or local law, and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.
(Code 1996, § 51.81; Ord. No. 23.35, 2-8-2016)

**Secs. 26-159—26-184. Reserved.**

## ARTICLE IV. INDUSTRIAL SEWER REGULATIONS

### DIVISION 1. GENERALLY

**Sec. 26-185. Purpose.**

(a) The purpose of this article is the protection of the environment and of public health and safety by abating and preventing pollution through the regulation and control of the quantity and quality of wastes admitted to or discharged into the wastewater collection and treatment system under the jurisdiction of the Village and enabling the Village to comply with all applicable state and federal laws required by the Federal Water Pollution Control Act, being 33 USC 1251 et seq., and the General Pretreatment Regulations, being 40 CFR 403.

(b) The objectives of this article are:

(1) To prevent the introduction of pollutants into the wastewater system which will interfere with the operation of the system or contaminate the resulting sludge, or which will pose a hazard to the health or welfare of the people or of employees of the Village of Lake Orion Water and Sewerage Department;

(2) To prevent the introduction of pollutants into the wastewater system which will pass inadequately treated through the system into receiving waters, the atmosphere or the environment, or otherwise be incompatible with the system;

(3) To improve the opportunity to recycle or reclaim wastewater or sludge from the system in an economical and advantageous manner; and

(4) To provide for the recovery of the costs from users of the wastewater collection and treatment system sufficient to administer regulatory activities and meet the costs of the operation, maintenance, improvement or replacement of the system.

(c) This article provides for the regulation of contributors to the state and the Village wastewater collection and treatment system through the issuance of wastewater discharge permits to certain users and through the enforcement of general requirements for all users, authorizes monitoring and enforcement, and authorizes fees and penalties.
(Code 1996, § 52.01; Ord. No. 23.27, 1-8-1990; Am. Ord. No. 23.31, 12-10-2001)

**Sec. 26-186. Authority.**

By virtue of the obligations and authority placed upon the Village by the Federal Water Pollution Control Act, also known as the Clean Water Act, being 33 USC 1251 et seq.; the 1963 Constitution of the State of Michigan; Public Act No. 245 of 1929 (now repealed MCL 323.13a et seq.), being MCL 323.1 et seq.; the 1997 Village Charter; the National Pollutant Discharge Elimination System permit (NPDES) for the Great Lakes Water Authority; the consent judgment in *United States EPA v. Village of Detroit* et al., Federal District Court for the Eastern District of Michigan Case No. 77-1100; and existing or future contracts between the board of water commissioners and suburban communities or other governmental or private entities; or by virtue of common law usage of the system, this article shall apply to every user contributing, or causing to be contributed or discharging, pollutants or wastewater into the wastewater collection and treatment system of the Great Lakes Water Authority.
(Code 1996, § 52.02; Ord. No. 23.27, 1-8-1990; Am. Ord. No. 23.31, 12-10-2001)

**Sec. 26-187. Definitions.**

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

*Act* or *the Act* means the Federal Water Pollution Control Act, also known as the Clean Water Act, being 33 USC 1251 et seq.

*As-built plans* means engineering drawings prepared after installations of wastewater facilities which shall show a statement by a registered engineer or surveyor certifying such to be as-built plans and shall include, but not be limited to, length of sewer, invert elevation, locations with respect to property lines, wye and riser locations and depths, sewer material and joints used, and mechanical, electrical, and structural details for pump stations, wastewater treatment facilities, and other appurtenances.

*Authorized representative of industrial user* means:

(1) A responsible corporate officer, where the industrial user submitting the reports required by this article is a corporation, who is either:

a. The president, vice-president, secretary, or treasurer of a corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or

b. The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25,000,000.00 in second-quarter 1980 dollars, when authority to execute documents has been assigned or delegated to said manager in accordance with corporate procedures; or

(2) A general partner or proprietor where the industrial user submitting the reports required by this article is a partnership or sole proprietorship respectively.

*Available cyanide* means the quantity of cyanide that consists of cyanide ion (CN) hydrogen cyanide in water (HCNaq), and the cyano-complexes of zinc, copper, cadmium, mercury, nickel and silver, determined by EPA method OIA-1677, or other method designated as a standard method or approved under 40 CFR 136.

*Best management practices (BMPs)* means programs, practices, procedures or other directed efforts initiated and implemented by the user which can or do lead to the reduction, conservation or minimization of pollutants being introduced into the ecosystem, including, but are not limited to, the state sewer system. BMPs include, but are not limited to, equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control and may include technical and economic considerations.

*Biochemical oxygen demand (BOD)* means the quantity of dissolved oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure five days at 20 degrees Celsius, expressed in terms of mass and concentration (milligrams per liter (mg/L)) as measured by standard methods.

*Board* means the Board of the Great Lakes Water Authority.

*Building drain* means that part of the lowest horizontal piping of a drainage system which receives discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building's sewer (house sewer). The latter begins five feet outside the inner face of the building wall.

*Bypass* means the intentional diversion of a wastestream from any portion of an industrial user's treatment facility. See 40 CFR 403.17.

*Centralized waste treatment (CWT) facility* means any facility that treats any hazardous or nonhazardous industrial waste received from off site by tanker truck, trailer/roll-off bins, drums, barges, or any other forms of shipment, including:

(1) A facility that treats industrial waste received exclusively from off site, and

(2) A facility that treats industrial waste generated on-site as well as industrial waste received from off site.

*Compatible industrial wastewater* means wastewater that is produced by an industrial user which has a pollutant strength or characteristics similar to those found in domestic wastewater, and which can be efficiently and effectively transported and treated with domestic wastewater.

*Compatible pollutants* means pollutants which can be effectively removed by the POTW treatment system to within the acceptable levels for the POTW residuals and the receiving stream.

*Composite sample* means a collection of individual samples which are obtained at regular intervals and collected on a time-proportional or flow-proportional basis over a specified period and which provides a representative sample of the average stream during the sampling period. A minimum of four aliquot per 24 hours shall be used where the sample is manually collected. (See 40 CFR 403, appendix E.)

*Confidential information* means the information which would divulge information, processes or methods of production entitled to protection as trade secrets of the industrial user.

*Consent judgment* means the judgment issued by Federal District Court on September 14, 1977, *U.S. EPA v. Village of Detroit* et al., C.A. No. 77-1100, as amended.

*Control authority* means the Great Lakes Water Authority which has been officially designated as such by the state under the provisions of 40 CFR 403.12. (See 40 CFR 403.12(a).)

*Cooling water* means the non-contact water discharged from any use such as air conditioning, cooling, or refrigeration and whose only function is the exchange of heat.

*County* means the county, state or Office of the County Water Resources Commissioner.

*County agency* means the the Office of the County Water Resources Commissioner.

*Days* means consecutive calendar days for the purpose of computing a period of time prescribed or allowed by this article.

*Debt service charge* means charges levied to customers of the wastewater system which are used to pay principal, interest and administrative costs of retiring the debt incurred for construction of the wastewater system. The debt service charge is separate and distinct and may be in addition to the user charge specified in this article.

*Department* means the Great Lakes Water Authority and authorized employees of the Department.

*Direct discharge* means the discharge of treated or untreated wastewater directly to the waters of the state.

*Director* means the Director of the Great Lakes Water Authority or the Director's designee.

*Discharger* means a person who, directly or indirectly, contributes, causes, or permits wastewater to be discharged into the POTW.

*Domestic sewage* means waste and wastewater from humans or household operations which is discharged to, or otherwise enters, a treatment works.

*Environmental Protection Agency* or *Administrator* or *EPA* means the U.S. Environmental Protection Agency or, where appropriate, the authorized representatives or employees of the EPA.

*Facility* means a location which contributes, causes or permits wastewater to be discharged into the POTW, including, but not limited to, a place of business, endeavor, arts, trade or commerce, whether public or private, commercial or charitable.

*Fats, oil, or grease (FOG)* means any hydrocarbons, fatty acids, soaps, fats, waxes, oils, and any other non-volatile material of animal, vegetable, or mineral origin that is extractable by solvent in accordance with standard methods.

*Flow proportional sample* means a composite sample taken with regard to the flow rate of the wastestream.

*Footing drain* means a pipe or conduit that is placed around the perimeter of a building foundation and which intentionally admits groundwater.

*Grab sample* means an individual sample collected over a period of time not exceeding 15 minutes, which reasonably reflects the characteristics of the stream at the time of sampling.

*Groundwater* means subsurface water occupying the saturation zone, from which wells and springs are fed.

*Holding tank waste* means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

*Indirect discharge* or *discharge* means the discharge or the introduction of pollutants POTW from any non-domestic source regulated under 33 USC 1317(b), (c) or (d).

*Industrial user* means a person who contributes, causes, or permits wastewater to be discharged into the POTW, including, but not limited to, a place of business, endeavor, arts, trade, or commerce, whether public or private, commercial or charitable but excludes single-family and multifamily residential dwellings with discharges consistent with domestic waste characteristics.

*Industrial waste* means any liquid, solid, or gaseous waste or form of energy, or combination thereof, resulting from any processes of industry, manufacturing, business, trade, or research, including the development, recovery, or processing of natural resources.

*Infiltration* means any waters entering the system from the ground through means, such as, but not limited to, defective pipes, pipe joints, connections or manhole walls. The term "infiltration" does not include and is distinguished from inflow.

*Infiltration/inflow* means the total quantity of water from both infiltration and inflow.

*Inflow* means any waters entering the system through sources, such 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.

*Interference* means a discharge which, alone or in conjunction with discharges from other sources, both:

(1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

(2) As a result, causes a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): section 405 of the Clean Water Act, being 33 USC 1345; the Solid Waste Disposal Act (SWDA) (including the Resource Conservation and Recovery Act (RCRA), and state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection Research and Sanctuaries Act.

*Local* means a prefix denoting jurisdiction by the Village.

*Manager* means the Village Manager or his authorized representatives.

*Municipality* means the Village of Lake Orion.

*National categorical pretreatment standard* means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with 33 USC 1317(b) and (c) which applies to a specific class or category of industrial users.

*National Pollutant Discharge Elimination System (NPDES) permit* means a permit issued pursuant to 33 USC 1342.

*Natural outlet* means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

*New source.*

(1) The term "new source" means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which is commenced after the publication of the proposed pretreatment standards 33 USC 1317(c) which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

a. The building, structure, facility or installation is constructed at a site where no other source is located;

b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

c. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site.

In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(2) Construction on a site where an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection (1) of this definition but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a new source has commenced where the owner or operator has:

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

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

2. Significant site preparation work, including clearing, excavation, or removal of existing buildings, structures, or facilities that are necessary for the placement, assembly, or installation of new source facilities or equipment; or

b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time.

Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

*Operation and maintenance (O&M)* means all work, materials, equipment, utilities and other effort required to operate and maintain the wastewater transportation and treatment system consistent with insuring adequate treatment of wastewater to produce an effluent in compliance with the NPDES permit and other applicable state and federal regulations, and includes the cost of replacement.

*Owner* means the owners of record of the freehold of the premises or lesser estate therein, a mortgagor or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm or corporation in control of a building.

*Pass through* means discharge which exits the POTW into waters of the United States in quantities or concentrations, which, alone or in conjunction with discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit including an increase in the magnitude or duration of a violation.

*Person* means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, unit of government, school district or any other legal entity, or their legal representative, agent or assigns.

*pH* means the intensity of the acid or base condition of a solution, calculated by taking the negative base-ten logarithm of the hydrogen ion activity. Activity is deemed to be equal to concentration in moles per liter.

*Pollutant* means any dredged spoil, solid waste, incinerator residue, sewage garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, or industrial, municipal and agricultural waste which is discharged into water.

*Pollution* means the introduction of any pollutant that, alone or in combination with any other substance, can or does result in the degradation or impairment of the chemical, physical, biological or radiological integrity of water.

*Pretreatment* means the reduction of the amount of pollutants, the removal of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. The reduction, removal or alteration may be attained by physical, chemical or biological processes, or process changes by other means, except as prohibited by federal, state or local law, rules and regulations.

*Pretreatment requirements* means any substantive or procedural requirements related to pretreatment, other than a national categorical pretreatment standard imposed on an industrial user. (See 40 CFR 403.3(r).)

*Pretreatment Standards* means all National Categorical Pretreatment Standards, the general prohibitions specified in 40 CFR 403.5(a), the specific prohibitions delineated in 40 CFR 403.5(b), and the local or specific limits developed pursuant to 40 CFR 403.5(c), including the discharge prohibitions specified in section 26-274.

*Private* means a prefix denoting jurisdiction by a non-governmental entity.

*Public* means a prefix denoting jurisdiction by any governmental subdivision or agency.

*Public sewer* means a sewer of any type controlled by any governmental entity.

*Publicly owned treatment plant* or *POTW treatment plant* means that portion of the POTW designed to provide treatment to wastewater, including recycling and reclamation of wastewater.

*Publicly owned treatment works (POTW)* means a treatment works, as defined by 33 USC 1292(2)(A), which is owned by a state or municipality, as defined in 33 USC 1362, including:

(1) Any devices and systems used in the storage, treatment, recycling, or reclamation of municipal sewage or industrial waste of a liquid nature;

(2) Sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant; or

(3) The municipality, as defined in 33 USC 1362, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

*Qualification level* means the measurement of the concentration of a contaminant obtained by using a specified laboratory procedure calculated at a specified concentration above the detection level. It is considered the lowest concentration at which a particular contaminant can be quantitatively measured using a specified laboratory procedure for monitoring of the containment.

*Replacement* means the replacement in whole or in part of any equipment, appurtenances and accessories in the wastewater transportation or treatment systems to ensure continuous treatment of wastewater in accordance with the NPDES permit and other applicable state and federal regulations.

*Representative sample* means any sample of wastewater which accurately and precisely represents the actual quality, character, and condition of one or more pollutants in the wastestream being sampled. Representative samples shall be collected and analyzed in accordance with 40 CFR 136.

*Sanitary wastewater* means the portion of wastewater that is not attributable to industrial activities and is similar to discharges from domestic sources, including, but not limited to, discharges from sanitary facilities and discharges incident to the preparation of food for on-site noncommercial consumption.

*Service area* means any area whose wastewater is received by the Village or the county for the transmission for treatment by the Great Lakes Water Authority.

*Sewer* means a pipe or conduit that carries wastewater or drainage water. See the following definitions modifying sewer:

*Building sewer,* in plumbing, means the extension from the building drain to the public sewer or other place of disposal; also called house connection.

*Combined sewer* means a sewer intending to receive both wastewater and stormwater, surface or drainage water.

*Common sewer* means a sewer in which all owners of abutting properties have equal rights.

*County sewer* means a public sewer controlled by the county agency.

*Intercepting sewer* means a sewer that receives dry-weather flow from a number of transverse sewers of outlets in frequently additional predetermined quantities of stormwater (if from a combined system) and conducts such waters to a point for treatment of disposal.

*Lateral sewer* means:

a. That portion of the sewer system located under the street or within the street right-of-way or easement and which collects sewage from a particular property for transfer to the trunk line or interceptor.

b. A sewer which is designed to receive a building sewer.

*Municipal sewer* means a public sewer exclusive of a county sewer or Great Lakes Water Authority.

*Public sewer* means a common sewer controlled by a governmental agency or public utility.

*Sanitary sewer* means a sewer that carries liquid and water-carried waste from residences, commercial buildings, industrial plants, and institutions, together with minor quantities of groundwater, stormwater, surface water and drainage water, and are not admitted intentionally.

*Storm sewer* means a sewer that carries stormwater and surface water, street wash and other wash waters, or drainage, but excludes domestic wastewater and industrial wastewater; also called a storm drain.

*Trunk sewer* or *trunk line* means a sewer which connects the lateral sewer to the intercepting sewer and to which building sewers may be connected.

*Sewer service charge* means the sum of the applicable user charge, surcharges and debt service charges.

*Significant industrial users* means any user of the POTW who:

(1) Has an average discharge flow of 25,000 gallons per day or more of process wastewater, excluding sanitary, boiler blowdown, and non-contact cooling water;

(2) Has discharges subject to the National Categorical Pretreatment Standards;

(3) Requires pretreatment to comply with the specific pollutant limitations of this article;

(4) Has in its discharge toxic pollutants as defined pursuant to 33 USC 1317, or other applicable federal and state laws or regulations that are in concentrations and volumes which are subject to regulation under this article as determined by the Department;

(5) Is required to obtain a permit for the treatment, storage, or disposal of hazardous waste pursuant to regulations adopted by the state or adopted under the Federal Solid Waste

Disposal Act, by the Federal Resource Conservation and Recovery Act, and may or does contribute or allow waste or wastewater into the POTW, including, but not limited to, leachate or runoff; or

(6) Is found by the Village to have a reasonable potential for adverse effect, either singly or in combination with other contributing industries, on the POTW operation, the quality of sludge, the POTW's effluent quality, or air emissions generated by the POTW.

*Significant noncompliance* means any violation which meets one or more of the following criteria:

(1) Chronic violations of wastewater discharge limits, defined as those in which 66 percent or more of all of the measurements taken during a six-month period exceed by any magnitude the daily maximum limit or the average limit for the same parameter;

(2) Technical review criteria (TRC) violations, defined as those in which 33 percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC equals 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment effluent limit (daily maximum or longer term average) that the Department determines has caused, alone or in combination with other discharges, interference or pass through including endangering the health of POTW personnel or the general public;

(4) Any discharge of a pollutant that has caused imminent endangerment to human health or welfare, or to the environment, or has resulted in the POTW's exercise of its emergency authority;

(5) Failure to meet a compliance schedule milestone contained in a local control mechanism, or enforcement order for starting construction, completing construction, or attaining final compliance within 90 days after the scheduled date;

(6) Failure to provide required reports, such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules within 30 days after the due date;

(7) Failure to accurately report noncompliance; or

(8) Any other violation or group of violations which the Department determines will adversely affect the operation or implementation of the local pretreatment program.

*Slug* means any discharge of a non-routine episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge.

*Standard industrial classification (SIC)* means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

*Standard methods* means methods set forth in 40 CFR 136, Guidelines for Establishing Test Procedures for Analysis of Pollutants or the laboratory procedures set forth in the latest edition, at the time of analysis, of Standard Methods for the Examination of Water and Wastewater prepared and published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation, or methods set forth in 40 CFR 136, Guidelines for Establishing Test Procedures for Analysis of Pollutants. Where these two references are in disagreement regarding procedures for the analysis of a specific pollutant, the methods given in 40 CFR 136 shall be followed.

*Stormwater* means any flow occurring during or following any form of natural precipitation and resulting therefrom.

*Superintendent* means the Director of the Village Department of Public Works or his duly authorized representative.

*Surface water* means:

(1) All water on the surface as distinguished from groundwater or subterranean water.

(2) Water appearing on the surface in a diffused state, with no permanent source of supply or regular course for any considerable time, as distinguished from water appearing in watercourses, lakes, or ponds.

*Suspended solids (total)* means the total suspended matter which floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtration or as measured by standard methods.

*Total equivalent master metered water consumption* means the equivalent to the total amount of potable water used by a municipality as recorded by a master water meter for sewered premises, and shall include, but not be limited to, fire protection water, and gardening and lawn water.

*Total PCB* means the sum of the individual analytical results for each of the PCB aroclors 1016, 1221, 1232, 1242, 1248, 1254, and 1260 during any single sampling event with any aroclor result less than the quantification level being treated as zero.

*Total phenolic compounds* means the sum of the individual analytical results for each of the phenolic compounds of 2-chlorophenol, 4-chlorophenol, 4-chloro-3-methylphenol, 2, 4-dichlorophenol, 2, 4-dinitrophenol, 4-methylphenol, 4-nitrophenol, and phenol during any single sampling event expressed in mg/L.

*Toxic pollutant* means any pollutant or combination of pollutants designated as toxic in regulations promulgated by the Administrator of the U.S. Environmental Protection Agency

under the provisions of the Clean Water Act, being 33 USC 1317, or included in the critical materials register promulgated by the Michigan Department of Environment, Great Lakes, and Energy, or other federal or state laws, rules or regulations.

*Trade secret* means the whole, or any portion or phase, of any proprietary manufacturing process or method, not patented, which is secret, is useful in compounding an article of trade having a commercial value, and whose secrecy the owner has taken reasonable measures to prevent from becoming available to persons other than those selected by the owner to have access for limited purposes but excludes any information regarding the quantum or character of waste products or their constituents discharged or sought to be discharged into the wastewater treatment plant, or into the wastewater system tributary thereto.

*Upset* means an exceptional incident in which there is an unintentional and temporary noncompliance with limits imposed under this article or with National Categorical Pretreatment Standards due to factors beyond the reasonable control of the industrial user but excludes noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

*User* means any person who, directly or indirectly, contributes, causes or permits the discharge of wastewater into the POTW as defined in this section.

*User charge* means a charge levied on users of a treatment works for the cost of operation and maintenance of sewerage works pursuant to section 204(b) of P.L. 92-500 and includes the cost of replacement.

*Wastewater* or *wastestream* means the liquid and water-carried industrial or domestic wastes of dwellings, commercial buildings, industrial facilities and institutions, whether treated or untreated, which are contributed to or permitted to enter the POTW, including infiltration and inflow waters, stormwater and cooling water.

*Wastewater discharge permits* means permits issued by the Department in accordance with section 26-276.

*Waters of the state* means groundwater, lakes, rivers, streams, all other watercourses and waters within the confines of the state as well as bordering the state, in the form of the Great Lakes.

(Code 1996, § 52.03; Ord. No. 23.27, 1-8-1990; Am. Ord. No. 23.31, 12-10-2001; Am. Ord. No. 23.33, 2-9-2009)

**Sec. 26-188. Abbreviations.**

For purposes of this article, the following acronyms shall have the meanings designated by this section:

(1) BMR means baseline monitoring report.

(2) BOD means biochemical oxygen demand.

(3) CFR means Code of Federal Regulations.

(4) EPA means Environmental Protection Agency

(5) FOG means fats, oil or grease.

(6) L means liter.

(7) MDEGLE means Michigan Department of Environment, Great Lakes, and Energy.

(8) Mg means milligrams.

(9) Mg/L means milligrams per liter.

(10) NPDES means National Pollutant Discharge Elimination System.

(11) P means phosphorus.

(12) POTW means publicly owned treatment works.

(13) RCRA means the Resource Conservation and Recovery Act, being 42 USC 6901 et seq.

(14) SIC means Standard Industrial Classification.

(15) SWDA means Solid Waste Disposal Act, being 42 USC 6901 et seq.

(16) TSS means total suspended solids.

(17) USC means United States Code.

(Code 1996, § 52.04; Am. Ord. No. 23.31, 12-10-2001)

**Secs. 26-189—26-214. Reserved.**

## DIVISION 2. SEWER SYSTEMS CONNECTED TO COUNTY SEWERS

### Sec. 26-215. Sewers must meet requirements.

All sanitary sewer systems connected directly or indirectly into the intercepting sewer or sewers of the office of the county water resources commissioner shall meet the requirements set forth in this division.

(Code 1996, § 52.15; Ord. No. 23.27, 1-8-1990)

### Sec. 26-216. Plans, permits and bonds.

(a) Prior to connection and prior to start of construction, all sanitary sewer systems shall have engineering plans and specifications prepared by a professional engineer and shall be approved by the office of the county water resources commissioner.

(b) A connection permit shall be obtained by the owner or contractor from the office of the county water resources commissioner. The connection permit shall show the location of the work, the extent of the work, information regarding the contractor, the owner and the engineer, and any other pertinent information as shall be determined necessary by the department of public works. A fee shall be charged for said permit to cover the cost of inspection of each connection and to verify the result of the acceptance test. The permit fee shall be $150.00 for each connection, plus $15.00 for each new manhole constructed. Inspection requested during other than normal working hours shall be performed only if deemed necessary by the office of the county water resources commissioner. The fee for such inspection shall be $250.00 per day minimum, in addition to the normal connection permit fee.

(c) (1) Individual building sewers that are directly connected into the county sanitary sewer system shall conform to all applicable requirements of this division. A connection permit, for which a charge of $50.00 will be made by the office of the county water resources commissioner, shall be obtained from the Department of Public Works before such connection is made. Prior to the issuance of such connection permit, the person obtaining such permit shall have obtained the written approval of the local unit of government. Connection shall be made in a workmanlike manner and in accordance with methods and procedures established by the Department of Public Works.

(2) The party to whom such a permit is issued shall be responsible for notifying the Department of Public Works 24 hours in advance of the date and time when such a connection is made so that proper inspection of same can be made by the Department.

(d) Prior to the adjustment, reconstruction, relocation or any other altering of the sewers of the county, including manhole structures, the contractor or the person responsible for the work shall first obtain a permit to do such work from the office of the county water resources commissioner. The permit fee shall be determined by the Department of Public Works.

(1) Prior to construction and during the life of permits obtained in accordance with subsections (b) and (c) of this section and this subsection (d), all owners or contractors shall:

a. Yearly furnish to the office of the county water resources commissioner a satisfactory surety bond in the amount of $5,000.00 as security for the faithful performance of the work in accordance with the plans and specifications and departmental standards; and

b. Yearly furnish to the office of the county water resources commissioner a deposit in the amount of $500.00. Such deposit shall provide funds for emergency work and/or such other work as may be deemed necessary by the office of the county water resources commissioner, arising as a result of construction by the owner or contractor. Such bonds shall not be cancelled by the owner, the contractor or the surety without first having given ten days' written notice to the office of the county

water resources commissioner. Deposits may be returned to the owner or contractor within ten days of receipt of written request therefor, except that no deposits will be returned until such time as all outstanding permits have received final inspection and approval. In the event that it becomes necessary for the office of the county water resources commissioner to expend funds for work arising as a result of construction by the owner or the contractor, then the cost of such work shall be deducted from the aforementioned deposit.

(2) The owner or contractor shall have the right and opportunity to correct any deficiencies promptly before any deposit funds will be spent by the office of the county water resources commissioner. The owner or contractor shall, within 30 days of the mailing of written notice thereof, pay to the office of the county water resources commissioner the entire amount of such cost. Failure to comply with these rules and regulations and the standards of the office of the county water resources commissioner may result in the immediate termination of the surety and cash bonds.

(Code 1996, § 52.16; Ord. No. 23.27, 1-8-1990)

**Sec. 26-217. Bulkhead.**

The contractor shall install a suitable bulkhead to prevent construction water, sand, silt, and the like from entering the existing sewer system. Such bulkhead shall be left in place until such time as removal is authorized by the office of the county water resources commissioner.

(Code 1996, § 52.17; Ord. No. 23.27, 1-8-1990)

**Sec. 26-218. Acceptance test.**

(a) All sanitary sewer systems shall be subjected to infiltration, air, or exfiltration tests or a combination thereof in accordance with the following requirements prior to acceptance of the system by the office of the county water resources commissioner and prior to removal of the bulkhead as required in section 26-217.

(b) All final acceptance tests shall be witnessed by the office of the county water resources commissioner.

(c) Infiltration test.

(1) All sewers over a 24-inch diameter shall be subjected to infiltration tests. All sewers of 24-inch diameter or smaller where the groundwater level above the top of the sewer is over seven feet shall be subjected to an infiltration test.

(2) Maximum allowable infiltration shall not exceed 250 gallons per inch of diameter per mile of pipe per 24 hours for the overall project. Maximum allowable infiltration shall not exceed 500 gallons per inch of diameter per mile of pipe per 24 hours for any individual run between manholes.

(d) Air test or exfiltration test.

(1) All sewers of 24-inch diameter or less, where the groundwater level above the top of the sewer is seven feet or less, shall be subjected to air tests or exfiltration tests.

(2) For exfiltration tests, the internal water level shall be equal to the external water level plus seven feet as measured from the top of pipe.

(3) The allowable exfiltration rate shall be the same as that permitted from infiltration.

(4) The procedure for air testing of sewers shall be as follows:

a. The sewer line shall be tested in increments between manholes. The line shall be cleaned and plugged at each manhole. Such plugs shall be designed to hold against the test pressure and shall provide an airtight seal. One of the plugs shall have an orifice through which air can be introduced into the sewer. An air supply line shall be connected to the orifice. The air supply line shall be fitted with suitable control valves and a pressure gauge for continually measuring the air pressure in the sewer. The pressure gauge shall have a minimum diameter of 3 ½ inches and a range of zero to ten PSIG. The gauge shall have minimum divisions of 0.10 PSIG and an accuracy of +0.04 PSIG.

b. The sewer shall be pressurized to 4.0 PSIG greater than the greatest back pressure caused by groundwater over the top of the sewer pipe. At least two minutes shall be allowed for the air pressure to stabilize between 3.5 and 4.0 PSIG. If necessary, air shall be added to the sewer to maintain a pressure of 3.5 PSIG or greater.

c. After the stabilization period, the air supply control valve shall be closed so that no more air will enter the sewer. The sewer air pressure shall be noted and timing for the test begun. The test shall not begin if the air pressure is less than 3.5 PSIG, or such other pressure as is necessary to compensate for groundwater level.

d. The time required for the air pressure to decrease 1.0 PSIG during the test shall not be less than the time shown in the Oakland County Department of Public Works Air Test Tables.

(5) Manholes on sewers to be subjected to air tests shall be equipped with a one-half-inch diameter galvanized capped pipe nipple extending through the manhole, three inches into the manhole wall and at an elevation equal to the top of the sewer pipe. Prior to the air test, the groundwater elevation shall be determined by blowing air through the pipe nipple to clear it and then connecting a clear plastic tube to the pipe nipple. The tube shall be suspended vertically in the manhole and the groundwater elevation determined by observing the water level in the tube. The air test pressure shall be adjusted to compensate for the maximum groundwater level above the top of the sewer pipe to be tested. After all tests are performed and the sewer is ready for final acceptance, the pipe nipple shall be plugged in an acceptable manner.

(e) If a sewer fails to pass any of the previously described tests, the contractor shall determine the location of the leaks, repair them and retest the sewer. The tests shall be repeated until satisfactory results are obtained.

(f) All visible leaks and cracks shall be repaired regardless of test results.
(Code 1996, § 52.18; Ord. No. 23.27, 1-8-1990)

**Sec. 26-219. Stormwater and groundwater control.**

(a) Yard drains, patio drains, catch basins, downspouts, weep tile, perimeter and footing drains or any other structure used for the collection and conveyance of stormwater and/or groundwater shall not be permitted to discharge into any sanitary sewer connected directly or indirectly to the county system, except as provided under subsection (b) of this section.

(b) Perimeter and footing drains from buildings existing before December 16, 1968, shall not be required to disconnect from the sanitary sewer system, provided that federal, state or local law or regulation does not require, or may not require subsequent to the adoption of these standards and regulations, the disconnection of such perimeter and footing drains.

(c) The crock to iron joint shall be sealed by approved flexible adaptor fittings such as those manufactured by Fernco Joint Sealer Company, or as approved by the office of the county water resources commissioner. The iron pipe inside the building shall be plugged and leaded and remain plugged and watertight until such time as the plumbing is carried on to the first floor, the basement backfilled and the roof is on the building, thereby providing that no water from the excavated basement will enter the sanitary sewer.
(Code 1996, § 52.19; Ord. No. 23.27, 1-8-1990)

**Sec. 26-220. Building sewers.**

(a) House connection sewer from lateral sewer in street or easement to within five feet from house shall be:

(1) Six-inch diameter extra strength vitrified sewer pipe, manufactured in accordance with current NCPI Designation ER 4-67 Standards, or equal, with DPW-approved premium joint; or

(2) Six-inch diameter Class 2400 asbestos cement pipe with Ring-Tite, Fluid-Tite or DPW approved joint; or

(3) Six-inch diameter, service strength, cast iron soil pipe with hot poured lead joint, or DPW approved equal; or

(4) Six-inch diameter extra strength (ES) solid wall pipe extruded from acrylonitrile-butadiene-styrene (ABS) plastic meeting the minimum cell classification 2-2-3 as defined in ASTM Specification D1788-68; or

(5) Other pipe and joints as may be approved by the office of the county water resources commissioner.

(b) Copies of the office of the county water resources commissioner-approved joint shall be on file at the offices of each community in the systems.

(c) House connection sewers shall be six-inch minimum diameter, except that four-inch pipe of comparable strength and joint material may be used if permitted by the local unit of government. All joints shall be tight and when tested for infiltration, or exfiltration, shall not exceed the requirements of section 26-218.
(Code 1996, § 52.20; Ord. No. 23.27, 1-8-1990)

**Sec. 26-221. Septic tank abandonment and waste disposal.**

(a) Prior to connecting an individual building sewer to the sewers of the county, either directly or indirectly, all existing wastewater treatment facilities, including septic tanks, tile fields, and sump pumps shall be physically and permanently disconnected from the building sewer.

(b) Septic tank sludge shall be discharged into the sewers of the county, directly or indirectly, only at locations specified by the office of the county water resources commissioner, and only after obtaining proper septic tank dumping tickets.

(c) The liquid and solids from an abandoned septic tank shall not be drained, dewatered, pumped or in any other manner discharged to the sewers of the county, except as provided for in this section.
(Code 1996, § 52.21; Ord. No. 23.27, 1-8-1990)

**Sec. 26-222. Ownership, operations and maintenance responsibility.**

All new sanitary sewer systems, except individual building sewers, connected directly or indirectly into the intercepting sewer or sewers of the county shall be owned, operated and maintained by the governing community. This includes, but is not necessarily limited to, on-site sewer systems serving condominiums, apartment projects, shopping centers and mobile home parks.
(Code 1996, § 52.22; Ord. No. 23.27, 1-8-1990)

**Sec. 26-223. Manholes.**

All manholes constructed on sanitary sewer systems shall be provided with lid frames bolted to the cone section of the manhole with rubber O-ring gaskets compressed between the frame and the top of the cone in accordance with the current Standard Manhole Detail of the office of the county water resources commissioner.

(1) Adjustments to manhole tops shall be accomplished by using precast concrete adjustment rings bolted to the cone section of the manhole with rubber O-ring gaskets compressed between each adjacent ring.

(2) Mortar and brickwork adjustment at the top of manholes will not be allowed. All manhole riser and cone sections shall have modified groove tongue joint with rubber gasket.

(3) The bolted frame, bolts, adjustment rings and O-ring gaskets shall be in accordance with the standards of the office of the county water resources commissioner.

(4) All manholes shall be provided with Bolted Waterproof Covers in accordance with the current standard manhole detail of the office of the county water resources commissioner.

(5) Although not recommended, and only under certain circumstances, consideration will be given to the burying of manholes in lieu of providing bolted covers and only upon written request to the office of the county water resources commissioner.

(Code 1996, § 52.23; Ord. No. 23.27, 1-8-1990)

**Sec. 26-224. As-built plans.**

Prior to the acceptance of any sewer system and prior to the removal of the bulkhead as required in section 26-217 (except under extenuating circumstances as may be approved by the Director), as-built plans shall be provided to the office of the county water resources commissioner. The as-built plans shall show a statement by a registered engineer or surveyor certifying such to be as-built plans and shall include, but not be limited to, length of sewer, invert elevation, locations with respect to property lines, wye and riser locations and depths, and sewer material and joints used.

(Code 1996, § 52.24; Ord. No. 23.27, 1-8-1990)

**Sec. 26-225. Requirements for connecting sewers.**

All combined sewer systems connected directly or indirectly to the intercepting sewer or sewers of the county shall meet the following requirements:

(1) Sections 26-208 through 26-216 are required for sanitary sewer system connecting to interceptor sewers of the county as hereinbefore mentioned.

(2) Prior to acceptance of the system and prior to removal of the bulkhead as required under section 26-217, all combined sewer systems shall be subjected to an infiltration test in accordance with the infiltration requirements of the office of the county water resources commissioner as outlined in section 26-218. The test shall be witnessed by the office of the county water resources commissioner.

(3) Downspouts and footing drain tile may be connected to a combined sewer if permitted by the local unit of government.

(4) No requirements of the office of the county water resources commissioner, or permits issued hereunder by said department, shall relieve the property owner of complying

with all the rules and regulations of the local unit of government, wherein such property is located, when such rules and regulations are not in conflict with the requirements of the Department of Public Works.

(5) All sewer construction shall comply with the general specifications of the office of the county water resources commissioner. Copies of said specifications may be obtained from the office of the county water resources commissioner.

(6) Construction of new combined sewer systems shall be prohibited except when no prudent or feasible alternative exists.

(Code 1996, § 52.25; Ord. No. 23.27, 1-8-1990)

**Secs. 26-226—26-243. Reserved.**

## DIVISION 3. PERMITS FOR CONNECTION INTO COUNTY DRAINS

### Sec. 26-244. Purpose.

This division sets forth the procedures and regulations governing the granting of permits to connect into the Twelve Towns Relief Drains directly and to all other county drains that are tributary directly or indirectly to the facilities under the jurisdiction of the southeastern county sewage disposal system.

(Code 1996, § 52.35; Ord. No. 23.27, 1-8-1990)

### Sec. 26-245. Plans.

(a) Each municipality is requested to furnish an up-to-date plan of its sewerage system. The plan should include the location, size and direction of flow in all existing sewers. Sewers should be identified as separated or combined. Pumping stations, flow regulation and diversion structure should be shown.

(1) Plans for laterals shall be submitted in the name of the municipality by the municipal officials or a firm of consulting engineers officially authorized to do so. Generally, this authority will be vested in the Village Engineer or a single firm of consulting engineers retained as the Village Engineer.

(2) All plans submitted to this office shall bear the signature of the official designated in subsection (a)(1) of this section.

(b) A letter requesting the approval of plans by the office of the county water resources commissioner and the water quality division of the state department of natural resources (formerly known as the state health department) shall be addressed to the office of the county water resources commissioner and be accompanied by a minimum of five sets of plans. Upon approval of the plans, the office of the county water resources commissioner will retain one set and forward the remaining sets to the state department of natural resources along with a letter

requesting their approval. Copies of this letter will be sent to the applicant municipality and the consulting engineer. The state department of natural resources, upon their approval of the plans, will return at least three sets of approved plans bearing the construction permit number to the applicant municipality. The applicant municipality will keep one set, send one set to the office of the county water resources commissioner and send one set to the consulting engineer. In the event that the applicant municipality or consulting engineer requires an extra set of approved plans, additional sets shall be included with the initial request for approval.

(c) Plans submitted to this office for review must meet the following requirements:

(1) A general location plan that shows the relationship to existing sewerage facilities, including outlet sewer interceptors, pumping stations and the like.

(2) A detail plan and profile drawings along with criteria of hydraulic design (storm frequency, line capacity, line velocities, tributary areas and the like).

(3) Material and construction standards, regular and special.

(4) The desirable scale and size for plan and profile drawings are:

a. Horizontal scale: one equals 100, one equals 50.

b. Vertical scale: one equals ten, one equals five.

c. Plan size: 24 by 36.

(Code 1996, § 52.36; Ord. No. 23.27, 1-8-1990)

**Sec. 26-246. Regulations governing connections.**

(a) Prior to connection, a connection permit must be obtained from the Oakland County Water Resources Commissioner, One Public Works Drive, Pontiac, Michigan 48054 (248-858-0958). A legal description of the property to be served by the connection is required.

(b) The fee as determined by the office of the county water resources commissioner for connection permits shall be $150.00, which is to cover the cost of the inspection of the tap.

(c) The connection to the county drain will be made under the supervision of an inspector from the office of the county water resources commissioner in accordance with approved plans of said connection.

(d) A minimum of 24 hours' notice (excluding Saturday, Sunday, and holidays) must be given prior to tap to enable this office to arrange for inspection.

(e) Requests for inspection shall be directed to the technician charged with the responsibility of permit issuance (248-858-0978).

(f) All lines connected to county drains shall be clean (free from silt, dirt, debris and the like).

(g) Yard drains, catchbasins, downspouts, weep tile, perimeter drains or other structures used for the collection and conveyance of stormwater will be permitted to outlet into the county combined drains, provided said properties lie within the combined drainage district.

(h) The contractor, during the construction of a lateral, shall install a suitable bulkhead to prevent sand, silt, dirt or other debris from entering the county drain. Upon work completion and removal of any debris that may have collected, the contractor shall contact the Inspection Office for permission to remove the bulkhead.

(i) A connection from any industrial plant or facility using chemical processes shall be provided with a readily available sampling point (manhole or equivalent).

(j) All wastes discharged into county drains shall meet the standards as specified in the current ordinance governing domestic and industrial wastes.
(Code 1996, § 52.37; Ord. No. 23.27, 1-8-1990)

**Sec. 26-247. Regulations to prevent the discharge of stormwater and groundwater.**

(a) All sanitary sewer systems (lying in these areas of the S.O.C.S.D.S. district, designated as separated) to be connected directly or indirectly into the intercepting sewer or sewers of the S.O.C.S.D.S. prior to connection shall meet the following requirements:

(1) A connection permit shall be obtained by the owner or contractor from the office of the county water resources commissioner. The connection permit shall show the location of the work, the extent of the work, information regarding the contractor, the owner and the engineer, the scheduled date of infiltration test and any other pertinent information as shall be determined necessary by the county drain commissioner. A fee shall be charged for said permit to cover the cost of inspection of the connection and system connected.

(2) All sewer systems shall be subjected to infiltration, air, or exfiltration tests or a combination thereof in accordance with the following requirements prior to acceptance of the system by the office of the county water resources commissioner.

a. Infiltration test. All sewers over 24-inch diameter shall be subjected to infiltration tests. All sewers of 24-inch diameter or smaller where the groundwater level above the top of the sewer is over seven feet shall be subjected to an infiltration test.

b. Maximum allowable infiltration shall not exceed 250 gallons per inch of diameter per mile of pipe per 24 hours for the overall project. Maximum allowable infiltration shall not exceed 500 gallons per inch of diameter per mile of pipe per 24 hours for any individual run between manholes.

c. Air test or exfiltration test.

1. All sewers of 24-inch diameter or less, where the groundwater level above the top of the sewer is seven feet or less, shall be subjected to air tests or exfiltration tests.

2. For exfiltration tests, the internal water level shall be equal to the external water level plus seven feet as measured from the top of pipe. The allowable exfiltration rate shall be the same as that permitted from infiltration.

3. The procedure for air testing of sewers shall be as follows:

(i) The sewer line shall be tested in increments between manholes. The line shall be cleaned and plugged at each manhole. Such plugs shall be designed to hold against the test pressure and shall provide an airtight seal. One of the plugs shall have an orifice through which air can be introduced into the sewer. An air supply line shall be connected to the orifice. The air supply line shall be fitted with suitable control valves and a pressure gauge for continually measuring the air pressure in the sewer. The pressure gauge shall have a minimum diameter of 3½ inches and a range of zero to ten PSIG. The gauge shall have minimum divisions of 0.10 PSIG and an accuracy of ±0.04 PSIG.

(ii) The sewer shall be pressurized to 4.0 PSIG greater than the greatest back pressure caused by groundwater over the top of the sewer pipe. At least two minutes shall be allowed for the air pressure to stabilize between 3.5 and 4.0 PSIG. If necessary, air shall be added to the sewer to maintain a pressure of 3.5 PSIG or greater.

(iii) After the stabilization period, the air supply control valve shall be closed so that no more air will enter the sewer. The sewer air pressure shall be noted and timing for the test begun. The test shall not begin if the air pressure is less than 3.5 PSIG, or such other pressure as is necessary to compensate for groundwater level.

(iv) The time required for the air pressure to decrease 1.0 PSIG during the test shall not be less than the time shown in the Oakland County Drain Commissioner's Air Test Tables.

