

OFFICIALS

Of the

VILLAGE OF

CLAYTON, MICHIGAN

AT THE TIME OF THIS CODIFICATION

Mark Jeffrey
Village President

Lynette S. Davis
Village Clerk

Denver Hedge
Leo Pelham
Christine Lee
Steve Deline
Rick Davis
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Village Council

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Village Treasurer

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Village Assessor

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Village Attorney

CODE OF ORDINANCES

VILLAGE OF

CLAYTON, MICHIGAN

Published by Order of the Village Council



MUNICIPAL CODE CORPORATION

Tallahassee, Florida

1993

PREFACE

This Code constitutes a complete republication of the general and permanent ordinances of the Village of Clayton, Michigan.

Source materials used in the preparation of the Code were the 1959 Code, as supplemented through February 11, 1977, 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 1959 Code, as supplemented, and any subsequent ordinance included herein.

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

Numbering System

The numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of Chapter 1 is numbered 1-2, and the first section of Chapter 4 is 4-1. Under this system, each section is identified with its chapter, and at the same time new sections or even whole chapters can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 3-1 and 3-2 is desired to be added, such new section would be numbered 3-1.5. New chapters may be included in the same manner. If the new material is to be included between Chapters 12 and 13, it will be designated as Chapter 12.5. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division.

Index

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

Looseleaf Supplements

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

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

Acknowledgments

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

The publisher is most grateful to Dane C. Nelson, Village Attorney, for his cooperation and assistance during the progress of the work on this publication. It is hoped that his efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the village readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the village's affairs.

MUNICIPAL CODE CORPORATION
Tallahassee, Florida

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CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

- Sec. 1-1. How Code designated and cited.
- Sec. 1-2. Definitions and rules of construction.
- Sec. 1-3. Interpretation per state acts.
- Sec. 1-4. Captions.
- Sec. 1-5. References and notes.
- Sec. 1-6. Application to future legislation.
- Sec. 1-7. Reference to other sections.
- Sec. 1-8. Reference to offices.
- Sec. 1-9. Certain provisions saved from repeal.
- Sec. 1-10. Amendment procedure.
- Sec. 1-11. Supplementation of Code.
- Sec. 1-12. Severability.
- Sec. 1-13. General penalty.
- Sec. 1-14. Notice.

Sec. 1-1. How Code designated and cited.

This Code may be known and cited as the "Code of Ordinances, Village of Clayton, Michigan."

State law reference—Codification authority, MCL 78.24(a), MSA 5.1534(1).

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

The following words and phrases, when used in this Code and any amendment thereto shall, for the purposes of this Code, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

Charter. The word "Charter" shall mean the Charter of Clayton, Michigan, and shall include any amendment to such Charter.

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

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

Council. The word "council" shall mean the Village Council of Clayton, Michigan.

County. The words "the county" or "this county" shall mean the County of Lenawee in the State of Michigan, as the case may be.

Gender. A word importing gender shall extend and be applied to both genders and to firms, partnerships and corporations as well.

MCL, MSA. The abbreviations "MCL" and "MSA" shall mean respectively the Michigan Compiled Laws and Michigan Statutes Annotated, as amended.

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

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

Person. The word "person" and its derivatives and the word "whoever" shall include a natural person, partnership, association, legal entity or corporate body or any body of persons, corporate or incorporate. Whenever used in any clause prescribing and imposing a penalty, the

term “person” or “whoever” as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

Shall/may. The word “shall” is always mandatory and not discretionary. The word “may” is permissive.

State. The words “the state” or “this state” shall be construed to mean the State of Michigan.

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

Village. The word “village” shall mean the Village of Clayton, Michigan.

State law reference—Rules of construction, MCL 8.3 et seq., MSA 2.212 et seq.

Sec. 1-3. Interpretation per state acts.

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 the Public Acts of Michigan.

Sec. 1-4. Captions.

Headings and captions used in this Code following the chapter, article, division and section numbers, are employed for reference purposes only and shall not be deemed a part of the text of any section.

Sec. 1-5. References and notes.

Charter references, cross references, state law references and editor’s notes are by way of explanation only and shall not be deemed a part of the text of any section.

Sec. 1-6. Application to future legislation.

All of the provisions of this chapter, not incompatible with future legislation, shall apply to ordinances hereafter adopted amending or supplementing this Code unless otherwise specifically provided.

Sec. 1-7. Reference to other sections.

Whenever in one section reference is made to another section hereof, such reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered unless the subject matter be changed or materially altered by the amendment or revision.

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.

Sec. 1-9. Certain provisions saved from repeal.

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

- (1) Any offense committed or penalty incurred or any right established prior to the effective date of the Code;
- (2) Any ordinance levying annual taxes;
- (3) Any ordinance appropriating money;
- (4) Any ordinance authorizing the issuance of bonds or borrowing of money;
- (5) Any ordinance establishing utility rates;
- (6) Any ordinance establishing franchises or granting special rights to certain persons;
- (7) Any ordinance authorizing public improvements;
- (8) Any ordinance authorizing the purchase or sale of real or personal property;
- (9) Any ordinance annexing or detaching territory;
- (10) Any ordinance granting or accepting easements, plats or dedication of land to public use;
- (11) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the village;
- (12) Any ordinance establishing or prescribing grades in the village;
- (13) Any ordinance prescribing the number, classification or compensation of any village officers or employees;
- (14) Any ordinance prescribing traffic and parking restrictions pertaining to specific streets;
- (15) Any ordinance pertaining to zoning;
- (16) Any other ordinance, or part thereof, which is not of a general and permanent nature;

and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code. Such ordinances are on file in the village clerk's office.

Sec. 1-10. Amendment procedure.

This Code shall be amended by ordinance. The title of each amendatory ordinance, adapted to the particular circumstances and purposes of the amendment, shall be substantially as follows:

- (1) To amend any section:

AN ORDINANCE TO AMEND SECTION _____ (or SECTIONS _____ AND _____) OF THE CODE OF ORDINANCES, VILLAGE OF CLAYTON, MICHIGAN.

- (2) To insert a new section or chapter:

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, VILLAGE OF CLAYTON, MICHIGAN, BY ADDING A NEW SECTION (_____ NEW SECTIONS or A NEW CHAPTER, as the case may be) WHICH NEW SECTION (SECTIONS or CHAPTER) SHALL BE DESIGNATED AS SECTION _____ (SECTIONS _____ AND _____) (or proper designation if a chapter is added) OF SAID CODE.

- (3) To repeal a section or chapter:

AN ORDINANCE TO REPEAL SECTION _____ (SECTIONS _____ AND _____, CHAPTER _____, as the case may be) OF THE CODE OF ORDINANCES, VILLAGE OF CLAYTON, MICHIGAN.

Sec. 1-11. Supplementation of Code.

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

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

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

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;

- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-12. Severability.

(a) It is the legislative intent of the council in adopting this Code, that all provisions and sections of this Code be liberally construed to protect and preserve the peace, health, safety and welfare of the inhabitants of the village and should any provision or section of this Code be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions or sections, it being the intent that this Code shall stand, notwithstanding the invalidity of any provision or section thereof.

(b) The provisions of this section shall apply to the amendment of any section of this Code whether or not the wording of this section is set forth in the amendatory ordinance.

Sec. 1-13. General penalty.

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

(b) The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any section of this Code whether or not such penalty is reenacted in the amendatory ordinance.

(c) The penalty shall be in addition to the abatement of the violating condition, any injunctive relief, a revocation of any permit or license.

(d) This section shall not apply to the failure of officers and employees of the village to perform municipal duties required by this Code.

State law reference—Limitation on penalties, MCL 78.24(b), MSA 5.1534b.

Sec. 1-14. Notice.

(a) Notice regarding sidewalk construction or repairs, sewer or water connections, dangerous structures, abating nuisances or any other act, the expense of which if performed by the village may be assessed against the premises under the provisions of this Code, shall, except as otherwise provided by the village Charter, be served:

- (1) By delivering the notice to the owner personally or by leaving the same at his residence, office or place of business with some person of suitable age and discretion, or
- (2) By mailing such notice by registered or certified mail to the owner at his last known address, or
- (3) If the owner is unknown, by posting such notice in some conspicuous place on the premises for five days.

(b) No person shall interfere with, obstruct, mutilate, conceal, or tear down any official notice or placard posted by any village officer, unless permission is given by the officer to remove such notice.

Chapter 2

ADMINISTRATION*

Article I. In General

Secs. 2-1–2-25. Reserved.

Article II. Village Council

Secs. 2-26–2-45. Reserved.

Article III. Officers and Employees

Secs. 2-46–2-65. Reserved.

Article IV. Boards and Commissions

Secs. 2-66–2-85. Reserved.