(v) Manholes on sewers to be subjected to air tests shall be equipped with a one-half inch diameter galvanized capped pipe nipple extending through the manhole, three inches into the manhole wall and at an elevation equal to the top of the sewer pipe. Prior to the air test, the groundwater elevation shall be determined by blowing air through the pipe nipple to clear it and then connecting a clear plastic tube to the pipe nipple. The tube shall be suspended vertically in the manhole and the groundwater elevation determined by observing the water level in

the tube. The air test pressure shall be adjusted to compensate for the maximum groundwater level above the top of the sewer pipe to be tested. After all tests are performed and the sewer is ready for final acceptance, the pipe nipple shall be plugged in an acceptable manner.

(3) If a sewer fails to pass any of the previously described tests, the contractor shall determine the location of the leaks, repair them and retest the sewer. The tests shall be repeated until satisfactory results are obtained.

(4) All visible leaks and cracks shall be repaired regardless of test results.

(b) Storm and groundwater control. Yard drains, patio drains, catchbasins, downspouts, weep tile, perimeter and footing drains or any other structure used for the collection and conveyance of stormwater and/or groundwater shall not be permitted to discharge into any sanitary sewer connected directly or indirectly to the county system, except as provided below:

(1) Perimeter and footing drains from buildings existing before July 23, 1981, shall not be required to disconnect from the sanitary sewer system, provided that federal, state or local law or regulation does not require, or may not require subsequent to the adoption of these standards and regulations, the disconnection of such perimeter and footing drains.

(2) The crock to iron joint shall be sealed by approved flexible adaptor fittings such as those manufactured by Fernco Joint Sealer Company, or as approved by the office of the county water resources commissioner. The iron pipe inside the building shall be plugged and leaded and remain plugged and watertight until such time as the plumbing is carried on to the first floor, the basement backfilled and the roof is on the building, thereby providing that no water from the excavated basement will enter the sanitary sewer.

(c) Building sewers.

(1) House connection sewer from lateral sewer in the street or easement five feet from house shall be:

a. Six-inch diameter extra strength vitrified sewer pipe, manufactured in accordance with current NCPI Designation ER 4-67 Standards, or equal, with office of the county water resources commissioner approved premium joint;

b. Six-inch diameter ABS plastic solid wall sewer pipe conforming to ASTM designation D-2751 SDR 35 or 23.5;

c. Six-inch diameter PVC plastic solid wall sewer pipe conforming to ASTM designation ASTM D-3034 SDR 35 or ASTM D-2665 Schedule 40; or

d. Other pipes and joints as may be approved by the office of the county water resources commissioner.

(2) House connection sewers should be six-inch minimum diameter; however, four-inch pipe of comparable strength and joint material may be used if permitted by the local unit of government. All joints shall be tight and, when tested for infiltration, shall not exceed 500 U.S. gallons per inch of diameter, per mile, per 24 hours.

(3) The crock to iron joint shall be sealed by an approved bituminous filler, enclosed in concrete to provide a watertight seal. The iron pipe inside the building shall be plugged and leaded and remain plugged and watertight until such time as the plumbing is carried on to the first floor, thereby providing that no water from the excavated basement will enter the sanitary sewer.

(4) The municipality shall issue tap permits for each structure that is connected into the S.O.C.S.D.S. and be responsible to see that the above specifications pertinent to materials and installations are followed.

(d) The S.O.C.S.D.S., through their agent, the office of the county water resources commissioner, shall, at his option, be permitted to set up and operate flow metering equipment to gauge sanitary flow, either on a temporary or permanent basis, in any sanitary sewer lying within said separated areas.

(e) Plans and specifications covering the construction of all new sewers, both combined and sanitary (separate), lying within the S.O.C.S.D.S. service area shall be submitted to the office of the office of the county water resources commissioner for review and approval prior to construction.

(f) The quality of domestic and industrial waste outletted into the S.O.C.S.D.S. facilities shall conform to the current ordinance pertinent to domestic and industrial wastes. It is the contractual obligation of the municipality (reference section 16 of the contract with the county) to use S.O.C.S.D.S. facilities to enforce these standards.

(g) No requirements of the S.O.C.S.D.S. or permits issued hereunder by said system through their agent, the office of the county water resources commissioner, shall relieve the property owner of complying with all the rules and regulations of the local unit of government, wherein such property is located, where such are not in conflict with requirements of the S.O.C.S.D.S.

(h) All sewer construction shall comply with the general specifications of the office of the county water resources commissioner; copies of said specifications may be obtained from the office of the county water resources commissioner.
(Code 1996, § 52.38; Ord. No. 23.27, 1-8-1990)

**Secs. 26-248—26-272. Reserved.**

## DIVISION 4. WASTEWATER DISPOSAL REGULATIONS

### Sec. 26-273. Delegation of authority.

The Great Lakes Water Authority, as the state-approved control authority, is authorized to administer and enforce the provisions of sections 26-271 through 26-281 on behalf of the

Village. The Village has executed and hereby ratifies its delegation agreement with the Great Lakes Water Authority, which sets forth the terms and conditions of such delegated authority, consistent with these sections, and shall allow the Great Lakes Water Authority to perform the specific responsibilities of control authority pursuant to state and federal law.
(Code 1996, § 52.50; Ord. No. 23.27, 1-8-1990; Am. Ord. No. 23.31, 12-10-2001)

**Sec. 26-274. Discharge prohibitions.**

(a) *General pollutant prohibitions.* No user shall discharge or cause to be discharged into the POTW, directly or indirectly, any pollutant or wastewater which will cause interference or pass through. These general discharge prohibitions shall apply to all users of the POTW whether or not the user is subject to National Categorical Pretreatment Standards or to any other federal, state, or local pretreatment standards or requirements. In addition, it shall be unlawful for a user to discharge into the POTW:

(1) Any liquid, solid or gas which, by reason of its nature or quantity, is sufficient either alone or by interaction with other substances to create a fire or explosion hazard or to be injurious in any other way to persons, to the POTW, or to the operations of the POTW; pollutants which create a fire or explosion hazard in a POTW include, but are not limited to, wastestreams with a closed cup flash point of less than 140 degrees Fahrenheit or 60 degrees Celsius using the test methods specified in 40 CFR 261.21;

(2) Any solid or viscous substance in concentrations or quantities which are sufficient to cause obstruction to the flow in a sewer or other encumbrances to the operation of the POTW, including, but not limited to, grease, animal guts or tissues, bones, hair, hides or fleshlings, entrails, whole blood, feathers, ashes, cinders, sand, cement, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, strings, fibers, spent grains, spent hops, wastepaper, wood, plastic, tar, asphalt residues, residues from refining or processing of fuel or lubrication oil, mud or glass grinding or polishing wastes, or tumbling and deburring stones;

(3) Any wastewater having a pH of less than 5.0 units or greater than 11.5 units;

(4) Any wastewater containing petroleum oil, non-biodegradable cutting oil, products of mineral oil origin, or toxic pollutants in sufficient concentration or quantity either singly or by interaction with other pollutants to cause interference, or pass through, or constitute a hazard to humans or animals;

(5) Any liquid, gas, solid or form of energy which, either singly or by interaction with other waste, is sufficient to create toxic gas, vapor, or fume within the POTW in quantities that may cause acute worker health and safety problems, or may cause a public nuisance or hazard to life, or are sufficient to prevent entry into the sewers for their maintenance and repair;

(6) Any substance which is sufficient to cause the POTW's effluent or any other product of the POTW, such as residue, sludge, or scum to be unsuitable for reclamation processing where the POTW is pursuing a reuse and reclamation program; in no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria guidelines or regulations developed under 33 USC 1345, with any criteria, guidelines, or developed and promulgated regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Toxic Substances Control Act, or with state criteria applicable to the sludge management method being used;

(7) Any substance which will cause the POTW to violate either the consent judgment in *U.S. EPA v. Village of Detroit et al.,* federal district court for the Eastern District of Michigan Case No. 77-1100, or the Great Lakes Water Authority's national pollutant discharge elimination system permit;

(8) Any discharge having a color uncharacteristic of the wastewater being discharged;

(9) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into a public sewer which exceeds 150 degrees Fahrenheit or which will cause the influent at the wastewater treatment plant to rise above 104 degrees Fahrenheit (40 degrees Celsius);

(10) Any pollutant discharge which constitutes a slug;

(11) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established in compliance with applicable federal or state regulations;

(12) Any floating fats, oil or grease which are sufficient to cause interference with or pass through the POTW; or

(13) Any solid materials having a specific gravity greater than 1.2 or a cross section dimension of one-half inch or greater which are sufficient to cause interference with the POTW.

(b) *Specific pollutant prohibitions.* No user shall discharge wastewater containing in excess of the following limitations:

(1) *Compatible pollutants.* See section 26-285.

(2) *Noncompatible pollutants.*

a. Pollutants in wastewater containing in excess of the following limitations:

| | |
|---|---|
| Arsenic (As) | 1.0 mg/L |
| Cadmium (Cd) | See section 26-285 |
| Chromium (Cr) | 25.0 mg/L |

| | |
|---|---|
| Copper (Cu) | 2.5 mg/L |
| Cyanide (CN) (available) | 1.0 mg/L |
| Iron (Fe) | 1,000.0 mg/L |
| Lead (Pb) | 1.0 mg/L |
| Nickel (Ni) | 5.0 mg/L |
| Silver (Ag) | 1.0 mg/L |
| Zinc (Zn) | 7.3 mg/L |
| Total phenolic compounds or see section 26-284 | 1.0 mg/L |

b. All limitations are based on samples collected over an operating period representative of an industrial user's discharge, and in accordance with 40 CFR 136.

1. *The limitation for total PCB is non-detect.* Total PCB shall not be discharged at detectable levels, based upon U.S. EPA Method 608, and the quantification level shall not exceed 0.2 ugm/l, unless a higher level is appropriate because of demonstrated sample matrix interference. Where one or more samples indicate detectable levels of total PCB, the user shall be required to demonstrate compliance. For purposes of this section, this demonstration may be made using analytical data showing that the total PCB concentration is below the detection level, or submission of a BMP in accordance with section 26-281(h).

2. *The limitation of mercury (Hg) is non-detect.* Mercury (Hg) shall not be discharged at detectable levels, based upon U.S. EPA Method 245.1, and the quantification level shall not exceed 0.2 ugm/L, unless a higher level is appropriate because of demonstrated sample matrix interference. Where one or more samples indicate detectable levels of mercury, the user shall be required to demonstrate compliance. For the purposes of this section, the demonstration may be made using analytical data showing that the mercury concentration is below the detection level, or submission of a BMP in accordance with section 26-281(h). All limitations are based on samples collected over an operating period representative of an industrial user's discharge, and in accordance with 40 CFR 136.

3. *Compliance period.* Within 30 days of the effective date of this section, the Department shall notify all industrial user's operating under an effective wastewater discharge permit of the requirement to submit a compliance report within 180 days after the effective date of this section. The compliance report shall demonstrate the user's compliance or noncompliance with these limitations, and, in the event of noncompliance, include the submission of a plan and schedule for achieving compliance with the stated limitation. In no event shall a compliance schedule exceed 18 months from the effective date of

the ordinance from which this section is derived. An industrial user who does not demonstrate compliance may petition the Department for a second extension as part of an administrative consent order. The Department shall include appropriate monitoring, reporting, and penalties into an administrative consent order that relates to a second extension and shall enter into such an agreement only upon a good faith showing by the industrial user of the actions taken to achieve compliance with this provision.

(c) *National Categorical Pretreatment Standards.* All users shall comply with the applicable National Categorical Pretreatment Standards and requirements promulgated pursuant to the Act as set forth in 40 CFR subchapter N, Effluent Guidelines and Standards, which are hereby incorporated by reference and with all other applicable standards and requirements; provided, however, that where a more stringent standard or requirement is applicable pursuant to state law or regulation, or to this article, then the more stringent standard or requirement shall be controlling. Affected dischargers shall comply with applicable reporting requirements under 40 CFR 403 and as established by the Department. The National Categorical Pretreatment Standards which have been promulgated as of the effective date of the ordinance from which this article is derived are delineated in section 26-283.

(1) *Intake water adjustment.* Industrial users seeking adjustment of National Categorical Pretreatment Standards to reflect the presence of pollutants in their intake water must comply with the requirements of 40 CFR 403.15. Upon notification of approval by the Department, the adjustment shall be applied by modifying the permit accordingly. Intake water adjustments are not effective until incorporated into an industrial user's permit.

(2) *Modification of National Categorical Pretreatment Standards.* The Department may apply to the U.S. Environmental Protection Agency, or to the state department of environment, Great Lakes, and energy, whichever is appropriate, for authorization to grant removal credits in accordance with the requirements and procedures in 40 CFR 403.7. Such authorization may be granted only when the POTW treatment plant can achieve consistent removal for each pollutant for which a removal credit is being sought, provided that any limitation of such pollutant in the NPDES permit neither are being exceeded nor pose the prospect of being exceeded as a result of the removal credit being granted. Where such authorization is given to the Department, any industrial user desiring to obtain such credit shall make an application to the Department consistent with the provisions of 40 CFR 403.7 and of this article. Any credits which may be granted under this article may be subject to modification or revocation as specified in 40 CFR 403.7, or as determined by the Department. A requisite to the granting of any removal credit may be that the industrial user pay a surcharge based upon the amounts of such pollutants removed by the POTW, such surcharge being

based upon fees or rates which the board may establish and, when appropriate, revise from time to time. Permits shall reflect, or be modified to reflect, any credit granted pursuant to this article.

(3) *New sources.* Industrial users who meet the new sources criteria shall install, maintain in operating condition, and start up all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time and not to exceed 90 days, new sources must meet all applicable pretreatment standards.

(4) *Concentration and mass limits.* When limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the Department may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users. Equivalent limitations shall be calculated in accordance with 40 CFR 403.6(c)(3) and/or 403.6(c)(4) and shall be deemed pretreatment standards for the purposes of 33 USC 1317(d) and of this article. Industrial users will be required to comply with the equivalent limitations in lieu of the promulgated categorical standards from which the equivalent limitations were derived.

(5) *Reporting requirements for industrial users upon effective date of categorical pretreatment standards-baseline report.* Within 180 days after the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision made upon a category determination submission under 40 CFR 403.6(a)(4), whichever is later, existing industrial users subject to such categorical pretreatment standards and currently discharging into or scheduled to discharge into the Great Lakes Water Authority shall submit to the Department a report containing the information listed in 40 CFR 403.12(b)(1)—(7). Where reports containing this information have already been submitted to the Director or regional administrator in compliance with the requirement of 40 CFR 128.140(b), the industrial user will not be required to resubmit this information. At least 90 days before commencement of any discharge, each new source and any existing sources that become industrial users after the promulgation of an applicable categorical pretreatment standard shall submit to the Department a report which contains the information listed in 40 CFR 403.12(b)(1) through (5). In such report, new sources shall include information concerning the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources shall provide estimates of the information requested in 40 CFR 403.12(b)(4) and (5).

(d) *Dilution prohibited.* Except where expressly authorized to do so by an applicable pretreatment standard or requirement, no user shall increase the use of process water, or in any way dilute or attempt to dilute a discharge as a partial or complete substitute for adequate treatment

to achieve compliance with the limitations contained in the National Categorical Pretreatment Standards, or in any other pollutant-specific limitation or requirement imposed by the Village, by the Great Lakes Water Authority, or by the state.

(e) *Hauled-in wastewater.* Any waste material or wastewater which is hauled into or within the service region for discharge to the POTW is subject to the requirements of this article, including, but not limited to, permits, inspection, monitoring and enforcement. Unloading liquid or solid waste from hauling vehicles, directly or indirectly, into the POTW, with or without the benefit of pretreatment, is prohibited unless the person proposing to unload such waste has applied for and received a permit from the Department for unloading such waste in accordance with the Board's rules pertaining thereto. The discharger shall be subject to applicable terms and conditions, surcharges, fees or rates as established by the Board. Hauled in wastewater shall only be discharged at points designated by the POTW after authorization or approval issued pursuant to the general permit requirements specified in section 26-276. The Department may establish specific limitations for sludge from municipally owned or operated POTW treatment plants which are different than the specific limitations in this article.

(f) *Centralized waste treatment.* It is unlawful for a centralized waste treatment (CWT) facility to discharge any industrial waste or wastewater into the POTW without a wastewater discharge permit from the Department. Any authorization granted, or permit issued, by the Department to a centralized waste treatment (CWT) facility shall specify the type of wastewater for which treatment is provided, and discharge approval is sought, from the POTW. Unless such industrial waste or wastewater is determined by the Department to require further authorization, a centralized waste treatment (CWT) facility that has submitted an application to, and received previous approval from, the Department to discharge wastewater is not required to obtain further authorization from the Department before discharging the wastewater. An industrial user that provides centralized waste treatment services and files an application for the treatment and discharge of such types of wastewater to the POTW shall provide the following minimum information in support thereof:

(1) The general nature, source and processes generating the type of wastewater. Any wastewater which is generated from those processes and is subject to National Categorical Pretreatment Standards as delineated in section 26-283 shall be so designated;

(2) The identity of the toxic pollutants known or suspected to be present in the wastewater;

(3) At least one sample report showing the results of an analysis for the EPA priority pollutants for each type of wastewater for which application is made in subsection (f)(1) of this section;

(4) A statement, that is certified by a professional engineer, which addresses the treatability and compatibility of the wastewater, received or collected by the facility's treatment processes;

(5) The identity of the materials and/or pollutants whose transport or treatment are regulated by the EPA, by the state, or by any other governmental agency. Upon request, the centralized waste treatment (CWT) facility shall provide a copy of its permit and/or license to the Department; and

(6) a. Other information requested by the Department, including, but not limited to, information required by section 26-276(c)(1) through (18), or by rules adopted by the Board. The discharge from a centralized waste treatment (CWT) facility will be deemed approved for those specific types of wastewater delineated in a permit and, upon issuance of such permit in accordance with the procedures contained in section 26-276, will be deemed approved for discharge into the POTW. The centralized waste treatment (CWT) facility shall comply with all applicable provisions contained in section 26-276 regarding permits. In furtherance of its obligations as control authority, the Department may include in the permit a requirement to report at selected intervals the information mandated in subsections (f)(1) through (5) of this section and this subsection (f)(6).

b. All users granted a permit under this section shall maintain records which, at a minimum, identify the source, volume, character, and constituents of the wastewater accepted for treatment and disposal. These records may be reviewed at any time by the Department.

(g) *Groundwater discharges.* Unless authorization has been granted by the Department, the discharge of any groundwater into the POTW is prohibited.

(1) The Department may authorize the discharge of groundwater resulting from maintenance and related activities of gas, steam, or electrical utilities through the use of general permits. Subject to appropriate reporting requirements, the general permit shall authorize discharge in accordance with the terms of the permit. Utilities shall comply with this provision within 180 days after the enactment of the ordinance from which this section is derived.

(2) If a person who proposes to discharge groundwater resulting from purge, response activity, or UST projects has applied for and received a permit from the Department, the Department may authorize the discharge of such wastewater. Permits shall be issued in accordance with the procedures contained in section 26-276, or in accordance with any rules adopted by the Board.

(h) *Village right of revision.* The Village reserves the right to establish rules or regulations adopted by the Board, additional or more stringent limitations or requirements on discharges to the POTW. Ninety days after adoption by the Board, industrial users shall comply with such rules and regulations.

(i) *Accidental discharges.*

(1) a. Each industrial user which does not currently have an approved spill prevention plan or slug control plan shall provide protection from accidental discharge of

prohibited materials or other substances regulated by this article, and all significant industrial users shall submit to the Department detailed plans which show facilities and operating procedures to be implemented to provide protection against such accidental discharges. Facilities and measures to prevent and abate accidental discharges shall be implemented, provided, and maintained at the owner's or industrial user's cost or expense. Unless the significant industrial user has an approved spill prevention or slug control plan, all existing significant industrial users shall complete and submit such a plan within 60 days of the effective date of the ordinance from which this article is derived. New significant industrial users shall submit such a plan prior to the time they commence discharging.

b. For purposes of this article, the information provided shall include the approximate average and maximum quantities of such prohibited materials or substances kept on the premises in the form of raw materials, chemicals and/or waste therefrom and the containment capacity for each. Only substances that are in a form which could readily be carried into the POTW and constitute a concentration of five percent or greater in the raw material, chemical solution or waste material, are required to be reported. Volumes of less than 55 gallons, or the equivalent thereof, need not be reported unless lesser quantities could cause pass through or cause interference with the POTW.

c. The industrial user shall promptly notify the Department of any significant changes or modifications to the plan, including, but not limited to, a change in the contact person, or substance inventory.

(2) At least once every two years, the Department shall evaluate whether a significant industrial user needs a plan to control slug discharges, as defined by 40 CFR 403.8(f)(2)(v). Unless otherwise provided, all significant users shall complete, implement, and submit such a plan within 30 days of notification by the Department.

(j) *Notification requirements.* Unless a different notice is provided by this section or applicable law, within one hour of becoming aware of a discharge into the POTW which exceeds or does not conform with federal, state or Village laws, rules, regulations or permit requirements, or which could cause problems to the POTW, or which has the potential to cause the industrial user to implement its plan prepared in accordance with this article, the industrial user shall telephone the Department at its control center and notify the Department of the discharge. The notification shall include the name of the caller, the location and time of discharge, the type of wastewater, the estimated concentration of excessive or prohibited pollutants and estimated volume, and the measures taken, or being taken, to abate the discharge into the POTW. Within five calendar days after the discharge, the industrial user shall submit a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences and when required by the Department, the industrial user's wastewater

discharge permit may be modified to include additional measures to prevent such future occurrences. Such notification shall not relieve the industrial user of any expense, cost of treatment, loss, damages or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other environmental impairment or any other damage to person or property.

(k) *Notice to employees.* A notice shall be permanently posted on the industrial user's bulletin board, or other prominent place, advising employees whom to contact in the Department in the event of an actual or excessive or prohibited discharge.

(l) *Recovery of costs.* Any user discharging in violation of any of the provisions of this article, which produces a deposit or obstruction, or causes damage to or impairs the Department's POTW, or causes the Department to violate its NPDES permit, shall be liable to the Department for any expense, loss, damage, penalty or fine incurred by the Department because of said violation or discharge. Prior to assessing such costs, the Department shall notify the user of its determination that the user's discharge was the proximate cause of such damage, obstruction, impairment, or violation of the Village's NPDES permit and the Department's intent to assess such costs to the user. Any such notice shall include written documentation which substantiates the determination of proximate cause and a breakdown of cost estimates. Failure to pay the assessed costs shall constitute a violation of this article. Such charge shall be in addition to, and not in lieu of, any penalties or remedies provided under this article, this Code, other statutes and regulations, or at law or in equity.

(m) *Hazardous waste notification.* All industrial users who discharge into the Village collection system shall notify the Department in writing of any discharge of a substance which, if otherwise disposed of, would be a hazardous waste as set forth in 40 CFR 261. Such notification must comply with the requirements of 40 CFR 403.12(p).

(n) *Authorized representative.* The authorized representative, as defined in section 26-187, may designate a duly authorized representative of the individual designated in section 26-187 where:

(1) The authorization is made in writing by the individual defined in section 26-187;

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility where the industrial discharge originates, such as the position of plant manager; operator of a well or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and

(3) The written authorization is submitted to the Department.

(o) *Pollution prevention.* The Department shall encourage and support industrial users to develop and implement pollution prevention programs which eliminate or reduce pollutant contributions beyond the levels required by this article. The Department may require an industrial user to implement pollution prevention initiatives or BMP as part of an enforcement response, or as necessary to comply with its NPDES permit.
(Code 1996, § 52.51; Ord. No. 23.27, 1-8-1990; Am. Ord. No. 23.31, 12-10-2001; Am. Ord. No. 23.33, 2-9-2009)

**Sec. 26-275. Fees.**

(a) The purpose of this section is to provide for the recovery of costs from users of the POTW. The applicable charges or fees established by the Board shall be sufficient to meet the costs of the operation, maintenance, improvement or replacement of the system, or as provided by law or by Board action.

(b) The Board shall adopt charges and fees which shall include, but not be limited to:

(1) Fees for reimbursement of costs of establishing, operating, maintaining, or improving the Department's industrial waste control and pretreatment programs;

(2) User fees based upon volume of waste and concentration or quantity of specific pollutants in the discharge, and treatment costs including sludge handling and disposal;

(3) Reasonable fees for reimbursement of costs for hearings, including, but not limited to, expenses regarding hearings officers, court reporters, and transcriptions; and

(4) Other fees which the Board may deem necessary to carry out the requirements contained herein, or as may be required by law.
(Code 1996, § 52.52; Ord. No. 23.27, 1-8-1990; Am. Ord. No. 23.31, 12-10-2001)

**Sec. 26-276. Wastewater discharge permits.**

(a) *Required.* It shall be unlawful for users to discharge into the POTW any wastewater which will cause interference or pass through, or otherwise not comply with the discharge prohibitions of section 26-274. It shall be unlawful for a significant industrial user to discharge into the POTW without a wastewater discharge permit from the Great Lakes Water Authority. Unless otherwise expressly authorized by the Department through permit, order, rule or regulation, any discharge must be in accordance with the provisions of this article.

(1) All significant industrial users which are in existence on the effective date of the ordinance from which this article is derived shall apply for a wastewater discharge permit within 30 days of the effective date of the ordinance from which this article is derived. Significant industrial users who are currently operating with a valid wastewater discharge permit are not subject to this provision. These applications are to include

all information specified in subsection (c) of this section and, where applicable, any additional information which may be needed to satisfy the federal baseline monitoring report requirements of 40 CFR 403.12(b).

(2) All new significant users shall apply for a wastewater discharge permit at least 90 days prior to commencement of discharge. The application must include all information specified in subsection (c) of this section and, where applicable, any additional information that may be needed to satisfy the federal BMR requirements of 40 CFR 403.12(b). Until a permit is issued and finalized by the Department, no discharge shall be made into the POTW.

(3) Any user who proposes to discharge any wastewater other than sanitary or non-contact cooling water into the POTW shall request approval from the Department for the discharge at least 30 days prior to the commencement of the discharge.

(b) *Permit application or reapplication.* The Department may require any user to complete a questionnaire and/or a permit application and to submit the same to the Department for determining whether the industrial user is a significant user, or to determine changes in the wastewater discharges from a user's facility. Within 30 days of being so notified, a user shall comply with the Department's request in the manner and form prescribed by the Department. Failure of the Department to so notify a user shall not relieve the user of the duty to obtain a permit as required by this article.

(1) A user which becomes subject to a new or revised national categorical pretreatment standard shall apply for a wastewater discharge permit within 90 days after the promulgation of the applicable national categorical pretreatment standard, unless an earlier date is specified or required by 40 CFR 403.12(b). The existing user shall provide a permit application which includes all the information specified in subsections (c) and (g) of this section.

(2) A separate permit application shall be required for each separate facility.

(3) Existing permittees shall apply for permit reissuance a minimum of 90 days prior to the expiration of existing permits on a form prescribed by the Department.

(c) *Application or reapplication information.* In support of an application or reapplication for a wastewater discharge permit, the industrial user shall submit, in units and terms appropriate for evaluation, the following information:

(1) Corporate or individual name, any assumed name, federal employer identification number, address, and location of the discharging facility;

(2) Name and title of the authorized representative of the industrial user who shall have the authority to bind the industrial user financially and legally;

(3) All SIC numbers of all processes at this location according to the Standard Industrial Classification Manual, issued by the Executive Office of the President, Office of Management and Budget, 1987;

(4) Actual or proposed wastewater constituents and characteristics for each parameter listed in the permit application form. Such parameters shall include those applicable pollutants having numeric limitations as enumerated in section 26-274(a) and (b), those pollutants limited by National Categorical Pretreatment Standards regulations for applicable industries and any toxic pollutants known or suspected to be present in the discharge, regulated in the previous permit, or specifically requested by the Great Lakes Water Authority. For each parameter, the expected or experienced maximum and average concentrations during a one-year period shall be provided. For industries subject to National Categorical Pretreatment Standards or requirements, the data requested herein shall be separately shown for each categorical process wastestream. Combined wastestreams proposed to be regulated by the combined wastestream formula shall also be identified. Sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to 33 USC 1314(g) and contained in 40 CFR 136. Where 40 CFR 136 does not include sampling or analytical techniques for the pollutants in question, sampling and analysis shall be performed using validated analytical methods approved by the Administrator;

(5) A listing and description of activities, facilities and plant processes on the premises. Those processes, which are subject to National Categorical Pretreatment Standards or requirements shall be so designated. As pertains to subsection (c)(4) of this section, identify which pollutants are associated with each process;

(6) Restricted to only those pollutants referred to in subsection (c)(4) of this section, a listing of raw materials and chemicals which are either used in the manufacturing process or could yield the pollutants referred to in subsection (c)(4) of this section. Any user claiming immunity from having to provide such information for reasons of national security shall furnish acceptable proof of such immunity;

(7) A description of typical daily and weekly operating cycles for each process in terms of starting and ending times for each of the seven days of the week;

(8) Denote:

a. The average and maximum 24-hour wastewater flow rates including, if any, daily, monthly and seasonal variations;

b. Each national categorical process wastestream flow rate and the cooling water, sanitary water and stormwater flow rates separately for each connection to the POTW; and

c. Each combined wastestream;

(9) A drawing showing all sewer connections and sampling manholes by the size, location, elevation and points or places of discharges into the POTW; also a flow schematic showing which connections receive each national categorical process wastestream and which connections receive stormwater, sanitary water or cooling water; also show which lines handle each combined wastestream. This schematic shall be cross-referenced to the information furnished in subsection (c)(8) of this section;

(10) Each product produced by type, amount, process or processes and rate of production as pertains to processes subject to production based limits under the National Categorical Pretreatment Standards or requirements only;

(11) A statement regarding whether or not the requirements of this article and of the National Categorical Pretreatment Standards and requirements are being met on a consistent basis and, if not, what additional operation and maintenance work and/or additional construction is required for the industrial user to meet the applicable standards and requirements. This statement shall be reviewed and signed by the authorized representative and, as appropriate, certified by a qualified professional;

(12) Basic information on the program for the prevention of accidental discharges in accordance with the requirements of section 26-274(i);

(13) Proposed or actual hours of operation of each pretreatment system for each production process;

(14) A schematic and description of each pretreatment facility which identifies whether each pretreatment facility is of the batch type or continuous process type;

(15) If other than Great Lakes Water Authority potable water, the industrial user's source of intake water together with the types of usage and disposal method of each water source, and the estimated wastewater volumes from each source;

(16) If additional construction and/or operation and maintenance procedures will be required to meet the requirements of this section and the National Categorical Pretreatment Standards, the shortest schedule by which the user will provide such additional construction and/or implement the required operation and maintenance procedures;

(17) Identify whether the user has conducted a waste minimization assessment or audit of its operations in order to identify all feasible source reduction and recycling practices that may be employed to reduce or eliminate the generation of pollutants and other waste at the facility; and

(18) Any other information as may reasonably be required to prepare and process a wastewater discharge permit.

(d) *Permit issuance.* Upon receipt of an application, the Department shall review the application, determine, and so notify the industrial user in writing regarding any of the following:

(1) The industrial user does not meet the definition of a significant industrial user and is not required to have a wastewater discharge permit.

(2) The industrial user does meet the definition of a significant industrial user but is found by the Department to have no reasonable potential for adversely affecting the POTW operation or for violating any pretreatment standard or requirement and is not required to have a wastewater discharge permit. The Department shall make such determination in accordance with the requirements of 40 CFR 403.8(f)(6).

(3) The application is incomplete or the information only partially satisfies the information and data required by 40 CFR 403.12 or by the Department, and that additional information and data are required which shall be promptly furnished. Where appropriate, the industrial user is notified regarding specific information that is missing, or that the application is unacceptable.

(4) a. The industrial user is required to have a wastewater discharge permit. The Department shall notify the industrial user of its determination and the basis of the determination.

b. The Department may withhold issuance of a permit to a significant user which has not submitted an adequate or timely report, or permit application, to the Department as the control authority in accordance with the reporting requirements of 40 CFR 403.12, or whose discharge is in violation of this article. If the Department determines that an industrial user is required to have a wastewater discharge permit and has evaluated and accepted the data furnished, the industrial user will be notified accordingly by certified mail. The notification shall contain a copy of the draft permit, so marked, for the industrial user's review. An industrial user has 30 days from the date of mailing to file a response to the draft permit and, in accordance with the procedures contained in section 26-382, 20 days from the date of mailing to file an appeal regarding a permit issued as final. Upon disposition by the Department of any contested terms or conditions, a permit shall be issued as final. Only one facility location shall be included in each permit.

(e) *Permit conditions.* Wastewater discharge permits shall contain all requirements of 40 CFR 403.8(f)(1)(iii) and shall be deemed to incorporate all provisions of this article, other applicable laws, rules, regulations, and user charges and fees established by the Village without repetition therein. In addition, permits may contain the following:

(1) Limits on the average and maximum wastewater constituents or characteristics which are equivalent, more restrictive than, or supplemental to the numeric limits enumerated in section 26-274, or the applicable National Categorical Pretreatment Standards;

(2) Limits on average and maximum rate and time of discharge or requirements for flow regulation and equalization;

(3) Requirements for installation, operation, and maintenance of discharge sampling manholes and monitoring facilities by the industrial user;

(4) Restrictions on which of the user's discharge wastestreams are to be allowed to be discharged at each point of connection to the POTW;

(5) Specifications for industrial user monitoring programs, which may include sampling locations, frequency and type of sampling, number, types and standards for tests and reporting schedules;

(6) Requirements for the prevention of accidental discharges and the containment of spills or slug discharges;

(7) Restrictions based on the information furnished in the application;

(8) Additional reporting requirements:

a. All permittees shall submit a report on the form prescribed by the Department, or on an alternative form approved by the Department, indicating the status of compliance with all conditions enumerated or referred to in the wastewater discharge permit, or made applicable to the permit by this article. Unless required more frequently, the reports shall be submitted at six-month intervals on a schedule to be established by the Department. Analytical data generated by the Department may not be submitted in lieu of the facility's own monitoring data as required by the wastewater discharge permit;

b. Permittees not subject to National Categorical Pretreatment Standards or requirements shall submit a report in accordance with the requirements of subsections (e)(8)d and e of this section. The report shall show the concentration of each substance for which there is a specific limitation in the permit, or which may be identified by the Department in accordance with subsections (e)(9) and (11) of this section;

c. Permittees subject to National Categorical Pretreatment Standards or requirements shall submit compliance reports at the times and intervals specified by federal regulations and by the Department. A compliance report shall be submitted to the Department no later than 90 days following the final compliance date for a standard or in the case of a new source, no later than 90 days, following commencement of the introduction of wastewater into the POTW, and in accordance with 40 CFR 403.12(d). A report on continued compliance shall be submitted at six-month intervals thereafter on the schedule established by the Department and incorporated into the industrial user's discharge permit and in accordance with subsections (e)(8)d and e of this section. The reports shall be

either on a form prescribed by the Department or on an alternate form approved by the Department and shall indicate the nature and concentration of all pollutants in the discharge from each regulated process which are limited by National Categorical Pretreatment Standards, or for which there is a specific limitation in the permit, or which may be identified by the Department in accordance with subsections (e)(9) and (11) of this section. The report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the discharges regulated by the permit. The combined wastestream formula may be used for reporting purposes after the initial information has been furnished to the Department, provided there have been no changes to the elements composing the combined wastestream;

d. 1. Reports shall contain the results of representative sampling performed during the period covered by the report and of the discharge and analysis of pollutants contained therein and, for significant industrial users subject to production based standards, shall be cross-referenced to the related flow or production and mass as required to determine compliance with the applicable pretreatment standards. The frequency of monitoring shall be as prescribed in the applicable general pretreatment regulations, being 40 CFR 403, or by the Department, but no less than is necessary to assess and ensure compliance by the industrial user with the most stringent applicable pretreatment standards and requirements. All sampling and analysis shall be performed in accordance with applicable regulations contained in 40 CFR 136 and amendments thereto. Where 40 CFR 136 does not include sampling or analytical techniques for the pollutants in question, sampling and analysis shall be performed using validated analytical methods approved by the Administrator;

2. If an industrial user monitors any pollutant more frequently than required by the Department using the procedures as prescribed in this section, the results of this monitoring shall be included in such report. The report shall state whether the applicable pretreatment standards are being met on a consistent basis and, if not, what additional operation and maintenance practices and/or pretreatment system improvements or changes are necessary to bring the industrial user into compliance with the applicable pretreatment standards;

e. This report, and those required under section 26-274(c)(5) and subsections (e)(8)b and c of this section, shall include the following certification statement: "I certify under penalty of law that this document and all attachments were prepared under my direction, or supervision, in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted.

Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of a fine and/or imprisonment for knowing violations." Said certification shall be signed by the facility's authorized representative, as defined in section 26-187. If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of the authorized representative definition must be submitted to the Department prior to, or together with any reports to be signed by an authorized representative;

f. If sampling performed by a permittee indicates a violation, the user shall notify the Department within 24 hours of the time said user becomes, or should have become, aware of the violation. In addition, the user shall repeat the sampling and analysis, and submit the results of the repeat analysis to the Department within 30 days after said user becomes, or should have become, aware of the violation;

(9) In the event the Director determines that an industrial user is discharging substances in quality, quantity or at locations which may cause problems to the POTW or the receiving stream, the Department has the authority to develop and enforce effluent limits applicable to the user. To the extent the Department seeks to impose restrictions in a permit which are more restrictive than established in this article, the Department shall provide written documentation to explain the greater restriction for protection against pass through, interference, or violation of the NPDES permit;

(10) Requirement for pollution prevention initiatives; and

(11) Other requirements reasonably necessary to ensure compliance with this section.

(f) *Permit duration.* Permits shall be issued for a specified time period. Except as deemed necessary by the Department, or as otherwise provided for under this section, permits shall be issued for a specified period of not more than five years nor less than one year. The existing permit for significant industrial users who timely submit an application for permit reissuance to the Department shall be automatically extended until a permit is issued as final.

(g) *Permit modification.*

(1) The terms and conditions of the permit may be subject to modification by the Department during the term of the permit as limitations or pretreatment standards and requirements identified in section 26-274 are amended, or other just cause exists. Just cause for a permit modification includes, but shall not be limited to, the following:

a. Material or substantial changes to an industrial user's facility or operation, or changes in the characteristics of the industrial user's effluent. It shall be the industrial user's duty to request an application form and apply for a modification of the permit within 30 calendar days of the change;

b. Changes in the Department's NPDES permit;

c. Embodiment of the provisions of a legal settlement or of a court order;

d. Any changes necessary to fulfill the Department's role as control authority;

e. An industrial user's noncompliance with portions of an existing permit;

f. A change of conditions within the POTW;

g. A finding of interference or pass through attributable to the industrial user;

h. Amendments to, or promulgation of, National Categorical Pretreatment Standards or requirements including 40 CFR 403 and those delineated in section 26-283. Permittees shall request an application form and apply to the Department for a modified permit within 90 days after the promulgation of a new or revised national categorical pretreatment standard to which the industrial user shall be subject. Information submitted pursuant to this article shall be confined to that information related to the newly promulgated or amended national categorical pretreatment standard or requirement. However, information previously submitted need not be duplicated, insofar as the previously submitted information continues to be current and applicable. In addition, the Department may initiate this action;

i. Changes in the monitoring location (see section 26-277);

j. Typographical errors or omissions in permits;

k. The Department may modify the permit on its own initiative based on its findings or reasonable belief of the above; or

l. The user may request a modification of the permit.

(2) When initiated by the Department, the industrial user shall be informed of any proposed change in its permit. The Department will issue a draft permit and an industrial user has 30 days to file a response to the draft modified permit. Thereafter, the Department will issue a final permit and, unless appealed in accordance with the procedures contained in section 26-282, the permit will become effective 20 days after issuance.

(h) *Permit custody and transfer.* Wastewater discharge permits are issued to a specific person as defined herein for a specific discharge. A wastewater discharge permit shall not be reassigned or transferred or sold to a different person, new owner, new industrial user, different premises, or a new or changed operation without notice to and written approval of the Department and providing a copy of the existing permit to the new owner or operator. It shall be the permit holder's duty to notify the Department of any such change at least 30 days before the date of the change. Wastewater discharge permits, which do not receive the written approval of the Department prior to the change, shall be null and void regardless of reassignment, or transfer, or sale. If it has occurred, the Department may revoke a permit. If a change takes place, the

Department may require the application for a new or modified permit. Any succeeding person shall comply with the terms and conditions of any existing permit which the Department allows to be retained.

(i) *Permit notification requirements.* All industrial users shall promptly notify the Department in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous waste for which initial notification under 40 CFR 403.12(p) has been made, request a permit application form, and apply for a modification of the permit at least 30 calendar days prior to the change. Failure of the industrial user to so apply shall be considered a violation of this article.
(Code 1996, § 52.53; Ord. No. 23.27, 1-8-1990; Am. Ord. No. 23.31, 12-10-2001)

**Sec. 26-277. Monitoring facilities.**

(a) Significant industrial users shall provide, operate and maintain at their own expense a sampling manhole or special structure to facilitate monitoring, inspection, sampling, and flow measurement of their discharge by the Department and the industrial user, and to enable the Department to conduct such other monitoring and sampling as required for determining compliance with discharge requirements, limits and standards as provided for in this article. In the event the Department determines that the monitoring facility identified in the permit application is inadequate, a new monitoring facility must be identified, or provided, which shall allow for collection of a representative sample of the wastewater discharged from the facility. Unless otherwise determined at the discretion of the Department, said facility shall be provided within 90 days of receipt of notification by the Department. The industrial user shall provide the Department with:

(1) A drawing showing all sewer connections and sampling manholes by the size, location, elevation, and points or places of discharges into the POTW;

(2) a. A flow schematic showing:

1. Which connections receive each national categorical process wastestream;
2. Which connections receive stormwater, sanitary water or cooling water; and
3. Which lines handle each combined wastestream.

b. This report shall be certified by a professional engineer. If a significant industrial user fails to install the monitoring facilities within the prescribed time limits, then the Department may install such structure or device and the significant user shall reimburse the Department for any costs incurred therein.

(b) The sampling manhole should be situated on the industrial user's premises in a location readily accessible to the Department. When such a location would be impractical or cause undue hardship to the industrial user, the Department may allow the facility to be constructed in the public street or sidewalk area when there is room and the location will not be obstructed by landscaping or parked vehicles. It shall be the responsibility of the industrial user to obtain

any necessary approvals which may be required from other government agencies for the location and construction of monitoring facilities. There shall be ample room in or near such sampling or monitoring manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility and any permanently installed sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the industrial user. Whether constructed upon public or private property, the sampling and monitoring facilities shall be provided in accordance with the Department's requirements and all applicable local construction standards and specifications. See section 26-276(g) regarding permit modification.
(Code 1996, § 52.54; Ord. No. 23.27, 1-8-1990; Am. Ord. No. 23.31, 12-10-2001)

**Sec. 26-278. Inspection sampling and record keeping.**

(a) For purposes of administering and enforcing this article, any other applicable provisions of this Code or applicable state or federal laws and regulations, the Department may inspect the establishment, facility or other premises of the industrial user. The Department's employees or authorized representative shall have access to the industrial user's premises for purposes of inspection, sampling, compliance monitoring and/or metering activities.