Article V. Finance

Division 1. Generally

Secs. 2-86–2-95. Reserved.

Division 2. Purchasing, Contracting and Selling

- Sec. 2-96. Purchasing agent.
- Sec. 2-97. Purchases or contracts under \$5,000.00.
- Sec. 2-98. Purchases or contracts over \$5,001.00.
- Sec. 2-99. Exceptions to competitive bidding.
- Sec. 2-100. Sale of property.
- Sec. 2-101. Sale of real estate.

***Cross reference**—Administration of zoning chapter, § 15-251 et seq.
State law references—Open meetings act, MCL 15.261 et seq., MSA 4.1800(11) et seq.;
freedom of information act, MCL 15.231 et seq., MSA 4.1801(1) et seq.

ARTICLE I. IN GENERAL

Secs. 2-1–2-25. Reserved.

ARTICLE II. VILLAGE COUNCIL*

Secs. 2-26–2-45. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES†

Secs. 2-46–2-65. Reserved.

ARTICLE IV. BOARDS AND COMMISSIONS

Secs. 2-66–2-85. Reserved.

ARTICLE V. FINANCE‡

DIVISION 1. GENERALLY

Secs. 2-86–2-95. Reserved.

DIVISION 2. PURCHASING, CONTRACTING AND SELLING

Sec. 2-96. Purchasing agent.

The village clerk shall act as purchasing agent of the village, unless another officer or employee shall be designated to act as purchasing agent by the president in writing filed with the clerk. The purchasing agent, with the approval of the president, shall adopt any necessary rules respecting requisitions and purchase orders.

(Code 1959, ch. 1124, § 1)

***State law references**—Village council, MCL 65.1 et seq., MSA 5.1264 et seq.; standards of conduct and ethics, MCL 15.341 et seq., MSA 4.1700(71) et seq.; open meetings act, MCL 15.261 et seq., MSA 4.1800(11) et seq.; freedom of information act, MCL 15.231 et seq., MSA 4.1801(1) et seq.

†State law references—Standards of conduct and ethics, MCL 15.341 et seq., MSA 4.1700(71) et seq.; open meetings act, MCL 15.261 et seq., MSA 4.1800(11) et seq.; village officers, MCL 62.1 et seq., MSA 5.1215 et seq.

‡State law references—Municipal finance act, MCL 131.1 et seq., MSA 5.3188(1) et seq.; uniform budgeting and accounting act, MCL 141.421 et seq., MSA 5.3228(21) et seq.

Sec. 2-97. Purchases or contracts under \$5,000.00.

Purchases of supplies, materials or equipment, the cost of which is less than \$5,000.00, may be made in the open market but such purchases shall, except when the president shall determine that no advantage to the village would result, be based on at least three competitive bids and shall be awarded to the lowest responsible bidder meeting specifications. The purchasing agent may solicit bids verbally or by telephone, or may contact prospective bidders by written communication. A record shall be kept of all open market orders and the bids submitted thereon, which records shall be available for public inspection. Any or all bids may be rejected.

(Code 1959, ch. 1124, § 2)

Sec. 2-98. Purchases or contracts over \$5,001.00.

Any expenditure for supplies, materials, equipment, construction project or contract obligating the village, where the amount of the village's obligation is in excess of \$5,001.00 shall be governed by the provisions of this section.

- (1) Such expenditure shall be made the subject of a written contract. A purchase order shall be a sufficient written contract only in cases where the expenditure is in the usual and ordinary course of the village's affairs and in no case shall it be sufficient for the construction of public works or the contracting for supplies or services over any period of time or where the quality of the goods or materials or the scope of the services bargained is not wholly standardized.
- (2) Notice inviting sealed competitive bids shall be published in the official newspaper or posted in three places in the village, at least five days before the final date for submitting bids thereon. Such notice shall give briefly the specifications of the supplies, materials or equipment or construction project or other matter to be contracted for, and shall state the amount of bond or other security, if any is to be required, to be given with the bid, and the amount of bond or other security to be given with the contract. The notice shall state the time limit, the place of filing and the time of opening bids and shall also state that the right is reserved to reject any or all bids. Any other conditions of award of the contract shall also be stated in general terms.
- (3) The purchasing agent shall also solicit bids from a reasonable number of such qualified prospective bidders as are known to him by sending each a copy of the notice requesting bids.
- (4) The council shall prescribe the amount of any security to be deposited with any bid which deposit shall be in the form of cash, certified or cashier's check or bond written by a surety company authorized to do business in the state. The amount of such security shall be expressed in terms of percentage of the bid submitted. The council shall also fix the amount of the performance bond and in the case of construction contracts, the amount of the labor and material bond to be required of the successful bidders.

- (5) Bids shall be opened in public at the time and place designated in the notice requesting bids in the presence of the president and either the clerk or the treasurer. The bids shall thereupon be carefully examined and tabulated and reported to the council with the recommendation of the purchasing agent at the next council meeting. After tabulation all bids may be inspected by the competing bidders.
 - (6) When such bids are submitted to the council, the contract to be executed shall also be submitted and if the council shall find any of the bids to be satisfactory, it shall award the contract to the lowest responsible bidder, unless the council shall determine that the public interest will be better served by accepting a higher bid, and shall authorize execution of the contract upon execution of the contract by the successful bidder and the filing of any bonds which may have been required. Such award may be by resolution or ordinance. The council shall have the right to reject any or all bids and to waive irregularities in bidding and to accept bids which do not conform in every respect to the bidding requirements.
 - (7) At the time the contract is executed by him, the contractor shall file a bond executed by a surety company authorized to do business in the state, to the village, conditioned upon the performance of such contract and saving the village harmless from all losses or damage caused to any person or property by reason of any carelessness or negligence by the contractor and from all expense of inspection, engineering and otherwise, caused by the delay in the completion of any improvement and further conditioned to pay all laborers, mechanics, subcontractors and materialmen as well as all just debts, dues and demands incurred in the performance of such work.
 - (8) All bids, deposits of cash or certified or cashier's checks may be retained until the contract is awarded and signed. If any successful bidder fails or refuses to enter into the contract awarded to him within five days after the same has been awarded, or file any bond required within the same time, the deposit accompanying his bid shall be forfeited to the village, and the council, may, in its discretion, award the contract to the next lowest responsible bidder unless the council shall determine that the public interest will be better served by accepting a higher bid, or such contract may be readvertised.
- (Code 1959, ch. 1124, § 3)

Sec. 2-99. 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 employment of professional 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.
(Code 1959, ch. 1124, § 4)

Sec. 2-100. Sale of property.

Whenever any personal property belonging to the village is no longer needed for corporate or public purposes, the same may be offered for sale on approval by the council. Personal property not exceeding \$1,000.00 in value may be sold for cash by the purchasing agent upon approval of the president, after receiving quotations or competitive bids therefor for the best price obtainable. Personal property with a value in excess of \$1,000.00 may be sold after advertising and receiving competitive bids, as provided in section 2-98 and after approval of the sale has been given by the council. In the purchase of automotive equipment, bidders may include in their bid, a trade-in allowance for old equipment and such equipment may be disposed of in trade without further bidding requirements.
(Code 1959, ch. 1124, § 5)

Sec. 2-101. Sale of real estate.

Real estate may be purchased or sold or leased when not required for corporate purposes, upon the affirmative vote of two-thirds of the members elect of the council. Sales of real estate shall be subject to the requirements of section 2-97. The notice inviting bids shall contain a brief description of the property in addition to the information specified in section 2-98(2).
(Code 1959, ch. 1124, § 6)

Chapter 3

ANIMALS*

Article I. In General

- Sec. 3-1. Horses, ponies, donkeys.
- Sec. 3-2. Cruelty to animals.
- Sec. 3-3. Poisoning animals.
- Sec. 3-4. Birds and birds' nests.
- Secs. 3-5—3-30. Reserved.

Article II. Dogs

- Sec. 3-31. Presumption of ownership.
- Sec. 3-32. Restrictions.
- Sec. 3-33. Seizure, impounding.
- Sec. 3-34. Rabies prevention.
- Sec. 3-35. Exposure to rabies; notice.
- Sec. 3-36. Impounding; release.
- Sec. 3-37. Notice to owner.
- Sec. 3-38. Disposition of dogs.

***State law references**—Authority to adopt an animal control ordinance, MCL 287.290, MSA 12.541; crimes relating to animals and birds, MCL 750.49 et seq., MSA 28.244 et seq.

ARTICLE I. IN GENERAL**Sec. 3-1. Horses, ponies, donkeys.**

No person owning, possessing or having charge of any horses, ponies or donkeys, shall permit such animal:

- (1) To be ridden or to be led on any sidewalk in the village.
- (2) To be ridden or to be unconfined on the premises of another without the permission of the owner, tenant or person in charge of such premises.
- (3) To be an annoyance or nuisance by reason of damaging or trespassing on the property of another.

(Code 1959, ch. 9010)

Sec. 3-2. Cruelty to animals.

No person shall cruelly treat or abuse any animal or bird.

(Code 1959, ch. 9002, § 1)

State law reference—Similar provisions, MCL 752.21, MSA 28.161.

Sec. 3-3. 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 animal or bird.

(Code 1959, ch. 9002, § 2)

State law reference—Maliciously killing animals, MCL 750.377, MSA 28.609.

Sec. 3-4. Birds and birds' nests.

No person, except a police officer acting in his official capacity, shall molest, injure, kill or capture any wild bird, or molest or disturb any wild bird's nest or the contents thereof.

(Code 1959, ch. 9002, § 3)

Secs. 3-5--3-30. Reserved.**ARTICLE II. DOGS****Sec. 3-31. Presumption of ownership.**

Any person who shall permit any dog to remain about any premises owned or occupied by him for a period of five days shall be deemed the owner of such dog for the purposes of this article.

(Code 1959, ch. 9006, § 1)

Sec. 3-32. Restrictions.

No person owning, possessing or having charge of any dog, four months of age or over, shall permit such dog:

- (1) To be unconfined between sunset and sunrise of the following day unless in the custody of some person;
- (2) If vicious, to be unconfined at any time unless securely muzzled and led by a leash and any dog shall be deemed vicious which has bitten a person or domestic animal without molestation, or which, by its actions, gives indication that it is liable to bite any person or domestic animal;
- (3) To be unconfined at any time unless vaccinated against rabies within the past year and unless such dog shall have a tag on its collar showing such current vaccination; provided, this subsection shall apply only to dogs six months of age or older;
- (4) If a female dog, to be unconfined when such dog is in heat;
- (5) To be an annoyance or nuisance in the vicinity where kept because of loud or frequent or habitual barking, yelping or howling, or by reason of damaging or trespassing on the property of others.

(Code 1959, ch. 9006, § 2)

Sec. 3-33. Seizure, impounding.

Any dog found at large in the village which is doing any of the acts enumerated in, or at large under circumstances prohibited by, section 3-32, or which is suspected of having rabies or of having bitten any person or animal, may be seized and impounded by the dog warden or any police officer of the village.

(Code 1959, ch. 9006, § 3)

Sec. 3-34. Rabies prevention.

Any person who shall have in his possession a dog which has contracted rabies or which has been subjected to the same or which is suspected of having rabies or which has bitten any person, shall upon demand of any police officer or the health officer, produce and surrender up such dog to be held for observation as hereinafter provided.

(Code 1959, ch. 9006, § 4)

Sec. 3-35. Exposure to rabies; notice.

It shall be the duty of any person owning or harboring a dog which has been attacked or bitten by another dog or other animal showing the symptoms of rabies, immediately to notify the police department of his possession of such dog.

(Code 1959, ch. 9006, § 5)

Sec. 3-36. Impounding; release.

Any dog impounded for observation for rabies shall be held until released by the chief of police or otherwise disposed of. Any dog impounded for having bitten any person shall be held for not less than five days and in case any complaint shall have been made before any court having jurisdiction of such cases shall be filed, whereby an order that such dog be killed or confined is sought, then such further time until such case is finally disposed of. All other dogs which may be impounded under the provisions of this article shall be held for not less than five days and shall be released to their respective owners upon payment of such reasonable fee as the chief of police may establish, with the approval of the village council.

(Code 1959, ch. 9006, § 6)

Sec. 3-37. Notice to owner.

It shall be the duty of the police department to notify the owner of every dog which shall be impounded, if the owner of such dog can be ascertained, as soon as possible after such dog has been impounded.

(Code 1959, ch. 9006, § 7)

Sec. 3-38. Disposition of dogs.

(a) The village marshal shall have authority to pick up any dog running loose at any time. The owner of a licensed dog will be notified and given 48 hours to reclaim dog.

(b) If an animal was impounded the owner shall pay an impoundment fee of \$2.00 in addition to \$1.00 per day for each day the dog was unclaimed for the first time. The impoundment fee shall be increased to \$3.00 the second time the dog is impounded and to \$5.00 for each succeeding impoundment.

(c) An unlicensed dog, regardless of age, will be disposed of immediately. The village president shall request the district court judge to issue a summons against the owner of a licensed dog 48 hours after notice of impoundment is served and the owner has not acted. The summons shall be to show cause why the dog should not be killed at a hearing before the village president. The summons shall be returnable two days after service. The village president shall determine whether such dog is to be killed.

Chapter 4

BUILDINGS AND BUILDING REGULATIONS*

Article I. In General

Secs. 4-1–4-25. Reserved.

Article II. Building Code

Sec. 4-26. Code adopted.

Sec. 4-27. Enforcing agency.

Sec. 4-28. Fees.

Secs. 4-29–4-50. Reserved.

Article III. Dangerous Buildings

Sec. 4-51. Defined.

Sec. 4-52. Dangerous dwellings prohibited.

Sec. 4-53. Notice of dangerous and unsafe condition.

Sec. 4-54. Hearings.

Sec. 4-55. Review.

Sec. 4-56. Rights of action.

*Cross references—Fire prevention and protection, ch. 5; zoning, ch. 15.
State law reference—State construction code act, MCL 125.1501 et seq., MSA 5.2949(1)
et seq.

ARTICLE I. IN GENERAL

Secs. 4-1–4-25. Reserved.

ARTICLE II. BUILDING CODE*

Sec. 4-26. Code adopted.

The Building Officials and Code Administrators International, Inc., National Building Code, 1990 Edition, as amended, is hereby adopted by reference. A copy of the BOCA code shall be available for inspection in the office of the village clerk.

State law reference—Authority to adopt technical codes by reference, MCL 117.3(k), MSA 5.2073(k).

Sec. 4-27. Enforcing agency.

Pursuant to the provisions of the state construction code the building official of the village is hereby designated as the enforcing agency to discharge the responsibilities of the village under Act No. 230 of the Public Acts of Michigan of 1972 (MCL 125.1501 et seq., MSA 5.2949(1) et seq.), so amended. The village hereby assumes responsibility for the administration and enforcement of the act throughout its corporate limits.

Sec. 4-28. Fees.

Fees required under the state construction code shall be as prescribed by resolution of the village council from time to time.

Secs. 4-29–4-50. Reserved.

ARTICLE III. DANGEROUS BUILDINGS

Sec. 4-51. Defined.

As used in this article, dangerous building means any building or structure which has any of the following defects or is in any of the following conditions:

- (1) Whenever any door, aisle, passageway, stairway or other means of exit does not conform to the approved fire code of the village.
- (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 the building code of the village or any applicable statute of the state.

***State law reference**—State construction code act, MCL 125.1501 et seq., MSA 5.2949(1) et seq.

- (3) Whenever any portion or member or appurtenance is likely to fall or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
- (4) Whenever any portion has settled to such an extent that walls or other structural portions have materially less resistance to winds than is required in the case of new construction by the building code of the village or any applicable statute of the state.
- (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 acts.
- (8) 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.
- (9) Whenever a building or structure used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, want of repair or of defects in the drainage, plumbing, 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.

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 4-52. Dangerous dwellings prohibited.

It is unlawful for any owner or agent thereof to keep or maintain any dwelling or part thereof which is a dangerous building. A dwelling as used in this section is defined as any house, building, structure, tent, shelter, trailer or vehicle, or portion thereof, (except railroad cars, on tracks or rights-of-way) which is occupied in whole or in part as the home, residence, living or sleeping place of one or more human beings, either permanently or transiently. A house trailer or other vehicle, when occupied or used as a dwelling, shall be subject to all the provisions of this act, except that house trailers or other vehicles, duly licensed as vehicles, may be occupied or used as a dwelling for reasonable periods or lengths of time, without being otherwise subject to the provisions of this act for dwellings, when located in a park or place designated or licensed for the purpose by the corporate community within which they are

located; provided, that such parking sites are equipped with adequate safety and sanitary facilities.

Sec. 4-53. Notice of dangerous and unsafe condition.

(a) When the whole or any part of any building or structure is found to be in a dangerous or unsafe condition, the building inspector shall issue a notice of the dangerous and unsafe condition.

(b) Such notice shall be directed to the owner, agent or lessee of the building or structure. If the name of the owner, agent or lessee is not known, then the notice shall be directed to each owner 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 building inspector 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, 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.

Sec. 4-54. Hearings.

(a) The hearing officer shall take testimony of the building inspector, the owner of the property coming under the provisions of this article 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 village council and request that the necessary action be taken to demolish or otherwise make safe the building or structure. A copy of the findings and order of the hearing officer shall be served on the owner, agent or lessee in the manner prescribed in section 1-14.