(b) Each such inspection or sampling activity shall be commenced and completed at reasonable times, and in a reasonable manner. Upon arrival at the industrial user's premises, the Department shall inform the industrial user, or the industrial user's employees, that sampling and/or inspection is commencing, and that the facility's authorized representative has the right to observe the inspection and/or sampling. The Department shall neither refrain from, nor be prevented or delayed from, carrying out its inspection or sampling duties due to the unavailability of the authorized representative of the facility to observe or participate in the inspection or sampling activity.

(c) While performing work on private property, employees or authorized representatives of the Department shall observe all reasonable safety, security and other reasonable rules applicable to the premises as established by the industrial user. Duly authorized employees or representatives of the Department shall bear proper credentials and identification, and at the industrial user's option may be accompanied by a duly authorized representative of the industrial user. Duly authorized Department representatives shall not be restricted from viewing any of the facility site. Department employees or representatives may take photographs of facilities subject to this article which shall be maintained by the Department as confidential in accordance with section 26-279.

(d) Where an industrial user has security measures in force, the industrial user shall make prompt and necessary arrangements with the security personnel so that, upon presentation of appropriate credentials, personnel from the Department will be permitted to enter for the purposes of performing their specific responsibilities.

(e) Significant industrial users shall sample and analyze their discharge in accordance with the provisions of their permit. The Department may require such samples to be split with the Department for the Department's independent analysis.

(f) Industrial users shall maintain records of all information from monitoring activities required by this section, or by 40 CFR 403.12(n). Industrial users shall maintain the records for no less than three years. This period of record retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the industrial user, or the operation of the industrial waste program, or when requested by the department, by the state, or by the EPA.

(g) Upon the request of the Department, industrial users shall furnish information and records relating to discharges into the POTW. Industrial users shall make such records readily accessible to the Department at all reasonable times and allow the Department to copy such records.

(h) In the event the Department obtains samples, and analyses are made of such samples, a copy of the results of such analyses shall be promptly furnished upon written request by the industrial user's authorized representative. When requested by the industrial user, the Department employee or representative shall leave with the user a portion of any sample of the user's discharge taken from any sampling point on or adjacent to the premises for the user's independent analysis. In cases of disputes arising over shared samples, the portion taken and analyzed by the Department shall be controlling unless proven invalid.

(i) In addition to any other violation caused by the discharge described herein, in the event a single grab sample of the industrial user's discharge is obtained by the Department, and then analyzed in accordance with 40 CFR 136, and found to contain concentrations of pollutants which are two or more times greater than the numeric limitations as listed in section 26-274(b), or as contained in the facility's wastewater discharge permit, the industrial user shall implement its slug control plan and shall provide a written report to the Department within 14 days which describes the cause of greater concentration and provides a description of the means by which future discharge concentrations will be held to values of less than two times the limitation in the future.

(Code 1996, § 52.55; Ord. No. 23.27, 1-8-1990; Am. Ord. No. 23.31, 12-10-2001)

**Sec. 26-279. Confidential information.**

(a) (1) Information and data on an industrial user obtained from written reports, questionnaires, permit applications, permits and monitoring programs, and from inspections shall be available to the public or other governmental agencies without restriction unless the industrial user specifically requests and is able to demonstrate to the

satisfaction of the Department that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the industrial user.

(2) When submitted to the Department, all information claimed to be confidential must be clearly marked "confidential." When requested by the person furnishing the report, the portions of a report determined by the Department to disclose trade secrets or trade secret processes, and which are clearly labeled as confidential, shall not be made available for inspection by the public, but shall be made available upon request to governmental agencies for uses related to this section, to the national pollutant discharge elimination system (NPDES) permit, and to the state disposal system permit and/or the pretreatment programs; provided, however, that information shall be treated as confidential by the governmental agency, until such time as the information has been determined to be non-confidential by the governmental agency. Confidential information on industrial users, which the Department releases pursuant to a request of another governmental agency, should be handled by the other governmental agency pursuant to its own confidentiality procedures. The Department cannot control how another governmental agency handles such confidential information and assumes no responsibility for the disposition of the information released to the governmental agency. The Department will use sufficient care to inform the other governmental agency of the existence of the industrial user's confidentiality claim.

(3) The Department shall determine whether the information requested to be treated as confidential, in fact, satisfies the requirements of confidential information as defined herein. The decision of the Department shall be made in writing.

(4) Wastewater constituents and characteristics will not be recognized as confidential information.

(b) Except as otherwise determined by the Department or provided for by applicable law, all information with respect to an industrial user on file with the Village shall be made available upon request by such user or the user's authorized representative during normal business hours.
(Code 1996, § 52.56; Ord. No. 23.27, 1-8-1990; Am. Ord. No. 23.31, 12-10-2001)

**Sec. 26-280. Statutes, laws and regulations.**

The National Categorical Pretreatment Standards defined in 40 CFR ch. I, subch. N, pts. 405 to 471, shall be and are incorporated by reference herein and made a part hereof. Unless otherwise provided, any reference in this article to a code, standard, rule, regulation, or law enacted, adopted, established, or promulgated by any private organization or by any element or organization of government other than the Village shall be construed to apply to such code, standard, rule, regulation, or law in effect or as amended or promulgated, from the date of enactment of the ordinance from which this article is derived.
(Code 1996, § 52.57; Ord. No. 23.27, 1-8-1990; Am. Ord. No. 23.31, 12-10-2001)

**Sec. 26-281. Enforcement.**

(a) *Violations.* It shall be a violation of this article for any user to:

(1) Fail to completely and/or accurately report the wastewater constituents and/or characteristics of the industrial user's discharge;

(2) Fail to report significant changes in the industrial user's operations or wastewater constituents and/or characteristics within the time frames provided in section 26-276(g)(1);

(3) Refuse reasonable access to the industrial user's premises, waste discharge, or sample location for the purpose of inspection or monitoring;

(4) Restrict, lockout or prevent, directly or indirectly, access to any monitoring facilities constructed on public or private property. The locking or securing of the monitoring facility shall not constitute a violation pursuant to this subsection, provided that, upon request, reasonable access to the facility is promptly provided to the Department;

(5) Restrict, interfere, tamper with, or render inaccurate any of the Department's monitoring devices, including, but not limited to, samplers;

(6) Fail to comply with any condition or requirement of the industrial user's wastewater discharge permit;

(7) Fail to comply with any limitation, prohibition, or requirement of this article, including any rule, regulation, or order issued hereunder. Industrial users acting in full compliance with wastewater discharge permits issued prior to the effective date of the ordinance from which this article is derived shall be deemed to be in compliance with the requirements of this article, and such permits shall remain in effect and be enforceable under this article until a superseding permit is effective. Industrial users shall comply with applicable National Categorical Pretreatment Standards and requirements on the date specified in the federal regulations, regardless of compliance schedules.

(b) *Upsets.* An upset shall constitute an affirmative defense to an action brought for noncompliance with National Categorical Pretreatment Standards where the requirements of subsection (b)(1) of this section are met.

(1) An industrial user who wishes to establish the affirmative defense shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, that:

a. An upset occurred and the industrial user can identify the causes of the upset;

b. At the time, the facility was being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;

c. The industrial user has submitted the following information to the Department, orally or in writing, within 24 hours of becoming aware of the upset and, where this information is provided orally, a written submission must be provided within five days:

1. A description of the discharge and cause of noncompliance;
2. The period of noncompliance, including exact dates and times, or, if not corrected, the anticipated time the noncompliance is expected to continue; and
3. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

(2) In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof;

(3) The industrial user shall control production of all discharges to the extent necessary to maintain compliance with this section upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

(c) *Bypass.* Bypasses are prohibited unless the bypass does not cause a violation of pretreatment standards or requirements, but only if it is for essential maintenance to ensure efficient operation of the treatment system. These bypasses are not subject to the provisions of subsections (c)(1) and (2) of this section.

(1) *Notice of anticipated bypass.* Industrial users anticipating a bypass shall submit notice to the Department at least ten days in advance.

(2) *Notice of unanticipated bypass.* An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time the industrial user becomes or should have become aware of the bypass. A written submission shall be provided within five days of the time the industrial user becomes or should have become aware of the bypass. The written submission shall contain a description of the bypass, including exact dates and times and, if the bypass has not been corrected, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass.

(3) *Prohibition of bypass and response.* Bypass is prohibited, and the Department may take enforcement action against a user for a bypass, unless:

a. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal

periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

c. The industrial user properly notified the Department as described in subsection (c)(2) of this section.

(4) *Bypass approval.* Where it meets all conditions in subsection (c)(3) of this section, the Department may approve an anticipated bypass.

(d) *Emergency suspensions and orders.* The Department may order suspension of the sewer or wastewater treatment service and/or a wastewater discharge permit where, in the opinion of the Department, such suspension is necessary to stop any actual or threatened discharge which presents or may present an imminent or significant hazard to the health or welfare of persons or to the environment, interferes or may interfere with the POTW, or causes or may cause the Village to violate any condition of its NPDES permit. Any person notified of a suspension of the sewer or wastewater treatment service and/or the wastewater discharge permit shall immediately stop or eliminate the contribution. In the event the Department provides informal notification under this section, written confirmation and an order shall be provided within 24 hours. In the event of a failure of the person to comply voluntarily with any suspension or revocation order, the Department shall take such steps as deemed necessary, including immediate severance of the sewer connection or services, to prevent or minimize damage to the POTW system or danger to any individual or the environment. In the event such steps are taken, the Director shall notify the industrial user within 24 hours, in writing, of such action and order and the specific recourse available. In any event, the Department shall provide the industrial user with an opportunity for a hearing before the Director, or his designated representative, within ten days of such action. The industrial user shall submit a detailed written statement to the Department within 15 days of the occurrence describing the causes of the harmful contribution and the measures taken to prevent any future occurrence. Upon proof of elimination of the noncomplying discharge, the Department shall reinstate the wastewater discharge permit and/or the sewer or wastewater treatment service.

(e) *Notice of violation.* Except in the case of an actual or threatened discharge as specified in subsection (d) of this section, whenever the Department has reason to believe that any industrial user has violated or is violating this article, the Department shall serve a written notice stating the nature of the violation upon such industrial user. Where applicable, the Department shall pursue appropriate escalating enforcement action as defined within its approved enforcement response plan. The failure of the Department to issue a notice of violation shall not preclude the Department from escalating its enforcement response.

(f) *Administrative actions.* Whenever the Department has reasonable grounds to believe that a user is violating, or has violated, a provision of its wastewater discharge permit, or a pretreatment standard or requirement or any prohibition of this article, the Department,

except in the case of emergency or flagrant violation, may initiate appropriate administrative enforcement action in order to compel the industrial user to eliminate or to remedy such violation as soon as possible.

(1) *Informal administrative procedures.*

a. *Conferences.* The Department may order any person who violates this article to attend a conference wherein the Department may endeavor to cause the user to eliminate or remedy the violation by establishing an enforceable compliance schedule. The notice of violation shall be served at least ten days before the scheduled conference and shall set forth the date, time, and place thereof. The conference shall be conducted by a representative of the Department. The industrial user shall present a plan and schedule for achieving compliance with this article. Nothing contained herein shall require the Department to accept or agree to any proposed plan or schedule, or to prevent the Department from proceeding with a show cause hearing as set forth in subsection (f)(2) of this section. If the attendees agree upon a compliance schedule, the user and the Department's duly authorized representative may enter, by consent, into a compliance agreement or an administrative order setting forth the terms of such agreement. An industrial user must exhibit good faith and expeditious efforts to comply with this article and any procedures, requirements, and agreements hereunder.

b. *Compliance schedules.* The user and the Department may agree upon a schedule which sets forth the terms and conditions and time periods or schedules for completion of actions to remedy or to eliminate the causes of violation. These schedules may be developed as part of a compliance agreement, or an administrative consent order. Schedules developed under this subsection shall adhere to the following conditions:

1. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of upgraded or additional pretreatment facilities, or to the implementation of additional operation and maintenance procedures required for the industrial user to meet the applicable pretreatment requirements and standards, including, but not limited to, hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, and completing construction;

2. No single increment referred to in subsection (f)(1)b.1 of this section shall exceed nine months;

3. Not later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the Department including, at a minimum, whether it complied with the incre-

ment of progress to be met on such date and, if not, the date which it expects to comply with this increment of progress, the reasons for delay, and the steps being taken by the industrial user to return to the established schedule; and

4. Any deviations from the compliance schedule may result in the industrial user being found in violation of this article.

c. *Administrative orders.* The Department may order any industrial user who violates or continues to violate this article or a duly issued permit to install and to properly operate devices, treatment facilities, or other related appurtenances. In addition, orders may contain such other requirements as might reasonably be necessary and appropriate to address the violation, including the installation of pretreatment technology, additional self-monitoring and management practices, implementation of a waste minimization assessment to identify and implement feasible source reduction, and recycling practices to reduce the generation or release of pollutants at the facility. An order may be either an administrative consent order, which is the result of an agreement, or a unilateral administrative order.

(2) *Show cause hearing.* The Department may order any industrial user who violates this article, or allows such violation to occur, to show cause before the Department why a proposed enforcement action should not be taken. A notice shall be served upon the industrial user specifying the time and place of a hearing before the Department regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the industrial user to show cause before the Department why any proposed enforcement action should not be taken. The notice of the hearing shall be served personally, or by registered or certified mail with return receipt requested, at least ten days before the hearing. Service may be made upon any agent or officer of a corporation, or its authorized representative.

a. *Hearing proceeding.* The hearing shall be conducted in accordance with the procedures adopted by the Board. A hearings officer shall conduct the show cause hearing and take the evidence, and may:

1. In the name of the Board, issue notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearing;

2. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Director for action thereon.

b. *Transcript.* At any show cause hearing held pursuant to this article, testimony shall be recorded by a court reporter.

(3) *Actions.* After a show cause hearing has been conducted, the hearings officer shall issue an order to the industrial user directing any of the following actions:

a. Immediate compliance with the industrial user's wastewater discharge permit or with any applicable limitation, condition, restriction or requirement of this section, or applicable local, state or federal law or regulation;

b. Pretreatment of waste by installation of adequate treatment equipment or proper operation and maintenance of existing treatment equipment be accomplished within a specified time period;

c. Submission of compliance reports on effluent quality and quantity as determined by self-monitoring and analysis during a specified time period;

d. Submission of periodic reports on effluent quality and quantity determined by self-monitoring analysis throughout the final period set by a compliance date;

e. Control of discharge quantities;

f. Payment of costs for reasonable and necessary inspection, monitoring, and administration of the industrial user's activities by the Department during compliance efforts;

g. Any such other orders as are appropriate, including, but not limited to, immediate termination of sewer or wastewater treatment services, or revocation of a wastewater discharge permit, or orders directing that following a specified time period sewer or wastewater treatment service will be discontinued unless adequate treatment facilities, devices, or operation and maintenance practices have been employed; and/or

h. A finding the user has demonstrated by a preponderance of the evidence that a violation either of this article or of a duly issued permit did not occur.

(4) *Public notification of significant noncompliance.* The Department shall publish in the largest daily newspaper published in the Village a list of all industrial users which were in significant noncompliance, with applicable pretreatment requirements, at any time during the previous 12 months. All industrial users identified in a proposed publication shall be provided with a copy of the proposed notice at least 30 days before publication and allowed an opportunity to comment as to its accuracy.

(g) *Legal actions.*

(1) Criminal action. Any user who violates any provision of this article, including the failure to pay any fees, fines, charges or surcharges imposed hereby, or any condition or limitation of a permit issued pursuant thereto, or who knowingly makes any false statements, representations or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this article or wastewater discharge permit, or who tampers with or knowingly renders inaccurate any

monitoring device required under this article, is guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed $500.00 for each violation per day, or by imprisonment for not more than 90 days, or by both. The Department, consistent with the terms and conditions of the delegation agreement entered into with the Village, is hereby authorized, through its counsel, to seek prosecution of criminal charges against any person violating any provision of this article.

(2) Civil action. Whenever the Department has reasonable grounds to believe that a user is violating, or has violated, a provision of its wastewater discharge permit, a pretreatment standard or requirement or any requirement of this article, the Director may commence a civil action to compel compliance in a court of competent jurisdiction to enjoin the user from discharging, and/or to obtain appropriate relief to remedy the violations. The Department or Board may also seek additional legal and/or equitable relief. The commencement of suit does not constitute an exclusive election of remedies and does not prohibit the Department, Director, Board, or the Village from commencing action in federal court for discharges believed to be in violation of this article, state and federal requirements contained in the Clean Water Act, the Village's NPDES permit, or other applicable laws or requirements. In addition, the Village may recover the reasonable attorney fees, court costs, court reporters' fees, and other unusual expenses related to enforcement activities or litigation against the person found to have violated this article, or the orders, rules, regulations and permits issued hereunder.

(3) All fines, costs, and penalties which are imposed by any court of competent jurisdiction shall be payable to the Village of Lake Orion Water and Sewerage Department and the Village, where applicable.

(h) *Prevention initiatives/BMP.* Where one or more of the measurements taken for any pollutant defined in section 26-274(b) during a six-month period exceed by any magnitude the daily maximum non-detect limit for the same parameter, the industrial user may develop and implement pollution prevention initiatives, or a BMP, as part of its response. The Department may, as part of an administrative order, also require development of a BMP as a part of the Department's enforcement response. Upon approval of the Department, these pollution prevention initiatives, or BMPs, shall be made an enforceable part of the wastewater discharge permit. Industrial users shall provide, at six-month intervals, analytical results and certifications in support of its implementation of an approved pollution prevention initiative or BMPs. Upon demonstration of compliance, the industrial user may request to be relieved of this implementation requirement.

(Code 1996, § 52.58; Am. Ord. No. 23.31, 12-10-2001; Am. Ord. No. 23.33, 2-9-2009)

**Sec. 26-282. Reconsideration and appeal.**

Through the procedures of reconsideration and appeal, a user may contest actions, determinations, or decisions of the Department which result from its construction, application and enforcement of this article. The procedures contained within this section govern reconsideration and appeal with respect to construction, application, and enforcement of this article.

(1) *Selection of reconsideration or of appeal.*

a. Except for those actions, determinations, or decisions which are expressly identified as subject only to appeal, reconsideration may be requested by any permit applicant, permittee, authorized industrial wastewater discharger or other discharger who is adversely affected by any action, determination, or decision that is made by, or on behalf of, the Department by the Director, or an authorized representative, and that interprets, implements or enforces the provisions of this article.

b. An appeal may be requested by any permit applicant, permittee, authorized industrial wastewater discharger or other discharger who is adversely affected:

1. By a permit issued as final by the Department; or

2. By an administrative order entered after a show cause order and hearing, or after a hearing for reconsideration.

c. Unless otherwise expressly provided for by this article, a request for reconsideration or appeal must be signed by an authorized representative and received at the Department's general offices within 20 days from the date of the occurrence of the action, determination, or decision in dispute. A request for reconsideration shall contain the requester's name and address, a brief statement of the reason, and the factual basis underlying the request.

d. A request for reconsideration shall be filed in triplicate either by hand delivery or by certified mail to the general offices of the Department. Where a request for reconsideration or appeal either is not filed within the time period provided for in this subsection, or is improperly made, the action, determination or decision of the Director, or the Department's authorized representative, is final and any right to reconsideration or appeal may be deemed waived.

(2) *Reconsideration.* Within 15 days after receipt of a timely and proper request for reconsideration, the Department shall notify the applicant of the time and place for a hearing.

a. A hearing for reconsideration shall be conducted by a hearings officer who is designated by the Director and may be an employee of the Department. The decision of the hearings officer shall be in the form of a recommendation to the

Director and embodied in an administrative order. Except for an administrative consent order that was negotiated and agreed to by both parties, an administrative order is appealable in accordance with subsection (3) of this section.

b. Where improperly or untimely submitted, the Department may reject a request for reconsideration. The Department shall notify the requester in writing that the request has been rejected.

c. Unless the date is mutually extended by both parties, the hearing shall be conducted neither less than ten days nor more than 30 days after mailing of the notice. For cause and at the discretion of the hearings officer, the hearing may be continued for a reasonable time.

d. The hearing for reconsideration shall be an informal consultation and conference where the requester in person, or by counsel, shall present their argument, evidence, data, and proof in connection with the issues being reconsidered. The parties shall not be bound by the state rules of evidence. The hearing shall be transcribed and the requester may obtain a copy of the hearing transcript, as appropriate, from the Department or from the court reporter.

e. Within 30 days after the close of the hearing, the hearings officer shall issue a final decision which shall contain a recommendation to the Director. The hearings officer shall send such decision to the requester by certified mail.

f. Unless such action is necessary to prevent pass through, interference or other harm to the POTW, to the public or to the waters of this state, the filing of a request for reconsideration in accordance with this section shall stay the action by the Department that is the subject of the hearing for reconsideration.

(3) *Appeal.* Within 30 days after receipt of a timely and proper request for an appeal, the Department shall notify the applicant in writing regarding the time and place for a hearing. The hearing shall be conducted in accordance with procedures set by the Board until rules are promulgated pursuant to section 2-111 of the 1997 Detroit Village Charter. In addition:

a. Any request for an appeal must be made within 20 days of the Department's action, determination or decision regarding the request for reconsideration or any permit issued in accordance with this article.

b. Where a request either is not filed within the time period contained in this subsection or is improperly made, the action, determination or decision of the Director, or the Department's authorized representative, is final and any right to appeal may be deemed waived. Where untimely or improperly submitted, the Department may reject the request for an appeal, and shall notify the requester in writing that such request has been rejected.

c. The Department shall appoint a hearings officer. The hearings officer shall review the evidence, and within 15 days after the close of the hearing shall issue a written recommendation to uphold, modify or reverse the action, determination, or decision of the Department.

d. The written recommendation of the hearings officer shall be submitted to the Board, which shall render a final decision within 30 days of its next regularly scheduled meeting.

e. In accordance with applicable law, the user or the Department may appeal any final decision of the Board to a court of competent jurisdiction.

f. Unless such action is necessary to prevent pass through, interference, or other harm to the POTW, to the public or to the waters of this state, the filing of a request for appeal in accordance with this section shall stay the action by the Department that is the subject of the appeal.

(Code 1996, § 52.59; Am. Ord. No. 23.31, 12-10-2001)

**Sec. 26-283. Code of Federal Regulations (CFR).**

National Categorical Pretreatment Standards are set forth below:

| | |
|---|---|
| Aluminum forming | 40 CFR 467 |
| Asbestos manufacturing | 40 CFR 427 |
| Battery manufacturing | 40 CFR 461 |
| Builder's paper and board mills | 40 CFR 431 |
| Canned and preserved fruits and vegetables | 40 CFR 407 |
| Canned and preserved seafood processing | 40 CFR 408 |
| Carbon black manufacturing | 40 CFR 458 |
| Cement manufacturing | 40 CFR 411 |
| Centralized waste treatment | 40 CFR 437 |
| Coal mining | 40 CFR 434 |
| Coil coating | 40 CFR 465 |
| Copper forming | 40 CFR 468 |
| Dairy products processing | 40 CFR 405 |
| Electrical and electronic components I & II | 40 CFR 469 |
| Electroplating | 40 CFR 413 |
| Explosives manufacturing | 40 CFR 457 |
| Feed lots | 40 CFR 412 |
| Ferroalloy manufacturing | 40 CFR 424 |
| Fertilizer manufacturing | 40 CFR 418 |
| Glass manufacturing | 40 CFR 426 |
| Grain mills | 40 CFR 406 |
| Gum and wood chemicals manufacturing | 40 CFR 454 |

| | |
|---|---|
| Hospital | 40 CFR 460 |
| Ink formulating | 40 CFR 447 |
| Inorganic chemicals manufacture (I & II) | 40 CFR 415 |
| Iron and steel | 40 CFR 420 |
| Landfills | 40 CFR 445 |
| Leather tanning and finishing | 40 CFR 425 |
| Meat products | 40 CFR 432 |
| Metal finishing | 40 CFR 433 |
| Metal molding and casting | 40 CFR 464 |
| Metal products and machinery | 40 CFR 438 |
| Mineral mining and processing | 40 CFR 436 |
| Nonferrous metals forming | 40 CFR 471 |
| Nonferrous metals manufacturing I | 40 CFR 421 |
| Nonferrous metals manufacturing II | 40 CFR 421 |
| Ore mining and dressing | 40 CFR 440 |
| Organic chemicals, plastics, and synthetic fibers | 40 CFR 414 |
| Paint formulating | 40 CFR 446 |
| Paving and roofing materials | 40 CFR 443 |
| Pesticide chemicals | 40 CFR 455 |
| Petroleum refining | 40 CFR 419 |
| Pharmaceutical | 40 CFR 439 |
| Phosphate manufacturing | 40 CFR 422 |
| Photographic | 40 CFR 459 |
| Plastics molding and forming | 40 CFR 463 |
| Porcelain enameling | 40 CFR 466 |
| Pulp, paper, and paperboard | 40 CFRs 430 and 431 |
| Rubber manufacturing | 40 CFR 428 |
| Soap and detergent manufacturing | 40 CFR 417 |
| Steam electric | 40 CFR 423 |
| Sugar processing | 40 CFR 409 |
| Textile mills | 40 CFR 410 |
| Timber products | 40 CFR 429 |
| Transportation equipment cleaning | 40 CFR 442 |
| Waste combustors | 40 CFR 444 |

(Code 1996, § 52.60; Am. Ord. No. 23.31, 12-10-2001; Am. Ord. No. 23.33, 2-9-2009)

**Sec. 26-284. Phenols limitations.**

(a) An industrial user may elect, in lieu of the total phenols limitation specified in section 26-274(b)(2), to substitute specific limitations for each of the eight individual phenolic compounds identified under the total phenols limitation. The following specific limitations, expressed in mg/L, shall be applied in lieu of the total phenols limitation, upon election:

| | |
|---|---|
| 2-Chlorophenol | 2.0 mg/L |
| 4-Chlorophenol | 2.0 mg/L |
| 4-Chloro-3-methylphenol | 1.0 mg/L |
| 2,4-Dichlorophenol | 5.5 mg/L |
| 2,4-Dinitrophenol | 2.0 mg/L |
| 4-Methylphenol | 5.0 mg/L |
| 4-Nitrophenol | 15.0 mg/L |
| Phenol | 14.0 mg/L |

(b) Following election, the wastewater discharge permit shall be modified to incorporate these substituted parameters and an industrial user shall be responsible for monitoring and reporting compliance with these parameters.

(Code 1996, § 52.61; Am. Ord. No. 23.33, 2-9-2009)

**Sec. 26-285. Interim discharge limitations.**

No user shall discharge wastewater containing any of the following pollutants in excess of the following interim pollutant discharge limitations:

(1) Compatible pollutants:

a. Any fats, oil or grease (FOG) in concentration greater than 1,500 mg/L based on an average of all samples collected within a 24-hour period.

b. Any total suspended solids (TSS) in concentrations greater than 7,500 mg/L.

c. Any biochemical oxygen demand (BOD) in concentrations greater than 7,500 mg/L.

d. Any phosphorus (P) in concentrations greater than 250 mg/L.

(2) Unless otherwise stated, all limitations are based upon samples collected over an operating period representative of a user's discharge and in accordance with 40 CFR 136.

(3) Noncompatible pollutants: Cadmium (Cd): 1.0 mg/L.

(Code 1996, § 52.62; Am. Ord. No. 23.33, 2-9-2009)

Chapter 27

**RESERVED**

Chapter 28

# STREETS, SIDEWALKS AND OTHER PUBLIC PLACES


Sec. 28-1. Definitions.
Sec. 28-2. Inspection.
Sec. 28-3. Construction.
Sec. 28-4. Obstruction in streets; interference with normal flow of traffic.
Sec. 28-5. Merchandise on sidewalks.
Sec. 28-6. Street excavating.
Sec. 28-7. Drain or gutter obstructions.
Sec. 28-8. Signs, awnings and canopies.
Sec. 28-9. Sidewalk openings.
Sec. 28-10. Barricades.
Sec. 28-11. Faulty structure.
Sec. 28-12. Defacing and writing.
Sec. 28-13. Snow and ice on sidewalks.
Sec. 28-14. Street name changing.

**Sec. 28-1. Definitions.**

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

*Downtown area* means the area bounded by the following streets:

(1) On the west: M24 and Lapeer Street, both sides;

(2) On the south: Paint Creek;

(3) On the east: Slater Street, both sides;

(4) On the north: Jackson Street, south side, and Shadbolt, south side.

*Sidewalk* means the portion of the street right-of-way designed for pedestrian travel.

*Superintendent* means the Superintendent of Public Works of the Village.
(Code 1996, § 92.01; Ord. No. 8.01, 10-11-1971; Am. Ord. No. 8.04, 2-12-2007)

**Sec. 28-2. Inspection.**

The Village Manager shall have the responsibility of periodic inspections of sidewalks and shall make recommendations to the Council relative thereto.
(Code 1996, § 92.02; Ord. No. 8.01, 10-11-1971)

**Sec. 28-3. Construction.**

(a) No person shall construct, rebuild, or repair any sidewalk except in accordance with the line, grade, slope and specifications established by the Superintendent nor without first obtaining permission from the Village Council.

(b) Whenever the Village Council shall determine that the public convenience or necessity requires that any sidewalk shall be built or rebuilt within the limits of the Village, a resolution shall be passed by the Council directing and requiring that the sidewalk be built or rebuilt, as the case may be, and ordering or requiring that the Street Superintendent shall with due diligence build or rebuild the sidewalk in accordance with the resolution.

(c) Within ten days after the passage of the resolution, the Superintendent shall file with the Village Clerk an estimate in writing showing the number of square feet of sidewalk required to be built adjacent to each lot or parcel of land named in the resolution as provided for in subsection (b) of this section and shall cause a written or printed copy of the resolution, together with a copy of the estimate, to be served on the owners of the lot or parcels of land abutting on the sidewalk. The notice and estimate shall be served by delivering a copy thereof to each of the owners of the lots or premises abutting on such sidewalk, and if such owner cannot be found in the Village, the notice and estimate shall be left with the occupants, or family on premises, or with some member of the occupant's family of suitable age and discretion, and

if any such lot or premises shall be unoccupied and the owner thereof cannot be found in the Village, then the notice and estimate shall be served by posting a copy of same in some conspicuous place on such lot or premises.

(d) The cost of building or rebuilding the sidewalk shall be paid by the property owner whose property is abutting on the sidewalk. The cost of building or rebuilding the sidewalk, or any portion thereof, may be levied on the lot or premises adjacent to land abutting the sidewalk as a special assessment, which shall be a lien upon the lot or premises, the same as other special assessments, and the Council may order the assessor of the Village to spread the amount upon his roll as a special assessment on the lot or premises, and the same shall be collected in the same manner as other Village taxes; or the Village may collect the amount from the owner or occupant of the lot or premises in an action of assumpsit, and such owner or occupant shall be liable for same, together with the costs of suit.

(e) In the event an owner of abutting property requests an approach by cutting the curb with or without crossing a sidewalk, same shall be done at the owner's expense in accordance with specifications established by the Village Council.
(Code 1996, § 92.03; Ord. No. 8.01, 10-11-1971)

**Sec. 28-4. Obstruction in streets; interference with normal flow of traffic.**

(a) Subject to subsection (b) of this section, a person without authority shall not block, obstruct, impede, or otherwise interfere with the normal flow of vehicular or pedestrian traffic upon a public street or highway in the Village by means of a motor vehicle, barricade, object, device or with his or her person. This subsection does not apply to persons maintaining, rearranging, or constructing public utility facilities in or adjacent to a street or highway.

(b) Subsection (a) of this section and any provision of the Michigan Administrative Code that prohibits a person from standing in a roadway, other than a limited access highway, for the purpose of soliciting a ride, employment, or business from the occupant of any vehicle, do not apply to a person who is soliciting contributions on behalf of a charitable or civic organization during daylight hours, if all the following are satisfied:

(1) The charitable or civic organization complies with all Village ordinances.

(2) The charitable or civic organization maintains at least $500,000.00 in liability insurance.

(3) The person is 18 years of age or older.

(4) The person is wearing high visibility safety apparel that meets current American standards promulgated by the Internal Safety Equipment Association.

(5) The portion of the roadway upon which the solicitation occurs is not a work zone.

(6) The portion of the roadway upon which the solicitation occurs is within an intersection where traffic control devices are present.

(c) The Village or the county road authority that has jurisdiction over a roadway upon which solicitation occurs as described in subsection (b) of this section is not liable for any claim for damages arising out of the use of the roadway as described in subsection (b) of this section.

(d) A person who violates this section is responsible for a civil infraction.

(e) As used in this section, the term "charitable or civic organization" means a nonprofit organization that is qualified under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code, 26 USC 501, or a veterans organization that has a tax exempt status under the Internal Revenue Code.
(Code 1996, § 92.04; Ord. No. 8.01, 10-11-1971; Am. Ord. No. 8.05, 11-27-2017)

**Sec. 28-5. Merchandise on sidewalks.**

No person, company or corporation shall use any of the sidewalk within the Village for the storage, keeping or displaying thereon of any goods, wares, merchandise, produce provisions, vegetables, boxes, barrels or show cases except within the distance of three feet from the wall of the building used or occupied by such person, company or corporation in the business portion of the Village.
(Code 1996, § 92.05; Ord. No. 8.01, 10-11-1971)

**Sec. 28-6. Street excavating.**

(a) No person, firm or corporation shall dig or tear up any pavement, sidewalk or crosswalk, or dig any hole, ditch, drain, or sewer in any street, alley, or public property without first obtaining a permit therefor from the Village Manager. This requirement shall apply to all persons, firms or corporations whether or not they may have a right, license or franchise to use the Village alleys, streets, or private property.

(b) It shall be the duty of such person, firm or corporation, upon being granted a permit as hereinabove required, to maintain all traffic control devices and to immediately refill and restore, resurface or repave such street, alley or other public property so that the same will be in as good condition as before. It shall further be the duty of such person, firm or corporation to erect and maintain during the progress of the work a good and sufficient barrier around any such cut, trench or excavation in such manner as to prevent accidents and to place and keep upon such barrier suitable and sufficient colored lights during the night.

(c) A separate permit must be obtained for each occasion and such permit shall specify the location of the cut, trench or excavation to be made.
(Code 1996, § 92.06; Ord. No. 8.01, 10-11-1971)

**Sec. 28-7. Drain or gutter obstructions.**

It shall be the duty of every owner or occupant of any house, building or premises within the Village to keep at all times the drain or gutter in front of the same clear and free from any obstructions that may hinder or interfere with the free passage of water in or through any public drain or sewer.
(Code 1996, § 92.07; Ord. No. 8.01, 10-11-1971)

**Sec. 28-8. Signs, awnings and canopies.**

(a) No person, company or corporation shall put up, erect, keep, use or maintain on or in any sidewalk in the Village any post or fixture for the support of any sign, awning, canopy or advertisement or for any other purpose without first having obtained permission of the Village Manager.

(b) No person, company or corporation shall put up, erect, keep, maintain or use any awning for canopy of or over any sidewalk in the Village extending a greater distance than eight feet from the wall or the side of the building to which the same is attached, or coming nearer than seven feet, five inches of the sidewalk underneath it, nor shall any curtain, fringe or other appendage be attached or be maintained, on any awning or canopy so that any part of it shall be within six feet, five inches of the sidewalk underneath it.
(Code 1996, § 92.08; Ord. No. 8.01, 10-11-1971)

**Sec. 28-9. Sidewalk openings.**

No person, company or corporation shall cut, keep or have any opening through any sidewalk over any area, vault or window without having the same safely and securely covered, with all covering to be on level with the sidewalks.
(Code 1996, § 92.09; Ord. No. 8.01, 10-11-1971)

**Sec. 28-10. Barricades.**

It shall be unlawful for any person to remove any barricade, fence, railing, barrier or other obstruction erected to protect persons passing along the streets or alleys of the Village at or near any crosswalk, pavement, sewer, or other Village improvement that has been constructed, or that is in the course of being constructed or repaired or to remove or extinguish any light at or near the place or places where any such improvement is being made, or at or near any obstruction or dangerous place in the streets or alleys of the Village.
(Code 1996, § 92.10; Ord. No. 8.01, 10-11-1971)

**Sec. 28-11. Faulty structure.**

No person shall permit any building, fence or chimney or other structure adjacent to or adjoining any street, alley or public place to be unsafe or dangerous to the right of public travel in any street, alley or public place.
(Code 1996, § 92.11; Ord. No. 8.01, 10-11-1971)

**Sec. 28-12. Defacing and writing.**

No person shall deface or place any advertisement, picture, word or symbol upon any street, alley, sidewalk, crosswalk, lamppost, hydrant, tree, park or other public place.
(Code 1996, § 92.12; Ord. No. 8.01, 10-11-1971)

**Sec. 28-13. Snow and ice on sidewalks.**

(a) Owners, occupants and persons in control of any property shall be responsible for keeping all sidewalks adjoining the property clear of snow and ice as provided in this section. Ice shall be cleared by removal or application of sufficient quantities of deicing material or sand.

(b) Failure to remove snow or ice from a sidewalk for a period of 24 consecutive hours is a violation of this chapter.

(c) On sidewalks in the downtown area, accumulations of two or more inches of snow that falls and ice that forms, between the hours of 9:00 a.m. and 9:00 p.m., shall be removed immediately, with any snow that accumulates or ice that forms after 9:00 p.m. to be removed by 9:00 a.m. of the following day, with failure to comply with these requirements being a violation of this chapter.

(d) Upon a violation of a requirement of this section, in addition to and without regard to whether the violation is pursued, as provided in section 12-26, the Village Manager may cause all snow and ice to be cleared and removed from the sidewalk, at the expense of all persons responsible, with payment of the Village's actual and administrative costs and expenses incurred in doing so to be a joint and several debt to the Village by all of the persons responsible, which shall be paid in full within 30 days of the Village's billing to those persons, and which shall be secured by a lien on the property adjoining the sidewalk from the time the snow and/or ice is cleared and removed by the Village.
(Code 1996, § 92.13; Ord. No. 8.01, 10-11-1971; Am. Ord. No. 8.04, 2-12-2007)

**Sec. 28-14. Street name changing.**

(a) *Who may apply.* The Village Council on its own motion, or the Village Planning Commission by resolution from that body, may change the name of a street, alley or thoroughfare within the corporate limits of the Village with the approval of the county.

(b) *Contents of petition.* The petition shall contain the name of the street, alley or thoroughfare as it is presently entitled and called and the name the petitioner would like the street, alley or thoroughfare renamed; the approximate length of the section of the street, alley or thoroughfare to be renamed and the approximate direction or directions in which it runs; the intersecting cross streets at each end of the section of street, alley or thoroughfare to be renamed together with the names of any intermediate intersecting streets; and the character of the property abutting each side of the section of the street, alley or thoroughfare to be renamed. If a petition is submitted by the Planning Commission, it must be in resolution form and certified by the Secretary of the Planning Commission. If a petition is submitted by 25 electors-at-large of the Village, it must contain their signatures and residence addresses. If the petition is submitted by an owner of or party in interest of real estate abutting that section of the street, alley, or thoroughfare to be renamed, the petition must also contain the description of the petitioner's property abutting such street, alley or thoroughfare, together with his signature and residence address.

(Code 1996, § 92.14; Ord. No. 8.01, 10-11-1971)

Chapter 29

**RESERVED**

Chapter 30

# TELECOMMUNICATIONS

## Article I. In General

Secs. 30-1—30-18. Reserved.

## Article II. Cable Television

Sec. 30-19. Adoption by reference.
Sec. 30-20. Violations.

## ARTICLE I. IN GENERAL

**Secs. 30-1—30-18. Reserved.**

## ARTICLE II. CABLE TELEVISION

### Sec. 30-19. Adoption by reference.

An ordinance passed by the Village, Ordinance No. 16.05, and all amendments thereto, regulating cable communications service, is hereby adopted by reference into this article as if fully set forth herein. Copies of this ordinance and the amendments thereto are available for public inspection from the office of the Village Clerk.
(Code 1996, § 112.01; Ord. No. 16.05; Am. Ord. No. 16.08, 8-24-1992; Am. Ord. No. 16.09, 10-27-1993; Am. Ord. No. 16.10, 11-22-1993; Am. Ord. No. 16.11, 4-25-1994; Am. Ord. No. 16.12, 8-10-1998; Am. Ord. No. 16.14, 1-10-2000; Am. Ord. No. 16.15, 6-26-2000; Am. Ord. No. 16.16, 3-26-2001; Am. Ord. No. 16.17, 3-26-2007; Am. Ord. No. 16.18, 9-9-2013)

### Sec. 30-20. Violations.

Any person, firm or corporation determined to have been in violation of the provisions of this article shall be responsible for a municipal civil infraction and subject to the provisions of section 1-18(1)b.
(Code 1996, § 112.02; Am. Ord. No. A-3, 1-13-1997)

Chapter 31

**RESERVED**

Chapter 32

# TRAFFIC AND VEHICLES

## Article I. In General

Secs. 32-1—32-18. Reserved.

## Article II. Abandoned Vehicles

Sec. 32-19. Definitions.
Sec. 32-20. Vehicles abandoned in private areas.
Sec. 32-21. Vehicles abandoned on public areas, streets and alleys.
Sec. 32-22. Unlawful to abandon a vehicle in Village.
Sec. 32-23. Declared nuisance.
Sec. 32-24. Violations.
Secs. 32-25—32-51. Reserved.

## Article III. Commercial Vehicles on Local Streets

Sec. 32-52. Weight limit.
Sec. 32-53. Purpose.
Sec. 32-54. Effectiveness.
Sec. 32-55. Truck traffic.
Secs. 32-56—32-83. Reserved.

## Article IV. Michigan Vehicle Code

Sec. 32-84. Michigan Vehicle Code adopted.
Sec. 32-85. References in Michigan Vehicle Code.
Sec. 32-86. Copies of Michigan Vehicle Code.
Sec. 32-87. Enforcement limitation.
Secs. 32-88—32-117. Reserved.

## Article V. Motor Carrier Safety

Sec. 32-118. Motor carrier safety act adopted.
Sec. 32-119. References in the act adopted.
Sec. 32-120. Copies of the act.
Sec. 32-121. Enforcement limitation.
Secs. 32-122—32-130. Reserved.

## Article VI. Parking

### Division 1. Generally

Secs. 32-131—32-140. Reserved.

Division 2. Parking on Restricted Ownership Property

Sec. 32-141. Intent, purpose and short title.
Sec. 32-142. Definitions.
Sec. 32-143. Authorizations.
Sec. 32-144. Prohibition.
Sec. 32-145. No parking on residential streets.
Secs. 32-146—32-173. Reserved.

Division 3. Parking and Storage on Public Property

Sec. 32-174. Intent, purpose and short title.
Sec. 32-175. Definitions.
Sec. 32-176. Regulations.
Secs. 32-177—32-205. Reserved.

Division 4. Downtown Parking Zones

Sec. 32-206. Intent and short title.
Sec. 32-207. Definitions.
Sec. 32-208. Parking zones.
Sec. 32-209. Parking spaces and signage.
Sec. 32-210. Prohibition.
Sec. 32-211. Penalty.
Secs. 32-212—32-230. Reserved.

**Article VII. Uniform Traffic Code for Cities, Townships, and Villages**

Sec. 32-231. Uniform Traffic Code adopted.
Sec. 32-232. References in code.
Sec. 32-233. Copies of code.
Sec. 32-234. Penalties.
Secs. 32-235—32-261. Reserved.

**Article VIII. Snowmobiles**

Sec. 32-262. Natural resources and environmental protection act adopted.
Sec. 32-263. References in the act.
Sec. 32-264. Copies of the act.
Sec. 32-265. Operation under bridges prohibited.
Sec. 32-266. Prohibited on Village streets.
Sec. 32-267. Enforcement limitation.