(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 1-14 of the time and place of the hearing. At the hearing the owner, agent or lessee shall be given the opportunity to show cause why the building should not be demolished or otherwise made safe and the village council shall either approve, disapprove or modify the order for the demolition or making safe of the building or structure.

(e) The cost of the demolition or making the building safe shall be a lien against the real property and shall be reported to the assessing officer of the village who shall assess the cost against the property on which the building or structure is located.

(f) The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified of the amount of 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 the notice of the amount thereof, the assessor shall add the same to the tax roll of the village and the same shall be collected in the same manner in all respects as provided by law for the collection of taxes by the village.

Sec. 4-55. Review.

An owner aggrieved by any final decision or order of the village council under section 4-54 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.

Sec. 4-56. Rights of action.

The enumeration of rights of action and remedies under this article shall not limit or derogate the rights of the village at common law or in equity with other appropriate and proper remedies.

Chapter 5

FIRE PREVENTION AND PROTECTION*

- Sec. 5-1. False alarm.
- Sec. 5-2. Injury to fire equipment.
- Sec. 5-3. Obstruction of fire hydrants.
- Sec. 5-4. Fire hydrant openings.
- Sec. 5-5. Fire inspection.
- Sec. 5-6. Waste receptacles and storage.
- Sec. 5-7. Fire exits.
- Sec. 5-8. Open fires.

*State law references—Fires and fire departments, MCL 70.1 et seq., MSA 5.1397 et seq.; state fire prevention act, MCL 29.1 et seq., MSA 4.559(1) et seq.; crimes related to explosives and bombs, MCL 750.200 et seq., MSA 28.397 et seq.; crimes related to fires, MCL 750.240 et seq., MSA 28.437 et seq.

Sec. 5-1. False alarm.

No person shall wilfully turn in, sound or cause to be communicated to the village fire department, a false alarm of fire.

(Code 1959, ch. 9027, § 1)

State law reference—False fire alarm, MCL 750.240, MSA 28.437.

Sec. 5-2. Injury to fire equipment.

No person shall wilfully molest, take for his own private use, or damage in any manner, any firefighting equipment or apparatus or anything pertaining to the firefighting system, or drive any vehicle upon or against any hose or equipment of the fire department.

(Code 1959, ch. 9027, § 2)

State law reference—Destruction of fire department property, MCL 750.377b, MSA 28.609(2).

Sec. 5-3. Obstruction of fire hydrants.

No person shall place any obstruction whatever, nor shall any person responsible for such obstruction permit it to remain, within 15 feet of any fire hydrant.

(Code 1959, ch. 9027, § 3)

Sec. 5-4. Fire hydrant openings.

No person, except authorized village officers and employees shall use any fire hydrant except in case of emergency, without first securing permission from the department of public works for such use, and paying or agreeing to pay for the water to be used. In no case shall any wrench or tool be used on any fire hydrant other than a regulation village hydrant wrench.

(Code 1959, ch. 9027, § 4)

Sec. 5-5. Fire inspection.

The fire chief is hereby empowered to enter at any and all reasonable times upon and into any premises, building or structure for the purpose of examining and inspecting the same, to ascertain the conditions thereof with regard to fire hazards and the condition, size, arrangement and efficiency of any and all appliances for firefighting. If such inspection shall disclose any fire hazard or any deficiency in firefighting appliances, the fire chief shall order the condition remedied. Every order made by the fire chief shall be promptly obeyed and complied with.

(Code 1959, ch. 9027, § 5)

Sec. 5-6. Waste receptacles and storage.

No person owning or being responsible for any premises shall permit any waste paper, ashes, oil, rags, waste rags, excelsior or any material of a similar nature to accumulate thereon, unless contained in fireproof receptacles.

(Code 1959, ch. 9027, § 6)

Sec. 5-7. Fire exits.

The following rules relative to passageways, stairs and fire exits shall be applicable to all public buildings, places of assembly, commercial and business buildings, hotels, apartment buildings, lodginghouses, tourist homes and all other buildings except private dwellings and except as otherwise expressly limited herein to a particular type of building:

- (1) No fire escape, stairway, balcony or ladder on any building shall be obstructed, out of repair, or maintained in a hazardous condition. Doors and windows leading to any fire escape shall open easily from the inside;
- (2) No combustible material shall be stored, placed or kept under or upon any passageway, stairs or elevator shaft, nor shall any such material be stored, placed or kept in any other part of any building in such a position as to obstruct or render hazardous egress therefrom;
- (3) All doors, hallways and stairways shall be unobstructed at all times;
- (4) In all theaters, churches, schools and other places of public assembly, no door, aisle or passageway shall be obstructed with any furniture or article; nor shall any person sit or stand or be permitted to sit or stand in any aisle, or in any exit or passageway; and all exits and the sidewalks leading therefrom shall be unobstructed while such places of public assembly are in use;
- (5) No person shall do any act which causes any violation of any of the rules set forth in this section, nor shall any person owning any building or in charge thereof, as agent, employee or otherwise permit any of such rules to be violated.

(Code 1959, ch. 9027, § 7)

Sec. 5-8. Open fires.

No person shall kindle a fire in or upon any street or alley nor within 25 feet of any building, unless such fire be confined in a safe container, and in no case within 15 feet of any building. Every person who shall kindle any fire shall have some competent person constantly in charge of such fire until it is completely extinguished.

(Code 1959, ch. 9027, § 8)

Chapter 6

GARBAGE AND REFUSE*

- Sec. 6-1. Definitions.
- Sec. 6-2. Exclusive contract.
- Sec. 6-3. Collection of service charges.
- Sec. 6-4. Intent.

*State law reference—Authority to regulate disposal of garbage and rubbish, MCL 123.241 et seq., 123.361 et seq., MSA 5.2661 et seq., 5.2726(1) et seq.

Sec. 6-1. 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:

Dwelling means any house, building, flat, apartment, or dwelling place within the village, which is a private residence.

Garbage means rejected food wastes including waste accumulation of animal, fruit or vegetable matter used or intended for food or that attend the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit, or vegetable.

Refuse means putrescible and nonputrescible solid wastes, except body wastes, and includes garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings and solid market and industrial wastes.

Rubbish means nonputrescible solid wastes, excluding ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind that will be a detriment to the public health and safety.

Village contractor means the individual, partnership, or corporation who or which agrees for a stipulated sum to perform the work or services and furnish materials and equipment as required in this chapter.

(Ord. No. 6032, § I, 8-2-67)

Sec. 6-2. Exclusive contract.

The village may grant an exclusive contract to one or more persons 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.

(Ord. No. 6032, § II, 8-2-67)

Sec. 6-3. Collection of service charges.

(a) *Levied.* The cost of the service for garbage and refuse collection shall be \$1.80 per dwelling which shall be billed by the village on a quarterly basis in addition to the water and sewer charges.

(b) *Amendments.* Such charge may be changed by resolution of the village council from time to time.

(c) *Unpaid bills.* The charges for service for garbage and refuse collection are made a lien on the premises for which furnished and are hereby recognized to constitute such lien. The village clerk shall annually at the first meeting in June of the village council report to the council all unpaid charges for such services furnished to any premises, which, on May 31

preceding, have remained unpaid for a period of one year. The village council may thereupon after due notice to the owner of the premises so served, assess the amount so found to be due as a tax against the premises and the payment shall be certified to the village assessor, who shall place the same on the next tax roll of the village. Such payments so assessed shall be collected in the same manner as general village taxes.

(Ord. No. 6032R, §§ III, V, 5-3-76)

Sec. 6-4. Intent.

The village council shall have the authority to pass any further regulation necessary to carry out the provisions and intent of this chapter by resolution of the village council.

(Ord. No. 6032, § IV, 8-2-67)

Chapter 7

JUNK

- Sec. 7-1. Definitions.
- Sec. 7-2. Junk, blight contrary to public welfare.
- Sec. 7-3. Storage of junk restricted.
- Sec. 7-4. Dismantling automobiles.
- Sec. 7-5. Blighted structures.
- Sec. 7-6. Storage of building materials.
- Sec. 7-7. Removal of junk vehicles.
- Sec. 7-8. Penalty.

Sec. 7-1. 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:

Abandoned vehicle means and shall include, without limitation, any vehicle which has remained on private property for a period of 48 continuous hours, or more, without the consent of the owner or occupant of the property, or for a period of 48 continuous hours or more after the consent of the owner or occupant has been revoked.

Blighted structure means and shall include, without limitation any dwelling, garage, or outbuilding, or any factory, shop, store, warehouse or any other structure or part of a structure which, because of fire, wind, or other natural disaster, or physical deterioration, is no longer habitable as a dwelling, nor useful for the purpose for which it may have been intended.