## ARTICLE I. IN GENERAL

**Secs. 32-1—32-18. Reserved.**

## ARTICLE II. ABANDONED VEHICLES

### Sec. 32-19. Definitions.

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

*Abandoned motor vehicle* means any motor vehicle not having valid license plates and which is left unattended on public property or upon private property, the owner, co-owner, tenant or co-tenant of which is not the registered owner of the vehicle.

*Dismantled motor vehicle* means a motor vehicle that is missing a part or component that is ordinarily attached to such motor vehicle.

*Dwelling* means any building, structure, tent, shelter, trailer, vehicle, or portion thereof, that is occupied in whole or in part as the home residence, living or sleeping space or that is intended to be occupied by one or more human beings, either on a permanent or temporary basis.

*Inoperable motor vehicle* means a motor vehicle that is incapable of being propelled under its own power.

*Motor vehicle* means any wheeled vehicle that is self-propelled and designed to transport the driver, passengers, or cargo.
(Code 1996, § 90.01; Ord. No. 7.02, 1-28-1980)

### Sec. 32-20. Vehicles abandoned in private areas.

(a) It shall be unlawful for any person, firm or corporation to store upon, place upon, or permit to be stored or placed upon, or allowed to remain upon any private property a dismantled, partially dismantled or inoperable motor vehicle or parts thereof, or upon which private property there is a structure used in whole or in part as a dwelling unless said motor vehicle or parts thereof shall be kept in a wholly enclosed garage or wholly enclosed structure.

(b) However, any owner, co-owner, tenant, or co-tenant may store, permit to be stored, or allow to remain upon the premises of which he is the owner, co-owner, tenant, or co-tenant any one such dismantled, partially dismantled or inoperable motor vehicle or parts thereof for a period not to exceed 48 hours if such motor vehicle is registered in his name.
(Code 1996, § 90.02; Ord. No. 7.02, 1-28-1980)

**Sec. 32-21. Vehicles abandoned on public areas, streets and alleys.**

It shall be unlawful for any person, firm or corporation to place any dismantled, partially dismantled, or inoperable motor vehicle on any public parking lot, street, alley, or any other public area of the Village.
(Code 1996, § 90.03; Ord. No. 7.02, 1-28-1980)

**Sec. 32-22. Unlawful to abandon a vehicle in Village.**

It shall be unlawful for any person, firm or corporation to abandon a motor vehicle in the Village.
(Code 1996, § 90.04; Ord. No. 7.02, 1-28-1980)

**Sec. 32-23. Declared nuisance.**

The presence of a dismantled, partially dismantled, inoperable or abandoned motor vehicle, or parts of a motor vehicle in violation of the terms of this article is hereby declared to be a public nuisance.
(Code 1996, § 90.05; Ord. No. 7.02, 1-28-1980)

**Sec. 32-24. Violations.**

Any person, firm or corporation determined to have been in violation of the provisions of this article shall be responsible for a municipal civil infraction and subject to the provisions of section 1-18(1)b.
(Code 1996, § 90.06; Am. Ord. No. A-3, 1-13-1997)

**Secs. 32-25—32-51. Reserved.**

## ARTICLE III. COMMERCIAL VEHICLES ON LOCAL STREETS

**Sec. 32-52. Weight limit.**

No person, firm or corporation shall operate a commercial motor vehicle that has an unloaded gross weight in excess of 5,000 pounds upon local streets as defined under state law unless the owner of the motor vehicle has:

(1) Its principal place of business within the Village, and it is necessary for the storage of the vehicle to use local streets, and in such case the use of said local streets shall be by the shortest and most direct route from the closest major street to the place of storage;

(2) Is a governmental or public utility, and the use of the vehicle is for specific need and purpose within the Village; or

(3) The use of the vehicle is for an isolated or specific local delivery within the Village.

(Code 1996, § 70.30; Ord. No. 8.02, 4-26-1976)

**Sec. 32-53. Purpose.**

The intent of this article is to protect the use of local streets from heavy truck traffic and to reduce the attendant noise and dust to the annoyance of the citizens of the community and to avoid the use of local streets for through truck traffic.
(Code 1996, § 70.31; Ord. No. 8.02, 4-26-1976)

**Sec. 32-54. Effectiveness.**

This article shall be effective only as to those local streets that are posted with notice of the restrictions.
(Code 1996, § 70.32; Ord. No. 8.02, 4-26-1976)

**Sec. 32-55. Truck traffic.**

(a) The term "truck," for purposes of this section, means any vehicle which is defined as a truck under section 257.75 of the Michigan Motor Vehicle Code and having more than five axles.

(b) No person shall drive, move, or cause or permit to be driven or moved any truck upon:

(1) Atwater Street between Orion Road and State Highway M-24 in the Village.

(2) Flint Street between Orion Road and State Highway M-24 in the Village.

(c) The prohibitions of this section shall not apply to persons who shall drive or move trucks to and from locations of the Village for local delivery or transport of goods or services.
(Code 1996, § 70.33; Ord. No. 2.34, 4-22-2013)

**Secs. 32-56—32-83. Reserved.**

## ARTICLE IV. MICHIGAN VEHICLE CODE

**Sec. 32-84. Michigan Vehicle Code adopted.**

The Michigan Vehicle Code, being Public Act No. 300 of 1949, MCL 257.1 to 257.923, is hereby adopted by reference as an ordinance of the Village. Pursuant to Act 10 of the Public Acts of 2012, § 625(1)(c) of the Michigan Vehicle Code, MCL 257.625(1)(c) is specifically hereby adopted by reference as an ordinance of the Village; violation of the ordinance shall be a misdemeanor, punishable by one or more of the following:

(1) Community service for not more than 360 hours.

(2) Imprisonment for not more than 180 days.

(3) A fine of not less than $200.00 or more than $700.00.
(Code 1996, § 70.40; Ord. No. 2.29, 7-22-2002; Am. Ord. No. 2.33, 4-23-2012)

**Sec. 32-85. References in Michigan Vehicle Code.**

Where necessary to the enforcement of the Michigan Vehicle Code or the collection and distribution of fines, cost and penalties for violations as a Village ordinance, references in the Michigan Vehicle Code to "local authorities," "local authority" or "authority having jurisdiction" shall mean the Village Council; references to "municipality" shall mean the Village; references to "municipal charter" shall mean the Village Charter; references to "local ordinances" shall mean the Village Code; and references to the "Village" shall mean the Village of Lake Orion.
(Code 1996, § 70.41; Ord. No. 2.29, 7-22-2002)

**Sec. 32-86. Copies of Michigan Vehicle Code.**

Printed copies of the Michigan Vehicle Code shall be kept on file in the office of the Village Clerk and made available to the public at all times that office is open.
(Code 1996, § 70.42; Ord. No. 2.29, 7-22-2002)

**Sec. 32-87. Enforcement limitation.**

Except as provided in section 32-84, violations of Michigan Vehicle Code for which the maximum period of imprisonment is greater than 93 days shall not be enforced by the Village as an ordinance violation.
(Code 1996, § 70.43; Ord. No. 2.29, 7-22-2002; Am. Ord. No. 2.33, 4-23-2012)

**Secs. 32-88—32-117. Reserved.**

## ARTICLE V. MOTOR CARRIER SAFETY

**Sec. 32-118. Motor carrier safety act adopted.**

The motor carrier safety act (the act), being Public Act No. 81 of 1963, MCL 480.11 to 480.25, is hereby adopted by reference as an ordinance of the Village.
(Code 1996, § 70.50; Ord. No. 2.35, 10-27-2014)

**Sec. 32-119. References in the act adopted.**

Where necessary to the enforcement of the act or the collection and distribution of fines, cost and penalties for violations as a Village ordinance, references in the act to "local authorities," "local authority" or "authority having jurisdiction" shall mean the Village Council; references to "municipality" shall mean the Village of Lake Orion; references to "municipal charter" shall mean the Village Charter; references to "local ordinances" shall mean the Village Code; and references to the "Village" shall mean the Village of Lake Orion.
(Code 1996, § 70.51; Ord. No. 2.35, 10-27-2014)

**Sec. 32-120. Copies of the act.**

Printed copies of the motor carrier safety act of 1963 shall be kept on file in the office of the Village Clerk and made available to the public at all times that office is open.
(Code 1996, § 70.52; Ord. No. 2.35, 10-27-2014)

**Sec. 32-121. Enforcement limitation.**

Violation of the act for which the maximum period of imprisonment is greater than 93 days shall not be enforced by the Village as an ordinance violation.
(Code 1996, § 70.53; Ord. No. 2.35, 10-27-2014)

**Secs. 32-122—32-130. Reserved.**

## ARTICLE VI. PARKING

### DIVISION 1. GENERALLY

**Secs. 32-131—32-140. Reserved.**

### DIVISION 2. PARKING ON RESTRICTED OWNERSHIP PROPERTY

**Sec. 32-141. Intent, purpose and short title.**

(a) It is the intent and purpose of this division to regulate parking on Village-owned property that has been deeded to the Village for parking purposes only and Village residential streets. It has been determined by the Village Council that the regulations of this division are necessary to prohibit unauthorized and abusive use of such property and for public safety to have clearly passable residential streets.

(b) It is intended that this division shall be operative and effective together with other ordinances regulating parking in the Village, and this division shall not be deemed to be exclusive with regard to parking, nor shall this division be deemed to repeal other ordinances.

(c) This division shall be known and may be cited as the "Parking on Village Public Property and Streets Ordinance."
(Code 1996, § 71.01; Ord. No. 7.04, 11-14-1988; Am. Ord. No. 7.14, 6-10-2019)

**Sec. 32-142. Definitions.**

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

*Motor vehicle* means an operable, self-propelled vehicle designed, intended or used for the transportation of property and/or one or more persons, with current registration (license plates), but excluding commercial motor vehicles, exceeding one ton in carrying capacity.

*Parking* means the placement of a motor vehicle, whether occupied or not, for a temporary period of time while the motor vehicle is not being actively used.

*Public residential streets* means all Village streets which are predominantly located in housing areas and are not included in the Downtown Development District.

*Recreational vehicle* means a vehicle designed and/or used for recreational purposes, including a motor home, travel trailer, snowmobile, off-road vehicle, and the like.

*Restricted ownership property* means Village-owned property that has been deeded to the Village with an express limitation contained in the deed restricting the property for parking purposes only.

(Code 1996, § 71.02; Ord. No. 7.04, 11-14-1988; Am. Ord. No. 7.13, 10-13-2009; Am. Ord. No. 7.14, 6-10-2019)

**Sec. 32-143. Authorizations.**

The following activities shall be permitted on restricted ownership property:

(1) The parking of motor vehicles.

(2) The parking of recreational vehicles for a period not to exceed 24 continuous hours. For purposes of this authorization, if a recreational vehicle is moved from one location to another on or off restricted ownership property for less than six hours, and then returned, this shall not constitute a break in continuous parking. Residents may petition the Village for a permit to allow parking of recreational vehicles for a temporary time period not to exceed seven days. The Police Chief shall have authority to issue such temporary parking permits.

(Code 1996, § 71.03; Ord. No. 7.04, 11-14-1988; Am. Ord. No. 7.14, 6-10-2019)

**Sec. 32-144. Prohibition.**

All parking not permitted in section 32-143, and all storage (including by way of example and not by way of limitation, storage of boats, boat trailers and the like) shall be prohibited on restricted ownership property.

(Code 1996, § 71.04; Ord. No. 7.04, 11-14-1988; Am. Ord. No. 7.14, 6-10-2019)

**Sec. 32-145. No parking on residential streets.**

There shall be no parking of any portion of any vehicle on any paved portion of a residential street within the Village, unless on posted parking sites, or Village-approved designated parking areas.

(Code 1996, § 71.05; Am. Ord. No. 7.14, 6-10-2019)

**Secs. 32-146—32-173. Reserved.**

## DIVISION 3. PARKING AND STORAGE ON PUBLIC PROPERTY

### Sec. 32-174. Intent, purpose and short title.

(a) It is the intent and purpose of this division to regulate parking and storage on public property within the jurisdiction of the Village, excepting such property and/or activities as are expressly regulated by this Code and any other ordinance of the Village.

(b) It is intended that this division shall be operative and effective together with other ordinances regulating parking and storage in the Village, and this division shall not be deemed to be exclusive with regard to parking.

(c) This division shall be known and may be cited as the "General Ordinance to Regulate Parking and Storage on Public Property."
(Code 1996, § 71.15; Ord. No. 7.05, 7-10-1989)

### Sec. 32-175. Definitions.

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

*Commercial vehicle* means any motor vehicle or trailer that has a load capacity in excess of one ton.

*Motor vehicle* means any on- and/or off-road, self-propelled vehicle designed to transport one or more persons.

*Parking* means the temporary placement for a period of one week or less while not being actively used for transportation purposes.

*Recreational vehicle* means an on-the-road or off-the-road motor vehicle designed for recreational purposes, such as, by way of example, and not limitation, a motor home, snow-mobile and/or noncommercial off-road motor vehicle. In addition, the term "recreational vehicle" also means a travel trailer, including a so-called fifth wheel trailer, and like vehicles.

*Storage* means the temporary placement for a period of more than one week while not being actively used for intended purposes.

*Trailer* means a licensed or unlicensed vehicle that is not self-propelled and designed to be pulled by a motor vehicle.

*Vessel* means a boat or other device designed or used for the transport of one or more persons on or in the water.
(Code 1996, § 71.16; Ord. No. 7.05, 7-10-1989; Am. Ord. No. 7.06, 1-8-1990)

**Sec. 32-176. Regulations.**

(a) *Generally.* There shall be no parking of any motor vehicle, trailer or vessel on public property in a location where the Village has posted such location as "no parking."

(b) *Unlicensed motor vehicles, trailers and vessels.* Where such parking or storage is otherwise authorized, there shall be no parking or storage upon any public property of a motor vehicle, vessel or trailer that does not have a current valid registration number and/or license plate.

(c) *Parking and storage in parks.* There shall be no parking or storage of any motor vehicle, recreational vehicle, trailer or vessel upon any Village owned park unless:

(1) Such parking is expressly permitted by Village ordinance; and/or

(2) A posted sign expressly designates the parking or storage of a particular type of motor vehicle, trailer or vessel, and such parking and/or storage shall then only be permitted in the locations and for the type of vehicle, trailer or vessel expressly authorized by the posting.

(d) *Parking and storage on public rights-of-way.* There shall be no parking or storage of any trailers or vessels upon any public right-of-way, unless expressly authorized by posted signage.

(1) A recreational vehicle shall not be parked in a public right-of-way for a continuous period longer than 12 hours and, when removed, may not again be parked in a right-of-way within one mile of the same location for a period of at least five days. All other parking and storage of recreational vehicles upon a public right-of-way shall be prohibited. Notwithstanding the prohibition set forth in this subsection, in the event the owner of a recreational vehicle is certified by the state as being a person with a disability, and upon advanced written notice to the Police Chief, a recreational vehicle may be parked in a public right-of-way by or on behalf of such person for a continuous period of not longer than 72 hours for the purpose of loading and/or unloading and, when removed, may not again be parked in a right-of-way within one mile of the same location for a period of at least five days. In all events, the parking of a recreational vehicle in a public right-of-way shall not be situated so as to be located in the path of through vehicular travel.

(2) A commercial vehicle shall not be parked or stored on any public right-of-way located in a residential zoning district except in connection with active on-the-job use, provided, in all events, on-the-job use shall not exceed a period of 12 hours except in the case of such parking or storage in connection with active work being performed on the right-of-way in question.

(e) *Other public property.* There shall be no parking and/or storage of any commercial vehicle, recreational vehicle, trailer or vessel on any other public property not expressly specified above, except to the extent permitted by other ordinance, or unless authorization is

expressly posted, and, if posted, then parking and/or storage shall be permitted only in the locations and for the type of motor vehicle, trailer or vessel expressly authorized by the posting, and only for parking or storage as expressly authorized by the posting.
(Code 1996, § 71.17; Ord. No. 7.05, 7-10-1989; Am. Ord. No. 7.06, 1-8-1990)

**Secs. 32-177—32-205. Reserved.**

## DIVISION 4. DOWNTOWN PARKING ZONES

### Sec. 32-206. Intent and short title.

It is the intent of the division to regulate parking on certain downtown streets so as to provide parking for downtown customers and to prohibit employers and employees of downtown businesses using downtown parking spaces during certain times. This division may be cited as the "Downtown Parking Ordinance."
(Code 1996, § 71.25; Ord. No. 7.08, 3-25-1996)

### Sec. 32-207. Definitions.

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

*Motor vehicle* means an operable, self-propelled vehicle designed, intended or used for the transportation of property and/or one or more persons, with current registration (license plates).
(Code 1996, § 71.26; Ord. No. 7.08, 3-25-1996; Am. Ord. No. 7.13, 10-13-2009)

### Sec. 32-208. Parking zones.

The following described streets are hereby designated as parking zones for motor vehicles as defined and subject to the regulations in this division:

(1) Flint Street, from Slater Street to Lapeer Street.

(2) Broadway Street, from Shadbolt Street to M-24.

(3) Shadbolt Street, from Anderson Street to M-24.

(4) Lapeer Street, from Front Street to Shadbolt Street, and to Jackson Street on the east side.

(5) Front Street, from Broadway Street to Anderson Street.

(6) Anderson Street, from Front Street to Shadbolt Street.

(Code 1996, § 71.27; Ord. No. 7.08, 3-25-1996; Am. Ord. No. 7.10, 1-8-2007; Am. Ord. No. 7.13, 10-13-2009)

**Sec. 32-209. Parking spaces and signage.**

(a) The Village shall mark designated parking spaces and erect or place signage indicating the maximum period of time a motor vehicle may be parked, which shall not exceed two hours or such shorter period of time as may be approved by resolution of the Village Council for certain designated parking spaces.

(b) Every motor vehicle shall park within the marked parking spaces except that a vehicle which is too large to be parked within a single parking space shall be permitted to occupy two spaces.

(Code 1996, § 71.28; Ord. No. 7.08, 3-25-1996; Am. Ord. No. 7.11, 7-23-2007)

**Sec. 32-210. Prohibition.**

(a) (1) No person employed by or operating a business or profession in a parking zone established under this division shall park a privately owned or company-owned motor vehicle on any public street, for the purpose of using such parking space while the owner or operator performs his or her duties at his or her regular place of employment in the downtown area. The provisions of this subsection shall be effective between 9:00 a.m. and 6:00 p.m., Monday through Saturday of each week.

(2) Notwithstanding subsection (a)(1) of this section, a business operator or professional shall be allowed one increment not to exceed 30 minutes of time each day between the hours of 9:00 a.m. to 6:00 p.m., Monday through Saturday, to load or unload goods connected with the operation of the business or profession.

(b) It shall be unlawful for a residential dweller living in a parking zone to park a privately owned or company-owned motor vehicle on any public street during the hours of 9:00 a.m. to 6:00 p.m., Monday through Saturday.

(Code 1996, § 71.29; Ord. No. 7.08, 3-25-1996; Am. Ord. No. 7.09, 6-23-1997)

**Sec. 32-211. Penalty.**

A person who violates this division is responsible for a civil infraction. The penalty for a violation shall include a fine in an amount established by resolution of the Village Council.

(Code 1996, § 71.99; Ord. No. 7.08, 3-25-1996; Am. Ord. No. 7.10, 1-8-2007)

**Secs. 32-212—32-230. Reserved.**

## ARTICLE VII. UNIFORM TRAFFIC CODE FOR CITIES, TOWNSHIPS, AND VILLAGES

**Sec. 32-231. Uniform Traffic Code adopted.**

(a) The October 2002 edition of the Uniform Traffic Code (UTC) for cities, townships and villages promulgated by the Director of the Michigan Department of State Police pursuant to the administrative procedures act of 1969, Public Act No. 306 of 1969 (MCL 24.201 through

24.328) and made effective October 30, 2002, and all future amendments and revisions to the Uniform Traffic Code when they are promulgated and effective in the state, for the regulation of traffic and motor vehicles in the Village, is hereby adopted by reference as an ordinance of the Village.

(b) The Uniform Traffic Code for cities, townships and villages as promulgated by the Director of Michigan Department of State Police pursuant to the administrative procedures act of 1969, Public Act No. 306 of 1969 (MCL 24.201 through 24.328) and made effective October 30, 2002, and all future amendments and revisions of the Uniform Traffic Code when they are promulgated and effective in the state, are incorporated by reference.
(Code 1996, § 70.01; Ord. No. 2.08, 4-26-1982; Ord. No. 2.29, 7-22-2002; Am. Ord. No. 2.30, 8-11-2003)

**Sec. 32-232. References in code.**

(a) References in the Uniform Traffic Code for cities, townships and villages to "Village" shall mean the Village of Lake Orion.

(b) References in the Uniform Traffic Code for cities, townships and villages to "Clerk" shall mean the Village Clerk or Clerk's designee.
(Code 1996, § 70.02; Ord. No. 2.08, 4-26-1982; Am. Ord. No. 2.30, 8-11-2003)

**Sec. 32-233. Copies of code.**

Printed complete copies of the October 2002 edition of the Uniform Traffic Code for cites, townships and villages shall be kept on file in the office of the Village Clerk and made available to the public at all times the office is open.
(Code 1996, § 70.03; Ord. No. 2.08, 4-26-1982; Am. Ord. No. 2.09, 4-11-1983; Am. Ord. No. 2.10, 4-23-1984; Am. Ord. No. 2.15, 2-11-1992; Am. Ord. No. 2.16, 2-11-1992; Am. Ord. No. 2.18, 2-23-1993; Am. Ord. No. 2.19, 10-12-1993; Am. Ord. No. 2.21, 1-9-1995; Am. Ord. No. 2.22, 5-22-1995; Am. Ord. No. 2.23, 5-28-1996; Am. Ord. No. 2.27, 12-13-1999; Am. Ord. No. 2.28, 12-13-1999; Am. Ord. No. 2.30, 8-11-2003)

**Sec. 32-234. Penalties.**

The penalties adopted by the Uniform Traffic Code for cities, townships and villages are adopted by reference.
(Code 1996, § 70.04; Am. Ord. No. 2.30, 8-11-2003)

**Secs. 32-235—32-261. Reserved.**

## ARTICLE VIII. SNOWMOBILES

### Sec. 32-262. Natural resources and environmental protection act adopted.

The natural resources and environmental protection act (the act), being Public Act No. 451 of 1994, MCL 324.82101 to 324.82160, as amended now and in the future, is hereby adopted by reference as an ordinance of the Village.
(Code 1996, § 70.15; Ord. No. 2.36, 3-23-2015)

### Sec. 32-263. References in the act.

Where necessary to the enforcement of the natural resources environmental protection act, part 821, snowmobiles, or the collection and distribution of fines, cost and penalties for violations as a Village ordinance, references in the act to "local authorities," "local authority" or "authority having jurisdiction" shall mean the Village Council; references to "municipality" shall mean the Village of Lake Orion; references to "municipal charter" shall mean the Charter of the Village of Lake Orion; references to "local ordinances" shall mean the Code of Lake Orion; and references to the "Village" shall mean the Village of Lake Orion.
(Code 1996, § 70.16; Ord. No. 2.36, 3-23-2015)

### Sec. 32-264. Copies of the act.

Printed copies of the natural resources and environmental protection act, part 821, snowmobiles, shall be kept on file in the office of the Village Clerk and made available to the public at all times that office is open.
(Code 1996, § 70.17; Ord. No. 2.36, 3-23-2015)

### Sec. 32-265. Operation under bridges prohibited.

No person shall operate a snowmobile or motor vehicle under the two bridges over the frozen waters of Lake Orion designated as Bellevue Bridge and Park Island Bridge at speeds greater than the minimum required to maintain forward motion of the snowmobile or motor vehicle.
(Code 1996, § 70.18; Ord. No. 2.36, 3-23-2015)

### Sec. 32-266. Prohibited on Village streets.

No person shall operate a snowmobile on any Village street or within any highway or street right-of-way except for the purpose of crossing a bridge or a culvert.
(Code 1996, § 70.19; Ord. No. 2.36, 3-23-2015)

**Sec. 32-267. Enforcement limitation.**

Violations of the natural resources and environmental protection act for which the maximum period of imprisonment is greater than 93 days shall not be enforced by the Village as an ordinance violation.
(Code 1996, § 70.20; Ord. No. 2.36, 3-23-2015)

Chapter 33

**RESERVED**

Chapter 34

# WATER

## Article I. In General


Sec. 34-1. Administration.
Sec. 34-2. Water mains.
Sec. 34-3. Water service pipes.
Sec. 34-4. Water service.
Sec. 34-5. Meters.
Sec. 34-6. Use of water.
Sec. 34-7. Fire hydrants.
Sec. 34-8. Water rates, billing and lien upon premises rates.
Sec. 34-9. Seasonal or temporary shutoff.
Sec. 34-10. Emergency and summer outdoor water use restrictions.
Sec. 34-11. Complaints; payment to cashier; prior notice for shut off.
Sec. 34-12. Service outside the Village limits.
Sec. 34-13. Inspections.
Secs. 34-14—34-44. Reserved.


## Article II. Cross Connections


Sec. 34-45. Adopting water supply cross connection rules.
Sec. 34-46. Inspections.
Sec. 34-47. Inspector's rights.
Sec. 34-48. Discontinuance of service.
Sec. 34-49. Potable water supply.
Sec. 34-50. Exceptions.
Sec. 34-51. Violations.

## ARTICLE I. IN GENERAL

### Sec. 34-1. Administration.

(a) The Village Manager shall have charge of the maintenance and operation of the water supply, treatment plant, pumping equipment, distribution system, fire hydrants, meters and all other appurtenances of the water supply system of the Village. He may designate the Superintendent of Public Works and such other employees as may be necessary for the proper operation of the system. He shall be in charge of the enforcement of this chapter.

(b) The Village Manager or person delegated by him shall be held responsible for the collection of water bills and other charges arising out of the operation of the water system. All revenues therefrom shall be accounted for in a manner satisfactory to the Village Council. A statement of the receipts and expenditures of the Water Department shall be presented to the Council. Water revenues shall be deposited in the manner approved for other municipal deposits, but shall be kept in a separate and distinct account as approved by the Council.
(Code 1996, § 53.01; Ord. No. 18.04, 10-23-1978)

### Sec. 34-2. Water mains.

(a) The water mains of the Village shall be under the exclusive control of the Village Manager and no person, firm or corporation other than authorized agents or employees of the Village shall tap, change, obstruct, interfere with, or in any way disturb the system of water mains.

(b) All extensions and alterations to the system of water mains shall be made under the supervision of the Village Manager. Petitions for the extension of existing or construction of new mains shall be addressed to the Village Manager, who may refuse to grant, and may prescribe the terms and conditions upon which the petition will be granted and may require written acceptance of such terms and conditions by the petitioners. The Village Council shall determine and stipulate the proportions of the cost to be borne by petitioners and by the Village.

(c) Any person, firm or corporation who shall propose the installation of water mains shall first submit complete plans and specifications, prepared by a professional registered civil engineer, for such work, to the Village Manager. The Village Manager shall approve or disapprove any such plans and shall stipulate under what conditions such installation shall be made.

(d) No private well system will be allowed to be connected at any point with the Village water supply system without the approval of the Village Council and the state health department.
(Code 1996, § 53.02; Ord. No. 18.04, 10-23-1978)

**Sec. 34-3. Water service pipes.**

(a) All water service pipe on either public or private property shall be laid on a solid bottom not less than five feet below the established grade. Service pipe laid in the same trench with sewer shall be at least three feet distant from the sewer horizontally and, if the sewer is laid at a greater depth, shall be shelved into the bank to a solid bottom.

(b) All water service pipe, on either public or private property, shall be of Type K copper or approved equal by the Village Manager, not less than three-quarter inch in diameter extending from the main to the meter. All stop or service cocks shall be at least three-quarter-inch extra heavy round way stops placed outside of the property line. The stop box shall be so placed that the cover is not below grade and must be set on a firm foundation to prevent settlement.

(c) A separate stop and waste cock, or valve and waste, shall be placed on the water pipe just inside the building wall so that the water may be turned off and drained from the top pipe in case of accident, or in order to make repairs. A valve shall also be installed on the house side of the meter.

(d) The water service pipe from the main to the curb stop, and also curb stop and the curb box will be provided in place by the Village under the fee for water permits hereinafter provided. Water service pipe from the curb stop to the building on private property shall be installed and maintained by the owner of the premises. If the owner fails, after due notice, to maintain such service, the Village is hereby authorized to turn off the water at the curb stop.

(e) The owner or his agent shall not interfere with the water service pipe installed by the Village in any way and shall not be permitted to turn on or off the water at the curb stop for any reason. Any person called upon to shut off water and drain pipes in any premises shall do so inside the building only.
(Code 1996, § 53.03; Ord. No. 18.04, 10-23-1978)

**Sec. 34-4. Water service.**

(a) Before any connection is made to any water main, application for a permit must be made in writing by the owner or his authorized agent of the premises to be served at the office of the Village Clerk. Such application shall be made on forms provided by the Village and shall contain such information and/or agreement as the Village Manager may require.

(b) No connection shall be made until the applicant has paid to the Village the following permit fees for tapping the main, the installation of the service pipe from the main to the service cock, the service cock and stop box and the furnishing of a meter (which shall remain the property of the Village):

| *Water Tap and Meter* | *Fee* |
|---|---|
| ¾-inch tap | $1,800.00 |
| 1-inch tap | $2,000.00 |

| *Water Tap and Meter* | *Fee* |
|---|---|
| 1 ½-inch tap | $2,600.00 |
| 2-inch tap | $3,400.00 |
| Greater than 2-inch tap | $4,500.00 (the customer is also responsible for making the tap and paying for the meter at cost, plus 20 percent for administration) |

(c) Temporary use of water for construction or other purposes will not be permitted unless suitable protection is provided to prevent damage or freezing of the water meter. All temporary water usage shall be metered and all necessary tap and installation fees shall be paid prior to turn on of water.

(d) All water using premises located in the Village shall apply for an installation permit and be connected to the water system. Those dwellings that are not connected on the date of enactment of the ordinance from which this chapter is derived are excluded.
(Code 1996, § 53.04; Ord. No. 18.04, 10-23-1978; Am. Ord. No. 18.14, 6-12-1996; Am. Ord. No. 18.20, 3-22-1999)

**Sec. 34-5. Meters.**

(a) All service connections except for separate fire connections shall be metered and payment for water shall be at the established rates.

(b) All premises in the Village presently using Village water shall be metered.

(c) All meters will be furnished by the Village and shall remain the property of the Village and will, at all times, be under the control of the Village. In cases where a meter larger than three-quarter inch is required, the Village Manager shall determine the necessity of such larger size.

(d) The Village Public Works Department shall be responsible for installation of the water meter only. Required piping repairs and revisions to allow installation of the meter shall be the responsibility of the customer.

(e) All water-using premises located in the Village shall apply for an installation permit and be connected to the water system. Those dwellings which are not connected on the date of enactment of the ordinance from which this section is derived are excluded.

(f) Meters shall be set in a horizontal position not less than 18 inches or higher than three feet from the floor level and not less than six inches or not more than 12 inches from the wall. Meters shall be set in an accessible location satisfactory to the Village Manager and shall not be set in a coal bin, crawl space or other location where the meter cannot be easily reached by the meter reader. Where it becomes necessary to set the meter in a pit, such pit shall be furnished by the customer and built as specified by the Village Manager.

(g) Meters shall be sealed by the Village, and no other than authorized employees of the Village shall break or injure such seals, or alter, change the location of, or interfere in any manner with the meter.

(h) Except as otherwise provided for in this chapter, the Village will furnish and maintain the meters; however, where replacements, repairs or adjustments of the meter are necessary due to neglect, carelessness, freezing or negligence on the part of the customer or owner, the owner will be charged for the necessary costs to make the corrections.

(i) All Village water used on any premises must pass through the meter except as otherwise provided for in this chapter. It shall be unlawful to install or use any bypass around the meter or any connection that would prevent the flow of water used from being metered. In case of meter stoppage or imperfect operation, immediate notice shall be given to the Village and the consumer will be charged at the average quarterly consumption rate as shown by the meter when in working order.

(j) The accuracy of the meter on any premises shall be tested by the Village upon the request of the account holder, who shall pay a testing fee to cover the cost of testing, which billing shall be placed on the next water bill. Fees for testing shall be set by resolution of the Village Council. If, upon such test, the meter is found to over-register by five percent more water than actually passes through it, another meter will be substituted, at no charge, and the testing fee shall be credited to the account holder, and the Village Manager will adjust the water bill in such a manner as shall be fair and just.
(Code 1996, § 53.05; Ord. No. 18.04, 10-23-1978; Am. Ord. No. 18.19, 12-9-1996)

**Sec. 34-6. Use of water.**

(a) When new service pipes are installed in any premises, the service cock shall be left closed and will thereafter only be opened by an authorized employee of the Village; and only upon the request of the occupant, owner or his agent.

(b) Where a permit shall be issued for water service to a building under construction or other temporary purpose and a water meter has been installed, the owner shall notify the Village upon the completion of his work in order that the water meter may be read and the connection shut off.

(c) Where a building originally built as a single dwelling and fitted with one service pipe is thereafter subdivided by sale or otherwise, each subdivision as created must be connected to the water system by a separate meter within 30 days after such division.

(d) Where the water has been turned off by the Village for any reason, no person except an authorized employee of the Village may turn it on again.

(e) No steam boiler shall be directly connected to the service pipe. The owner shall make such provisions as may be required by the Village before the water may be supplied to such an installation.

(f) All cross connections between any type of water supply and Village water supply are prohibited without the approval of the Village Council and the state health department. In the event a cross connection is discovered, the water will be turned off at the curb cock until the cross connection is severed. No direct connection of any type to a sewer line shall be allowed.
(Code 1996, § 53.06; Ord. No. 18.04, 10-23-1978)

**Sec. 34-7. Fire hydrants.**

(a) Fire hydrants may be opened and used only by authorized employees or agents of the Village.

(b) The Village Manager or designee must approve the type, size of openings and types of nozzle thread on all hydrants installed on private property or installed by other than the Village.

(c) Hydrants are located within the road right-of-way or easement and any person, firm or corporation requesting to have a hydrant relocated shall pay the complete cost of moving the hydrant.
(Code 1996, § 53.07; Ord. No. 18.04, 10-23-1978)

**Sec. 34-8. Water rates, billing and lien upon premises rates.**

(a) A minimum quarterly ready to serve charge shall be established by resolution of the Village Council at a regular meeting after a public hearing.

(b) For all water used during any quarterly period, a water usage charge for each 100 cubic feet or fraction thereof shall be established by resolution of the Village Council at a regular meeting after a public hearing.

(c) Unmetered customers shall pay a charge per quarter as established by resolution of the Village Council at a regular meeting after a public hearing.

(d) There is hereby imposed upon Orion Township an annual charge per hydrant as established by resolution of the Village Council for standby water usage; billing to be made on or about January 1 of each year using a hydrant count as of December 31 of the previous calendar year. Except as otherwise provided in this chapter, rates for special supply or for temporary supply for any purpose shall be fixed by the Village Manager.

(e) In the event that a property owner fails to install a water meter pursuant to this chapter, the Village shall cause the same to be built in a meter pit or other acceptable chamber with the cost of labor, materials, and construction billed to the water customer on the next ensuing quarterly bill and collected in the same manner as other water bills.

(f) Billing.

(1) For the purpose of making and collecting charges for water used by consumers, the calendar year shall be subdivided into quarterly periods to be established by the Village Manager, and statements shall be rendered quarterly and shall be due and payable on or before 30 days after the expiration of each quarterly period; provided, however, that for the purpose of establishing the commencement of any quarterly period, the first of any subsequent billing may be made for less than or greater than a quarter period. The due date of such charges shall be stated upon the billing therefor, and the same shall be paid on or before the due date stated therein.

(2) Delinquent charges. If any charges for water supply services are not paid on or before the due date then a penalty of ten percent shall be added thereto. In the event that the charges for any such services furnished to any premises shall not be paid within 90 days after the due date thereof, then the Village shall assess an automatic $250.00 fine in addition to the ten percent penalty. In addition thereto, in the event the same is not paid within the 90-day period, all services furnished by the water supply system may be discontinued. Services so discontinued shall not be restored until all sums then due and owing, including penalties, are paid, plus a shutoff and a turn-on charge. A penalty of ten percent shall be added to and become part of any charge that is not paid before the same becomes delinquent.

(g) Lien upon premises.

(1) Such charges shall constitute a lien upon the respective properties served and if any charge is not paid before it becomes delinquent it may be recovered by the Village in an action of assumpsit against the owner of the property served as well as any tenant supplied with such water, or such charges may be certified to the Village Treasurer by the Village Council and assessed against the property on the next Village tax roll, in which event such charge shall be collected and returned in the same manner as other Village taxes are collected and returned, provided that any charge shall not be so certified which has not been delinquent for a period of at least six months, in addition to any other remedy provided in this chapter or by law, if such charges for water consumed shall not be paid within 30 days after the same shall become delinquent, the Village Manager shall have the authority to shut off the supply of water to any such premises, provided:

a. Notice is provided by first class mail to the property owner according to Village records affording the owner an administrative hearing before the Village Manager prior to the water being shut off; and

b. Notice of the administrative hearing is provided to any occupants of the property by posting notice of the same at the premises.

(2) After the hearing, the Village may shut off and sever such water connection. In such event, such connection shall not thereafter be reconnected until all such water charges and penalties shall be fully paid, together with a shutoff charge of $100.00 and a turn-on charge of $250.00 as established by resolution of the Village Council at a regular meeting after public hearing.

(Code 1996, § 53.08; Ord. No. 18.04, 10-23-1978; Am. Ord. No. 18.05, 4-11-1983; Am. Ord. No. 18.09, 11-23-1992; Am. Ord. No. 18.10, 1-11-1993; Am. Ord. No. 18.11, 9-13-1993; Am. Ord. No. 18.12, 8-8-1994; Am. Ord. No. 18.13, 3-13-1995; Am. Ord. No. 18.17, 5-28-1996; Am. Ord. No. 18.21, 6-14-1999; Am. Ord. No. 18.22, 5-22-2000; Am. Ord. No. 18.23, 5-29-2001; Am. Ord. No. 18.24, 6-25-2002; Am. Ord. No. 18.25, 8-14-2006; Am. Ord. No. 18.27, 11-9-2015; Am. Ord. No. 18.28, 8-28-2017)

**Sec. 34-9. Seasonal or temporary shutoff.**

(a) In case of seasonal or temporary vacancy, at the request of the customer, and after notification by the customer no less than 48 hours prior to a required turn-off date, the Village will turn off the water at the curb stop. A turn-off and turn-on fee of $5.00 each shall be charged. During each seasonal vacancy, and provided that no water use is recorded on the meter during such vacancy, a ready-to-serve fee in the amount of $3.00 per month or fraction of a month shall be charged. In the event the water meter shall record use of water during the seasonal vacancy, the charges set forth in section 34-8(a) and (b) shall apply. For temporary shutoff necessary for the purpose of a customer making repairs, upon 48 hours' notification, the Village will turn off the water at the curb stop and a turn-off and turn-on fee of $5.00 each shall be charged.

(b) The customer shall be responsible for draining the system within the premises in order to protect the meter and piping from freezing and shall be charged for all repairs to Village-owned meters, valves or pipes as a result of freezing.

(c) Damage to the water system within the property lines of the customer will be the customer's responsibility for repair.

(d) In the case of the customer's need to have the water turned off at the curb box for the purpose of making repairs, the Village will, upon reasonable notice, and during regular working hours, turn the water off, and will turn the water back on upon the completion of the repairs. A turn-off and turn-on fee of $5.00 each will be charged.

(Code 1996, § 53.09; Ord. No. 18.04, 10-23-1978; Am. Ord. No. 18.12, 8-8-1994)

**Sec. 34-10. Emergency and summer outdoor water use restrictions.**

(a) *Emergency restrictions.* Whenever the Village Manager receives notification from the Great Lakes Water Authority that the supply or pressure demand for water cannot be accommodated and the general welfare is likely to be endangered, or conditions within the

water system of the Village are likely to endanger the general welfare of the Village, the Village Manager shall determine that a state of emergency exists and prescribe the following emergency regulations which shall apply to the use of water provided by the Village for all properties connected to the Village water system.

(1) If the emergency is before May 1 or after September 30, the summer lawn watering/irrigation restrictions in subsections (c) and (d) of this section, and a ban on all other outdoor water use, may be ordered and enforced by the Manager.

(2) If the Manager receives notification from the Great Lakes Water Authority or separately determines that the restrictions in subsection (a)(1) of this section are not sufficient, a ban on all watering/irrigation and other outdoor water use may be ordered and enforced by the Manager.

(3) The Village shall provide public notice of emergency regulations by postings at the Village office and on the local cable television channel and Village website, and by publication in newspapers of general circulation in the Village, with the emergency regulations to be effective immediately upon posting at the Village office.

(4) Upon notification from the Great Lakes Water Authority and determination by the Village Manager that emergency regulations are no longer necessary, the Manager shall order a lifting of the restrictions, public notice of which shall be provided in the same manner as provided in subsection (a)(3) of this section.

(b) *General summer restrictions.* From May 1 through September 30 of each year, mandatory outdoor watering/irrigation restrictions as described in subsections (c) and (d) of this section shall be in effect and apply to the use of water provided by the Village for all properties connected to the Village water system, with compliance being the responsibility of the owners and persons in possession of a property, who shall be subject to the penalties set forth in section 34-51 for violations.

(c) *Nonresidential restrictions.* The following restrictions shall apply to all properties except single-family dwelling properties:

(1) Lawn and landscape irrigation may only be done between the hours of 12:00 midnight and 5:00 a.m.

(2) Property with odd-numbered addresses may only irrigate on Monday, Wednesday, and Friday.

(3) Property with even-numbered addresses may only irrigate on Tuesday, Thursday, and Saturday.

(4) If a property has mixed odd- and even-numbered addresses or an undetermined address, the Manager or Manager's designee may assign an odd/even designation for compliance with this section.

(d) *Residential restrictions.* The following restrictions apply to single-family dwelling properties:

(1) A property with an odd-numbered address shall only irrigate on Monday, Wednesday, Friday, and Sunday.

(2) A property with even-numbered address may only irrigate on Tuesday, Thursday, Saturday, and Sunday.

(3) If a property has mixed odd- and even-numbered addresses or an undetermined address, the Manager or Manager's designee may assign an odd/even designation for compliance with this section.

(4) All automatic lawn and/or landscape irrigation systems shall be set to activate only between the hours of 12:00 midnight and 5:00 a.m. daylight saving time (DST).

(5) A property with a newly seeded or sodded lawn is not subject to these restrictions.

(Code 1996, § 53.10; Ord. No. 18.04, 10-23-1978; Am. Ord. No. 18.07, 10-11-1988; Am. Ord. No. 18.18, 6-24-1996; Am. Ord. No. 18.26, 1-11-2010; Am. Ord. No. 18.29, 6-11-2018)

**Sec. 34-11. Complaints; payment to cashier; prior notice for shut off.**

(a) Except as otherwise provided for in this chapter, customers having a complaint with the billing for water may notify the Village Manager who will determine the validity of the complaint and make adjustments to the bill if warranted under the circumstances.

(b) Payment for all water charges and other accounts shall be made to the cashier.

(c) Should it be necessary to shut off the water to any part of the water system due to damage or for the purpose of making repairs or extensions of the water system, the Village will give as much prior notice as it shall consider advisable under the situation, but failure to give such notice shall not render the Village responsible or liable for damages resulting therefrom or any other causes.

(Code 1996, § 53.11; Ord. No. 18.04, 10-23-1978)

**Sec. 34-12. Service outside the Village limits.**

The Village may provide service upon request to persons, firms or corporations outside the Village limits, provided that such persons, firms or corporations pay the entire cost of installation and such administrative cost as may be determined by the Village Manager. Such persons, firms or corporations shall be subject to all rules and regulations as determined by the resolutions and ordinances of the Village relating to the use of water. In the event that service is provided to Charter Township of Orion residents, then, in that event, the provisions of the

intergovernmental agreement between the Charter Township of Orion and the Village for the sale, purchase and delivery of municipal water services, dated September 27, 1993, shall also apply.
(Code 1996, § 53.12; Ord. No. 18.04, 10-23-1978; Am. Ord. No. 18.12, 8-8-1994)

**Sec. 34-13. Inspections.**

(a) Inspectors and designated employees of the Village whose duty it may be to enter upon private premises to make inspections of and/or repairs to pipes, fixtures and attachments, including, but not limited to, water meters, used in connection with the Village water supply shall have free access at all reasonable hours for the purpose of making an inspection or repair thereof, including the examination of the entire water supply and plumbing system upon said premises.

(b) No person shall refuse to admit any inspector or designated employees of the Village to private premises for the purpose of making inspections of and/or repairs to pipes, fixtures and attachments, including, but not limited to, water meters. In the event the water system inspector or designated Village employees are refused admittance to any premises, or, being admitted, shall be hindered or prevented from making such an examination, the Village Manager, after notice of hearing is posted on the premises and the occupants are afforded an administrative hearing before the Village Manager, shall have the authority to shut off the supply of water to said premises. In the event the water system inspector or designated Village employees cannot gain admission to any premises within 15 days after mailing notice of the need for inspection or repair to the owner or occupant by first class mail, the Village Manager, after notice of hearing is posted on the premises and the occupants are afforded an administrative hearing before the Village Manager, shall have the authority to shut off the supply of water to any premises. If the water supply to any premises is shut off pursuant to the provisions of this section, the Village subsequently will turn on the water supply to said premises only after receipt of payment of a $5.00 turn-off fee and a $25.00 turn-on fee.

(c) In the event of a bona fide emergency in connection with the water supply to any premises, as determined by the Village Manager, the Village Manager shall have the authority to shut off the supply of water to said premises, with a suspension of all requirements for notice to the owner or occupant of the premises.
(Code 1996, § 53.13; Ord. No. 18.04, 10-23-1978; Am. Ord. No. 18.08, 2-12-1991)

**Secs. 34-14—34-44. Reserved.**

## ARTICLE II. CROSS CONNECTIONS

### Sec. 34-45. Adopting water supply cross connection rules.

The Village adopts by reference Water Supply Cross Connection Rules of the Michigan Department of Environment, Great Lakes, and Energy, being Mich. Admin. Code R. 325.11401 to R. 325.11407.
(Code 1996, § 53.20; Ord. No. 18.02, 2-10-1975)

### Sec. 34-46. Inspections.

It shall be the duty of the Village to cause inspections to be made of all properties served by the public water supply where cross connection with the public water supply is deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the Village and as approved by the state department of public health.
(Code 1996, § 53.21; Ord. No. 18.02, 2-10-1975)

### Sec. 34-47. Inspector's rights.

The representative of the Village shall have the right to enter at any reasonable time any property served by a connection to the public water supply system of the Village for the purpose of inspecting the piping system or systems thereof for cross connections. On request the owner, lessees or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.
(Code 1996, § 53.22; Ord. No. 18.02, 2-10-1975)

### Sec. 34-48. Discontinuance of service.

The Village is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this article exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross connection has been eliminated in compliance with the provisions of this article.
(Code 1996, § 53.23; Ord. No. 18.02, 2-10-1975)

### Sec. 34-49. Potable water supply.

The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified by this article and by the state and

the plumbing code adopted by the Village. Any water outlet that could be used for potable or domestic purposes and that is not supplied by the potable system must be labeled in a conspicuous manner.
(Code 1996, § 53.24; Ord. No. 18.02, 2-10-1975)

**Sec. 34-50. Exceptions.**

This article does not supersede the plumbing code adopted by the Village but is supplementary to it.
(Code 1996, § 53.25; Ord. No. 18.02, 2-10-1975)

**Sec. 34-51. Violations.**

Any person, firm or corporation determined to have been in violation of the provisions of this chapter shall be responsible for a municipal civil infraction and subject to the provisions of section 1-18(1)b.
(Code 1996, § 53.26; Am. Ord. No. A-3, 1-13-1997)

Chapter 35

**RESERVED**

Chapter 36

# WATERWAYS

## Article I. In General

Secs. 36-1—36-18. Reserved.

## Article II. Watercraft Regulations

### Division 1. Generally

Secs. 36-19—36-39. Reserved.

### Division 2. Regulations for Use of Pelton and Green's Park Public Boat Docks by Boats Excluding Personal Watercrafts

Sec. 36-40. Definitions.
Sec. 36-41. Dock pass required.
Sec. 36-42. Operations.
Sec. 36-43. Violations; penalties.

# ARTICLE I. IN GENERAL

**Secs. 36-1—36-18. Reserved.**

# ARTICLE II. WATERCRAFT REGULATIONS

## DIVISION 1. GENERALLY

**Secs. 36-19—36-39. Reserved.**

## DIVISION 2. REGULATIONS FOR USE OF PELTON AND GREEN'S PARK PUBLIC BOAT DOCKS BY BOATS EXCLUDING PERSONAL WATERCRAFTS

### Sec. 36-40. Definitions.

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

*Boat* means a small vessel propelled on water by oars, sails, or an engine.
(Code 1996, § 98.01; Ord. No. 12.07, 8-28-2017; Ord. No. 12.09, § 98.01, 8-28-2023)

### Sec. 36-41. Dock pass required.

(a) Use of Pelton Point and Green's Park public boat dock is restricted to those with a valid dock pass issued by the Village, for boats, and not for personal watercraft, jet skis, kayaks, canoes or wave boards.

(b) Seasonal dock passes will be issued by the Village Clerk for a fee as established by resolution by the Village Council.

(c) Seasonal dock passes will be valid from April 1 to October 31 in the year the pass is issued.

(d) All boats must be properly registered with the state.
(Code 1996, § 98.02; Ord. No. 12.07, 8-28-2017; Ord. No. 12.09, § 98.02, 8-28-2023)

### Sec. 36-42. Operations.

(a) Boats must be maintained in a safe and seaworthy condition in accordance with Coast Guard regulations.

(b) Boats must be moored and secured in a safe manner.

(c) No boat shall be moored for more than three continuous hours.

(d) Use of the docks is for visitors to the downtown, not for employee or business owner use.

(e) Use is on a "first come first serve" basis, no reservations allowed.

(f) Boats may not be moored overnight.

(g) The waters of the marina shall not be fouled in any way. Toilet facilities shall be equipped with holding tanks and must be in compliance with all the laws of the state. No garbage, oil, sludge, refuse matter, sewage or waste material of any kind shall be thrown, deposited, or permitted to fall in the water or upon the piers, docks or shore areas of the marina. Siphoning of bilge water using the municipal water supply is permitted only in case of emergency. At all times, when siphoning of bilge water is in use, the boat owner must be in attendance.

(h) A dock pass must be affixed to the boat next to the MCL sticker and visible from the dock.

(i) Permit holders must immediately notify the Village Police Department in the event of any damage to boat dock.

(j) Litter and other refuse shall be placed in a garbage receptacle.

(k) Noise levels shall be at the minimum level required and consistent with normal levels of conversation.

(l) All other ordinances of the Village shall be complied with.
(Code 1996, § 98.03; Ord. No. 12.07, 8-28-2017; Ord. No. 12.09, § 98.03, 8-28-2023)

**Sec. 36-43. Violations; penalties.**

(a) The first violation of this division will be a civil infraction with a fine of $100.00.

(b) The second violation of this division will be a civil infraction with a fine of $500.00.

(c) The third violation of this division will be a civil infraction with a fine of $500.00 and revocation of the dock pass.
(Code 1996, § 98.99; Ord. No. 12.07, 8-28-2017; Ord. No. 12.09, § 98.99, 8-28-2023)

Chapter 37

**RESERVED**

Chapter 38

# LAND USAGE

## Article I. In General

Secs. 38-1—38-18. Reserved.

## Article II. Design and Construction Standards

### Division 1. Generally

Sec. 38-19. Definitions.
Sec. 38-20. Title.
Sec. 38-21. Purpose.
Sec. 38-22. Intent.
Sec. 38-23. Conflicts.
Sec. 38-24. Variance from standards.
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### Division 2. General Requirements and Procedures

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Sec. 38-62. Use or access to private property.
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Sec. 38-64. Phased construction.
Sec. 38-65. Codes, ordinances, laws and regulations.
Sec. 38-66. Submittals for review and approval.
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Sec. 38-68. Submittal for construction.
Sec. 38-69. Meetings.
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### Division 3. General Provisions and Plan Requirements

Sec. 38-103. Intent.

Sec. 38-104. Application and site plan requirements.
Sec. 38-105. Final plan.
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Division 4. General Construction Provisions and Requirements

Sec. 38-124. Intent.
Sec. 38-125. General provisions.
Sec. 38-126. Working space.
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Sec. 38-165. Intent.
Sec. 38-166. Procedure.
Sec. 38-167. Certificate of occupancy.
Sec. 38-168. Criteria.
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Secs. 38-170—38-191. Reserved.

Division 6. Design and Construction Standards for Clearing, Grading, and Surface Drainage

Sec. 38-192. Approval of standards.
Secs. 38-193—38-224. Reserved.

**Article III. Sign Regulations**

Sec. 38-225. Purpose.
Sec. 38-226. Definitions.
Sec. 38-227. General standards.
Sec. 38-228. Permitted in all districts without a sign permit.
Sec. 38-229. Signs prohibited in all districts.
Sec. 38-230. District regulations.
Sec. 38-231. Regulations for specific sign types.
Sec. 38-232. Abandoned, damaged, illegal and unsafe signs.
Sec. 38-233. Permits.
Sec. 38-234. Variance authority.
Sec. 38-235. Nonconforming signs.
Secs. 38-236—38-250. Reserved.

## Article IV. Subdivisions

### Division 1. Generally

Secs. 38-251—38-263. Reserved.

### Division 2. Subdivision Control

Sec. 38-264. Title.
Sec. 38-265. Purpose.
Sec. 38-266. Authority.
Sec. 38-267. Definitions.
Sec. 38-268. Submission of preliminary plat for tentative approval.
Sec. 38-269. Village Council review; preliminary plat; tentative approval.
Sec. 38-270. Submission of preliminary plat for final approval.
Sec. 38-271. Village Council review; preliminary plat final approval.
Sec. 38-272. Submission of final plat for final approval.
Sec. 38-273. Village Council review; final plat; final approval.
Sec. 38-274. Land divisions not requiring platting.
Sec. 38-275. Variances.
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### Division 3. Dividing and Partitioning Land

Sec. 38-299. Authority.
Sec. 38-300. Purpose and scope of application.
Sec. 38-301. Definitions.
Sec. 38-302. Application requirements.
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Sec. 38-305. Recording of final action.
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## Article V. Zoning Code

Sec. 38-333. Adoption.
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## ARTICLE I. IN GENERAL

**Secs. 38-1—38-18. Reserved.**

## ARTICLE II. DESIGN AND CONSTRUCTION STANDARDS

### DIVISION 1. GENERALLY

**Sec. 38-19. Definitions.**

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

*AASHTO* means the American Association of State Highway and Transportation Officials.

*Applicant* means the party who is submitting development or improvement plans for review, and approval by the Village.

*ANSI* means the American National Standards Institute.

*As-builts* means revised plans showing the as-constructed conditions of the site, including utilities, grading, detention, and the like.

*ASTM* means the American Society of Testing and Materials.

*AWWA* means the American Water Works Association.

*Developer* means a person, partnership, or corporation building; one building, for occupancy by other than the owner, or creating or developing any parcel of land for any use other than agricultural or form thereof.

*Development.*

(1) The term "development" includes a subdivision as defined by Public Act No. 288 of 1967 (MCL 560.101 et seq.), a condominium pursuant to the provisions of Public Act No. 59 of 1978 (MCL 559.101 et seq.), or any group of dwellings or structures which are proposed.

(2) The term "development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

*Final site plan* means a plan showing all features of a proposed development, as required under the provisions of the Village zoning ordinance, including all engineering such as paving, grading, utilities, detention, and the like.

*Landowner* means the person who owns or holds a recorded easement on the property or who is engaged in construction in a public right-of-way in accordance with sections 13, 14, 15, and 16 of Public Act No. 368 of 1925 (MCL 247.183, 247.184, 247.185, 247.186).

*MDOT* means the Michigan Department of Transportation.

*Municipality* means the Village of Lake Orion.

*Municipality's Engineer* or *Village Engineer* means the staff engineer or professional engineer employed by the Village.

*Owner* means any person who has dominion over, control of, title to and/or any other proprietary interest in designated wetland and/or watercourse areas, or title to an obstruction, natural or otherwise, to wetland and watercourse properties.

*Public roads* means those roads which are to be dedicated to the Village.

*RCOC* or *OCRC* means the Road Commission for Oakland County.

*USGS* means the United States Geological Survey.

*Village* means the Village of Lake Orion, Oakland County, Michigan, acting through its duly elected Village Council.

*Variance* means a modification of the literal provisions of this article granted by the Village Council or Board of Zoning Appeals in situations or under circumstances where permitted by law.
(Code 1996, § 151.001; Ord. No. 31.26, 5-13-2013)

**Sec. 38-20. Title.**

This article shall be known as the "Design and Construction Standards of the Village" and shall hereinafter be referred to as "standards."
(Code 1996, § 151.002; Ord. No. 31.26, 5-13-2013)

**Sec. 38-21. Purpose.**

The purpose of the standards is to establish general requirements for the design and construction of subdivisions, site condominiums, commercial sites, and all other site improvements under the jurisdiction of the Village which require site plan submittal in conformance with the Village's zoning ordinance.
(Code 1996, § 151.003; Ord. No. 31.26, 5-13-2013)

**Sec. 38-22. Intent.**

It is the intent of these standards to:

(1) Provide a flexible yet reasonable and proper basis for the design and construction of land improvements, including, but not limited to, drainage facilities, sanitary sewers, stormwater management facilities, road and parking lot improvements, pedestrian activities, landscaping, grading, and where warranted, water supply, distribution and fire suppression facilities and sewage collection and disposal systems.

(2) Establish uniformity in Village requirements and supplement Village ordinances.

(3) Outline information required for plans submitted for review so that the plans are complete and in a proper form.

(Code 1996, § 151.004; Ord. No. 31.26, 5-13-2013)

**Sec. 38-23. Conflicts.**

If there should exist conflicts or discrepancies between these standards and other adopted ordinances, these standards shall apply.

(Code 1996, § 151.005; Ord. No. 31.26, 5-13-2013)

**Sec. 38-24. Variance from standards.**

The Village Council may authorize a variance from these standards when practical difficulty may result from strict compliance. In granting any variance, the Village Council may prescribe conditions that it deems necessary or desirable for the public safety, health, welfare and interest of the community. No variance shall be granted unless the Village Council finds that all of the following is established by the applicant:

(1) That strict compliance with these standards would either unreasonably prevent the owner from using the property for a permitted purpose or that conformity with the standards would be unnecessarily burdensome;

(2) That the variance is the minimum necessary to give appropriate relief to the applicant, giving consideration to the effect of the variance on surrounding property owners within 250 feet;

(3) That the granting of a variance will not be detrimental to the public health, safety or welfare or injurious to other properties in the area; and

(4) That the variance will be in accordance with the objectives and policies of the Village.

(Code 1996, § 151.006; Ord. No. 31.26, 5-13-2013)

**Sec. 38-25. Interpretation.**

(a) The provisions of these standards shall be held to be the minimum requirements necessary for promotion and preservation of public health, safety and general welfare of the Village. The standards are not intended to repeal, abrogate, annul, or in any manner interfere with existing Village regulations or ordinances, standards or regulations of the county where they have jurisdiction, nor to conflict with any state statutes.

(b) Proprietors and their engineers are encouraged to design facilities to provide for actual conditions encountered in their project work area. As site conditions dictate, the Village in the review process may allow more flexible designs, which are more or less stringent than the minimum requirements specified herein, provided that the design alternative is in accordance with Village objectives and goals (i.e., preservation of natural features).
(Code 1996, § 151.007; Ord. No. 31.26, 5-13-2013)

**Sec. 38-26. Right to revise standards.**

The Village reserves the right to revise these standards at any time by amending this article and to require that such revised standards be incorporated into the work at any time prior to final site plan approval. The Village also reserves the right to require revisions or corrections to any plans that have been approved for construction due to errors, omissions, or changes or unforeseen field conditions and to require that such revisions and corrections be incorporated into the work at any time prior to the final acceptance of the work.
(Code 1996, § 151.008; Ord. No. 31.26, 5-13-2013)

**Sec. 38-27. Penalty.**

Any person who violates the provisions of this article shall be responsible for a municipal civil infraction, subject to civil fine, court order enforcement, and any remedies mandated by the court for violations.
(Code 1996, § 151.999; Ord. No. 31.26, 5-13-2013)

**Secs. 38-28—38-55. Reserved.**

## DIVISION 2. GENERAL REQUIREMENTS AND PROCEDURES

**Sec. 38-56. Detailed engineering plans.**

Detailed engineering construction plans shall be submitted by the applicant for site improvements, including, but not limited to, storm and sanitary sewers, stormwater management facilities, paving, soil erosion control measures, and site grading. Where applicable, construc-

tion plans must also be submitted for community sewer systems, sewage collection facilities and water supply and distribution systems. Timing of plan submittal shall follow the requirements of the ordinances and the procedures set forth by the Village.
(Code 1996, § 151.020; Ord. No. 31.26, 5-13-2013)

**Sec. 38-57. Plans and specifications.**

All plans submitted for review and approval are to comply with the requirements specified herein and shall be rejected for failure to comply.
(Code 1996, § 151.021; Ord. No. 31.26, 5-13-2013)

**Sec. 38-58. Plan review fees.**

Plan review fees for projects located in the Village shall be payable to the Village in the amount as set forth by resolution in the adopted fee schedule.
(Code 1996, § 151.022; Ord. No. 31.26, 5-13-2013)

**Sec. 38-59. Specifications by reference.**

(a) Where reference is made in these standards to the specifications of any technical society, association, governmental agency, and the like, such as those promulgated by AASHTO, ANSI, MDOT, and the like, said specifications shall apply and be binding as if fully set forth herein. Such specifications or standards are incorporated by reference.

(b) Reference to standard specifications of any technical society, organization, association or to codes of local or state authorities, shall mean the latest standard, code, specifications, or tentative specification adopted and published unless specifically stated otherwise.
(Code 1996, § 151.023; Ord. No. 31.26, 5-13-2013)

**Sec. 38-60. Existing utilities and site conditions.**

It shall be the sole responsibility of the applicant to locate, survey, and field verify all existing utilities within the construction area. The Village or their engineers may have completed projects in the same area or have utility information available for review. This information, while intended to assist the applicant, is not intended to be the only source of such information or to be utilized solely in lieu of the applicant's own investigation. The Village shall not be held liable or responsible for errors, omissions, and the like of provided utility information.
(Code 1996, § 151.024; Ord. No. 31.26, 5-13-2013)

**Sec. 38-61. Easements.**

(a) A developer must provide the Village with the necessary easements for any water mains, sanitary sewers, storm drains, roadways or other facilities that are to be located on the developed property and which may be maintained by the Village. Easements shall be a minimum width to provide proper access as determined by the Village, or as stated in these

standards. Furthermore, it shall be required that the applicant provide all utility and drainage easements (i.e., storm sewers, surface drainage, private water and sanitary systems, and the like) to the Village for review and approval prior to final project approval. The easements shall be subject to a recommendation of approval by the Village Engineer and the Village Attorney.

(b) Proof of ownership shall be provided along with the easement in the form of title insurance, acceptable to the Village Attorney, to show that the grantor of the easement is the owner of the property. All parties having a legal interest in the property shall execute and grant the easement.

(c) Easements must be submitted to the Village in recordable form prior to the start of work. The cost of recording with the county register of deeds shall be borne by the applicant. In the event of a condominium development, the master deed shall be recorded and the cost of recording shall be borne by the applicant.
(Code 1996, § 151.025; Ord. No. 31.26, 5-13-2013)

**Sec. 38-62. Use or access to private property.**

A contractor shall not enter upon private property for any purpose without first obtaining written permission from the property owner, and he or she shall be responsible for the preservation of all public property, trees, survey monuments, and the like, along, within and adjacent to the private property, and shall use every precaution necessary to prevent damage or injury thereto. He or she shall use suitable precautions to prevent damage to pipes, conduits, and other underground structures.
(Code 1996, § 151.026; Ord. No. 31.26, 5-13-2013)

**Sec. 38-63. Village mapping.**

When the submitted plans are prepared in digital format, the developer may be requested to provide the Village with electronic files of the approved final site plan and as-built plans in order to facilitate any Village map updates. Village maps may be modified to incorporate the utilities to service the subject development.
(Code 1996, § 151.027; Ord. No. 31.26, 5-13-2013)

**Sec. 38-64. Phased construction.**

On all projects in which construction is to proceed in phases, a separate plan sheet shall be included in the construction drawings which breaks down all improvement quantities by item, e.g., walkways, paths, grading, landscaping, community septic and sewage collection systems, water supply and distribution systems, sewer, storm sewer, landscaping, pavement base and wearing courses, and utilities for each phase. Said phasing limits shall match those approved or to be approved by the Village. Approval of phased construction shall not supersede the requirement to obtain site plan approval for each phase of the construction.
(Code 1996, § 151.028; Ord. No. 31.26, 5-13-2013)

**Sec. 38-65. Codes, ordinances, laws and regulations.**

The contractor and subcontractors shall observe and comply with all federal, state and local codes, ordinances, laws and regulations in force at the construction site. The contractor shall pay for and obtain all building permits, licenses for the work, pay for inspection and testing, and file plans and specifications to the Village department having jurisdiction.
(Code 1996, § 151.029; Ord. No. 31.26, 5-13-2013)

**Sec. 38-66. Submittals for review and approval.**

(a) All plan documents shall be submitted to the Village. The applicant shall contact the Village regarding the number of plans to submit and the review process. No documents shall be submitted directly to the Village Engineer, Planner, or Attorney unless prior written authorization is given by the Village.

(b) All plans, computations, and cost estimates shall be signed and sealed by a registered professional, licensed to practice in the state. The Village Engineer shall review and make recommendations to the Village Council. Comments for approval or non-approval shall be in writing. They may also be marked on a set of plans at the discretion of the Village. Copies of the letter recommending approval or non-approval and any marked up plans will be forwarded to the Village, the applicant, and the applicant's consultants. The applicant shall forward revised copies of the plans or documents in question to the Village for further processing and review should additional information or plan revisions be required.
(Code 1996, § 151.030; Ord. No. 31.26, 5-13-2013)

**Sec. 38-67. Agency approval.**

Engineering drawings for proposed subdivision or condominium improvements, site plan improvements, and utility construction shall be approved by all jurisdictional agencies and the Village prior to the beginning of any construction. Construction shall not begin until all required approvals and permits are obtained.
(Code 1996, § 151.031; Ord. No. 31.26, 5-13-2013)

**Sec. 38-68. Submittal for construction.**

Five complete sets of the approved site plan, signed and sealed shall be submitted for the Village's use after final site plan approval and prior to the pre-construction meeting. Additional plan sets, individual plan sheets or digital files may be requested at the Village's discretion.
(Code 1996, § 151.032; Ord. No. 31.26, 5-13-2013)

**Sec. 38-69. Meetings.**

(a) A pre-construction meeting shall be held prior to the start of any site improvements. The pre-construction meeting should include a representative of the Village, the Village Engineer, the applicant or authorized representatives, the contractor, and where necessary any utility

company officials whose underground, overhead, or at grade utilities may conflict in any manner with the proposed project, state, county, and local government persons who may be involved, directly or indirectly, with the proposed project, and any other persons who may be able to contribute information in regard to the construction of the subject project.

(b) It shall be the applicant's and/or contractor's responsibility to contact the Village at least seven days prior to planned construction commencement to arrange for a preconstruction meeting. The project shall not be permitted to commence until such time that the applicant and/or contractor has secured all required permits, submitted observation (inspection) escrow funds, and submitted all insurance and bonds in accordance with the Village's requirements.
(Code 1996, § 151.033; Ord. No. 31.26, 5-13-2013)

**Sec. 38-70. Guarantee.**

The applicant shall be required to deposit with the Village, cash, certified check, or irrevocable bank letter of credit, whichever the applicant selects, in an amount sufficient to guarantee the completion of the construction of all required improvements, as shown on the approved final site plan. Copies of contractor contracts with the applicant or estimates of cost provided by the applicant shall be required to be submitted to the Village Engineer for approval and for review prior to establishment of the required security. The final release of security will only be made after the improvements have been final inspected and accepted by the Village and only upon written request by the applicant.
(Code 1996, § 151.034; Ord. No. 31.26, 5-13-2013)

**Sec. 38-71. Construction observation.**

(a) Full-time or part-time observation shall be required for all site improvements associated with subdivisions, site condominiums, commercial sites, and elsewhere as determined by the Village. Part-time observation may also be required for improvements covered by other governmental agencies. Observation personnel shall be provided by the Village or its agents. The developer shall pay all applicable observation fees as established by the Village. The contractor shall notify the Village and the Village Engineer's supervising field observer at least 48 hours prior to commencing construction. Any work installed without field observation as required by the Village may not be accepted by the Village.

(b) In such an event, the Village's decision regarding removing or exposing covered work, testing, or any other appropriate course of action shall be final and binding on the applicant.

(c) The applicant shall deposit with the Village at least 48 hours prior to the start of construction, an observation escrow based on the estimated observation time required as determined by the Village. The observation escrow amount shall be determined prior to or at the pre-construction meeting. The Village may assess an administration fee to cover the

construction portion of the project. The observation fees will be billed to the Village on a time and material basis by the Village Engineer and deducted from the observation escrow deposit.

(d) A minimum of four hours will be charged against the observation escrow if the observer keeps a scheduled observation appointment and the contractor does not work or cancels work with less than 24 hours' notice and the observer cannot be reassigned to another job. In the event of a rain out, the contractor shall notify the appropriate personnel prior to the regular starting time or be charged the four hour increment. All costs incurred for consulting services and testing conducted by the Village will be billed against the escrow account.

(e) The applicant will be notified in the event the escrow deposit has been depleted and/or additional funds are required. Within three business days the applicant shall re-establish the deposit so as to prevent the project construction from being stopped and/or building or occupancy permits withheld. The account balance upon completion of the project and acceptance of the record plans will be returned to the applicant and only upon written request by the applicant.

(f) Review of as-constructed or as-built record drawings shall be invoiced against the observation account.
(Code 1996, § 151.035; Ord. No. 31.26, 5-13-2013)

**Sec. 38-72. Insurance requirements.**

It is agreed that the contractor for all private developments shall comply with the following general requirements and provide the Village with proof of the insurance requirement herein prior to the start of construction. All monetary amounts quoted herein may be revised at the discretion of the Village at any time and without notice.

(1) Contractor's comprehensive general liability insurance.

a. The contractor shall procure and shall maintain, during the life of his or her contract, contractor's personal injury insurance in an amount not less than $1,000,000.00 for injuries, including accidental death, to each person, in an amount not less than $1,000,000.00 on account of each occurrence; and contractor's property damage insurance in an amount not less than $1,000,000.00 each occurrence; and $1,000,000.00 aggregate, including completed operations and contractual liability coverage.

b. This comprehensive general liability insurance shall include coverage for explosion, collapse, underground hazards, and flooding and coverage assumed in the indemnification clause of this section of the work.

(2) Owner's protective public liability insurance. The contractor shall procure and maintain during the life of his or her contract owner's protective public liability insurance in the name of the Village and Village Engineer in an amount not less than $1,000,000.00

for injuries, including accidental death to each person, and in an amount not less than $1,000,000.00 on account of each occurrence; and property damage in an amount not less than $1,000,000.00 each occurrence, and $1,000,000.00 aggregate.

(3) Contractor's automobile bodily injury and property damage insurance.

a. The contractor shall procure and shall maintain during the life of his or her contract automobile bodily injury insurance in an amount not less than $1,000,000.00 for injuries, including accidental death, to each person, and in an amount not less than $1,000,000.00 for each occurrence; and property damage in an amount not less than $ 1,000,000.00 for each occurrence.

b. The contractor shall procure and shall maintain during the life of his or her contract hired and non-ownership automobile bodily injury and protection damage insurance in an amount not less than $1,000,000.00 for injuries, including accidental death, to each person; and in an amount not less than $1,000,000.00 for each occurrence; and property damage in an amount not less than $1,000,000.00 for each occurrence.

(4) Umbrella or excess liability. The contractor is granted the option of arranging under a single policy for the full limit required for general liability and/or automobile liability or by a combination of underlying policies with the balance provided by an excess or umbrella liability policy equal to the total limit requested. The umbrella or excess liability shall be in an amount not less than $2,000,000.00 per occurrence and $2,000,000.00 aggregate.

(5) Worker's compensation insurance. If requested by the project owner, the contractor shall procure and shall maintain, during the life of his or her contract, worker's compensation insurance, including employer's liability, in an amount not less than $500,000.00 for employer's liability and a statutory rate for compensation.

(6) Indemnification clause. The contractor shall indemnify, defend, and save harmless the Village and the Engineer, their elected officials, officers, owners, consultants, agents, and employees, from and against all loss or expense (including costs and attorney fees) by reason of liability imposed by law upon the Village and the Engineer, their elected officials, officers, owners, consultants, agents, and employees for damages because of bodily injury; including death at any time resulting therefrom, sustained by any person or persons or on account of damage to property, including loss of use thereof, arising out of or in consequence of the performance of this work, whether such injuries to persons or damage to property is due, or claimed to be due, to the negligence of the contractor, his or her subcontractors, the Village, the Engineer, and their elected officials, officers, owners, consultants, agents, and employees, except only as such injury or damage shall have been occasioned by the sole negligence of the Village, or their elected officials, officers, owners, agents, employees, or consultants.

(7) Proof of coverage of insurance. The contractor shall provide the Village certificates of insurance for the required coverage. A guarantee that 30 days' notice to the Village prior to cancellation or non-renewal of or change in any such insurance shall be endorsed on each policy and certificate of insurance.

(8) Additional insured. All insurance policies, with the exception of worker's compensation, are to include the following additional insured:

a. Village of Lake Orion: all elected officials, officers, owners, consultants, agents, and employees.

b. The Village Engineer: their owners, officers, consultants, owners, agents, and employees.

(9) Sample forms may be obtained from the Village or Village Engineer.

(10) The Village is to be listed as the certificate holder.

(Code 1996, § 151.036; Ord. No. 31.26, 5-13-2013)

**Secs. 38-73—38-102. Reserved.**

## DIVISION 3. GENERAL PROVISIONS AND PLAN REQUIREMENTS

### Sec. 38-103. Intent.

The intent of this division is to provide the applicant with general plan requirements. Failure to comply with these requirements may lead to the plans being rejected.

(Code 1996, § 151.050; Ord. No. 31.26, 5-13-2013)

### Sec. 38-104. Application and site plan requirements.

(a) The applicant shall submit an application packet at least 30 days prior to the Planning Commission meeting for review. All of the following must be submitted in order for the Village to accept the application for review:

(1) Original application form using blue or black ink. Each area must be completed.

(2) Narrative of the project.

(3) Site plan requirements checklist with applicable attachments.

(4) Proof of ownership of subject property. Consent is required from all involved property owners and must be included with submittal.

(b) Plans submitted for review must include the following:

(1) The date, revision date, north arrow, and scale. The scale shall not be less than one inch equals 20 feet for sites less than three acres in area and at least one inch equals 50 feet for those sites of three acres or more. The plan sheet size shall be 24 inches by 36 inches in size.

(2) Complete improvement plans bearing the seal of a registered professional, licensed to practice in the state, shall be submitted prior to review and approval of any portion thereof.

(3) The name and address of the property owner or petitioner, and proof of ownership or option to purchase.

(4) A general location map.

(5) Legal and common or popular description of the site, and the proposed site address, if available.

(6) Site area in square feet and acres, gross and net.

(7) The existing zoning of the site and all lots abutting it.

(8) All lot and/or property lines and setback lines shown and dimensioned, including building setback lines on corner lots, and front, side, and rear setback dimensions.

(9) The location and height of all existing structures and improvements on and within 50 feet of the site, and all proposed improvements to the site, to scale.

(10) Proposed and existing building width, length, and distance between buildings dimensioned.

(11) The location, dimensions, and hard surface type of all existing and proposed drives, sidewalks, walkways, paths, curb openings, curbing, wheel stops, parking areas including total number of parking spaces, loading/unloading spaces and areas, and fire lanes.

(12) The location, pavement width, and existing and planned right-of-way width of all abutting roads, streets, alleys, or easements.

(13) Acceleration, deceleration, and bypass lanes and cross-access easements located and diminished.

(14) General landscape plan, indicating the type, location, density, and intended function of existing and proposed landscape materials including ground cover, trees, shrubs, ornamentals, and other landscape plantings and features.

(15) Location, height, and type of existing and proposed fences and walls, screening, and greenbelts.

(16) Location, height, materials, and cross sections of any screening walls, fences, or berms.

(17) Location and dimensions of any recreation areas, common use areas, and areas to be conveyed for public use and purpose.

(18) Trash receptacle and transformer pad location and method of screening.

(19) Location of existing and proposed service facilities, including septic systems, drain fields and other wastewater treatment systems; well site if any; water mains, hydrants, pump houses and building services and sizes; sanitary sewers and pumping stations; stormwater management facilities and structures including storm sewers, swales, retention and detention basins, drainage ways and other facilities, including preliminary calculations for detention/retention facilities; location of easements.

(20) Topography showing existing grade at no more than two-foot intervals on the site and 50 feet beyond the site boundaries. If there are major topographic features/elevation changes in vicinity of the site, the Planning Commission may require that topographic contours be shown on the plan, extending up to 100 feet beyond the site boundaries. Areas of cut and fill and proposed grade changes must be identified, along with a statement of how those changes will be addressed.

(21) Floodplain and flood hazard elevations. If there are none on the site, then a statement included on the plan that there are none. Streams or other bodies of water or other unbuildable areas, if present on site.

(22) A construction phasing plan, if applicable.

(23) Front, side, and rear building elevations for each building proposed. All facade materials and colors labeled on the elevations.

(24) Dimensioned floor plans for each building, and total and usable floor area by type of use.

(25) The number of residents and/or employees during peak usage.

(26) A narrative description of the proposed project and use.

(27) Height of all outdoor light fixtures, cut sheets, method of shielding, and illustration of poles and fixtures, and a statement that the site will comply with all lighting requirements.

(28) Sign location and type of sign. The plan shall note that all signs will conform to the Village sign ordinance and that the required sign permits will be obtained.

(29) In case of residential uses, the following additional information and data is required:

a. The proposed number of dwelling units by type (apartment, condominiums, cooperative, and the like) and the number, size, and location (by code if necessary) of one-bedroom units, two-bedroom units, and the like. The total number of bedrooms shall be listed.

b. The proposed density and the residential area of the site in acres and in square feet, including breakdowns for any sub-areas or staging areas and gross and net acreage areas and calculations.

c. Location, elevations, and details of community buildings and facilities, carports, swimming pools, and similar facilities.

(30) Owners and their engineers are encouraged to explore alternate approaches to the site construction that address and treat both stormwater quality and quantity of runoff from the site. These alternate approaches include the following partial list of BMPs (best management practices):

a. Green roofs;

b. Bioswales;

c. Cisterns;

d. Rain gardens;

e. Porous pavement;

f. Native landscaping; and

g. Filter strips.

(31) The Village will consider alternate designs that provide for improved water quality and/or water quantity reduction. In order to substitute these designs for the minimum standards, documentation must be provided that addresses the alternate's sustainability and long term maintenance requirements. Any alternate design must be approved by the Village and Village Engineer.

(32) The submission of special data that it deems critical to the adequate review of the proposed use and its impacts on the site or Village may be required.

(Code 1996, § 151.051; Ord. No. 31.26, 5-13-2013)

**Sec. 38-105. Final plan.**

All applications for final plan approval shall contain the following items:

(1) All information required for site plan approval.

(2) Storm drainage and retention computations, meeting current Village stormwater management requirements.

(3) Display profiles of the storm sewer, including pipe size, slope, type, length, and ground rim elevations.

(4) Size and location of existing and proposed hydrants, manholes, and utilities, including proposed connections to public sewer and water supply system.

(5) Soil erosion and sedimentation control plan, subject to requirements of the soil erosion and sedimentation control act, Public Act No. 347 of 1972.

(6) Grading plan.

(7) The status and location of any known environmental contamination.

(8) A complete landscape plan, including the location of all existing and proposed landscaping and vegetation; location, size, and type of any trees larger than three inches in caliper proposed to be removed; plant list with the number, size at planting, and name of all proposed plant material; maintenance plan; type of ground cover noted and all grass to be specified as to whether it will be seeded or sodded; and notation that any dead or diseased plant material will be replaced within one year in the next appropriate planting season. The final landscape plan shall be prepared by and bear the seal of a registered landscape architect.

(9) A photometric plan including the proposed location of all outdoor light fixtures, a photometric grid overlaid upon the site plan showing the proposed light intensities on the site measured at grade level, a schedule of light fixtures including the manufacturer and model number of all fixtures, the maximum, average, and minimum illumination levels proposed in applicable areas on the site, and a statement of the proposed hours when the luminaries will be on and when they will be turned off. The plans must note if photocells, time clocks, motion detectors, or other automatic switching systems are proposed.

(10) Complete text and description of purpose of all existing and proposed easements.

(Code 1996, § 151.052; Ord. No. 31.26, 5-13-2013)

**Secs. 38-106—38-123. Reserved.**

## DIVISION 4. GENERAL CONSTRUCTION PROVISIONS AND REQUIREMENTS

### Sec. 38-124. Intent.

This division is intended to provide the applicant with general construction requirements to be adhered to throughout the duration of the project. Failure to do so may result in a stop work order being issued to the contractor following written notice by the Village requiring the issue to be resolved prior to starting work.

(Code 1996, § 151.065; Ord. No. 31.26, 5-13-2013)

### Sec. 38-125. General provisions.

(a) The Village or their agents will not act as the general supervisor of the contract work or be held responsible for on-site safety. This shall be the responsibility of the property owner, property owner's engineer, and/or contractor.

(b) The Village will provide observation/inspection personnel in accordance with section 38-71.

(c) Subsequent to any required Village plan approvals, and prior to starting any construction, the contractor must obtain all required permits, establish all necessary escrow accounts, pay all fees, provide the required insurance certificates and attend the preconstruction meeting.

(d) All improvements must also be field staked under the supervision of a licensed professional. Staking must be in accordance with the approved plans.
(Code 1996, § 151.066; Ord. No. 31.26, 5-13-2013)

**Sec. 38-126. Working space.**

(a) The contractor shall confine the work operations to the minimum space possible within the project limits. Stockpiling of construction material and equipment will be permitted as necessary, but in no case shall traveled roadways, driveways, or entrances be unduly obstructed. Any off-site storage or disposal areas within the Village must be shown on the final site plan drawings and approved by the Village.

(b) It shall be the contractor's responsibility to use such methods and/or materials, including sheeting, so as to prevent any portion of the work from encroaching on adjacent property.
(Code 1996, § 151.067; Ord. No. 31.26, 5-13-2013)

**Sec. 38-127. Locating work.**

The contractor shall accurately locate the work from reference points established by the project engineer/surveyor along the surface of the ground and the line of work. Cut sheets for all underground work shall be furnished to the contractor and the Village by the applicant. Reference points shall be protected and preserved by the contractor.
(Code 1996, § 151.068; Ord. No. 31.26, 5-13-2013)

**Sec. 38-128. Survey monuments.**

Monuments or other recognized property boundary markers at street intersections, section comers, acreage or lot corners, and right-of-way lines shall be preserved and protected. Where such monuments or markers must be removed during construction, the Village shall be notified and the contractor shall make all necessary arrangements with a land surveyor registered in the state to have these monuments or markers properly witnessed prior to disturbance or removal and later reset by the registered land surveyor at no cost to the Village.
(Code 1996, § 151.069; Ord. No. 31.26, 5-13-2013)

**Sec. 38-129. Trench backfill.**

(a) Special backfill shall be used at all locations and of the type called for on the drawings, and at other locations specified herein whether called for on the drawings or not. The type and method of backfilling is dependent on its locations and function and shall conform with the following requirements. The applicant will supply field testing on the special backfill compaction requirements.

(b) Backfilling of trenches in the shoulder area and under private gravel drives shall be carried to within six inches of the existing surface as specified under Trench A or Trench B as required. The shoulder shall be defined herein as the area within five feet of the pavement edge, or the width of the existing graveled shoulder, whichever is greater. The remaining depth shall be backfilled with six inches of compacted 21AA aggregate. Backfilling of trenches crossing gravel roads or streets shall be carried to within eight inches of the existing surface and the remaining depth shall be backfilled with eight inches of compacted 21AA aggregate. Compaction shall be performed by a pneumatic-tired roller or a vibratory compactor until the compaction requirements as required for Trench A or Trench B and as detailed in this section are met.

(c) The requirements as specified herein are in addition to the conditions provided for under permit granted by the Road Commission for Oakland County (RCOC) or the Michigan Department of Transportation (MDOT), where applicable.

(d) Trench A. All trenches under graveled, slag or hard surfaced roads, pavements, hard surfaced parking lots and driveways, sidewalks, curbs and where the trench edge is within three feet of a pavement shall be backfilled with bank run sand meeting the requirements of granular material, MDOT Class II. The material shall be placed by the controlled density method or other effective means having the approval of the Engineer and is to be compacted to 95 percent of maximum unit weight as determined by ASTM D-1557 Modified Proctor. Trenches under pavement to be constructed in the near future, as noted or shown on the drawings, shall be backfilled with granular material, meeting the requirements of current MDOT Standard Specifications for Construction.

(e) Trench B. Trench B shall be used where called for on the drawings. All trenches shall be backfilled with granular material, MDOT Class II to a point 12 inches above the pipe for diameters less than 24 inches and up to the spring line with materials meeting the requirements of the current MDOT Standards for diameters 24 inches or larger. This portion of the backfill is to be placed in layers not exceeding six inches in depth and shall be thoroughly compacted by mechanical tamping to not less than 95 percent of maximum unit weight utilizing ASTM D-1557 Modified Proctor. The remainder of the backfill shall be made with suitable excavated material (excluding blue and gray clays, peat, muck, marl or other organic materials) placed in one-foot layers, with each layer being thoroughly compacted by approved mechanical methods, or other effective means having the approval of the Engineer, to a density of 90 percent of maximum unit weight utilizing ASTM D-1557 Modified Proctor.
(Code 1996, § 151.070; Ord. No. 31.26, 5-13-2013)

**Sec. 38-130. Maintenance and restoration of pavements, road surfaces, structures and trench backfill.**

(a) Where trenches cross existing improved roadways or drives or where the trench parallels an existing improved roadway which is disturbed by the contractor's operations, the contractor shall consolidate the trench backfill and shall immediately place a temporary gravel fill,

meeting 21AA Aggregate Gradation at least eight inches thick; and shall, during the life of the project, maintain the same in good condition with additional gravel as settling takes place. All structures, including curbing, walks, paving, gravel, or sheet road surfaces, and the like, that may be damaged or destroyed by the contractor's operations shall be repaired and replaced by the contractor at their expense. In restoring pavement, a saw shall be used and a cut equal to tire thickness of the existing pavement shall be made on each side of the part to be restored. Concrete shall be 3,500 psi, using six sacks of cement per cubic yard of concrete, unless otherwise required.