Building materials means and shall include, without limitation, lumber, bricks, concrete or cinder blocks, plumbing materials, electric wiring or equipment, heating ducts or equipment, shingles, mortar, concrete, or cement, nails, screws or any other materials used in constructing any structure.

Junk means and shall include, without limitation, parts of machinery or motor vehicles, unused furniture, stoves, refrigerators, or other appliances, remnants of wood, metal, or any other castoff material of any kind, whether or not the same could be put to any reasonable use.

Junk automobiles means and shall include, without limitation, any motor vehicle which is not licensed for use upon the highways of the state for a period in excess of 60 days, and shall also include, whether licensed or not, any motor vehicle which is inoperative for any reason for a period in excess of 60 days; provided, that there is excepted from this definition unlicensed, but operative, vehicles which are kept as the stock in trade of a regularly licensed and established new or used automobile dealer.

Person means and shall include all natural persons, firms, copartnerships, corporations, and all associations of natural persons, incorporated or unincorporated, whether acting by themselves, or by a servant, agent or employee. All persons who violate any of the provisions of this chapter, whether as owner, occupant, lessee, agent, servant or employee shall, except as herein otherwise provided, be equally liable as principals.

Trash and rubbish mean and shall include any and all forms of debris not otherwise classified.

(Ord. of 2-6-67, § 1)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 7-2. Junk, blight contrary to public welfare.

It is hereby determined that the storage or accumulation of trash, rubbish, junk, junk automobiles, abandoned vehicles, building materials, and the maintenance of blighted structures upon any private property within the village tends to result in blighted and deteriorated

neighborhoods, the increase in criminal activity, the spread of vermin and disease, and is contrary to the public peace, health, safety and general welfare of the community.
(Ord. of 2-6-67, § 2)

Sec. 7-3. Storage of junk restricted.

It shall be unlawful for any person to store, or to permit the storage or accumulation of trash, rubbish, junk, junk automobiles, or abandoned vehicles on any private property in the village except within a completely enclosed building or upon the premises of a duly licensed junk dealer, junk buyer, dealer in used auto parts, dealer in secondhand goods or junk gatherer.
(Ord. of 2-6-67, § 3)

Sec. 7-4. Dismantling automobiles.

It shall be unlawful for any person to dismantle, cut up, remove parts from, or otherwise disassemble any automobile, whether or not the same be a junk automobile, abandoned vehicle, or otherwise, or any appliance or machinery, except in a completely enclosed building, or upon the premises of a duly licensed junk dealer, junk buyer, dealer in used auto parts, dealer in secondhand goods, or junk gatherer.
(Ord. of 2-6-67, § 4)

Sec. 7-5. Blighted structures.

It shall be unlawful for any person to keep or maintain any blighted or vacant structure, dwelling, garage, outbuilding, factory, shop, store, or warehouse unless the same is kept securely locked, the windows kept glazed or neatly boarded up, and otherwise protected to prevent entrance thereto by unauthorized persons or unless such structure is in the course of construction in accordance with a valid building permit issued by the village and unless such construction is completed within a reasonable time.
(Ord. of 2-6-67, § 5)

Sec. 7-6. Storage of building materials.

It shall be unlawful for any person to store or permit the storage or accumulation of building materials on any private property, except in a completely enclosed building or except where such building materials are part of the stock in trade of a business located on such property, or except when such materials are being used in the construction of a structure on the property in accordance with a valid building permit issued by the village and unless such construction is completed within a reasonable time.
(Ord. of 2-6-67, § 6)

Sec. 7-7. Removal of junk vehicles.

The village president may remove or cause to be removed any junk automobile or abandoned vehicle, or parts of either, from any unenclosed private property after having notified,

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in writing, the owner or occupant of such property of his intention to do so at least 48 hours prior to such removal. Such notice shall be served personally upon the owner or occupant of the property, if occupied, or may be posted in a conspicuous place upon vacant or unoccupied property. Such junk automobiles or abandoned vehicles, or parts of either, shall be removed to the automobile pound and disposed of in accordance with law. Such removal by the village president shall not excuse or relieve any person of the obligation imposed by this chapter to keep his property free from the storage or accumulation of junk automobiles or abandoned vehicles, or parts of either, nor from the penalties for violation thereof.
(Ord. of 2-6-67, § 7)

Sec. 7-8. Penalty.

Any violation of, or failure to comply with the provisions of this chapter shall be punished as prescribed in section 1-13 of this Code.
(Ord. of 2-6-67, § 8)

Chapter 8

LICENSES*

- Sec. 8-1. Definitions.
- Sec. 8-2. Required.
- Sec. 8-3. State licensed businesses.
- Sec. 8-4. Application.
- Sec. 8-5. Term.
- Sec. 8-6. Where certification required.
- Sec. 8-7. Health officer's certificate.
- Sec. 8-8. Police chief's certification; investigation of applicant's character.
- Sec. 8-9. Late renewals.
- Sec. 8-10. Right to issuance.
- Sec. 8-11. Suspension or revocation.
- Sec. 8-12. Renewal.
- Sec. 8-13. Exhibition.
- Sec. 8-14. Exhibition on vehicle and machine.
- Sec. 8-15. Displaying invalid license.
- Sec. 8-16. Transferability; misuse.
- Sec. 8-17. Automatic revocation.

*Cross reference--Peddlers and transient merchants, ch. 11.

State law reference--Authority to regulate certain businesses, MCL 67.1, MSA 5.1285.

Sec. 8-1. 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:

Cause means and shall include the doing or omitting of any act, or permitting any condition to exist in connection with any trade, profession, business or privilege for which a license or permit is granted under the provisions of this Code, or upon any premises or facilities used in connection therewith, which act, omission or condition is:

- (1) Contrary to the health, morals, safety or welfare of the public;
- (2) Unlawful, irregular or fraudulent in nature;
- (3) Unauthorized or beyond the scope of the license or permit granted; or
- (4) Forbidden by the provisions of this Code or any duly established rule or regulation of the village applicable to the trade, profession, business or privilege for which the license or permit has been granted.

(Code 1959, ch. 7000, § 11)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 8-2. Required.

No person shall engage in the operation, conduct or carrying on of any trade, profession, business or privilege for which any license is required by any provision of this Code without first obtaining a license from the village in the manner provided for in this chapter.

(Code 1959, ch. 7000, § 1)

Sec. 8-3. State licensed businesses.

The fact that a license or permit has been granted to any person by the state to engage in the operation, conduct or carrying on of any trade, profession, business or privilege shall not exempt such person from the necessity of securing a license or permit from the village if such license or permit is required by this Code.

(Code 1959, ch. 7000, § 2)

Sec. 8-4. Application.

Unless otherwise provided in this Code, every person required to obtain a license from the village to engage in the operation, conduct or carrying on of any trade, profession, business or privilege shall make application for the license to the village clerk upon forms provided by the clerk and shall state under oath or affirmation such facts, as may be required for, or applicable to, the granting of such license.

(Code 1959, ch. 7000, § 3)

Sec. 8-5. Term.

The license year shall begin January 1 of each year and shall terminate at midnight on December 31 of that year. Original licenses shall be issued for the balance of the license year at the full license fee. License applications for license renewals shall be accepted and licenses issued for a period of 15 days prior to the annual expiration date. In all cases where the provisions of this Code permit the issuance of licenses for periods of less than one year, the effective date of such licenses shall commence with the date of issuance thereof.

(Code 1959, ch. 7000, § 4)

Sec. 8-6. Where certification required.

No license shall be granted where the certification of any officer of the village is required prior to the issuance thereof until such certification is made.

(Code 1959, ch. 7000, § 5)

Sec. 8-7. Health officer's certificate.

In all cases where the certification of the health officer is required prior to the issuance of any license by the village clerk, such certification shall be based upon an actual inspection and a finding that the person making application and the premises in which he proposes to conduct or is conducting the trade, profession, business or privilege comply with all the sanitary requirements of the state and of the village.

(Code 1959, ch. 7000, § 6)

Sec. 8-8. Police chief's certification; investigation of applicant's character.

(a) In all cases where the certification of the police chief is required prior to the issuance of any license by the village clerk, such certification shall be based upon a finding that the person making application for such license is of good moral character.

(b) The phrase "good moral character," when used in this Code for the purpose of licensing, shall be construed to mean the propensity on the part of the person to serve the public in the licensed area in a fair, honest and open manner.

(c) A judgment of guilt in a criminal prosecution or a judgment in a civil action shall not be used, in and of itself, as proof of a person's lack of good moral character. It may be used as evidence in the determination, and when so used the person shall be notified and shall be permitted to rebut the evidence by showing that at the current time he or she has the ability and is likely to serve the public in a fair, honest and open manner, that he or she is rehabilitated, or that the substance of the former offense is not reasonably related to the occupation or profession for which he or she seeks to be licensed.