(b) If the pavement removed had an asphaltic concrete surface, the surface shall be removed to a distance one foot beyond the limits of the removed asphaltic concrete pavement. The butt joint in asphaltic concrete removal shall be prepared by sawing through the total depth of asphaltic concrete. The surface shall be replaced with a nominal three inches of MDOT bituminous surface mixture as required by the Village and meeting the requirements of the state department of transportation as to materials and method of replacement at no extra cost to the Village.
(Code 1996, § 151.071; Ord. No. 31.26, 5-13-2013)

**Sec. 38-131. Protection of the public.**

The contractor shall provide sufficient barricades, guard railings, fencing, advance construction signing, coverings or other means to protect the public from injury due to the work operations, including completed or uncompleted work, at all times until final approval of the work by the Village.
(Code 1996, § 151.072; Ord. No. 31.26, 5-13-2013)

**Sec. 38-132. Preservation of trees.**

(a) The contractor shall protect and preserve all trees and natural areas along the line of work, and will be held responsible for any damage to trees. Construction fencing shall be placed to fence off designated areas at the drip edge of the trees to be protected. Where necessary to preserve a tree and its main roots, the contractor shall tunnel under such tree. Where specifically called for on the drawings, the contractor shall remove trees completely, including stumps and main roots.

(b) Where tunneling is required, augering shall be done in a manner to protect the trees and at a distance away from the tree in accordance with the following table:

Tunneling or Augering Beneath Tree Roots

| *Tree Diameter (DBH)* | *Minimum Auger Distance* |
|---|---|
| Up to 2" | Auger 1 ft. from trunk of tree |
| 3—4" | Auger 2 ft. from trunk of tree |

| *Tree Diameter (DBH)* | *Minimum Auger Distance* |
|---|---|
| 5—9" | Auger 5 ft. from trunk of tree |
| 10—14" | Auger 10 ft. from trunk of tree |
| 15—19" | Auger 12 ft. from trunk of tree |
| 19" and over | Auger 15 ft. from trunk of tree |

Note: Diameter breast height (DBH) is measured 4½ feet above the ground.

(c) The minimum depth of auger within the root zone, as described in subsection (b) of this section, shall be 24 inches below the soil surface. In any event, the tunneling must be below the major root system of the tree. All voids around the tunneled or augured facility shall be backfilled with excavated material and thoroughly compacted to avoid settlement. Compaction must be completed without compacting the soil within the root zone.

(d) Where tunneling is not required for trees close to the trench and root trimming is necessary, the contractor shall hand trench ahead of the machine digging and cut all roots cleanly to minimize damage to the roots.

(e) Tree branches shall be tied back to protect them from the contractor's machinery where necessary.
(Code 1996, § 151.073; Ord. No. 31.26, 5-13-2013)

**Sec. 38-133. Protection and replacement of landscaping.**

The contractor shall protect, replace and/or restore all shrubbery, trees, lawns, and landscaping damaged or destroyed by operations under his or her contract to the satisfaction of the Village.

(1) *Tree replacement requirements.* The applicant shall be required to replace all protected trees being removed having eight inches or more DBH subject to the following conditions:

a. The replacement calculations shall indicate the total caliper inch at DBH of protected trees being removed, as well as any trees being considered for exemption. The total number of replacement trees and caliper inches shall be provided and graphically illustrated on a plan.

1. Replacement trees shall be at least three inches caliper and eight feet in height for evergreens. Trees will be measured at six inches above finished grade for replacement trees four inches caliper or less and at 12 inches above finished grade for all trees greater than four inches caliper.

2. Larger evergreen trees may be used to fulfill replacement requirements at the equivalent rate of one inch for each 2.8 feet in height.

3. Consideration may be given to allow smaller caliper trees if they are part of a replacement plan that specifies a mixture of sizes and intended to simulate as natural woodland habitat.

b. Replacement rate for protected trees. Protected trees must be replaced at a rate of 50 percent of the total DBH removed. Each protected tree must be replaced with a tree that is a minimum of three-inch caliper or seven feet in height for deciduous shade trees, and six feet in height for evergreen trees.

c. Diversity of tree species shall be maintained where essential to preserving a wooded area.

d. The location of transplanted trees and required woodland replacement trees must be provided on the landscape plan. Transplanted and replacement trees shall be clearly distinguished from required landscape elements.

e. Trees required to be planted in accordance with this section shall be in place and properly supported prior to the issuance of a final certificate of occupancy.

f. All purchased replacement trees shall satisfy American Association of Nurseryman standards, including:

1. Nursery grown.
2. Clean and free of weeds and noxious pests and diseases.
3. Tree spade transplanted while in the dormant state or, if not in the dormant state, having been balled and burlapped with a solid well-laced root ball when in the dormant state.
4. Number one grade, with straight unscarred trunk and a well-developed uniform crown. Park grade trees are not acceptable.
5. Staked, watered and mulched in accordance with standard planting practices.

g. Replacement trees shall be guaranteed for a minimum of one year, including labor. After one year, dead or diseased trees must be replaced prior to final Village approval.

h. Where it is not reasonable or desirable to relocate or replace trees on site, relocation or replacement may be made at another approved location within the Village.

i. The term "protected tree" means any tree that is six inches DBH or greater in size.

(2) *Tree protection procedures.* Prior to construction, land clearing, filling, and/or land alteration, the applicant shall do the following:

a. All trees for which application is being made for removal shall be so identified on-site by fluorescent orange spray paint (chalk based) or by fluorescent orange flagging tape prior to field inspection by the Village. Trees selected for transplanting shall be flagged with a separate distinguishing color.

b. Protective fencing shall be erected which restricts access to protected areas.

1. Fencing shall be installed five feet outside the tree dripline or tree groupings, unless it can be demonstrated that this is not practical.

2. Stakes for fencing shall be staked into the ground, with stakes spaced at a maximum of ten feet.

3. The protective fencing shall be maintained and all construction materials, supplies and equipment shall be kept outside of the protective areas.

4. Fencing material shall be a minimum of 48 inches high. Acceptable materials include green or orange snow fence and galvanized or vinyl-coated chain link.

c. Tree protection shall remain in its approved location until such time removal is authorized by the Village. During construction, no attachments or wires shall be attached to any trees which are protected. Wood, metal or other substantial material shall be utilized in the construction of barriers.

d. No activity shall be conducted within ten feet of the tree dripline, including, but not limited to, placing of any solvents, material, construction machinery, vehicles, or soil.

e. The location of fencing may be adjusted, as administratively approved, in the field to accommodate site-specific conditions or constraints.

f. The developer and/or the builder shall be responsible to inform all subcontractors, suppliers and tradesmen that they are to help maintain the trees and will be held responsible for any unauthorized damage to trees and woodlands.

g. Prior to issuance of a temporary certificate of occupancy or certificate of occupancy, all required replacement trees shall be planted in accordance with the approved plans, or deposit in the amount of the estimated tree replacement and transplant costs to be refunded in full at time of completion.

(3) *Replacement of trees during construction.* The developer or builder shall be required to replace trees originally intended to be preserved when such trees are damaged during construction. The replacement requirements for such damaged trees shall be one caliper inch for each one caliper inch DBH of the damaged trees.

(4) *Tree maintenance and replacement.* If any of the trees required to be retained or trees planted as part of the landscaping plan should die within a period of 12 months after completion of the activities associated with the tree removal permit, the owner of the property shall replace the trees within six months at a ratio of one-to-one with an approved tree having a minimum of three-inch caliper or eight feet in height for evergreens. Shrubbery or other plantings that die within 12 months of completion of the activities shall be replaced in kind within six months.

(5) *Variances.* An appeal may be made to the Zoning Board of Appeals if a practical difficulty makes strict compliance with this article impractical. In determining the existence of a practical difficulty, the Zoning Board of Appeals shall consider:

a. The intent and purpose of this article;

b. The character and community value of the protected trees affected; and

c. The presence of unique circumstances which makes compliance with this article physically impractical.

(6) *Restoration.*

a. The contractor shall restore all disturbed areas to the finished grade shown or to conform with existing grades and provide a smooth and uniform surface to meet existing ground surface. Ground cover must be established and conform to the approved site plan and landscaping plan.

b. Where areas are to be planted at a later date or construction schedules result in areas exposed for extended periods, they are to be temporarily seeded with an annual rye grass to prevent erosion as soon as rough grade is established. Restored areas shall be replanted as needed to provide a well-established vegetative ground cover.

c. The contractor shall go over the entire area and regrade and fill any areas that may have settled, including fills made from excess excavated materials and all other areas that may have been disturbed during construction operations. Ground covers must be established on all such areas after repair.

d. Where established lawn or grass areas have been disturbed by the contractor's operations, the contractor shall provide, unless otherwise specified or called for on the drawings or in the specifications, not less than tire minimum depth of approved topsoil and shall grade, seed, fertilize and mulch or install Class A sod where directed by the Village.

e. Restoration areas are to be kept moist by the contractor for 14 days after planting to ensure growth.

(7) *Public and private utilities.*

a. The contractor must provide adequate protection for water, sewer, gas, telephone, TV, cable, fiber optics, drainage, or any other public or private utilities encountered. The contractor will be held responsible for any damages to such utilities arising from his or her operation.

b. When it is apparent that construction operations may endanger the foundations of any utility conduit, or the support of any structure, the contractor shall notify the utility owner of this possibility and shall take steps as may be required to provide temporary bracing or support of conduit or structures.

c. When construction operations may impact existing drainage facilities, the contractor shall make necessary provisions to maintain the integrity of the drainage facility and of flow. In all cases where permits or inspection fees are required by utilities in connection with changes to or temporary support of their conduits, the contractor shall secure such permits and pay all inspection fees.

d. Where it is necessary in order to carry out the work that a pole, electric or telephone be moved to a new location, or moved and replaced after construction, the contractor shall obtain applicable permits and arrange for the moving of such pole or poles, and the lines thereof, and shall pay any charges therefor.

e. Where it is the policy of any utility owner to make repairs to damaged conduit or other structures, the contractor shall cooperate to the fullest extent with the utility and shall see that construction operations interfere as little as possible with the utilities operations. The contractor shall pay any charges for these repairs.

f. Where existing gas mains and services are encountered, the contractor shall arrange with the gas company for any necessary relaying, and shall pay for the cost of such work unless otherwise provided.

(8) *Pumping, bailing and draining of trenches.*

a. The contractor shall provide and maintain adequate pumping and drainage facilities for removal and disposal of water from trenches or other excavations. No direct discharge to existing water courses is permitted. The contractor shall contact the Village for approval of the discharge point.

b. In any event, all pumping and drainage shall be done without damage to any roadway or other property, public or private, and without interference with the rights of the public or private property owners and in accordance with the MDEGLE and local requirements for soil erosion and sedimentation control.

(9) *Sheeting, shoring and bracing.* Where necessary, in order to construct the work called for on the approved plans, the contractor shall use and, if necessary, leave in place such sheeting, shoring, and bracing as is needed to carry out the work or to adequately ensure the stability of such work, to protect adjoining areas.

(10) *Disposal of excavated material.* With the exception of an amount of excavated materials sufficient for backfilling and construction of fills, as called for on the drawings, all broken concrete, stone, and excess excavated materials shall be disposed of away from the site by the contractor unless an on-site disposal area has been reviewed and approved by the Village during the site plan review process. The contractor will be required to obtain his or her own disposal ground and indicate the location at the pre-construction meeting. If disposal site is within the Village, the site must have prior written approval from the Village.

(11) *Disposal of waste materials.* Unless otherwise directed by the applicant or Village, all scrap lumber, stumps, brush, concrete, other waste materials and debris resulting from the construction work shall be removed from the premises. No waste materials may be buried or burned on site. Wood may be chipped and used on site for landscaping mulch or paths, but wood chip stockpile areas must be approved by the Village.

(12) *Tunneling.* The contractor shall construct the work in tunnel where shown on the drawings or required by permits, and at other locations may, at his or her option, construct the work in tunnel where it crosses existing roadways, public and private utilities, walks or other structures. Tunnel work shall be constructed in accordance with the drawings and specifications, road permit requirements, or as otherwise noted on the drawings.

(13) *Site dewatering.*

a. Any anticipated construction dewatering activity requires approval by the Village during the site plan review process. If the unexpected need for dewatering arises during construction, dewatering provisions must be submitted to and approved by the Village prior to dewatering.

b. The dewatering provisions shall include the number and location, depth, and size of all proposed pumps. The maximum flow from each pump should be indicated. In addition, the provisions shall indicate the precise location for discharge of the water. All water must be retained on site, unless extenuating circumstances are demonstrated and the Village approves of the concept to discharge off site. The contractor shall be responsible for obtaining permission from the appropriate property owners and regulatory agencies that may have jurisdiction over the proposed receiving waters for off-site discharge. Proper soil erosion control and water quality measures must be properly installed at the outlet.

(14) *Progress of work.*

a. The work shall start promptly and continue uninterrupted.

b. If the Village determines it is necessary or advisable that certain portions of the work be done immediately, the contractor, upon written order, shall proceed with such work without delay.

(15) *Explosives.* If explosives are used, the contractor shall comply with all laws, rules, and regulations governing their use. The contractor shall be fully responsible for the safety of all persons and property and any approval by the Village shall not relieve the contractor of such responsibility. It shall also be the contractor's responsibility to provide written notification to property owners and tenants within 200 feet of the use of explosives at least 24 hours in advance.

(16) *Schedule of operations.* If requested by the Village, the contractor shall submit, for the Village's review and approval, a schedule of his or her proposed operations. The contractor's schedule shall be complete and shall show in detail the manner in which he or she proposes to complete the work under his or her contract.

(17) *Requirements pertaining to work within railroad rights-of-way.* Where the contract drawings call for work within railroad rights-of-way or where the work crosses under railroad tracks, the contractor shall secure the approval of the railroad company of the method and schedule of operations and shall carry out the work in strict accordance therewith, all to the satisfaction of the railroad company. Plan notes, provisions, requirements, and the like, for the railroad right-of-way work must be shown on the plans.

(18) *Dust control.* The contractor shall provide adequate measures to control dust caused by his or her operation. The methods employed, and frequency of application shall be as approved or as directed by the Village.

(19) *Construction noise compliance.* The applicant shall comply with all applicable local regulations dealing with construction noises.

(20) *Testing.*

a. Testing shall be required as specified in the respective chapter detailing the item of work to be completed. Generally, testing will be required when, but not limited to, engineering fill or trench backfill, pavement compaction, concrete break testing, subgrade compaction, and the like. Testing may be required in circumstances where unstable soils are encountered and are to be removed and replaced. Additional testing as determined by the applicant is encouraged.

b. The contractor shall obtain the services of a certified testing laboratory approved by the Village Engineer. This laboratory will perform all material testing. Copies of the results shall be furnished to the Village and Village Engineer.

c. For materials covered by ASTM, AWWA, state and/or federal specifications, the required tests are to be made by the manufacturer or supplier and his or her certificates submitted to the Village Engineer.

d. At the request of the Village Engineer, soil density and compaction tests must be made by a representative of the applicant and will be paid for by the applicant. The tests will be reviewed and accepted by the Village Engineer.

(21) *Samples.*

a. Where requested by the Village or these standards, samples of materials in the quantity required shall be submitted to the Village Engineer for approval. The work shall be in accordance with approved samples.

b. Samples are to be forwarded to the Village Engineer with all shipping charges prepaid, boxed or wrapped separately and each labeled with the name of the material, the name of the producer, the contractor furnishing the same and use for which the material is intended.

(22) *Subcontracts.* The contractor shall be fully responsible to the Village for the acts or omissions of his or her subcontractors and for anyone employed directly or indirectly by him or her or them. The contractor shall bind every subcontractor and every subcontractor shall be bound by these standards, as far as applicable to his or her work, unless otherwise specifically approved in writing by the Village.

(23) *Equivalent materials and equipment.* Whenever any of the material or equipment is defined by describing a proprietary product, or by using the name of a manufacturer or vender, the term "or equal," if not inserted, shall be implied. The specific article, material, or equipment mentioned shall be understood as indicating the type, function, minimum standard of design efficiency and quality desired and shall not be construed in such a manner as to exclude manufacturers' products of comparable quality, design and efficiency. Other manufacturers' products will be accepted provided sufficient information is submitted by the project engineer with their approval to use the alternate material to the Village Engineer to determine that the products proposed are equivalent to those named. Whenever material or equipment is submitted for approval as being equal to that specified, the final decision of whether or not such material or equipment is equal to that specified shall be made by the Village Engineer. Upon rejection of any material or equipment submitted as the equivalent of that specifically named, the contractor shall immediately proceed to furnish the designated material or equipment. The approval by the Village Engineer of alternate material or equipment as being equivalent to that specified shall not in any way relieve the contractor of responsibility for failure of the material, or workmanship, to perform the functions required of them.

(24) *Contractor's responsibility.* The contractor shall assume full responsibility for the work, specifically including job site safety, and take all precautions for preventing injuries to persons and property on or about the work; shall bear all losses resulting to him or her on account of the amount or character of the work or because the conditions under which the work is done are different, or because the nature of the ground in which the work is done is different from what was estimated or expected, or on account of the weather, floods, elements or other causes, and in accordance with section 38-72(6), he or she shall assume the defense and save harmless the Village, Village Engineer, and their individual officers and agents from all claims arising out of the work performed or to be performed; and to any act, or neglect of the contractor, his or her agents or employees.

(25) *General requirements for materials and workmanship.* The contractor shall furnish suitable tools and equipment and employ competent labor to perform the work to be done. Any labor or tools or appliances that shall not, in the judgment of the Village Engineer, be suitable or competent to produce this result may be ordered from the work by the Village Engineer.

(26) *Storage of materials.* Materials and equipment distributed, stored and placed upon or near the site of the work shall at all times be so disposed as not to interfere with work of other contractors, with drainage, fire hydrants or with access thereto and not to hinder traffic.

(27) *Contractor's supervision and origination.*

a. The general contractor shall give efficient supervision to the work. The contractor shall at all times keep on the site of the work, during its progress, a competent superintendent and any and all necessary foremen and assistants. The superintendent shall represent and have full authority to act for the contractor in the latter's absence, and all directions given to him or her shall be as binding as if given to the contractor. On request in each case, all such directions will be confirmed in writing to the contractor.

b. Copies of the drawings and specifications shall at all times be kept on file by the contractor at readily accessible points at or near the work.

(28) *Facilities for inspection.* The Village, their agents, and their employees shall at all times have the right to enter upon the premises upon which work is being done, or upon which material is stored, to inspect the work and materials and to ascertain whether or not the construction is carried out in accordance with the approved plans. The contractor shall promptly remove from the premises all materials rejected by the Village Engineer as failing to meet standard requirements, without expense to the Village.

(29) *Cleaning up.* The contractor shall remove from the site and from all public and private property all temporary structures, rubbish and waste materials resulting from his or her operations on a regular basis so as not to create a nuisance.

(30) *Prohibition of salvaged materials.* No secondhand or salvaged materials will be permitted, except upon specific written authorization from the Village.

(31) *Trench enclosures.* All trenches shall normally be backfilled at the end of the workday. Only under special conditions and with the approval of the Village Engineer shall trenches be left open overnight. Trenches which are allowed to be left open overnight shall be completely enclosed with suitable fencing or lighted barricades. When the trench contains water or when required by the Village Engineer, the exposed end of the pipe shall be securely closed with a watertight plug.

(32) *Cleanup scheduling.*

a. General cleanup, including completion of rough grading of backfilled trench areas, shall continuously progress along with, and shall lag no further than 100 feet behind, the pipe installation operations.

b. Fine grading and restoration work not dependent on weather or subject to seasonal limitations shall also progress concurrently with and shall lag no further than 500 feet behind pipe installation operations.

(33) *Excavation.* The trench shall be excavated so that the pipe can be laid to the alignment and grade shown on the plan, taking into consideration the bedding specified. Excavation shall include removal of all materials encountered and disposal (off the site) of those materials not suitable or needed for backfilling of the trench. Excavation shall not proceed ahead of pipe laying a distance that will result in a cave in. All adjacent structures encountered, above and below the ground surface, shall be properly supported.

(34) *Width of trench.*

a. If the maximum trench widths noted on the plans are exceeded, unless otherwise authorized by the Village Engineer, the contractor shall construct a concrete cradle or other type of approved bedding to provide support for the additional load.

b. When sand bedding is used, the maximum trench widths shall be used to permit compaction of the bedding around the pipe.

c. If stone bedding is used, a minimum six-inch clearance shall be provided on each side of the pipe with the maximum trench width as tabulated.

(35) *Pipe bedding.*

a. Pipe bedding is defined as the material placed from a minimum of four inches below the pipe to the centerline of the pipe. It shall consist of stone or sand, as noted on the bedding detail. The bedding shall be removed under the bell so that the pipe barrel will be uniformly supported for its full length.

b. The bedding material shall be placed and compacted uniformly on both sides of the pipe to prevent lateral movement. Mechanical methods of tamping shall be used when it is possible to do so without damaging the pipe. Bedding shall be placed in layers of six inches or less as necessary to obtain thorough compaction around the pipe.

c. In the event density tests become necessary to resolve a question of the sufficiency of compaction of bedding material, the minimum acceptable density shall be considered to be 95 percent of maximum density as determined by the AASHTO T99 method.

d. Stone used for bedding shall not lose more than seven percent by washing. Stone used for this purpose shall pass a three-quarter-inch sieve and be retained on a one-quarter-inch sieve.

(36) *Concrete cradle.* Where called for on the plans, a concrete cradle shall be constructed using MDOT Grade 30P concrete. The cradle shall extend half-way up the sides of the pipe.

(37) *Laying of pipe.*

a. Proper and suitable tools and appliances for the safe and careful handling, conveying, and laying of the pipe shall be used. Care shall be taken to prevent the coating of castings or ductile iron pipe from being damaged. Pipe, valves, hydrants, and fittings strung along the route shall be placed in such a manner that they will not be submerged or collect water. Dropping of material directly from a truck or platform is prohibited. All pipe and castings shall be carefully examined for defects. If any materials are found to be defective, they shall immediately be removed from the site.

b. All lumps, blisters, and excess coal-tar coating shall be removed from both the bell and spigot ends of each length of pipe and each fitting. The outside of each spigot and the inside of each bell shall be wire brushed and wiped clean, dry, and free from oil or grease immediately prior to installation. The inside of the pipe shall be free of dirt and debris. Any damage to exterior pipe coating shall be repaired with an approved coating before the pipe is laid.

c. Each pipe shall be inspected by the contractor for possible defects and compliance with the plans before being placed in the trench. Joint surfaces shall be free of foreign matter. Pipe laying operations shall follow immediately behind the excavation.

d. Pipe shall be laid from the lower end of the sewer upstream, with bell ends up grade. The use of brick, lumps of clay, wood, and the like, to level the pipe will not be permitted. Pipe shall be thrust home and if joints do not remain tightly closed or construction is in saturated sand, a cable and winch, or other approved means, shall be used to maintain a tight joint. Under no circumstances shall pipe be dropped directly into the trench.

e. All pipe shall be laid to line and grade as called for on the plans. Each pipe as laid shall be checked by the contractor. The trench shall be excavated to provide equal clearance on both sides of the pipe. After the pipe is set, care shall be taken in backfilling so as not to disturb its line or grade. As work progresses, the interior of the pipe shall be thoroughly cleaned. At all times the open ends of the pipe shall be covered to prevent foreign matter from entering.

(38) *Backfilling.*

a. Backfilling is defined as the placement in the trench of approved material by an acceptable method, from the top of the bedding to proposed ground surface grade. All backfill material shall be free from cinders, ashes, refuse, organic matter, boulders, rocks or stones, or other material which, in the opinion of the Village Engineer, is unsuitable. Unless otherwise authorized by the Village Engineer, all excavations shall be backfilled at least to a point one foot above the pipe immediately after installation.

b. From the center of the pipe to a point one foot above the top of the pipe, the trench shall be backfilled with sand approved by the Village Engineer, placed in six-inch layers, and thoroughly compacted.

c. Backfilling to grade shall not fall more than 100 feet behind pipe laying unless otherwise permitted by the Village Engineer. In locations where compaction of the backfill to a specific density is not required by these standards, backfill may, where practicable, be machined placed. Excavated material (other than clay) may be used for backfill and compacted by a small dozer in lifts of not over nine inches loose measure. Machine compaction of backfill may be required by the Village Engineer.

d. No frozen material shall be buried more than two feet below the final elevation of ground. At no time shall frozen materials be permitted for use as backfill under pavement structures.

e. All backfill placed within three feet of manholes, catchbasins, gate wells and other underground structures shall be approved sand, placed in one-foot layers and compacted. After the structure and/or exterior masonry plaster has set up sufficiently to resist damage, backfilling shall be performed in a manner that will not cause unequal pressure on the structure.

(39) *Construction in unstable soils or fill sections.*

a. Pipe and pipe appurtenances must be supported on a firm foundation. The trench bottom shall remain stable during backfilling and all subsequent pipe laying operations. When unstable trench bottoms (wet clays, sands, and the like) are encountered, it will be necessary to excavate below design depth to stable, noncompressible ground and backfill to grade with approved select materials: slag, crushed stone, gravel, and the like, one-quarter inch to three-quarter inch in size.

b. Where organic materials (peat, marl, muck, and the like) exist at the trench bottom, it shall be necessary to remove these to stable soils and backfill to grade with the aforementioned select materials. Where the material below plan grade is

unstable to such a degree that it cannot be removed and replaced with an approved material, the contractor shall construct supports as recommended by the project engineer and approved by the Village Engineer.

c. Where it is necessary to lay pipe in a fill area, unstable or unsuitable material shall be removed before fill material is placed. The embankment shall be of suitable material, one vertical on two horizontal fill slopes, and shall be placed in layers not exceeding one foot in thickness compacted to 100 percent of maximum density as determined by the AASHTO T99 Method, to the proposed top of the pipe. The embankment shall not be less than four diameters plus 12 feet wide at the invert of the pipe and shall be continued up to provide no less than three feet of cover over the pipe.

(40) *Pipe clearance in rocks.* Rocks, boulders, and stones over two inches in diameter shall be removed to provide a clearance of at least six inches from any part of the pipe or appurtenances.

(41) *Roadway and waterway crossings.* All work within a road right-of-way or a waterway shall be performed in accordance with the requirements of the governmental body having jurisdiction over the right-of-way involved. Notice and permits as required shall be given and secured from said governmental body before work starts.

(42) *Trench box.* If the trench box rides below the top of the pipe, then care must be taken to protect the integrity of the pipe bedding, particularly when movement of the trench box leaves a void in the pipe bedding. Care must also be taken to ensure that movement of the trench box does not pull the pipe joints apart and, if necessary, the pipe lines should be secured with a wood cross-block, cable, and winch at the downstream manhole.

(43) *Bored and jacked casings.*

a. *Requirement.* The boring and jacking of steel casings shall be installed in any areas considered to be detrimentally affected by open cut construction in the opinion of the Village.

b. *Materials.*

1. *Casing pipe.* Steel casing pipe shall be electronic-fusion welded pipe, conforming to the requirements of ASTM A-39, Grade B, with minimum one-quarter inch wall thickness. Pipe ends shall be prepared for field welding of circumferential joints.

2. *Carrier pipe.* Pipe materials shall conform to that specified in the applicable sections of these standards.

3. *Grout.* Grout material shall be cement-sand mixture containing not less than one part cement to one part sand, unless otherwise approved by the Village Engineer.

4. *Pipe skid.* Necessary skidding materials required to protect the pipe during installation shall be approved by the Village Engineer and furnished by the contractor.

c. *Installation.*

1. *Casing pipe.* Casing pipe shall be installed in a continuous augering (or mining) and jacking operation with the casing pipe installation following directly behind the face of the excavation. Water shall not be introduced during the boring-jacking operation.

2. *Grouting.* The annular space between the outside surface of pipe and the inside surface of casing pipe shall be pressure grouted with approved materials. The diameter of the casing pipe shall be of sufficient size to ensure proper placement of the pipe to plan line and grade and to allow the proper installation of pressure grouted material. The ends of the casing pipe shall be closed with a masonry bulkhead at least eight inches thick.

3. *Minimum boring distances.* All work shall be performed from boring and jacking pits adequately sheeted to prevent damage to the roadway, railway, and the like. The minimum distance from the edge of the pavement to the trench or boring and jacking pit for dual highway and interstate routes shall be 30 feet. For curb or guardrail section, railway track, or two-lane highway, the minimum distance will vary from shoulder point to the toe of slope, as shown on the plans or as directed by the Village Engineer.

(44) *Rip-rap.*

a. Rip-rap shall be installed at all locations as indicated on the plans.

b. Typically, all rip-rap shall be installed on a suitable geotextile fabric.

c. Rip-rap material shall be natural stone, limestone, or broken concrete free of any reinforcement.

d. Average diameter shall be as indicated on the plans.

e. Rip-rap shall be placed so individual stones are fit together to form an interlocking mat. Smaller stones are to fill any large voids.

f. Grouting rip-rap is permitted in lieu of supplementing settlement.

(45) *Maintenance of traffic.*

a. During the progress of the work, the contractor shall accommodate both vehicular and pedestrian traffic as provided in these specifications and as indicated on the drawings. In the absence of specific requirements, traffic shall be maintained in accordance with the current edition of the state Manual of Uniform Traffic Control Devices. Access to lire hydrants and water valves shall always be main-

tained. The contractor's truck and equipment operations on public roads shall be governed by county regulations, all local traffic ordinances, and requirements of the Fire and Police Departments.

b. Small road openings necessary for manholes, alignment holes, sewer connections, and the like will be permitted. Such holes shall not be open longer than necessary and shall be protected and any traffic detouring necessary shall be done to the satisfaction of the Village. Wherever possible, small openings shall be covered with steel plates at pavement level secured in place during periods that work is not being performed.

c. Where roads are partially obstructed, the contractor shall place and maintain temporary driveways, ramps, bridges and crossings which in the opinion of the Village are necessary to accommodate the public. In the event of the contractor's failure to comply with the foregoing provisions, the Village may, with or without notice, cause the same to be done at the contractor's expense.

d. The contractor shall provide flagmen, warning lights, signs, fencing and barricades necessary to direct and protect vehicular and pedestrian traffic.

e. The contractor shall inform the Police and Fire Departments in advance of work operations of road obstructions and detours, so that they can set up plans for servicing the area in case of an emergency. The Village Manager's Office, Police Department, and Fire Department shall be notified one week prior to obstructing any road, except for emergencies.

(Code 1996, § 151.074; Ord. No. 31.26, 5-13-2013)

**Secs. 38-134—38-164. Reserved.**

## DIVISION 5. AS-BUILT DRAWING PROCEDURES AND REQUIREMENTS

### Sec. 38-165. Intent.

Prior to the Village's final approval of any site improvements or the final acceptance of any public utilities, which the Village will accept for maintenance and operation, as-built drawings must be submitted to the Village for review and acceptance.

(Code 1996, § 151.090; Ord. No. 31.26, 5-13-2013)

### Sec. 38-166. Procedure.

As-built drawings shall be initially submitted in the form of two sets of prints with blue or black lines. Upon the approval of the as-built drawings by the Village Engineer, complete sets of reproducible Mylar drawings, a minimum of three mils thick, together with two complete sets of blue-line or black-line prints, shall be submitted to the Village Engineer for distribution and archives. The Village may, at their discretion, also require the plans to be submitted in

digital format. The number of as-built mylar plan sets shall be determined by the Village. The applicant shall receive copies of any inspection/observation reports from the Village Engineer. This information is only intended to supplement their own as-built survey, contractor reports, and field observation and are not intended to be a complete record for all construction activities for the subject project or the only source of documentation to provide the as-built information required herein.
(Code 1996, § 151.091; Ord. No. 31.26, 5-13-2013)

**Sec. 38-167. Certificate of occupancy.**

As-built drawings shall be provided prior to a full certificate of occupancy.
(Code 1996, § 151.092; Ord. No. 31.26, 5-13-2013)

**Sec. 38-168. Criteria.**

As-built drawings shall contain, but are not limited to, the following information:

(1) *General plan requirements.* The plans shall contain all information as shown on the approved plans:

a. The as-built plans shall include all information as included in division 3 of this article, such as location map, legend, project contacts, and the like;

b. The plans shall be clearly labeled as-built on each sheet;

c. All as-built survey data shall tie into the same site benchmarks as those used for the construction plans.

(2) *Grading, site drainage and open channel storm systems.* As-built grading plans shall include, but are not limited to, the submittals of a master grading plan with any deviations from the approved grading plan noted on the drawing. The plan must also include all drainage courses and open ditch or swale drainage conveyance facilities. In general, the as-built grading plan is to provide the Village with an accurate plan to verify that individual plot plans, where applicable, conform to the overall grading and drainage pattern.

(3) *Enclosed storm sewer system.* As-built storm sewer system plans shall include, but are not limited to, length, diameter, invert and rim elevations and percentage of grade in plan and profile view. As-built plans shall also include structure locations (shown with a minimum of two offsets from property lines or an as-built coordinate table), material and joint type used, and quantities.

(4) *Stormwater management facilities.* As-built detention or retention plans shall include, but are not limited to, as-built contours, adequate spot grades to substantiate these contours, all overflow and outlet invert elevations, and labels identifying the permanent water, high water, and freeboard elevations. Also, as-built volumetric calculations must

be included in the plans which include the required volume calculations from the approved plans and as-built calculations. It must be certified on the as-built drawings that any maximum basin side slopes, as stipulated on the approved plans, have not been exceeded, and also the required storage volume for the basin has been provided. If the approved plans require perimeter fencing, it must also be shown and properly as-built. Furthermore, any restrictor location and size must also be as-built.

(5) *Paving.* As-built paving plans for roads, parking lots, sidewalk paths, and the like shall include, but are not limited to, centerline elevations, curb and gutter elevations, where installed, pavement widths, and sidewalk lengths. Also, any entrance improvements such as turn lanes, acceleration/deceleration lanes, and the like must also be properly as-built.

(6) *Sanitary sewer collection system.* As-built sanitary sewer system plans shall include, but not be limited to, length, diameter, invert and run elevations and percentage of grade in plan and profile view. As-built plans shall also include structure location (shown with a minimum of two offsets from property lines or an as-built coordinate table), material and joint type, and quantities. Also, sanitary sewer house lead information is required. This shall include lead length, distance of wye from downstream manhole, a triangulation dimension and invert depth below grade. This information can be shown in an as-built table or using the symbology as provided by the Village Engineer.

(7) *Water distribution facilities.* As-built water system plans shall include, but not be limited to, lengths, diameters, gate well and hydrant finished elevations, locations of all hydrants, structures, gate wells, tapping sleeve and wells, meter pits, PRVs, and the like (shown with offsets from property lines or an as-built coordinate table), and materials used, including the make and model of the hydrants and quantities.

(8) *Fire suppression facilities.* As-built plans shall include, but not be limited to, where applicable, all dry hydrant dimensions, all dry hydrant assembly parts/fittings information, supply size (e.g., tank dimensions, pond contours and calculations). For fire suppression mains serving building suppression systems, tapping sleeve and valve box locations and building Fire Department connections must be as-built.

(Code 1996, § 151.093; Ord. No. 31.26, 5-13-2013)

**Sec. 38-169. Certification.**

All as-built plans shall contain a statement by a licensed professional who is currently registered in the state, certifying the drawings to be as-built. All plans must also contain the seal and signature of the registered professional.

(Code 1996, § 151.094; Ord. No. 31.26, 5-13-2013)

**Secs. 38-170—38-191. Reserved.**

## DIVISION 6. DESIGN AND CONSTRUCTION STANDARDS FOR CLEARING, GRADING, AND SURFACE DRAINAGE

**Sec. 38-192. Approval of standards.**

The Village Council may approve by resolution design and construction standards, including, but not limited to, the following subject matters:

(1) Clearing, grading and surface drainage;

(2) Soil erosion control;

(3) Stormwater management;

(4) Storm sewers;

(5) Wetlands;

(6) Floodplains;

(7) Streets, driveways, pedestrian facilities and paving;

(8) Water mains;

(9) Sanitary sewer collection systems; and

(10) Franchised utilities.

(Code 1996, § 151.110; Ord. No. 31.26, 5-13-2013)

**Secs. 38-193—38-224. Reserved.**

## ARTICLE III. SIGN REGULATIONS

**Sec. 38-225. Purpose.**

It is the purpose of this article to regulate signage in all zoning districts so the Village may:

(1) Reduce visual clutter that is unsightly, confusing, and distracting;

(2) Preserve architectural character of buildings and streetscapes so they are not overwhelmed or obscured by signage;

(3) Promote the use of creative and appropriate signage which will enhance the economic viability of the Village;

(4) Regulate the construction, alteration, repair and maintenance of all signs with respect to structural and fire safety;

(5) Effect the removal of illegal and nonconforming signs; and

(6) Ensure the health, safety and welfare of the residents of the Village by prohibiting signage that creates a traffic hazard or otherwise adversely impacts public safety.

(Code 1996, § 155.01; Ord. No. 14.21, 5-23-2018)

**Sec. 38-226. Definitions.**

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

*Abandoned sign* means a sign that advertises a business, lessor, owner, product, service or activity that is no longer located on the premises where the sign is displayed. Whether a sign has been abandoned or not shall be determined by the intent of the owner of the sign and governed by applicable law.

*Add-on sign* means a sign that is attached as an appendage to another sign or sign support.

Add-on Sign

*Animated sign* means any sign, display, device or portion of sign which is designed to provide movement of any part of the sign. Animated signs also include any artificial light which flashes, scrolls or gives the appearance of movement at any time (see *Flashing or moving sign*).

*Awning* means a retractable or fixed roof-like shelter projecting from and attached to the exterior wall of a building, typically located over a window or door.

*Awning sign* means any sign that is painted on, printed on, cut out from, projected on, or attached to the surface of an awning.

*Banner sign* means any sign on paper, cloth, fabric, adhesive material or other non-rigid material of any kind, with or without frames.

*Billboard* means a sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered other than on the premises (see *Off-premises sign*).

*Canopy* means a roof-like architectural structure or shelter without walls that is usually freestanding, as in a gas pump canopy.

*Canopy sign* means any sign that is painted on, printed on, cut out from, projected on, or attached to the surface of a canopy.

*Changeable copy sign (electronic)* means a sign or part of a sign where the individual letters, images, numbers or any part of the sign face can be changed electronically in display. Electronic changeable copy signs do not include animated signs or flashing or moving signs, as defined herein.

*Changeable copy sign (manual)* means a sign or part of a sign that is designed so that the message can be changed or rearranged without altering the face or surface of the sign, by physically replacing the characters, letters or illustrations, but not by electronic or electric means.

Changeable Copy Signs - Manual and Electronic

*Directional sign* means a sign located on the premises of an establishment which indicates traffic flow.

*Double-faced sign* means a sign on which both sides are visible and used as signs. A sign is considered double-faced when the angle of intersection of the faces is less than 90 degrees.

*Entranceway sign* means an architectural feature that defines, identifies, and differentiates the entrance to a residential subdivision, apartment community, condominium development, mobile home park or office, business or industrial park, or similar development.

*Flag* means a banner of distinctive design used as a symbol, standard or emblem.

*Flashing or moving sign* means a sign or any part of a sign that has intermittently reflecting lights, or which uses intermittent, flashing, scintillating, or varying intensity of illumination or color to create the appearance of movement, or that has any visible portions in motion, either constantly or at intervals, whether caused by artificial or natural means (see *Animated sign*).

*Ground sign* means a sign supported by one or more uprights, poles, braces, a masonry base, or a monuments placed in or upon the ground, fastened to a secure and permanent foundation, and not attached to any building. Ground signs include monument signs, pole signs and pylon signs.

*Monument sign* means a ground sign mounted on a base that is in contact with the ground.

**Ground Sign: Monument Sign**

*Monument sign base* means the lower part of a monument sign, which may appear as a separate architectural feature, typically constructed of brick, stone or other masonry, and which serves as the sign's ground support.

*Pole or pylon sign* means a ground sign mounted on a freestanding pole or other support with a clear space between the bottom of the sign face and the grade.

**Ground Sign: Pole Sign**

*Historical marker* means any sign issued by the state historical commission or other state or federal historical agency.

*Illuminated sign* means a sign that is lighted by a direct or indirect source of light.

*Incidental sign* means a small sign designed and located to be read only by people within the site and generally not visible or legible from the right-of-way or adjacent properties. Examples include, but are not limited to, credit card signs, signs indicating hours of business, open or closed signs, no smoking signs, signs on ATMs, vending machines, kiosks, charitable collection boxes and similar structures, signs used to designate bathrooms, handicapped signs, traffic control signs that conform to the requirements of the state Manual of Uniform Traffic Control Devices, and other signs providing information to be read at close proximity.

*Inflatable sign* means a sign that is either expanded or its full dimensions are supported by gases contained within the sign, or a sign part, at a pressure greater than atmospheric pressure.

*Lot.* See *Zoning lot.*

*Marquee* means a permanent, roofed structure attached to and supported by the building and projecting over public property.

*Marquee sign* means a sign attached to or hung from a marquee, projecting from and supported by the building.

**Marquee Sign**

*Mural* means a large picture, image, design or representation of artistic nature painted, adhered, drawn or sculpted on a vertical exterior building wall which may or may not contain text, logos, or symbols.

**Mural**

*Neon sign* means a sign consisting of glass tubing, filled with neon or another gas, which glows when electric current is passed through it.

*Nonconforming sign* means any sign that was lawfully erected and maintained prior to the effective date of the ordinance from which this chapter is derived and any amendments thereto, and that fails to conform to all applicable chapter regulations.

*Off-premises sign* means a sign which contains a message unrelated to a business or profession conducted on the premises, or to a commodity, service or activity not sold or offered upon the premises on which the sign is located (see *Billboard*).

*Pennant* means a long, tapering, triangular flag, often bearing an emblem.

*Permanent sign* means a sign attached or affixed to a building, window, structure or to the ground in a manner that enables the sign to resist environmental loads, such as wind, and that precludes ready removal or movement of the sign and whose use appears to be indefinite.

*Portable sign* means a sign constructed to be readily movable from one location to another and not permanently affixed to a building, structure or the ground, such as, but not limited to, A-frame, T-shaped or inverted T-shaped structures, including those mounted on wheeled trailers. Portable signs shall not include yard signs as defined in this section. See *Vehicle sign.*

*Premises* means a lot, combination of lots or parcels of property in the same ownership or control which are not divided by a public street, and which form a complete parcel of land for development purposes.

*Projecting sign* means a sign attached at one end to a building, other structure or any part thereof, and extending beyond the attachment surface by more than 12 inches. A projecting sign is typically mounted perpendicular to the building wall and is distinguished from a wall sign based on the distance the sign extends from the surface of the building.

**Projecting Sign**

*Roof sign* means any sign mounted upon, above or supported by the roof of any building or structure, except that a sign mounted upon a mansard fascia that does not project above the highest point of the roof or parapet shall be a wall sign.