(d) The following criminal records shall not be used, examined or requested by the city in a determination of good moral character:

- (1) Records of an arrest not followed by a conviction;

- (2) Records of a conviction which has been reversed or vacated, including the arrest records relevant to that conviction;
- (3) Records of an arrest or conviction for a misdemeanor or a felony unrelated to the person's likelihood to serve the public in a fair, honest and open manner;
- (4) Records of an arrest or conviction for a misdemeanor for the conviction of which a person may not be incarcerated in a jail or prison.

(e) When a person is found to be unqualified for a license because of a lack of good moral character, or similar criteria, the person shall be furnished by the village clerk with a statement to that effect. The statement shall contain a complete record of the evidence upon which the determination was based. The person shall be entitled, as of right, to a rehearing on the issue before the council if he has relevant evidence not previously considered regarding his qualifications.

State law reference—Similar provisions, MCL 338.41 et seq., MSA 18.1208(1) et seq.

Sec. 8-9. Late renewals.

All fees for the renewal of any license which are not paid at the time fees shall be due, shall be paid as late fees with an additional 25 percent of the license fee required for such license for the first 15 days that such license fee remains unpaid, and thereafter the license fee shall be that required for such license, plus 50 percent of such fee.
(Code 1959, ch. 7000, § 8)

Sec. 8-10. Right to issuance.

If the application for any license is approved by the proper officers of the village, as provided in this Code, such license shall be granted and shall serve as a receipt for payment of the fee prescribed for such license.
(Code 1959, ch. 7000, § 9)

Sec. 8-11. Suspension or revocation.

Any license issued by the village may be suspended by the village president for cause, and any permit issued by the village may be suspended or revoked by the issuing authority for cause. The licensee shall have the right to a hearing before the village council on any such action of the village president, provided a written request therefor is filed with the village clerk within five days after receipt of the notice of such suspension. The council may confirm such suspension or revoke or reinstate any such license. The action taken by the council shall be final. Upon suspension or revocation of any license or permit, the fee therefor shall not be refunded.
(Code 1959, ch. 7000, § 10)

Sec. 8-12. Renewal.

Unless otherwise provided in this Code, an application for renewal of a license shall be considered in the same manner as an original application.

(Code 1959, ch. 7000, § 12)

Sec. 8-13. Exhibition.

No licensee shall fail to carry any license issued in accordance with the provisions of this chapter upon his person at all times when engaged in the operation, conduct or carrying on of any trade, profession, business or privilege for which the license was granted; except that where such trade, profession, business or privilege is operated, conducted or carried on at a fixed place or establishment, the license shall be exhibited at all times in some conspicuous place in such place of business. Every licensee shall produce his license for examination when applying for a renewal thereof or when requested to do so by any village police officer or by any person representing the issuing authority.

(Code 1959, ch. 7000, § 13)

Sec. 8-14. Exhibition on vehicle and machine.

No licensee shall fail to display conspicuously on each vehicle or mechanical device or machine required to be licensed by this Code such tags or stickers as are furnished by the village clerk.

(Code 1959, ch. 7000, § 14)

Sec. 8-15. Displaying invalid license.

No person shall display any expired license or any license for which a duplicate has been issued.

(Code 1959, ch. 7000, § 15)

Sec. 8-16. Transferability; misuse.

No license or permit issued under the provisions of this Code shall be transferable unless specifically authorized by the provisions of this Code. No licensee or permittee shall, unless specifically authorized by the provisions of this Code, transfer or attempt to transfer his license or permit to another nor shall he make any improper use of the same.

(Code 1959, ch. 7000, § 16)

Sec. 8-17. Automatic revocation.

In addition to the general penalty provision for a violation hereof, any attempt by a licensee or permittee to transfer his license or permit to another, unless specifically authorized by the provisions of this Code, or to use the same improperly shall be void and result in the automatic revocation of such license or permit.

(Code 1959, ch. 7000, § 17)

Chapter 10

PARKS*

- Sec. 10-1. Injury to park property.
- Sec. 10-2. Intoxicating liquors.
- Sec. 10-3. Waste containers.
- Sec. 10-4. Ball games.
- Sec. 10-5. Additional rules.

*State law reference--Authority to operate recreation areas and playgrounds, MCL 123.51 et seq., MSA 5.2421 et seq.

Sec. 10-1. Injury to park property.

No person shall obstruct any walk or drive in any public park or playground and no person shall injure, mar or damage in any manner, any monument, ornament, fence, bridge, seat, tree, fountain, shrub, flower, playground equipment, fireplaces, or other public property within or pertaining to the parks.

(Code 1959, ch. 3012, § 1)

State law reference—Malicious mischief, MCL 750.377 et seq., MSA 28.609 et seq.

Sec. 10-2. Intoxicating liquors.

No person shall bring into or drink in any village park any alcoholic beverage.

(Code 1959, ch. 3012, § 2)

Sec. 10-3. Waste containers.

No person shall place or deposit any garbage, glass, tin cans, paper or miscellaneous waste in any park or playground except in containers provided for that purpose.

(Code 1959, ch. 3012, § 3)

Sec. 10-4. Ball games.

No person shall engage in baseball, football or softball throwing, or other violent or rough exercises or play in any public park or other public place, except in areas designated therefor by order of the village council.

(Code 1959, ch. 3012, § 4)

Sec. 10-5. Additional rules.

The village council may, by resolution, prescribe additional rules and regulations pertaining to the conduct and use of parks and public grounds as it shall deem necessary to administer the same and to protect public property and the safety, health, morals and welfare of the public, and no person shall fail to comply with such rules and regulations.

(Code 1959, ch. 3012, § 5)

Chapter 11

PEDDLERS AND TRANSIENT MERCHANTS*

Article I. In General

Secs. 11-1–11-25. Reserved.

Article II. Peddlers

Sec. 11-26. License required.
Sec. 11-27. Fingerprints.
Sec. 11-28. Fixed stands prohibited.
Sec. 11-29. Practices prohibited.
Sec. 11-30. Exempt persons.
Secs. 11-31–11-50. Reserved.

Article III. Transient Merchants

Sec. 11-51. License required.
Sec. 11-52. Temporary business defined.
Sec. 11-53. Indebtedness to village.
Sec. 11-54. Benefit sales.

*Cross reference—Licenses, ch. 8.

State law references—Transient merchants, MCL 445.371 et seq., MSA 19.691 et seq.; home solicitation sales, MCL 445.111 et seq., MSA 19.416(201) et seq.; exemptions for a veteran's license, MCL 35.441, MSA 4.1241.

ARTICLE I. IN GENERAL

Secs. 11-1–11-25. Reserved.

ARTICLE II. PEDDLERS

Sec. 11-26. License required.

No person shall engage in the business of hawking or peddling or soliciting orders for any goods or merchandise without first obtaining a license therefor. No such license shall be granted except upon certification of the chief of police. The fee for such license shall be \$2.00 per day, \$15.00 per month or \$50.00 per year.

(Code 1959, ch. 7059, § 1)

Sec. 11-27. Fingerprints.

No license to peddle shall be granted to any person unless a complete set of fingerprints of such person are on file in the noncriminal identification file of the police department.

(Code 1959, ch. 7059, § 2)

Sec. 11-28. Fixed stands prohibited.

No licensee shall stop or remain in any one place upon any street, alley or public place, longer than necessary to make a sale to a customer wishing to buy. Any peddler using a vehicle, when stopped, shall place his vehicle parallel to and within 12 inches of the curb and shall depart from such place as soon as he has completed sales with customers actually present.

(Code 1959, ch. 7059, § 3)

Sec. 11-29. Practices prohibited.

No peddler shall shout or cry out his goods or merchandise, nor blow any horns, ring any bell or use any other similar device to attract the attention of the public.

(Code 1959, ch. 7059, § 4)

Sec. 11-30. Exempt persons.

This chapter shall not be applicable to farmers or truck gardeners selling or offering for sale any products grown, raised or produced by them, the sale of which is not otherwise prohibited or regulated; nor to any person under the age of 18 years, when engaged in peddling or soliciting in the neighborhood of his residence, on foot and under the direct supervision of any school or recognized charitable or religious organization.

(Code 1959, ch. 7059, § 5)

Secs. 11-31–11-50. Reserved.

ARTICLE III. TRANSIENT MERCHANTS

Sec. 11-51. License required.

No person shall engage in a temporary business of selling goods, wares or merchandise at retail within the village from any lot, premises, building, room or structure, including railroad cars, without first obtaining a license therefor. No such license shall be granted except upon certification of the chief of police and village treasurer. The fee for such license shall be \$50.00 per year. Persons having regularly established places of business in the village who are not otherwise subject to this chapter, shall not become subject thereto because of making incidental sales or deliveries directly from railroad cars.