*Sign* means the name, identification, description, object, device, structure, display or illustration that is affixed to, or painted, or represented directly or indirectly, upon a building, structure or piece of land, and which directs attention to an object, product, place, activity, person, institution, service, event, organization or business by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images, and which is visible from any public street, sidewalk, alley, park or public property. The term "sign" does not include signs primarily directed at persons who are inside the building or goods displayed in a business window.

*Sign setback* means the distance measured from the street property line from which the sign is to be primarily viewed to the nearest edge of the sign.

*Spinner* means a rotating disc or propeller-like sign that rotates in the wind or from some other source of power and is typically threaded on a line with other spinners to attract attention.

*Streamer* means any long, narrow material that is intended to float and move in the wind.

*Temporary sign* means a sign, with or without a structural frame, that is not permanently fastened to any structure and is intended for a limited period of display, including, but not limited to, portable signs, inflatable signs, banners, pennants, spinners, streamers, yard signs, and temporary wall signs and temporary window signs.

*Vehicle sign* means a sign painted or attached to a vehicle. Vehicles which are generally used daily off site and which are not parked in a location intended to draw attention to the sign or site are not included in this definition.

*Wall sign* means a sign which is attached directly to or painted upon a building wall and which does not extend above the height of the wall to which it is attached, nor more than 12 inches therefrom, with the exposed face of the sign in a plane parallel to the building wall. The term "wall sign" includes signs mounted flat against the building facade, provided those signs do not protrude beyond any boundary of the facade.

**Wall Sign**

*Window sign* means a temporary or permanent sign painted on or affixed to a window surface, suspended so as to hang more or less parallel with the window surface, or otherwise displayed in a manner intended to be viewed from outside the window.

***Window Sign***

*Yard sign* means a temporary sign that is freestanding, not permanently anchored or secured to the ground, and typically having a metal or wire support structure.

***Yard Sign***

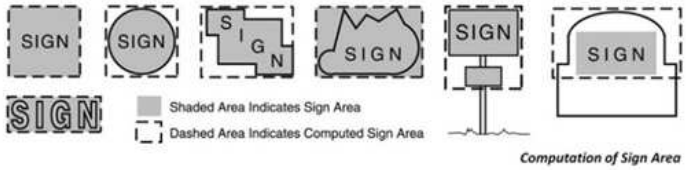
*Zoning lot* means all or parts of a lot or group of contiguous lots under single or common ownership that are considered to be a single undivided lot under the Village zoning Ordinance Nos. 13.06 through 13.09. The term "lot," as used in this article, shall mean zoning lot.
(Code 1996, § 155.02; Ord. No. 14.21, 5-23-2018)

**Sec. 38-227. General standards.**

The following shall apply to all signs:

(1) *Measurement of signs.*

a. *Sign area.* The entire area within a rectangle or square enclosing the extreme limits of writing, representation, emblem, or any figure of similar character, together with any frame, tower, or other material, color or internally illuminated area forming an integral part of the display or used to differentiate such sign, shall be included in the measurement. Parts of a sign shall be deemed to be a single sign whenever the proximity, design, content or continuity reasonably suggests a single unit, notwithstanding any physical separation between parts.



*Computation of Sign Area*

b. *Two faces.* Where a sign has two or more faces, the area of all faces shall be included in determining the sign area, except that where two such faces are placed back-to-back and are at no point more than two feet from one another, the area of the sign shall be taken as either:

1. The area of one face, if the two faces are of equal area; or
2. The area of the larger face, if the two faces are of unequal area.

c. *Sign height.* Unless otherwise stated in this article, sign height shall be measured as the distance from the grade to the highest point of the sign structure, including any supportive or decorative appendages, excluding any berm, landscaping, grading, or artificially or unnaturally constructed raised portion of land at the point of measurement.

d. *Grade.* The elevation of the public sidewalk closest to the sign base.

(2) *Illumination.*

a. Sign illumination shall be designed, installed and maintained in a manner that minimizes off-site glare, light trespass and light pollution, and fits the character of the district. All lighting shall be shielded and concentrated within the area of the sign to prevent glare upon the street or adjacent property.

b. Sign illumination shall be provided solely by electrical means or devices and shall not be flashing, intermittent, moving or animated.

c. Sign illumination shall not exceed a brightness level of 0.3 footcandles above ambient light as measured using a footcandle (Lux) meter and certification from the sign manufacturer stating that the sign and/or light source is capable of complying with these brightness provisions must be provided.

d. Underground wiring shall be required for any signs not attached to a building.

(3) *Construction and maintenance.*

a. *Materials and design.* All signs shall be designed, constructed and maintained in conformity with the latest adopted edition of the Michigan Building Code. Signs shall be constructed of permanent, all-weather materials.

b. *Fastenings.* All signs must be erected in such a manner and with such materials to remain safe and secure during the period of use and all bolts, cables, and other parts of such signs shall be kept painted and free from corrosion. Any defect shall be repaired by the property owner.

c. *Maintenance/landscaping.* The property surrounding any ground sign shall be kept clean, sanitary and free from obnoxious and offensive substances, weeds, debris, rubbish, and flammable material. All plants and other landscape materials surrounding a ground sign shall be maintained on a regular basis, including pruning, mowing, watering, fertilizing and replacement of dead and diseased materials.

d. *Structural maintenance.* All signs and components, including supports, braces, and anchors, shall be kept in good repair. Peeling or missing paint, holes, broken, cracked, bent, ripped, warped, rotted, discolored, sagging, out-of-plumb, worn, rusted or missing material parts shall be repaired by the property owner.

(4) *Legibility and design.* All signs within the Village must meet the following standards in the determination of the Zoning Administrator:

a. *Contrast.* All lettering shall contrast with the background on which they are applied.

b. *Lettering.* The font style and size used shall be clearly legible from all adjacent public rights-of-way.

(5) *Additional regulations.*

a. *Public right-of-way.* Except for signs established and maintained by the Village, county, state or federal government, and other signs as specifically identified in this article, no sign shall be located in or project into a public right-of-way or dedicated public easement.

b. *Clear vision.* No sign shall obscure the vision of drivers or conflict with traffic control signals on any street. Signs shall not be placed within the clear vision triangle.

c. *Site changes.* Upon the change of use of the land, building, or use in a building, all signs must be brought into conformity with this article.

d. *Audio levels.* The audio level of speakers and electronic broadcast media associated with any sign shall be restricted so as to not be audible from adjacent residences or beyond the lot lines of the premises on which the sign is located, whichever is less distant.

e. *Content neutrality.* To prevent any inadvertent favoring of commercial speech or message over noncommercial speech or message, any lawful sign under the provisions of this article may contain a noncommercial message. This provision prevails over any more specific provision to the contrary.

(Code 1996, § 155.03; Ord. No. 14.21, 5-23-2018)

**Sec. 38-228. Permitted in all districts without a sign permit.**

The following signs shall not count toward the maximum permitted number and area of signs and shall be permitted in all districts without obtaining a sign permit prior to installation. This exemption shall not relieve the owner of the sign from responsibility for its proper location, erection, maintenance and removal.

(1) For purposes of identification by emergency personnel (fire, police, EMS) for essential for public safety and emergency response, all businesses, offices, industrial buildings, apartment complexes, and multiple and single-family residences shall prominently display their street address on the front side (facing the street) of their building, upon ground signs or at the building entranceways. All street addresses shall be large enough to be easily read from the street and in all buildings with more than one unit, each individual unit's address shall be clearly marked. All numerals shall contrast with the surface to which they are applied, shall be mounted high enough to be seen from the street, and shall not be obstructed from view by trees, shrubs or any other material.

a. Nonresidential street address signs exceeding three square feet in area, unless the sign area exceeding three square feet is counted in the maximum sign area calculation.

b. Address signs for single family dwellings, duplexes and individual dwelling units in a multiple family building shall not exceed one per dwelling unit, and shall not exceed two square feet in area.

(2) Incidental signs not exceeding two square feet in area. The total area of all such signs on a premises shall not exceed eight square feet.

(3) Signs on a building wall that are cut into a masonry surface or constructed of bronze or other incombustible material, not exceeding two square feet in area.

(4) Historical markers issued by the state historical commission and other state/federal historical commission shall be permitted on any premises that is a designated historic site. Historical markers are not calculated as part of the maximum total sign area and the following shall not require a permit:

a. *Building-mounted historical marker.*

1. *All buildings and zoning districts.* A building mounted historical marker up to two square feet in area shall be permitted on any building in any zoning district.

2. *Nonresidential buildings.* A building mounted historical marker up to six square feet in area shall be permitted on any nonresidential building in any zoning district.

b. *Freestanding historical marker.*

1. *All sites and zoning districts.* A freestanding historical marker up to six square feet in area shall be permitted in any zoning district.

2. *Nonresidential sites.* A freestanding historical marker up to 16 square feet in area shall be permitted on any nonresidential site in any zoning district.

(5) Temporary, non-illuminated signs attached to vehicles, trailers, watercraft and recreational vehicles, not exceeding two square feet in area.

(6) Signs on vehicles legally parked on a residential lot in the RL or RV district, owned and/or occupied by the operator of the vehicle and driven in the course of his or her business.

(7) Flags bearing the official design of a nation, state, municipality, educational institution or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising device. So as to not overwhelm the streetscape and to remain in character with the small town context of the Village, the flagpole shall be no taller than the height limit of the district, and the flag no longer than one-quarter the height of the flag pole.

(8) Any lawful sign in a public or private right-of-way installed by an authorized public agency, including, but not limited to, traffic safety and control signs, legal notices, railroad crossing, public safety signs, danger and other emergency notices.

(9) Private traffic control signs which conform to the requirements of the state Manual of Uniform Traffic Control Devices.

(10) Directional and informational signs required for the purpose of orientation when established by the Village, county, state or federal government.

(11) Signs erected on a governmentally owned or controlled building or land by the authorized public agency, including, but not limited to, community identification signs and streetscape banners erected by the municipality.

(12) Persons wearing costumes, with or without another sign, who call attention to a site, provided the person is not standing within the public right-of-way, but on private property. Compliance with the Village's solicitation and other applicable ordinances is required.

(13) Temporary signs, including, but not limited to, yard signs, temporary wall signs, and temporary window signs, in accordance with the provisions of sections 38-230 and 38-231, unless otherwise prohibited by or provided in this article.

(14) Temporary, seasonal decorations that are displayed in a manner that does not promote commercial activity, and that are commonly associated with any national, local or religious holiday.

(15) Signs not visible beyond the boundaries of the premises upon which they are located, or from any road or public right-of-way.

(16) Any sign located completely inside an enclosed building and not visible from outside the building.

(Code 1996, § 155.04; Ord. No. 14.21, 5-23-2018)

**Sec. 38-229. Signs prohibited in all districts.**

The following signs are prohibited in all districts:

(1) Signs not expressly permitted.

(2) Animated, flashing signs or revolving signs with any visible moving/revolving part of any description achieved by electrical, electronic pulsations, or by mechanical means, including intermittent electrical pulsations, or by action of normal wind currents (excludes electronic changeable copy signs, section 38-231(l)) and linear lighting (including neon, fluorescent, rope-lighting and low voltage strip-lighting) primarily intended as an architectural highlight to attract attention or used as means of identification or advertisement.

(3) Signs in the public right-of-way (including person wearing costumes with or without a sign) or on public property, except as specifically permitted by this chapter.

(4) Any sign or sign structure unlawfully installed, erected, maintained or determined to be structurally unsafe, a hazard to safety or health by reason of inadequate maintenance, dilapidation or abandonment, not kept in good repair, capable of causing electrical shocks to persons likely to come in contact with it, or abandoned.

(5) Any sign which by reason of its size, location, content, coloring or manner of illumination, constitutes a traffic hazard or a detriment to traffic safety by obstructing the vision of drivers, or by obstructing, or detracting from the visibility of any traffic sign or control device on public streets and roads. This includes signs with wording such as "stop," "look," "danger," or any other words, phrases, symbols or characters in such a manner as to interfere with, mislead or confuse vehicular traffic.

(6) Any sign which obstructs free ingress/egress to a required door, window, fire escape or other exit way.

(7) Roof signs.

(8) Portable signs, except as otherwise permitted in this article, and banners, flags, balloons or other inflatable objects, pennants, streamers and spinners, except as a banner or flag used as otherwise permitted in this article.

(9) Billboards. The study for billboard regulations in the Village has led to the following conclusions: traffic volume on State Highway M-24 makes this corridor the focus for billboard placement; M-24 is a seriously congested commercial corridor; commercial development on M-24 has occurred with minimal road setbacks; heavy traffic volume and multiple curb cuts contribute to the confusing and dangerous traffic situation; billboards of the typical size and/or height are out of proportion with the small scale of the Village, and would detract from the community's residential/lakefront image; the aesthetic impact of billboard structures impresses heavily on the enjoyment and value of property and the general welfare; billboards have the potential to hinder visibility of driveways, intersections and streets, particularly along the M-24 commercial strip where traffic problems already exist; billboard structures on the smaller lots and parcels within the Village would tend to obstruct motor vehicle sight distance/clear view and be detrimental to the appearance and other aesthetic objectives in the Village; billboards tend to foster places which gather refuse/paper and the dumping of dirt, debris and filth; therefore there is no reasonable location for billboards in the Village.

(10) Signs painted, posted, ingrained, or mounted on trees, rocks, or other natural features, fences, fence posts, telephone/light/utility poles, wireless towers, sidewalks, benches, flower boxes, and perimeter of privacy walls. Notwithstanding, such signs less than two square feet in area shall be allowed without a permit in the RL and RV districts on lots containing a single-family dwelling.

(Code 1996, § 155.05; Ord. No. 14.21, 5-23-2018)

**Sec. 38-230. District regulations.**

(a) RV, RL, MU, DC districts: single-family and duplex dwelling lots only.

| *Sign Type* | *Number* | *Location*[a] | *Maximum Area* | *Maximum Height* | *Specific Regulations* |
|---|---|---|---|---|---|
| Wall sign | 1 per dwelling | - | 1 sq. ft. | 15 ft. or the height of the wall to which sign is attached, whichever is less | Wall signs may use free-floating channel letters or other applied letters, and be either internally or externally illuminated and shielded |
| | | | | | Wall signs painted on a building wall shall not be permitted unless approved by the Planning Commission by site plan approval, or as a mural |
| | | | | | A wall sign affixed flat or applied to the surface of a wall shall not exceed the height of the wall to which it is attached |

| *Sign Type* | *Number* | *Location*[a] | *Maximum Area* | *Maximum Height* | *Specific Regulations* |
|---|---|---|---|---|---|
| Temporary yard sign | One per premises | No closer than 5 ft. to any other premises | 6 sq. ft. | 5 ft. | 1 per premises permitted at any time |
| | 4 per lot, per calendar year | | 6 sq. ft. per sign; 24 sq. ft. total | 5 ft. | For 1, 90-day period per calendar year may display up to 4 yard signs on the premises |
| Private drive sign | 1 per driveway entrance | Driveways to public roads only | 2 sq. ft. | 5 sq. ft. | Pole sign permitted |

[a] No sign shall be permitted on the lake side of any premises, other than one permitted temporary yard sign.

(b) RV, RL, RM, MU and DC districts: residential uses, residential developments (i.e., subdivisions, multifamily complexes, etc.); and RV, RL, and RM districts: nonresidential uses.

| *Sign Type* | *Number* | *Location*[a] | *Maximum Area* | *Maximum Height* | *Specific Regulations* |
|---|---|---|---|---|---|
| Ground monument or entrance way sign | 2 per major point of entry for each development | At entrance to the major point of entry or in landscaped entrance island if conditions met | 24 sq. ft. | 6 ft. for sign/8 ft. for structure | - |
| Ground sign | 1 per nonresidential premises | - | 15 sq. ft. | 6 ft. for sign/8 ft. for structure | May include manual changeable copy, not to exceed 30% of the sign area |

| *Sign Type* | *Number* | *Location*[a] | *Maximum Area* | *Maximum Height* | *Specific Regulations* |
|---|---|---|---|---|---|
| Wall sign | 1 per nonresidential premises | - | 15 sq. ft. | 15 ft. or the height of the wall to which sign is attached, whichever is less | May include manual changeable copy, not to exceed 30% of the sign area |
| | 1 per nonresidential building | In street front yard or on the street front building wall | 6 sq. ft. | 15 ft. or the height of the wall to which sign is attached, whichever is less | - |
| Temporary banners and flags | 1 per nonresidential premises | On a wall of the principal building or over the permanent sign face | 15 sq. ft. | Not to exceed 15 ft. for a wall sign or 8 ft. for a ground sign | Display not to exceed a 15-day duration, or more than 4 times per calendar year |
| Temporary yard sign | 1 per premises permitted at any time | - | 6 sq. ft. per sign | 5 ft. | - |
| | 4 per premises per calendar year | | 6 sq. ft. per sign; 24 sq. ft. total | 5 ft. | For 1, 90-day period per calendar year may display up to 4 yard signs on the premises |
| Ground sign | 1 per driveway entrance | At driveways to public road only | 2 sq. ft. | 5 ft. | Pole sign permitted |

[a] No sign shall be permitted on the lake side of any premises, other than one permitted temporary yard sign.

(c) Signs in the DC district: nonresidential uses.

| *Sign Type* | *Number* | *Location*[a] | *Maximum Area*[b], [c] | *Maximum Height* | *Specific Regulations*[d] |
|---|---|---|---|---|---|
| Wall sign: single tenant building | 1 on each facade which has a separate public entrance | Shall not project more than 12 inches from the face of the building or any permanent architectural feature | - | No projection above roof or parapet | Building units with a second story visible from M-24 are permitted 1 additional secondary wall sign facing M-24, not to exceed 32 sq. ft. in area |
| Wall sign: multi-tenant building (units with individual public entrance) | 1 per building unit, plus 1 additional wall sign | | 10% of front wall area per business, up to a max. 50 sq. ft. per business | | |
| Wall sign: multi-tenant building (units with shared public entrance) | 1 on each facade which has a separate public entrance; plus 1 additional wall sign (12 sq. ft. or less) | | - | | |

| *Sign Type* | *Number* | *Location*[a] | *Maximum Area*[b], [c] | *Maximum Height* | *Specific Regulations*[d] |
|---|---|---|---|---|---|
| Ground sign: single-tenant building | 1 per premises; individual business ground signs not permitted | Located completely on the site to which it pertains, shall not affect line of sight on abutting streets or be located within the clear vision triangle and setback a minimum of 50 ft. to any residential district | 24 sq. ft. | 5.5 ft. | Pole signs are subject to Planning Commission review and may not exceed 20 ft. or the height of the building, whichever is less |
| Ground sign: multi-tenant building | | | 50 sq. ft. | 7.5 ft. | |
| Awning/canopy sign | 1 per building unit | Placed flat on awning | 25% of the total area of the awning or canopy | Min. 8 ft. clearance above sidewalk | No underlit awnings; not permitted above the first floor |
| Projecting sign | 1 per building unit | Placed perpendicular to front wall | 9 sq. ft. in addition to max. sign area otherwise permitted; up to 12 sq. ft. with Planning Commission approval | Min. 8 ft. clearance above sidewalk | See section 38-232(8) |

| *Sign Type* | *Number* | *Location*[a] | *Maximum Area*[b], [c] | *Maximum Height* | *Specific Regulations*[d] |
|---|---|---|---|---|---|
| Marquee sign | 1 per building unit | Placed flat on marquee | Included in calculation of total sign area | Min. 8-foot clearance above sidewalk | See section 38-232(4) |
| Changeable copy sign (manual) | 1 ground or wall sign per premises may include changeable copy | Integrated into an otherwise permitted wall or ground sign | Changeable copy sign area not to exceed 30% of the area of the sign within which it is located | - | Electronic changeable copy is prohibited |
| Private drive sign | 1 per driveway entrance | Driveways to public road only | 2 sq. ft. | 5 ft. | Pole sign permitted |
| Mural | - | Upon any building wall | 50 sq. ft. maximum; larger murals may be approved by the Planning Commission | - | No wording, logos or other representations that constitute a commercial message |
| Permanent or temporary window sign | - | Placed along the bottom or the top of the window so as not to block view of activity within the building | Max. 20% of the area of the window within which it is placed[e] | - | Signs placed less than 8 inches apart are considered a single sign for measurement of sign area |
| Portable sign | 1 per premises | - | [e] | - | Section 38-231(j) |
| Temporary banners, flags or pennants | - | - | Total of 32 sq. ft.[e] | - | Section 38-231(j) |

| *Sign Type* | *Number* | *Location*[a] | *Maximum Area*[b], [c] | *Maximum Height* | *Specific Regulations*[d] |
|---|---|---|---|---|---|
| Temporary wall or yard sign | 1 per premises permitted at any time | - | 12 sq. ft.[e] | 5 ft. | - |
| | 4 per premises | - | 12 sq. ft. per sign maximum; 24 sq. ft. total of all such signs[e] | 5 ft. | For 1, 90-day period per calendar year may display up to 4 yard signs on the premises |

[a] No sign other than a wall sign or projecting sign shall be located nearer than 50 feet to another sign.

[b] No sign or multiple of signs shall exceed the greater of 50 square feet or 20 percent of total wall area of the side of the building facing the front street. In no event shall a sign or multiple of signs exceed 75 square feet if the 20 percent computation is used.

[c] Corner lots shall be permitted additional permanent sign area not exceeding ten percent of the total square footage of that side of the building facing the side street. That additional wall signage shall be placed flat on the side of the building facing the side street. In no case shall the area of a sign along the side street exceed the area of the front façade sign.

[d] No sign shall be permitted on the lake side of any premises, other than one permitted temporary yard sign.

[e] Temporary signs do not count toward the maximum total area of signs on the premises, except as otherwise provided in this chapter.

(d) CC and MU districts: nonresidential uses.

| *Sign Type*[(a)] | *Number* | *Locations* | *Maximum Area*[(b), (c)] | *Maximum Height* | *Specific Regulations*[(d), (e)] |
|---|---|---|---|---|---|
| Permanent wall sign: single-tenant building | 1 on each facade which has a separate public entrance | Shall not project more than 12 inches from the face of the building or any permanent architectural feature | - | Shall not project above the roof or parapet | - |
| Permanent wall sign: multi-tenant building (units with individual public entrance) | 1 wall sign per building unit, plus one additional wall sign | | 10% of front wall façade area per busine ss, up to a max. 60 sq. ft. per business | | |
| Permanent wall sign: multi-tenant building (units with shared public entrance) | 1 on each facade which has a separate public entrance, plus 1 additional wall sign not to exceed 12 sq. ft. in area | | - | | |

| *Sign Type*[a] | *Number* | *Locations* | *Maximum Area*[b], [c] | *Maximum Height* | *Specific Regulations*[d], [e] |
|---|---|---|---|---|---|
| Ground sign: single-tenant building | 1 per premises | Located completely on the site to which it pertains, shall not affect line of sight on abutting streets or be located within the clear vision triangle and setback a minimum of 50 ft. to any residential district | 24 sq. ft. | 5.5 ft.[f] | A second ground sign may be permitted for a corner lot if the one ground sign permitted cannot be oriented so that it is legible from both abutting streets (see section 38-231(g)) |
| Ground sign: multi-tenant building (shopping center or other) | 1 ground sign per premises | | 75 sq. ft. | 8 ft.[f] | |
| | Individual business ground signs not permitted. | | | | |
| Awning or canopy sign | 1 per building unit | Placed flat on awning | 25% of the total area of the awning or canopy | Min. 8-foot clearance above sidewalk | No underlit awnings shall be permitted; no awning or canopy sign shall be permitted above the first floor |

| *Sign Type*[a] | *Number* | *Locations* | *Maximum Area*[b], [c] | *Maximum Height* | *Specific Regulations*[d], [e] |
|---|---|---|---|---|---|
| Projecting sign | 1 per business | Placed perpendicular to front wall | Sign area is in addition to max. sign area otherwise permitted | Min. 8-foot clearance above sidewalk | See section 38-231(h) |
| | | | 9 sq. ft. permitted | | |
| | | | Up to 12 sq. ft. with Planning Commission approval; see section 38-231(h) | | |
| Marquee sign | 1 per building | Placed flat on marquee | - | Min. 8-foot clearance above sidewalk | - |
| Changeable copy sign (manual or electronic) | 1 ground or wall sign per premises; may include changeable copy | Integrated into an otherwise permitted wall or ground sign | Changeable copy sign area shall not to exceed 30% of the area of the sign within which it is located | - | Electronic changeable copy subject to section 38-231(l) |
| | | Only permitted along M-24 frontage | | | |

| *Sign Type*[a] | *Number* | *Locations* | *Maximum Area*[b], [c] | *Maximum Height* | *Specific Regulations*[d], [e] |
|---|---|---|---|---|---|
| Private drive sign | 1 per driveway entrance | Driveways to public road only | 2 sq. ft. | 5 ft. | Pole sign permitted |
| Permanent or temporary window signs | - | Placed along the bottom or the top of the window so as not to block view of activity within the building | Max. 20% of the area of the window in which it is located[h] | - | Signs placed less than 8 inches apart shall be considered to be connected and a single sign for measurement of sign area |
| Portable signs | 1 per premises | - | [h] | - | Section 38-231(j) |
| Temporary banners, flags or pennants | - | - | Total of 32 sq. ft.[h] | - | Section 38-231(j) |

| *Sign Type*[a] | *Number* | *Locations* | *Maximum Area*[b], [c] | *Maximum Height* | *Specific Regulations*[d], [e] |
|---|---|---|---|---|---|
| Temporary wall or yard signs | 1 per premises permitted at any time | - | 12 sq. ft.[h] | 5 ft. | - |
| | 4 per premises per calendar year | | 12 sq. ft. per sign maximum; 24 sq. ft. total[h] | 5 ft. | For 1, 90-day period per calendar year may display up to 4 yard signs on the premises |

[a] Street address signs, up to three square feet in area on each building, are exempt from permitting and do not count toward the maximum number and area of signs.

[b] No sign or multiple of signs shall exceed the greater of 75 square feet, or 30 percent of total wall area of the side of the building facing the front street. In no event shall a sign or multiple of signs exceed 100 square feet if the 30 percent computation is used.

[c] Corner lots shall be permitted additional permanent sign area not exceeding ten percent of the total square footage of that side of the building facing the side street. That additional wall signage shall be placed flat on the side of the building facing the side street. In no case shall the area of a sign along the side street exceed the area of the front façade sign.

[d] No sign other than a wall or projecting sign shall be located nearer than 50 feet to another sign.

[e] No sign shall be permitted on the lake side of any premises, other than one permitted temporary yard sign.

[f] Pole signs are subject to Planning Commission approval under the requirements of section 38-227(6)e.3. A pole sign may not exceed the height of the building to which it is accessory or 20 feet, whichever is less.

[g] For each approved drive-through lane, the Planning Commission may permit up to two additional ground signs. These signs shall be located no more than six feet from the drive-through lane, have maximum areas of 16 and 32 square feet, respectively, be no greater than seven feet in height and not be readable from off site.

[h] Temporary signs do not count toward the maximum total area of signs on the premises, except as otherwise provided in this chapter.

(Code 1996, § 155.06; Ord. No. 14.21, 5-23-2018)

**Sec. 38-231. Regulations for specific sign types.**

(a) *Wall signs.*

(1) *Construction type.* Wall signs may use free-floating channel letters or other applied letters, and be either internally or externally illuminated and shielded. Wall signs painted on a building wall shall not be permitted unless approved by the Planning Commission by site plan approval, or as a mural.

(2) *Height limit.* A wall sign affixed flat or applied to the surface of a wall shall not exceed the height of the wall to which it is attached.

(b) *Ground signs.*

(1) *Generally.* All permanent ground signs shall be monument signs, except as more specifically provided in this chapter. Ground signs shall be integrated into the landscape and shall be compatible with the design and materials used for the buildings on the premises.

(2) *Monument signs.*

a. A monument sign shall be located on a base of masonry or similar durable material; the base shall have a minimum height of 18 inches and shall not exceed a height of 30 inches. The base of a monument sign shall be no less than 75 percent of the greatest horizontal dimension of the sign face, and the vertical separation between the lowest point of the sign face and the highest point of the sign base shall be no greater than 12 inches. Any masonry or decorative features enclosing the sides or top of the face of the sign shall not extend beyond the maximum allowable height of the sign.

b. The base shall be excluded from the calculation of sign area for a distance of 30 inches above grade, and no sign message shall be located lower than 30 inches above grade. Streetscape and landscape features which, in the determination of the Zoning Administrator, are an integral part of the sign design shall also be excluded from the calculation of sign area.

(3) *Pole or pylon signs.*

a. A pole sign may be permitted by the Planning Commission upon finding that one of the following conditions exists:

1. A monument sign would block the vision of drivers; or

2. A wall or projecting sign could not be legally established on a side facing a public street.

b. When permitting a pole or pylon sign, the Planning Commission shall permit the minimum height necessary to achieve visibility, provided it does not exceed the

height of the building to which it is accessory to or 20 feet, whichever is less. The area shall include the entire area of the sign upon which copy, lettering, drawings or photographs could be placed, excluding necessary uprights or supports.

(c) *Window signs.*

(1) For paper or other temporary window signs, the sign area shall include the entire area of the paper. Where adjacent paper or other temporary window signs are within eight inches of each other, they shall be measured as a single sign.

(2) A window sign shall be placed along the bottom or top of the window so as to not block the view of activity within the building and shall only be permitted on windows or doors located on the first or ground floor and on windows and doors on the façade facing a public right-of-way or commonly used as a main entrance to the premises.

(d) *Awnings, canopies, and marquee.*

(1) Signs mounted on awnings, marquees and canopies shall comply with the sign area standards of section 38-227. The total area of the lettering and logo shall not exceed 25 percent of the total area of the awning or canopy that is visible from the street. The awning, marquee or canopy shall not be considered the sign frame.

(2) Signs on an awning, marquee or non-freestanding canopy shall be exempt from the limitations on projections of signs from the face of the wall of any building or structure, provided that such sign:

a. Shall be affixed flat to the surface of the awning, marquee or non-freestanding canopy;

b. Shall not extend vertically or horizontally beyond the limits of the awning, marquee or canopy; and

c. Shall not be internally illuminated.

(3) No signs shall be permitted on an awnings or canopies above the first floor. Marquee signs must not extend past the building roof height.

(e) *Freestanding canopy signs.*

(1) One sign shall be permitted on each face of a freestanding canopy that fronts a road right-of-way.

(2) A freestanding sign shall not exceed 25 square feet in area and shall be counted towards the total amount of signage permitted in the district.

(f) *Entranceway signs.*

(1) *Height.* Maximum sign height: six feet. Maximum structure height: eight feet.

(2) *Sign type.* Monument ground signs only with landscaping. If the sign is on private property, evidence of an easement must be submitted.

(3) *Island option.* An entranceway sign may be located on a landscaped entranceway island, provided that:

a. The nearest edge of the sign must be set back a minimum of ten feet from the right-of-way of the intersecting street.

b. Such signs shall comply with the clear vision triangle so as to maintain visibility for drivers.

(4) *Number permitted.* Two signs per major point of entry are permitted.

(g) *Additional ground signs permitted by the Planning Commission.* The Planning Commission may approve up to two additional ground signs on a site zoned CC or MU, subject to site plan review and approval and the following:

(1) Signs shall be located no farther than six feet from a drive lane.

(2) Signs shall not exceed seven feet in height.

(3) One sign shall not exceed 16 square feet and the other shall not exceed 32 square feet in area.

(4) The structure's framing shall not be calculated as part of the sign area.

(5) Signs shall be single-sided and oriented so that they are readable only on-site.

(6) Signs cannot be located between the building and the front property line.

(7) All speaker systems shall comply with the sound limits of section 38-227(5). The Planning Commission shall have the discretion to place additional restrictions on the hours of operation and volume of the speakers based on the location of the specific site, proximity to residential uses and upon receipt of input or concerns from the neighboring property owners.

(8) Only up to four square feet of said sign may include electronic changeable copy signage.

(9) In addition, the Planning Commission may grant approval of a modified sign area, subject to the following:

a. Only one of the signs may be increased in area.

b. The sign shall be completely screened from the roadway.

c. Under no circumstances shall said sign exceed 48 square feet in area.

(h) *Projecting signs.*

(1) A projecting sign shall be attached to a wall of the building or to the underside of a canopy or awning by supports painted with a single neutral color that differs from the message area of the sign. The permitted area of a projecting sign shall exclude the braces and supports unless the same are designed or decorated to be integral to the sign's content or appearance. The sign shall not exceed a thickness of six inches.

(2) A projecting sign may extend over the public right-of-way but shall set back from the traveled surface of any road by not less than three feet. The projecting sign shall extend not more than five feet from the building wall, unless attached to a canopy or awning, in which case the projecting sign shall not extend above or horizontally beyond the canopy or awning limits.

(3) A clearance of not less than eight feet shall be maintained above the traveled surface of any sidewalk or other pedestrian-accessible surface beneath the sign.

(4) No projecting sign or part of a projecting sign shall exceed the height of 12 feet above the traveled surface of the sidewalk or other pedestrian surface.

(5) No projecting sign shall be closer than ten feet to another projecting sign.

(6) Projecting signs shall not be constructed to include internal or tube illumination. Any illumination provided for a projecting sign shall be cast from an external source. If the spotlights are projected onto the surface of the sign face, the lights shall be properly shielded to prevent glare from projecting onto adjacent streets or disturbing those living in nearby dwelling units.

(7) The area of a projecting sign shall not exceed nine square feet except as may be permitted by the Planning Commission in accordance with the following. The Planning Commission may permit a larger projecting sign up to a maximum of 12 square feet in area, subject to findings of compliance with the below listed standards.

(8) A projecting sign shall not block the view of nearby signs, or create a hazard to the public health, safety or general welfare:

a. The appearance, color, and materials of the sign will not adversely affect neighboring property values.

b. The appearance of the building exterior with the signage will be in general harmony with other buildings already existing in the immediate neighborhood, and the historic character of the downtown area.

c. The sign size and location shall be in scale with the building to which it is attached.

(9) Construction, maintenance, safety, and inspection requirements not specified in this article shall be regulated by the current building code for the Village.

(i) *Murals.* Murals shall be permitted only on facades of buildings or structures located in the DC, CC, and MU districts, and may not contain any commercial message or identify the occupant of a premises or relate solely to the use, business, establishment, or profession conducted, or to a principal product or service sold, offered provided or produced. Murals may be of any size, may be externally illuminated, and may not include any commercial message. Murals larger than 50 square feet shall require Planning Commission review and approval.

(j) *Temporary signs; permit required.*

(1) *Banners, flags and pennants.* Banners, flags or pennants may be permitted as temporary signs subject to the following:

a. Signs under this subsection (j)(1) shall be permitted only by the Village Council in conjunction with a temporary special event permit, as an exempt flag or streetscape banner under section 38-228 or in accordance with the standards of section 38-230 for non-single-family dwelling uses in the RV, RL, and RM districts, and in the CC, DC and MU districts.

b. Signs made of cloth, canvas or similar non-durable temporary materials, flags, pennants or banners may be erected for a period not to exceed 15 days. Permits for these signs shall be granted not more than four times per calendar year for any individual business, tenant or owner.

c. No temporary sign under this subsection (j)(1) shall project beyond the property line, and no temporary sign shall be strung across any vehicle lane or parking space, except as may be approved by the Village in the DC district, or erected so as to create an obstruction to the passage of pedestrians or vehicles, or to create a public safety hazard.

d. No temporary flag, banner or pennants or combination of these temporary signs shall exceed a total area of 32 square feet in the CC, DC and MU districts, or 15 square feet in the RV, RL and RM districts. No temporary flag, banner or pennant sign shall be of a greater height than the top of the wall to which it is attached.

e. The temporary signs shall be removed promptly at the end of the approved display period.

(2) *Portable signs.* There shall be two classes of portable signs (where a Class 1 and Class 2 permit shall not be issued to run concurrently on the same property), as follows:

a. A Class 1 portable sign shall be of the manual changeable letter type, may be mounted on a trailer, and shall be permitted as follows:

1. A Class 1 portable sign shall measure not greater than the equivalent of eight feet in width by four feet in height, or 32 square feet in area, but in no case shall exceed five feet in height. The area of a Class 1 sign is in addition to the maximum sign area otherwise permitted.

2. Not more than three Class 1 portable sign permits shall be in effect in the Village at any given time.

3. At no time shall there be more than one Class 1 portable sign on any premises.

4. Class 1 portable sign permits shall be rotated among area businesses, as determined to be reasonable by the Village Administrator, and an individual tenant, owner or business may not receive more than two Class 1 portable sign permits during any given calendar year.
5. A Class 1 portable sign permit shall be for a period not exceeding one month.
6. Class 1 portable signs shall be permitted only for lots abutting M-24. No such sign shall be displayed on the lake side of any lot.
7. Illumination of a Class 1 portable sign shall be permitted; however, all lighting shall be of a single color and not flash, strobe or otherwise interfere with vision.

b. A Class 2 sign shall be of the sandwich board type and shall be permitted as follows:

1. Class 2 portable signs shall be permitted in the DC, CC and MU districts only. No such sign shall be displayed on the lake side of any lot.
2. A Class 2 portable sign may be located on a sidewalk in the DC district only if located directly in front of and advertising the same business. In no case shall a Class 2 portable sign obstruct a public sidewalk, and not less than three feet of unobstructed width, or whatever greater width is required by federal or other regulations, shall be maintained at all times along such public sidewalks where a Class 2 sign is placed.
3. A Class 2 portable sign shall measure not greater than the equivalent of three feet in width by four feet in height, or 12 square feet in area, but in no case shall exceed four feet in height. The area of a Class 2 portable sign is in addition to the maximum sign area otherwise permitted.
4. Not more than ten Class 2 portable sign permits shall be in effect in the DC district at any given time. No more than 20 Class 2 portable sign permits shall be in effect in the Village at any one time.
5. Permits shall be rotated among area businesses, as determined by the Village Administrator, and the permit shall be for a period not exceeding three consecutive months.
6. Permits shall be renewable subject to determination by the Village Administrator that the subject sign is in conformance with the provisions of this article. There shall be no limit on the number of Class 2 portable sign permits that an individual tenant, owner or business may receive during any given calendar year.
7. Display shall be during regular business hours only.
8. Class 2 portable signs shall be maintained in a safe manner. If, as determined by the Village Administrator, an unsafe or otherwise hazardous condition

exists or will exists, such sign may be ordered to be removed until such time as the Village Administrator determines that such unsafe or otherwise hazardous condition has been abated.

9. No illumination of a Class 2 portable sign shall be permitted.

10. No Class 2 portable sign shall be located on any lot so as to obstruct the view of a driver of a vehicle approaching an intersection or entering or exiting a driveway. No such sign shall be located within the clear vision triangle or, in the case of a driveway, in the triangular area formed by each driveway curb line and the street line at points ten feet from the intersection of the driveway line and the street line.

11. On a CC or MU lot with multiple tenants, such as in a shopping center, more than one Class 2 sign may be permitted. A minimum distance of 50 feet shall be provided on a multiple-tenant lot between any two Class 2 signs.

(k) *Temporary signs.*

(1) *General requirements.*

a. No temporary yard or wall sign shall be illuminated.

b. No temporary wall or yard sign shall be placed in or project into a public right-of-way except with the permission of the authorized public entity, and shall only be placed on private property with the prior permission of the property owner.

c. No temporary yard or wall sign shall be placed in such a manner as to obstruct the view of vehicle drivers when leaving or entering a street, driveway, or parking space.

d. Every such sign shall have identified on it the name, address, and telephone number of the persons who posted or had caused the posting of the sign.

e. Signs under this subsection (k)(1) may be erected for a period not to exceed 30 days. A permit shall be required to place more than one temporary wall or yard sign on a premises at the same time, as provided in each district under section 38-230.

f. The sign area and number shall not exceed the limits specified for each district in section 38-230.

(2) *Limited duration signs.*

a. A permit shall be required to display any temporary wall or yard sign for a period longer that 30 days.

b. The permit for a limited duration sign shall specify the date by which the sign shall be removed, however, no permit for extended display shall exceed 90 days. One permit renewal may be approved, subject to the sign being in compliance with all requirements of this article.

(l) *Electronic changeable copy signs.*

(1) An electronic changeable copy sign shall be permitted only in the CC and MU districts, and only along the M-24 frontage.

(2) An electronic changeable copy sign shall be integrated into the site's permitted ground sign and shall not occupy more than 30 percent of the ground sign's area.

(3) The message change cycle shall not be less than one message per minute.

(4) The images and messages displayed shall be static, and the transition from one static display to another shall be instantaneous with no special effects, or the transition may provide a black screen for at least one second.

(5) Signs shall not include animation, full motion video, flashing, scrolling, strobing, racing, blinking, changes in color, fade in or fade out in any manner imitating movement, or any other means not providing constant illumination.

(6) The images and messages displayed must be complete in themselves, without continuation in content to the next image or message or to any other sign.

(7) All such signs shall be required to have automatic dimming capability that adjusts the brightness to the ambient light at all times of the day and night.

(8) An electronic changeable copy sign shall be designed and equipped to freeze the device in one position if a malfunction occurs. The displays must also be equipped with a measure to immediately discontinue the display if it malfunctions.

(m) *Vehicle signs.* Vehicles with signs that are parked on a non-single-family residential lot or in the DC, CC or MU district for a period of over 24 hours and which are visible from the public right-of-way shall be counted as part of the signage on that premises and require a permit. (Code 1996, § 155.07; Ord. No. 14.21, 5-23-2018)

**Sec. 38-232. Abandoned, damaged, illegal and unsafe signs.**

Any person, firm or corporation determined to have been in violation of the provisions of this article shall be responsible for a municipal civil infraction and subject to the provisions of section 1-18(1)b. The Village shall be absolved of all liability caused by or resulting from the removal of such signs. If any confiscated damaged, illegal, unsafe, and abandoned sign is not claimed and collected by the owner and all fines and costs associated with confiscation of said sign are not paid within 14 days, it shall be destroyed.

(1) *Damaged signs.* Damaged signs shall be secured, repaired, replaced or removed by the owner, agent or person having the beneficial use of the building or structure upon

which the damaged sign is located. Damaged signs may be removed by the Zoning Administrator at the expense of the sign or property owner after that owner has been ordered in writing to remove or replace the sign by the Zoning Administrator and has not done so within ten days of the order's deadline. Repairs to damaged signs must be completed within 30 days.

(2) *Illegal signs.* Illegal signs may be removed by the Zoning Administrator at the expense of the sign or property owner after that owner has been ordered in writing to remove the sign by the Zoning Administrator and has not done so within 30 days.

(3) *Unsafe signs.* Unsafe signs shall be immediately removed or made to conform to the provisions of this article by the owner, agent or person having the beneficial use of the building or structure upon which that sign is found. If such action is not taken within 48 hours of notice by the Zoning Administrator, the unsafe signs may be removed or secured by the Zoning Administrator, either at the expense of the owner of the property on which the sign is located or to the owner of the sign.

(4) *Abandoned signs.* If a building or unit is vacated for a period of 180 days or more, the signs used or owned by that building or unit shall be deemed abandoned and must be brought into conformity with this article, or shall be removed forthwith by the owner, at the expense of the property owner. Removal of an abandoned sign shall include the removal of the entire sign face, supporting structure, and structural trim. If the owner of the property on which an abandoned sign is located fails to remove the abandoned sign, the sign may be removed by the Zoning Administrator at the expense of the property owner.