(Code 1959, ch. 7060, § 1)

Sec. 11-52. Temporary business defined.

Every person engaged in the retail sale and delivery of goods, wares or merchandise, shall be deemed to be engaged in carrying on a temporary business unless his goods, wares or merchandise shall have been assessed for taxation in the village during the current year.

(Code 1959, ch. 7060, § 2)

Sec. 11-53. Indebtedness to village.

No 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 owing, in the operation of such business, and the treasurer shall certify to the applicant's qualifications with respect to such indebtedness.

(Code 1959, ch. 7060, § 3)

Sec. 11-54. Benefit sales.

Any person selling or offering for sale any goods, wares or merchandise on behalf of and solely for the benefit of any recognized public, charitable or religious purpose shall, after meeting all other requirements, be granted a license without payment of the fee required by section 11-51.

(Code 1959, ch. 7060, § 4)

Chapter 12

SEWERS*

Article I. In General

- Sec. 12-1. Purpose and objectives.
- Sec. 12-2. Definitions.
- Sec. 12-3. Abbreviations.
- Sec. 12-4. Discharge of unsanitary deposits to natural outlets prohibited.
- Sec. 12-5. Permit required.
- Sec. 12-6. Private sewage disposal.
- Sec. 12-7. Building sewer and connections.
- Sec. 12-8. Protection from damage.
- Sec. 12-9. Power and authority of inspectors.
- Sec. 12-10. Orders.
- Sec. 12-11. Village responsibility for enforcement.
- Sec. 12-12. Records required to be maintained.
- Sec. 12-13. Penalties.
- Secs. 12-14–12-20. Reserved.

Article II. Use of Public Sewers

- Sec. 12-21. General discharge prohibitions.
- Sec. 12-22. Specific pollutant limitations.
- Sec. 12-23. State requirements.
- Sec. 12-24. Village right of revision.
- Sec. 12-25. Waters prohibited in sanitary sewers.
- Sec. 12-26. Grease, oil and sand interceptors.
- Sec. 12-27. Measurement, tests and sampling.
- Sec. 12-28. Accidental discharge.
- Sec. 12-29. Agreement for acceptance of exceptional waste.
- Sec. 12-30. Acceptance of waste from individual sewage systems.
- Sec. 12-31. Municipal liability.
- Secs. 12-32–12-50. Reserved.

Article III. User Charge System

- Sec. 12-51. Established; basis for computations.
- Sec. 12-52. Amounts; billings; sewer service charges.
- Sec. 12-53. Annual audit.
- Sec. 12-54. Free service.
- Sec. 12-55. Billing.
- Sec. 12-56. Collection.
- Sec. 12-57. Annual notification.

*Cross references—Buildings and building regulations, ch. 4; zoning, ch. 15.

ARTICLE I. IN GENERAL**Sec. 12-1. Purpose and objectives.**

The objectives of this chapter are to:

- (1) Prevent the introduction of pollutants into the wastewater system which will interfere with the normal operation of the system or contaminate the resulting municipal sludge.
- (2) Improve the opportunity to recycle and reclaim wastewater and sludge from the system.
- (3) Provide for equitable distribution of the cost associated with the operation, maintenance and replacement of equipment at the POTW.

(Ord. No. 92-02, § 14, 2-3-92)

Sec. 12-2. Definitions.

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

Act or the Act means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33. U.S.C 1251 et seq.

Applicable county health department means the Lenawee Health Department.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days at 20 degrees centigrade expressed in terms of weight and concentration (milligrams per liter).

Building drain means the part of the lowest horizontal piping of a drainage system which receives discharge from drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

Building sewer means the extension from the building drain to the public sewer or other place of disposal.

Chemical oxygen demand (COD) means a measure of the oxygen-consuming capacity of inorganic and organic matter present in water or wastewater. It is expressed as the amount of oxygen consumed from a chemical oxidant in a specified test. It does not differentiate between stable and unstable organic matter and thus does not necessarily correlate with biochemical oxygen demand; also known as OC and DOC, oxygen consumed and dichromate oxygen consumed, respectively.

Chlorine demand means the difference between the amount of chlorine applied and the amount of free chlorine available at the end of the contact time, expressed in milligrams per liter.

Combined sewer means a sewer receiving both surface runoff and sewage.

Commercial waste means liquid or water-carried waste material from a commercial business engaged in buying, selling and exchanging goods.

Compatible pollutant means a substance amenable to treatment in the wastewater treatment plant such as biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus additional pollutants identified in the NPDES permit if the publicly owned treatment works was designed to treat such pollutants, and in fact does remove such pollutant to a substantial degree. Examples of such additional pollutants may include: chemical oxygen demand, total organic carbon, phosphorus and phosphorus compounds, nitrogen compounds, fats, oils and greases of animal or vegetable origin.

Composite sample means a series of samples taken over a specified time period whose volume is proportional to the flow in the waste stream, which are combined into one sample.

Cooling water means the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

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 shall be in addition to the user charge specified below.

Direct discharge means the discharge of treated or untreated wastewater directly to the waters of the state.

Environmental Protection Agency or EPA means the U.S. Environmental Protection Agency, administrator or other duly authorized official.

Garbage means solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

Grab sample means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

Holding tank waste means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

Incompatible pollutants means any pollutant which is not a compatible pollutant.

Indirect discharge means the discharge or the introduction of nondomestic pollutants into the POTW (including holding tanks waste discharged into the system).

Indirect wastes means the wastewater discharges from industrial, manufacturing, trade or business processes, or wastewater discharge from any structure with these characteristics, as distinct from their employee's domestic wastes or wastes from sanitary conveniences.

Infiltration means any waters entering the system from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. Infiltration does not include and is distinguished from inflow.

Infiltration/inflow means the total quantity of water from both infiltration and inflow.

Inflow means any waters entering the system through such sources as, but not limited to, building downspouts, footing or yard drains, cooling water discharges, seepage lines from springs and swampy areas and storm drain cross connections.

Interference means any discharge which alone or in conjunction with a discharge or discharges from other sources, both:

- (1) Inhibits or disrupts the POTW and any sludge use or disposal; and
- (2) Therefore is a cause of a violation of any of the POTW's NPDES permit (including an increase in the magnitude of duration of a violation) or of the prevention of sewage sludge use or disposal.

Laboratory determination means the measurements, tests and analyses of the characteristics of waters and wastes in accordance with the procedures established by the EPA pursuant to section 304(g) of the act and contained in 40 CFR 136.

Lateral sewer means that portion of the sewer system located under the street or within the street right-of-way from the property line to the trunk sewer and which collects sewage from a particular property for transfer to the trunk sewer.

National pollutant discharge elimination system permit or NPDES permit means a permit issued pursuant to section 401 of the act (33 U.S.C. 1342).

National prohibitive discharge standard or prohibitive discharge standard means any regulation developed under the authority of section 307(b) of the act and 40 CFR 403.5.

Natural outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

Normal domestic sewage (NDS) means wastewater which, when analyzed, shows a daily average concentration of not more than 200 mg/l of BOD; nor than 250 mg/l of suspended solids; nor more than ten mg/l of phosphorus; no more than 100 mg/l of fats, oils and grease; nor more than 40 mg/l of total nitrogen.

Obstruction means any object of whatever nature which substantially impedes the flow of sewage from the point of origination to the trunk line. This shall include, but not be limited to objects, sewage, tree roots, rocks and debris of any type.

Operation and maintenance 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 or owners of record means owners 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.

Person means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust estate, governmental entity or any other legal entity, or its legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

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

Pollutant means any of various chemicals, substances and refuse materials such as solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, radioactive materials, heat and industrial, municipal and agricultural wastes which impair the purity of the water and soil.

Pollution means the manmade or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

POTW treatment plant means that portion of the POTW designed to provide treatment to wastewater.

Private sewers means all service connections and equipment for the disposal of sewage installed or located on any property, from the property line to and including any structure or facility which exists on the property.

Properly shredded garbage means the wastes from the preparation, cooking and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

Property owner means the owner of the property which abuts the street.

Public sewer means a sewer in which all owners of abutting properties have equal rights, and which is controlled by public authority.

Publicly owned treatment works or POTW means a treatment works as defined by section 212 of the act including any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage and industrial waste. The systems include sewers, pipes and equipment used to convey wastewater to the treatment facility. The term also includes the municipality as defined in the section 502(4) of the act which has jurisdiction over the indirect discharge to and the discharges from such a treatment works.

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.

Sanitary sewage means a sewer which carries sewage and to which stormwaters, surface waters and groundwaters are not intentionally admitted.

Sewage means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such groundwaters as may be present.

Sewage treatment plant or *wastewater treatment plant* means any arrangement of devices and structures used for treating sewage.