(5) *Collection of damaged, illegal, unsafe and abandoned signs.* If any confiscated sign is not claimed and collected by the owner and all fines and costs associated with confiscation of said sign are not paid within 14 days, it shall be destroyed.

(Code 1996, § 155.08; Ord. No. 14.21, 5-23-2018)

**Sec. 38-233. Permits.**

(a) *Permits required.*

(1) No sign shall be erected, or affixed or applied to any structure, constructed, altered or relocated without first obtaining a permit from the Village and making payment for such fee as established by Village Council, except the following:

a. Signs specified in section 38-228, signs permitted in all districts without a sign permit, and those specifically exempted under other sections of this article.

b. A permit is not required for minor repairs, painting, servicing or cleaning of an existing sign, provided that the sign is restored to its original design and all work is in compliance with this article and all other Village ordinances.

(2) For each sign application which requires Planning Commission review, the Village Clerk shall, by first class mail, give notice of the receipt of the application and of the time and place at which said application will be reviewed by the Planning Commission, not less than 15 days prior to said Planning Commission meeting. The notice shall be sent to all owners of record of property listed on the most recent assessment roll whose property is located within 100 feet of the boundaries of said application property. If a public hearing is required, the notice shall also be published in a newspaper of record in the Village, not less than 15 days prior to the hearing.

(b) *Application.* An applicant for a sign permit shall complete an application form supplied by the Village. The application shall be accompanied by plans, drawings, and specifications necessary to fully describe the type, size, shape, construction and materials of the sign, along with a location map, showing exactly where the sign will be placed on the building, or in proximity to zoning lot structures/lot lines. A legible rendering of the proposed sign, showing colors, letter relationships, letter type and all features of the sign, is required.

(c) *Inspection fees.* At the time of permit issuance, the applicant shall pay an inspection fee as established by the Village Council per sign to defray the cost of inspecting signs for article compliance.

(d) *License and insurance.* Every person who engages in the business of erecting, altering or dismantling signs in the Village shall first submit proof of appropriate licenses and a liability insurance policy that indemnifies the Village and its prior, present and future officials, representatives and employees from all damage suits or actions of every nature brought or claimed against the erector for injuries or damages to persons or property sustained by any person or persons through any act of omission or negligence of said erector, and their servants, agents or employees. Said policy shall contain a clause whereby it cannot be cancelled or changed until after written notice has been filed with the Zoning Administrator at least 30 days prior to the date of cancellation.

(e) *Permit.* The Zoning Administrator shall issue a permit for the sign upon determining that the proposed sign meets the requirements of this and any other applicable Village ordinance and after payment is collected.
(Code 1996, § 155.09; Ord. No. 14.21, 5-23-2018)

**Sec. 38-234. Variance authority.**

(a) *Generally.*

(1) The Board of Zoning Appeals (BZA), pursuant to the Village zoning ordinance, shall be authorized to grant variances and hear appeals regarding any sign regulation from an interpretation or administrative decision of an official of the Village or a decision made by the Planning Commission.

(2) Except as modified herein, the application notice processes and proceedings shall be as provided in the Village zoning ordinance. Such a variance request shall be published in a newspaper of general circulation a minimum of five days and maximum of 15 days prior to the scheduled meeting and notice shall be sent to all properties within 100 feet of the site for which a variance is requested.

(b) *Required findings.* The BZA shall determine whether the application shall be granted for a variance upon a showing of the following:

(1) The variance would not be contrary to the public interest or general purpose and intent of this article;

(2) The variance does not adversely affect properties in the immediate vicinity of the proposed sign; and

(3) The petitioner has a practical difficulty resulting from the unusual characteristics of the property that precludes reasonable use of the property.

(c) *Considerations.* When determining whether an application complies with the variance standards set forth in subsection (b) of this section, the BZA shall consider the following; however, the BZA may decline to grant a variance even if the following considerations exist:

(1) Permitted signage could not be easily seen by passing motorists due to the configuration of existing buildings, trees, or other obstructions, which cannot be legally and/or practically removed.

(2) Permitted signage could not be seen by passing motorists in sufficient time to permit safe deceleration and exit. In determining whether such circumstances exist, the BZA shall consider the width of the road, the number of moving lanes, the volume of traffic, and speed limits.

(3) Existing signs on nearby parcels would substantially reduce the visibility or advertising impact of a conforming sign on the premises.

(4) A conforming sign would require removal/severe alteration to natural features on the premises, including tree removal, natural topography alteration, wetland filling, or natural drainage course obstruction.

(5) A conforming sign would obstruct the vision of motorists or otherwise endanger the health or safety of passersby.

(6) The sign is clearly distinguishable from public safety and traffic signs so as to not cause confusion or mislead the public.

(7) The sign is compatible in appearance with the visual character of the surrounding area, e.g., scale and placement to the building, color relationships, and dissimilarity of shape and lettering.

(8) Such a sign variance may further be granted in those instances in which there has been a demonstrated showing by the applicant that the particular sign sought to be approved is suitable to the Village or has some value that comports with the history or development of the community and would not, if a variance were granted, be materially in conflict with applicable underlying district regulations.

(d) *Appeals.* As provided in the Village zoning ordinance, any applicant who is denied relief hereunder has the right to an appeal to the county circuit court within the applicable limits established by this article or state law. Such an appeal will only be on the basis of the decision from which the appeal has been taken.
(Code 1996, § 155.10; Ord. No. 14.21, 5-23-2018)

**Sec. 38-235. Nonconforming signs.**

(a) *Elimination of nonconforming signs.* The nonconforming regulations established in the zoning ordinance for nonconforming structures shall not be applicable to signs which exist on the effective date of the ordinance from which this article is derived where those signs fail to comply with the provisions described herein. The Village may acquire by purchase, condemnation, or other means any nonconforming sign which it deems necessary to preserve the health, safety, and welfare of the residents. The elimination of nonconforming signs is a public purpose and a public service for the following reasons:

(1) They constitute a nuisance to the Village resulting from their incompatibility due to excessive size, poor location, relationship to existing structures, excessive quantity in a small geographic area;

(2) They are detrimental to the public health, safety and welfare arising from quantity, location and bulk having an adverse or detrimental impact upon police and fire protection, causing confusion for motorists; and blocking signage on adjoining lots;

(3) They are incompatible with the adopted sign regulations governing sign location, size, placement and features which have been deemed necessary for public purposes;

(4) Technological advancements in signage have created the opportunity to locate places quicker, minimize maintenance, enhance safety and decrease size requirements;

(5) Readability is limited due to the ill-proportioned nature of many older nonconforming signs, whereas technological advancements often allows instantaneous information or format enhancing readability; and

(6) Age has resulted in the physical deterioration of the signs and thus no longer represents the desired aesthetic conducive to a particular district.

(b) *Nonconforming regulations.* Nonconforming signs shall not be:

(1) Expanded, replaced or changed to another nonconforming sign.

(2) Relocated or altered so as to prolong the life of the sign, or so as to change the shape, size, type, placement, or design of the sign's structural or basic parts.

(3) Enhanced with any new feature including the addition of illumination.

(4) Repaired, except if such repair brings the sign into article conformance, if such repair necessitates:

a. An expense that exceeds 50 percent of the sign's value, as determined by the Village; or

b. The replacement of the sign's primary support pole, frame or other support structure.

(5) Re-established after the activity, business, or use which it represents has been discontinued for 180 consecutive days or longer, in which case the sign shall be deemed to be abandoned, per section 38-232.

(c) *Permitted modifications.* A nonconforming sign may be modified only by a change in the wording of the copy or routine repair to maintain the sign in a safe and aesthetically attractive condition as it existed at the time of the enactment of the ordinance from which this chapter is derived.
(Code 1996, § 155.11; Ord. No. 14.21, 5-23-2018)

**Secs. 38-236—38-250. Reserved.**

## ARTICLE IV. SUBDIVISIONS

### DIVISION 1. GENERALLY

**Secs. 38-251—38-263. Reserved.**

### DIVISION 2. SUBDIVISION CONTROL

**Sec. 38-264. Title.**

This division shall be known as the "Village Subdivision Control Ordinance."
(Code 1996, § 157.01; Ord. No. 25.04, 11-25-1996)

**Sec. 38-265. Purpose.**

The purpose of this division is to regulate and control the subdivision of land within the Village to promote the public safety, health and general welfare.
(Code 1996, § 157.02; Ord. No. 25.04, 11-25-1996)

**Sec. 38-266. Authority.**

(a) These regulations shall apply to all divisions of land within the Village corporate limits, except those divisions of land undertaken in or as part of the formation of condominium projects as defined in section 38-267.

(b) No building permit or certificate of occupancy shall be issued for any lot or parcel created by improper subdivision after the effective date of the ordinance from which this division is derived.

(c) No excavation of land or construction of any public or private improvements shall be permitted which does not conform to this division.

(d) This division shall not repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws, ordinances, regulations, or with private restrictions placed upon property by deed, covenant, or other private agreements. Where this division imposes a greater restriction on land than is imposed or required by an existing provision of any private restriction or other ordinance of the Village, this division shall control.

(e) This division is enacted pursuant to the authority granted by the land division act, MCL 560.101 et seq., which authorizes the Village to adopt an ordinance to regulate the subdivision of land within the Village to secure the public health, safety and general welfare.
(Code 1996, § 157.03; Ord. No. 25.04, 11-25-1996)

**Sec. 38-267. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. All terms as defined in the land division act, MCL 560.101 et seq. shall control unless the context clearly indicates a different meaning.

*Alley* means a strip of land not more than 30 feet in width dedicated and improved for public use that affords a secondary access to abutting property but is not intended for general traffic circulation or for parking, standing or loading.

*Block* means a subdivided parcel of land surrounded on all sides by one or more of the following barriers: streets, public parks, cemeteries, railroad rights-of-way, shorelines of waterways, unsubdivided acreage, boundary lines of the Village, the exterior boundary of the subdivision, or any other barriers to the continuity of development.

*Building* or *structure.* The term "building" includes a structure and the term "building" or "structure" includes any of its parts.

*Building line* means a line within a platted lot that is parallel to the front lot line at the minimum required front setback line pursuant to the zoning code, being Ordinance Nos. 26.01 through 26.04 and all amendments thereto.

*Caption* means the name by which the plat is legally and commonly known.

*Condominium project* means a project consisting of not less than two condominium units established in conformance with the Condominium Act, Michigan Public Act No. 59 of 1978, being MCL 559.101 et seq.

*County health department* means the Oakland County health department.

*County plat board* means the Oakland County plat board.

*County road commission* means the Oakland County Road Commission.

*County water resources commissioner* means the office of the county water resources commissioner.

*Easement* means a grant by the property owner of the use of a strip of land by the public, a corporation, or private person for specific uses or purposes, which shall be designated as a public or private easement depending on the nature of the use.

*Floodplain* means that area of land that is typically adjacent to a river, stream, or other body of water, and is designated as subject to flooding from the 100-year base flood indicated on the flood boundary and floodway map prepared by the Federal Emergency Management Agency.

*Improvements* means grading, street surfacing, curb and gutter, pedestrian/bicycle paths, water mains and lines, storm and sanitary sewers, utilities, bridges, drainage, street trees and other additions to the natural state of land that increases the land's value, utility and habitability.

*Lot* has the meaning as that term is defined in the zoning code and all amendments thereto.

*Lot area* has the meaning as that term is defined in the zoning code.

*Lot depth* has the meaning as that term is defined in the zoning code.

*Lot frontage* has the meaning as that term is defined in the zoning code.

*Lot lines* has the meaning as that term is defined in the zoning code.

*Lot width* has the meaning as that term is defined in the zoning code.

*Lot, corner,* means a lot having two adjacent sides, both of which abut their full length upon a street, provided that the two sides intersect at an angle of not more than 135 degrees. Where a lot is on a curve, if the tangents through the extreme point of the street lines of such lot make an interior angle of not more than 135 degrees, it shall be considered a corner lot. In the case of a corner lot with a curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described above. (A tangent is a straight line extended from the outer edges of a curve that intersect to form a corner.)

*Lot, double frontage,* means a lot having frontage on two more or less parallel streets. In the case of a row of double frontage lots, one street shall be designated as the front street for all lots

in the plat and in a request for a zoning compliance permit or building permit. If there are existing buildings in the same block fronting on one or both of the streets, the required minimum front yard setback shall be observed on those streets where buildings presently front.

*Nonresidential subdivision* means a subdivision whose intended use is other than residential, such as commercial or office.

*Occupied.* See *Used* or *Occupied.*

*Parcel* or *tract* means a continuous area or acreage of land that can be described as provided in the land division act, MCL 560.101 et seq.

*Person* includes a corporation, a partnership, and an incorporated association of persons such as a club.

*Planning Commission* means the Planning Commission of the Village.

*Plat* means a map or chart of a subdivision of land.

*Final plat* means a map of all or part of a subdivision prepared and certified by a registered engineer or land surveyor substantially conforming to the preliminary plat and prepared in conformance with the land division act, MCL 560.101 et seq. and this division, and suitable for recording by the county register of deeds. Such map must meet the requirements of the land division act, MCL 560.101 et seq. and this division.

*Preliminary plat* means a map showing the salient features of a proposed subdivision submitted to the Village for purposes of preliminary consideration prepared in conformance with the land division act, MCL 560.101 et seq. and this division.

*Public reservation* means part of a subdivision set aside for eventual public use and made available for public acquisition.

*Public utility* means all persons, firms, corporation, co-partnerships or municipal or other public authorities providing gas, electricity, water, steam, telephone, sewer or other services of a similar nature.

*Reserve strip* means a strip of land in a subdivision that extends across the end of a street proposed to be extended by future platting or a strip that extends along the lengths of a partial width street proposed to be widened by future platting.

*Right-of-way* means a strip of land occupied or intended to be occupied by a street, walkway, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for another use. Every right-of-way strip established and shown on a final plat is to be distinct from the lots or parcels adjoining it. Rights-of-way intended to be maintained by a public agency shall be dedicated to public use.

*Shall/will.* These terms are always mandatory.

*Street* means any avenue, boulevard, road, lane, parkway, viaduct or other way that is an existing state, county or municipal roadway or any road or way shown in a plat previously approved pursuant to law. A street includes the land between the right-of-way lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, parking areas and lawns.

*Boulevard street* means a street with two one-way pavements separated by a median.

*Collector street* means a street intended to serve as a major means of access from local streets to major streets and county primaries. Collector streets may both serve abutting properties and carry traffic generated by other local streets.

*Cul-de-sac* means a short minor street with one end open to vehicular traffic and the other end permanently terminated by a vehicular turnaround.

*Dead-end or stub street* means a street with one end open to vehicular traffic and no vehicle turnaround at the other end, which provides for eventual extension of the street onto unplatted land.

*Half street* means a street containing less than the required right-of-way width.

*Local street* means a street of limited continuity used primarily to provide access to abutting residential properties.

*Major street (thoroughfare)* means an arterial street of great continuity intended to serve as a large volume trafficway for both the immediate municipal area and region beyond and may be designated in the Village master plan as a major thoroughfare, parkway, expressway or equivalent term to identify those streets comprising the basic structure of the street plan.

*Marginal access street* or *minor street* means a local street that is parallel to and adjacent to a major street that provides access to abutting properties and protection from through traffic and not carrying through traffic.

*Street width* means the shortest distance between the lines delineating the right-of-way of a street.

*Structure.* See *Building or structure.*

*Subdivider* or *proprietor* means a natural person, firm, association, partnership, corporation or combination of any of these that may hold any ownership interest in land, whether recorded or not.

*Used* or *occupied,* as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied."

*Village Engineer* means the person or professional engineering consultant designated as the Village Engineer by the Village Council.

*Village Planner* means the person or professional planning consultant designated as the Village Planner by the Planning Commission.

*Zoning ordinance* means the zoning ordinance of the Village, being Ordinance Nos. 26.01 through 26.64 and all amendments thereto.
(Code 1996, § 157.04; Ord. No. 25.04, 11-25-1996)

**Sec. 38-268. Submission of preliminary plat for tentative approval.**

Every person, firm or corporation that shall hereafter submit a proposed preliminary plat to the Village for tentative approval shall submit ten legible copies of the proposed preliminary plat. These copies must contain, as a minimum, the following information and fees:

(1) Show topography of the area proposed to be platted with not more than two-foot contour intervals.

(2) Indicate street and road layout.

(3) Indicate lot layout, showing size and shape of proposed lots.

(4) Show the location of sanitary sewer and water lines that will be accessed to provide service for the subdivision.

(5) Indicate the general location and size of any floodplain located within the area to be platted.

(6) Show, in general, the methods proposed for stormwater disposal.

(7) Indicate wetlands found on the site consistent with the provisions of state and federal regulations.

(8) Show the general methods to be employed to prevent soil erosion and sedimentation on the site.

(9) When the proprietor owns or plans to acquire and anticipates platting adjoining land, he shall submit, with the preliminary plat for tentative approval, a tentative plan showing the feasibility of the development of such adjoining land.

(10) A fee in an amount as established by resolution of the Village Council adequate to pay the cost of reviewing the proposed plat.

(Code 1996, § 157.05; Ord. No. 25.04, 11-25-1996)

**Sec. 38-269. Village Council review; preliminary plat; tentative approval.**

Upon receipt of copies of a proposed plat for tentative approval, the Village Clerk, on behalf of the Village Council, shall forward copies to the Planning Commission, the Village Planner and the Village Engineer for recommendation. The Planning Commission shall examine the proposed preliminary plat with assistance and review of the Village Planner, Village Engineer and Village Attorney as the Planning Commission and Village Council may require. Upon

recommendation by the Planning Commission, the Village Council shall determine whether the proposed preliminary plat complies with all Village ordinances and state statutes and makes adequate provision of the following:

(1) *Streets.*

a. Compliance with the major street thoroughfare plan adopted by the Village.

b. The arrangement of streets shall provide for a continuation of existing streets from adjoining areas into the new subdivision.

c. Where adjoining areas are not subdivided, the arrangement of streets in the proposed subdivision shall be extended to the boundary line of the tract to provide for the future projection of streets into adjoining areas. However, minor streets within the subdivision shall be so laid out that their use by through traffic will be discouraged.

d. Where the proposed subdivision abuts or contains a county primary road or major thoroughfare as defined in the Village master plan or the Village major thoroughfare plan, the Village Council may require marginal access streets approximately parallel to the right-of-way of the primary road or major thoroughfare and may require such other improvements as are deemed necessary for the adequate protection of residential properties and to afford separation of through and local traffic.

e. Private streets may be permitted by the Village Council if the Village Council finds that private streets within the plat will not adversely affect public health, safety or welfare.

f. All new streets shall be named as follows: Streets with predominant north-south direction shall be named "Street," and streets with predominant east-west direction shall be named "Avenue"; meandering streets shall be named "Drive," "Lane," "Path," "Road" or "Trail"; and cul-de-sacs shall be named "Circle," "Court," "Way" or "Place."

g. Streets should intersect at a 90-degree angle or closely thereto and in no case less than 80 degrees.

h. Where the proposed continuation of a street at an intersection is not in alignment with an existing street, it must not intersect with the cross street closer than 175 feet from the opposite existing street, as measured from the centerline of said streets.

i. The maximum length allowed for residential blocks shall be 1,000 feet.

j. All primary road rights-of-way, as designated by the Village Council, within or abutting plats hereafter recorded, shall provide a 50-foot half-width. All other rights-of-way within or abutting such plats shall be not less than 66 feet in width.

Permanent dead-end streets in excess of 660 feet in length shall be prohibited except upon prior approval of the Village Council, to be granted only where the topography of the area, rivers, streams, other natural conditions or the prior development of the area prevents a through street from being constructed.

k. A subdivision or extension of an existing subdivision creating a total of 25 or more lots must be developed to provide two or more access streets.

(2) *Lots.*

a. All lots shall be created consistent with the dimensional and area requirements of the zoning code, adopted in article V of this chapter, being Ordinance Nos. 26.01 through 26.64 and all amendments thereto.

b. Corner lots shall be created with additional width to permit front yard setback requirements to be attained from both streets.

(3) *General provisions.*

a. Privately held reserve strips controlling access to streets shall be prohibited.

b. Existing natural features which add value to residential development and that enhance the attractiveness of the community (such as streams, water courses, historic spots and similar irreplaceable assets) shall be preserved insofar as possible in the design of the subdivision. The requirements of the floodplain development regulations shall be complied with in creation of subdivisions under these regulations.

c. Lands subject to flooding or otherwise determined by the Village to be uninhabitable shall not be platted for residential or nonresidential purposes. Such lands within a subdivision may be set aside for other purposes such as parks and open space.

d. If the Village Council determines that the proposed preliminary plat complies with all applicable ordinances and statutes and the provisions set forth above, it shall grant tentative approval of the preliminary plat. Approval shall confer upon the proprietor for a period of one year from date of approval, approval of lot sizes, lot orientation and street layout. Tentative approval may be extended for an additional year, in the discretion of the Village Council, upon application of the proprietor.

(Code 1996, § 157.06; Ord. No. 25.04, 11-25-1996)

**Sec. 38-270. Submission of preliminary plat for final approval.**

Every person, firm or corporation which shall hereafter submit copies of a proposed preliminary plat to the Village Council for final approval shall submit the following relevant data and fees:

(1) Evidence that all requirements imposed by the Village Council at the time of granting tentative approval have been incorporated into the proposed plan.

(2) Detailed working drawings showing grades, drainage structures, proposed utilities and road construction plans for public and/or private roads within and adjoining the plat. Prior to submitting copies of the preliminary plat to the Village Council for final approval, the developer shall document consultation with the Village Engineer and all public utilities which will be servicing the subdivision to resolve any conflicts in location between public utility facilities and other improvements. A preliminary plat shall not be accepted for review by the Village Council unless the Village Engineer has approved construction plans for the plat.

(3) A fee in an amount as established by resolution of the Village Council adequate to pay the cost of reviewing the proposed plat.

(Code 1996, § 157.07; Ord. No. 25.04, 11-25-1996)

**Sec. 38-271. Village Council review; preliminary plat final approval.**

(a) Upon receipt of all required copies of the preliminary plat for final approval, the Village Council shall examine the same with such assistance and review by the Planning Commission, Village Planner, Village Engineer, Village Attorney and advice from other experts as the Village Council may request. Upon completing its review, the Village Council shall determine whether said proposed preliminary plat complies with the requirements imposed by the Village Council at the time of tentative approval and that the proprietor has obtained the required statutory approval of other governmental agencies and in addition, meets the following requirements:

(1) All road grades shall not exceed a seven percent grade or be less than a one-half percent grade except upon approval by the Village Engineer.

(2) All grades in excess of three percent shall require installation of curb and gutter. The curb and gutter to be set apart not less than 27 feet as measured from back to back of the opposite curbs and fully paved between the lip of the gutters.

(3) All road rights-of-way within or abutting such plat shall be constructed with a base of not less than six inches of compacted 21AA stone or eight inches of compacted 22A stone. The stone base shall be not less than 24 feet wide and shall be covered with not less than three inches of bituminous aggregate pavement, 20 feet wide. In the event the minimum county road commission requirements are greater and will result in a more durable road, the Village may require the proprietor to utilize the county road commission standards rather than the other construction requirements indicated in this subsection.

(4) All rights-of-way shall be graded to the full width thereof for proper drainage and prospective future widening and improving. Road grading shall be accomplished so as to establish a 0.5 foot higher elevation at the boundary of the right-of-way than at the crown of the traveled roadway. All trees or other obstructions within the right-of-way which interfere with the grading and/or drainage shall be removed. The foregoing

0.5-foot elevation and tree and obstruction removal may be varied or adjusted by the Village Council upon recommendation of the Village Engineer where valuable trees or obstacles are involved and as long as drainage and safety will not be impaired.

(5) Permanent dead-end streets shall be provided at the closed end with a turnaround having an outside improved roadway diameter of at least 100 feet as measured from the centerline of the gutter or back-of-curb and a street right-of-way diameter of at least 120 feet. Temporary dead-end streets shall be provided at the closed end with a turn-around constructed the full width of the right-of-way.

(6) All surface waters shall be adequately drained within each plat by a separate system of drainage structures or through the connection of such separate system to an adequate adjoining system. Where storm sewers are used, inlet basins must not be spaced further then 600 feet apart. The determination of what is equivalent and sufficient drainage shall be left to the Village Council upon the recommendation of the Village Engineer.

(7) Connection to sanitary sewers and water mains will be required by the Village Council.

(8) In the discretion of the Village Council, the proprietor shall make arrangements for all distribution lines for telephone, electric, television and other similar services distributed by wire or cable to be placed underground entirely through the residential subdivided area. Electric distribution lines shall be defined in accordance with the rules and regulations promulgated by the state public service commission. Such conduits or cables shall be placed within private easements provided to such service companies by the proprietor or within dedicated public ways. All such facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All such facilities shall be constructed in accordance with standards of construction approved by the state public service commission. Private easements for underground utilities shall be shown on the preliminary plat.

(9) Stormwater disposal methods proposed for the subdivision must be adequate to ensure each building site and the roadway will not be flooded. All necessary easements for storm sewers or open drains that can feasibly be dedicated to the public for such purposes shall be dedicated at the option of the Village. Onsite water detention must meet the requirements of the office of the county water resources commissioner.

(10) No land within the subdivision may be isolated from a public thoroughfare nor may any adjoining land of the proprietor or others be isolated from a public thoroughfare thereby creating landlocked parcels.

(11) Street lighting may be required by the Village Council when the Council determines that street lighting is necessary for public health, safety and welfare.

(12) Pedestrian and bicycle paths may be required by the Village Council when the Village Council determines, in its opinion, that paths are necessary for pedestrian safety, public health, and welfare. When required, paths shall be constructed of concrete or asphalt, five feet in width, four inches in depth, upon a two inch minimum sand base.

(b) The Village Council shall complete the review and consideration of the proposed preliminary plat submitted for final approval at the next regular meeting of the Council or within 20 days after the date of submittal of the proposed preliminary plat. If the Village Council determines that the preliminary plat has obtained the required statutory approval of other governmental agencies and complies with the requirements set forth in this division, the Village Council shall grant final approval of the preliminary plat which shall confer upon the proprietor for a period of two years from date of approval the conditional right that the general terms and conditions under which said approval was granted will not be changed. The two-year period may be extended in the discretion of the Village Council upon application by the proprietor.
(Code 1996, § 157.08; Ord. No. 25.04, 11-25-1996)

**Sec. 38-272. Submission of final plat for final approval.**

Every person, firm or corporation which shall hereafter submit a proposed final plat to the Village Council for final approval shall also submit the following relevant data and fees:

(1) An abstract of title or title insurance policy showing merchantable title in the proprietor of the subdivision.

(2) A fee in an amount as established by resolution of the Village Council adequate to pay the cost of reviewing the proposed plat.

(3) Other information as may be required by state and federal regulations.
(Code 1996, § 157.09; Ord. No. 25.04, 11-25-1996)

**Sec. 38-273. Village Council review; final plat; final approval.**

The Village Council shall review the proposed final plat and determine that:

(1) All monuments required to be placed in the subdivision have either been placed or a cash or equivalent deposit has been made with the Village and a deposit agreement executed by the proprietors.

(2) All roads, streets, bridges and culverts have been completed and installed or a cash or equivalent deposit has been made with the Village and a deposit agreement executed by the proprietors.

(3) If the subdivision has any county drains, or other waterways, as set forth in MCL 560.188, all such county drains and waterways shall be installed or a cash or equivalent deposit made to the Village and a deposit agreement executed by the proprietors.

(4) If any floodplains are involved in the proposed subdivision, then such floodplains shall be restricted as provided in the land division act, MCL 560.101 et seq. and the Village floodplain regulations set forth in this Code, and such restrictions shall be submitted to the Village Council for review and approval prior to recording and thereafter shall be recorded in the office of the county register of deeds contemporaneously with the recording of the plat.

(Code 1996, § 157.10; Ord. No. 25.04, 11-25-1996)

**Sec. 38-274. Land divisions not requiring platting.**

Dividing and partitioning land outside the boundaries of a subdivision as regulated by this division shall be consistent with the provisions of division 3 of this article.

(Code 1996, § 157.11; Ord. No. 25.04, 11-25-1996)

**Sec. 38-275. Variances.**

Proposed subdivisions shall comply with the requirements of this division and all other applicable requirements of the Village, county and state. In the event that unusual hardships or unique circumstances exist that make compliance with this division impractical or impossible, the applicant shall use the following procedure to request a variance from the strict enforcement of these regulations:

(1) Prior to final approval of the preliminary plat, the applicant shall state his request for a variance in writing. The written request shall be submitted to the office of the Village Clerk not less than 14 days prior to a scheduled meeting of the Planning Commission. The written request shall be accompanied by such reasonable fees as the Village Council may establish to defray the costs of review by Village representatives. The Village Clerk shall transmit a properly prepared variance request to the Planning Commission.

(2) After receipt of a variance request, the request shall be placed on the agenda of the Planning Commission for the next regularly scheduled meeting. The Planning Commission shall schedule a public hearing on the request. Notice of the hearing shall be provided to all owners of record of real property located within 300 feet of the proposed subdivision site boundaries. The notices shall be delivered personally or by mail not less than five days before the date set for the hearing.

(3) The Planning Commission shall submit to the Village Council its findings on the existence of any extraordinary hardships, practical difficulties or unique circumstances that will result from the strict enforcement of these regulations. If the Planning Commission finds the requested variance will not compromise the public interest or the intent of this division, the Planning Commission may recommend to the Village

Council approval of a variance to these regulations. The Planning Commission may recommend conditions to the variance consistent with the objectives of these regulations.

(4) The Village Council may grant a variance if the Council finds that:

a. The variance will not be detrimental to the public, health, safety and general welfare nor injurious to other property.

b. The conditions underlying the variance request are unique to the property and are not generally applicable to other property.

c. Due to particular characteristics, shape or topographical conditions of the property, a particular hardship to the owner, as distinguished from inconvenience or monetary loss, will result if these regulations are enforced.

d. The variance will not violate the requirements of the zoning code, being Ordinance Nos. 26.01 through 26.64 and all amendments thereto; master plan; and land division act, MCL 560.101 et seq. or any other applicable law or regulation.

(5) In approving a variance, the Village Council may impose conditions to the variance consistent with the objectives of these regulations.

(6) If the variance request is denied, any further appeal shall be in accordance with the procedures set forth in the zoning code, adopted in article V of this chapter, being Ordinance Nos. 26.01 through 26.64 and all amendments thereto.

(Code 1996, § 157.12; Ord. No. 25.04, 11-25-1996)

**Secs. 38-276—38-298. Reserved.**

## DIVISION 3. DIVIDING AND PARTITIONING LAND

### Sec. 38-299. Authority.

The Village Council shall have the sole power to authorize the division and partitioning of land within the Village.

(Code 1996, § 157.20; Ord. No. 25.01, 9-9-1985; Am. Ord. No. 25.02, 1-10-1994)

### Sec. 38-300. Purpose and scope of application.

In the interest of protecting the public health, safety and welfare, the governing body of the Village finds that this subchapter is necessary to regulate the division and partitioning of parcels of land which are otherwise not subject to platting procedures and requirements. It shall be unlawful for any person to divide or partition any lot, outlot, or other parcel of land in a

recorded plat, or to divide or partition any unplatted parcel or tract of land, except in accordance with the provisions of this division, unless the division or partition is approved and a part of a recorded plat, pursuant to the land division act, MCL 560.101 et seq.
(Code 1996, § 157.21; Ord. No. 25.01, 9-9-1985; Am. Ord. No. 25.02, 1-10-1994)

**Sec. 38-301. Definitions.**

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

*Acreage tract* or *acreage land* means land or real estate which is not located in, or part of, a recorded plat.

*Applicant* means an individual, firm, association, partnership, corporation, or combination thereof, who holds ownership interest in land and is seeking approval for a division or partition of land in accordance with this subchapter.

*Divide* or *partition* means the splitting or separating of a parcel of land into parts by changing the boundaries and/or legal description, where such splitting or separating of land is not accomplished pursuant to platting procedures under the land division act, MCL 560.101 et seq.

*Land* means the surface area known as real estate.

*Lot* means a piece of land, the dimensions and configuration of which are shown on a subdivision plat recorded in the offices of the county register of deeds.

*Parcel* means a measured portion of land which is described by virtue of a request to divide or partition the land in accordance with the provisions of this ordinance. A parcel may be a subdivision lot or portion thereof, a combination of a lot or lots and portions thereof, or an acreage tract or acreage land.

*Person* means an individual, trustee, executor, other fiduciary, corporation, firm, partnership, association, organization, or other legal entity acting as a unit.

*Plat* means a map or chart of a subdivision of land which has been approved in accordance with the land division act, MCL 560.101 et seq.

*Private road* means a strip of land used for ingress and egress to and from land which does not abut onto a public road, where such land or road is not dedicated for use by the public.

*Public facilities* means public services provided by the Village or other governmental units, including, but not limited to, public water supplies, public sanitary sewers, public storm drainage systems, paved roads, and any other services normally provided by local units of government.

*Public road* means a road which is dedicated for use of the public for travel and which is maintained by a public agency, such as the Village or county.
(Code 1996, § 157.22; Ord. No. 25.01, 9-9-1985; Am. Ord. No. 25.02, 1-10-1994)

**Sec. 38-302. Application requirements.**

(a) *General requirements.* An application for division or partitioning of land shall be made on the forms and according to the guidelines provided by the Village. An application shall be accompanied by payment of the necessary fees and shall provide information as specified in this subchapter.

(b) *Information required.* Applications shall be accompanied by the following information:

(1) Three copies of a sealed 8 ½-inch by 14-inch drawing prepared by a registered land surveyor at a scale of not less than one inch equals 100 feet, showing the following:

a. The date (month, day, year), including revision dates.

b. A legal description of property to be divided or partitioned.

c. The north arrow.

d. All parcels that would result from the requested division or partitioning of land.

e. Existing lot lines shown with broken lines; proposed lot lines shown with solid lines.

f. The dimensions of and a calculation of the area of all proposed parcels.

g. The zoning classification of the land to be divided or partitioned and all adjoining land.

h. The location and dimensions of all existing structures on and within 50 feet of the proposed parcels.

i. The dimensions of the front, rear and side yard setbacks of all structures from proposed parcel lines.

j. The location of all property irons and monuments found and set.

k. The percentage of land coverage by structures of parcels, both existing and proposed.

l. Delineation of the floodplain, if applicable.

m. Existing utilities and drainage courses on and within 50 feet of land to be divided or partitioned.

n. Existing and proposed easements (drainage, utility, access, etc.) prepared in recordable form.

o. Indication of public or private road upon which the proposed parcels front.

(2) A legal description prepared by a registered land surveyor of all parcels that would result from the requested division or partitioning of land. The legal description shall be in a form sufficient for recording with the county register of deeds and shall indicate the area of all parcels in square feet and acres.

(3) Copies of existing or proposed deed restrictions related to the proposed parcels.

(4) If any portion of the land has been part of a previous application for division of land, the applicant shall submit the date of such application and action taken.

(5) The Village Manager or Village Council may require additional information, including topographical information, deemed necessary to make the determination required by this division.

(6) The application shall be signed by all persons who have any legal or equitable interest in the property.

(Code 1996, § 157.23; Ord. No. 25.01, 9-9-1985; Am. Ord. No. 25.02, 1-10-1994)

**Sec. 38-303. Approval procedures.**

(a) *Submission to Village Manager.* All applications for division or partitioning of land shall be submitted, together with the required information, to the Village Manager.

(b) *Review by staff.*

(1) The Village Manager shall review the application for completeness of data and to determine whether it is in compliance with this article. The Village Manager may submit the application to various departments, legal counsel, and consultants of the Village for review and recommendation, including, but not limited to, departments or consultants having jurisdiction over legal matters, assessing, planning, engineering, or building code enforcement functions.

(2) In the event submittal to consultants for review and recommendation shall result in cost incurred by the Village for payment of consulting fees or legal fees, the applicant shall be notified of the estimated amount of these fees. Prior to further processing of the application, the applicant shall deposit with the Village a sum of cash equal to the amount of the estimated fees. The applicant shall be charged the exact cost to the Village of these consulting or legal fees, with any fees in excess of the amount of the applicant's deposit being paid to the Village by the applicant prior to Village Council approval. If the fees are less than the deposit, a refund in the appropriate amount shall be made to the applicant.

(c) *Recommendation to the Planning Commission.* Upon review of the proposed division or partitioning of land, and after consideration of the comments submitted by departments or consultants, the Village Manager shall submit a recommendation to the Planning Commission which shall review the application and submit its recommendation to the Village Council, based on the standards set forth in this division.

(d) *Decision by Village Council.* After reviewing the recommendation submitted by the Planning Commission, the Village Council shall make the final decision concerning any application for division or partitioning of land, based on the standards set forth in this division.

(e) *Action of Board of Zoning Appeals.* The Board of Zoning Appeals shall hear a request for variations or deviations from the provisions of the zoning ordinance, adopted in article V of this chapter, but only in cases where the Village Council has granted approval for the dividing or partitioning of land, conditioned upon the applicant's successfully obtaining the necessary variances.

(Code 1996, § 157.24; Ord. No. 25.01, 9-9-1985; Am. Ord. No. 25.02, 1-10-1994)

**Sec. 38-304. Standards for granting approval.**

The following standards shall be used as the basis upon which applications for the division or partitioning of land are reviewed and approved:

(1) *Compliance with state law.* An application for division or partitioning of land shall not be approved unless it is in compliance with the land division act, MCL 560.101 et seq. The Village may permit the dividing or partitioning of lots, outlots or other parcels of land into not more than four parts; however, any lot, outlot or other parcel of land not served by public sewer and public water systems shall not be further partitioned or divided if the resulting lots, outlots or other parcels are less than the minimum width and area provided for in the land division act, MCL 560.101 et seq. A lot which is a part of a recorded plat may not be divided or partitioned into more than four parts in perpetuity. An acreage parcel may be divided or partitioned as provided in the land division act, MCL 560.101 et seq.

(2) *Lot dimensional requirements.* All parcels created as a result of division or partitioning of land shall comply with the minimum lot dimensional requirements, including lot size and lot width, minimum yard setback requirements and lot coverage requirements of the current Village zoning ordinance, adopted in article V of this chapter, except in the following circumstances:

   a. Where the proposed division or partitioning of land would reduce the degree of existing nonconformity with zoning ordinance standards; or

   b. Where the nonconforming parcel created as a result of the division or partitioning of land is intended to be combined with additional land for the purposes of creating a building site that conforms with the zoning ordinance requirements.

(3) *Taxes or assessment liens.* Any due or unpaid taxes, special assessments upon the property, or any amounts due to the municipality relating to the land which is the subject of the application, such as, but not limited to, charges for water service, sanitary sewer service, and trash collection service, shall be paid before the division or partitioning of land is given final approval.

(4) *Depth to width ratio.* Wherever possible, the depth to width ratio of a parcel created through land division or partitioning shall not exceed 3:1.

(5) *Disruption to flow of water.* No division or partitioning of land shall be approved if subsequent development would result in disruption to the existing or natural flow of water within drainage ditches, natural water courses, or government maintained drains, unless evidence of a feasible alternate method of drainage is presented.

(6) *Consideration of deed restrictions.* The effect of proposed division or partitioning of land on deed restrictions shall be considered by the Village Manager, Planning Commission and Village Council in their review of the application. However, such deed restrictions shall not be binding upon the Village under this subchapter.

(7) *Consent of the title holder.* No division or partitioning of land shall be approved without the consent of the title or deed holder of the subject parcel.

(8) *Character of surrounding development.* In reviewing an application for division or partitioning of land, the Village Manager, Planning Commission and Village Council shall consider the impact of subsequent construction on the character of surrounding development. In evaluating character of surrounding development, the Village Manager, Planning Commission and Village Council shall consider the size, dimensions, and proportions of existing surrounding parcels.

(9) *Parking requirements.* An application for division or partitioning of land shall not be approved if it would result in a loss of parking such that development on any of the resulting parcels would be unable to comply with the minimum parking requirements in the zoning ordinance.

(10) *Access.* An application for division or partitioning of land shall not be approved unless all parcels created as a result of such division or partitioning have direct frontage upon a paved public road or a private road. Accessibility to each newly created parcel must be directly from the public or private road and not by easement across another parcel or lot.

(11) *Public facilities.*

a. An application for division or partitioning of land shall not be approved unless the resulting parcels are served by public facilities, including, but not limited to, water, sanitary sewer, and paved rights-of-way.

b. As a condition of approval, the Village Council may require the applicant to install public facilities in accordance with specifications established by the Village, or to guarantee the installation of public facilities in the form of a cash performance bond or an irrevocable letter of credit running in the favor of the Village, in the amount of the estimated cost of the installation of the public facilities, together with the estimated cost of the review by the Village Engineers of the

applicant's proposed plans for the installation of the public facilities. The entire cost of installation of public facilities, including the cost of the Village Engineer's review plans and inspection of construction, shall be the responsibility of the applicant.

c. In extraordinary situations, as determined by the Village Council, where properties cannot feasibly be served by public facilities, and the Village Council issues a waiver of the requirement of resulting parcels being served by public facilities, then the minimum width and area of resulting parcels as required in the land division act, MCL 560.101 et seq.

(Code 1996, § 157.25; Ord. No. 25.01, 9-9-1985; Am. Ord. No. 25.02, 1-10-1994)

**Sec. 38-305. Recording of final action.**

An approved division or partitioning of land shall be noted upon the Township assessment roll, and thereafter, each separate parcel shall be considered to be a single lot, outlot or parcel for tax assessment and other purposes. In addition, the approved division or partitioning of land shall be recorded in the office of the county register of deeds in accordance with Public Act No. 132 of 1970, as amended by Public Act No. 280 of 1972, being MCL 54.211 through 54.213.

(Code 1996, § 157.26; Ord. No. 25.01, 9-9-1985; Am. Ord. No. 25.02, 1-10-1994)

**Sec. 38-306. Fees.**

Each application filed for division or partitioning of land shall be accompanied by the payment of a nonrefundable fee as established by resolution of the Village Council.

(Code 1996, § 157.27; Ord. No. 25.01, 9-9-1985; Am. Ord. No. 25.02, 1-10-1994)

**Sec. 38-307. Violations.**

Any person, firm or corporation determined to have been in violation of the provisions of this chapter shall be responsible for a municipal civil infraction and subject to the provisions of section 1-18(1)b.

(Code 1996, § 157.28; Am. Ord. No. A-3, 1-13-1997)

**Secs. 38-308—38-332. Reserved.**

## ARTICLE V. ZONING CODE

### Sec. 38-333. Adoption.

The Village zoning ordinance, including text and zoning map, which is a compilation of Ordinance Nos. 26.01 through 26.64 and all amendments thereto, is hereby adopted into this article as if fully set forth herein. Copies of the zoning ordinance and said amendments can be found at the Village Clerk's office.
(Code 1996, § 158.01)

### Sec. 38-334. Violations.

Any person, firm or corporation determined to have been in violation of the provisions of the zoning ordinance of the Village adopted by reference in section 38-333 shall be responsible for a municipal civil infraction and subject to the provisions of section 1-18(1)b.
(Code 1996, § 158.02; Am. Ord. No. A-3, 1-13-1997)

# CODE COMPARATIVE TABLE

## 1996 CODE

This table gives the location within this Code of those sections of the 1996 Code, as updated through November 11, 2020, which are included herein. Sections of the 1996 Code, as updated, not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of ordinances and other legislation adopted subsequent thereto, see the table immediately following this table.

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