Sewer means a pipe or conduit for carrying sewage.

Sewer service charge means the sum of the appropriate user charge, surcharges and debt service charges.

Shall is mandatory; *may* is permissive.

Slug load means any substance released in a discharge at a rate and/or concentration which causes interference to a POTW.

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.

Storm sewer or *storm drain* means a sewer which carries stormwater, surface water and drainage, but excludes sewage and polluted industrial wastes.

Stormwater means any flow occurring during or following any form of natural precipitation and resulting therefrom.

Surcharge means, as part of the service charge, that any customer discharging wastewater having strength in excess of normal domestic strength shall be required to pay an additional charge to cover the cost of treatment of such excess strength wastewater.

Suspended solids (SS) means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

Toxic pollutant means any pollutant or combination of pollutants which is or can potentially be harmful to public health or environment including those listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provisions of the Clean Water Act, section 307(a), or other acts.

Trunk sewer means the main sewer located under any street or within any street right-of-way which collects and transmits the sewage of the various properties served by the sewer system.

User means any person who contributes, causes or permits the contribution of wastewater into the POTW.

User charge means a charge levied on users of a treatment works for the cost of operation and maintenance of treatment works pursuant to section 204(b) of the Clean Water Act.

User class means the kind of user connected to sanitary sewers including but not limited to residential, industrial, commercial, institutional and governmental.

- (1) *Residential user* means a user of the treatment works whose premises or buildings are used primarily as a domicile for one or more persons, including dwelling units such as detached, semidetached and row houses, mobile homes, apartments or permanent multifamily dwellings (transit lodging is not included, it is considered commercial).
- (2) *Commercial user* means an establishment listed in the Office of the Management and Budget's "Standard Industrial Classification Manual" (SICM), involved in a commercial enterprise, business or service which, based on a determination by the village, discharges primarily segregated domestic wastes or wastes from sanitary conveniences and which is not a residential user or an industrial user.
- (3) *Institutional user* means any establishment listed in the SICM involved in a social, charitable, religious or educational function which, based on a determination by the village, discharges primarily segregated domestic wastes or wastes from sanitary convenience.
- (4) *Governmental user* means any federal, state or local governmental user of the wastewater treatment works.
- (5) *Industrial user* means any user who introduces pollutants into a POTW from any nondomestic source regulated under the act, state law or local ordinance.

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

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.

Waters of the state includes:

- (1) Both surface waters and underground waters within the boundaries subject to its jurisdiction, including all ponds, lakes, rivers, streams, public ditches, tax ditches and public drainage systems within this state, other than those designated and used to collect, convey or dispose of sanitary sewage; and
- (2) The floodplain free-flowing waters determined by the Department of Natural Resources on the basis of 100-year flood frequency (any other waters specified by state law).

(Ord. No. 92-02, § 14.1, 2-3-92)

Sec. 12-3. Abbreviations.

The following abbreviations shall have the designated meanings:

- (1) *BOD* means biochemical oxygen demand.

- (2) *CFR* means Code of Federal Regulations.
 - (3) *COD* means chemical oxygen demand.
 - (4) *EPA* means Environmental Protection Agency.
 - (5) *l* means liter.
 - (6) *mg* means milligrams.
 - (7) *mg/l* means milligrams per liter.
 - (8) *NDS* means normal domestic sewage.
 - (9) *NPDES* means national pollutant discharge elimination system.
 - (10) *P* means phosphorus.
 - (11) *POTW* means publicly owned treatment works.
 - (12) *SS* means suspended solids.
 - (13) *SWDA* means Solid Waste Disposal Act, 42 U.S.C. 6901 et seq.
 - (14) *O&M* means operation and maintenance.
 - (15) *CWA* means Clean Water Act.
 - (16) *SIC* means standard industrial classification.
 - (17) *SICM* means Standard Industrial Classification Manual.
- (Ord. No. 92-02, § 14.2, 2-3-92)

Sec. 12-4. Discharge of unsanitary deposits to natural outlets prohibited.

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

(b) It shall be unlawful, when sewage and/or treatment facilities are available, to discharge to any natural outlet within the village, or in any area under the jurisdiction of the village, any sanitary sewage, industrial wastes or other polluted waters, unless specifically permitted by an NPDES permit.

(c) It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage, unless specifically permitted by the applicable county health department or as hereinafter provided.

(d) The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer, is hereby required at his expense to install suitable sewage facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions

of this chapter, within 90 days after publication of a notice in a newspaper of general circulation in the village indicating the availability of the public sanitary sewer system.

(e) When the structure in which sanitary sewage originates is not connected to an available public sanitary sewer system within the time specified in the foregoing paragraph, the village shall require the connection to be made immediately after notice, which may be by first class or certified mail to the owner of the property or by posting on the property. The notice shall give the approximate location of the public sanitary sewer system which is available for connection of the structure involved, and shall advise the owner of the requirements and enforcement provisions set forth in applicable state statutes and this chapter. If the structure in which sanitary sewage originates is not connected to the available public sanitary sewer system within 90 days after the date of mailing or posting of the written notice, the village may bring an action for a mandatory injunction or order in a district or circuit court in the county to compel the owner to connect to the available sanitary sewer system immediately. The village may join any number of owners of structures situated within the village and the action to compel each owner to connect to the available sanitary sewer system immediately. (Ord. No. 92-02, § 14.3, 2-3-92)

Sec. 12-5. Permit required.

It is unlawful to discharge, without a wastewater contribution permit, to the POTW any wastewater except as authorized by the village in accordance with the provisions of this chapter.

(Ord. No. 92-02, § 14.4, 2-3-92)

Sec. 12-6. Private sewage disposal.

(a) Where a public sewer is not available under the provisions of section 12-5, the building sewer shall be connected to an approved private sewage disposal system.

(b) Before commencement of a private sewage disposal system, the owner shall first apply to the county health department for a soil evaluation test. The fee shall be determined by the county health department, and shall be paid to the county health department. At completion of the above soil evaluation test showing positive results, the property owner shall apply for a permit for installation for the proposed sewage system. He shall include plans, specifications and other information as deemed necessary by the county health department. At the time the application is filed, the fee determined by the county health department for the permit and inspection shall be paid.

(c) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the county health department. The county health department shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the county health department when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within seven days of the receipt of notice by the county health department. All

persons receiving a permit for a private sewer disposal system shall provide the village with copies of all final approved inspection reports issued by the county health department.

(d) The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the county health department. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.

(e) At such time as a public sewer becomes available to a property served by a private sewage disposal system as provided in section 12-4(d) a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned for sanitary use and filled with a suitable material.

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

(g) No statement contained in this section shall be construed as to interfere with any additional requirements that may be imposed by any other agency having legal jurisdiction. (Ord. No. 92-02, § 14.5, 2-3-92)

Sec. 12-7. Building sewer and connections.

(a) No person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenances thereof, without first obtaining a written permit from the village. No building sewer shall be covered until after it has been inspected and approved by the village.

(b) The owner or his agent shall make application for a sewer permit on a form furnished by the village. The permit application shall be supplemented by any plans, specifications or other information required by this chapter or considered pertinent in the judgment of the village. A hookup fee shall be paid to the village treasurer at the time the application is filed. A plumbing permit is also required. If a street opening is required to make the lead connection, an additional attachment to the permit must be completed.

(c) All cost and expense incident to the installation, connection and maintenance of the building sewer to the public sewer connection shall be borne by the property owner.

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

- (1) It shall be the duty of each property owner to maintain, clean and repair the private sewers on his property at his own expense as necessary to keep such sewers free and clear of obstructions and in good working order and to maintain and keep clear of obstructions the lateral sewers servicing his property.
- (2) It shall be the duty of the village to maintain, clean and repair as necessary and at its expense the trunk sewers and to repair or replace any broken or crushed lateral

sewers. The village shall not be responsible for the cleaning or maintenance of lateral sewers.

- (3) In the case of a bona fide dispute as to whether needed maintenance, cleaning or repair of a portion of sewer is the responsibility of the property owner or the village under the provisions of this chapter, it shall be the duty of the property owner to establish that the obstruction, disrepair or defect has occurred in that portion of the sewer for which the village is responsible. If the property owner fails to establish the village responsibility, it shall be the property owner's responsibility to perform the necessary maintenance as provided in this chapter. If the village's responsibility is established, the village shall perform the necessary maintenance and shall reimburse the property owner for reasonable expenses incurred in locating the defect in the sewer or in otherwise establishing the village responsibility.
- (4) The property owner would be responsible under this chapter for the total maintenance and repair of the private sewers on his property and for the maintenance and cleaning, although not including major repair, of the entire sewer out to the trunk sewer. The village, on the other hand, is responsible for major repair of the trunk sewer and lateral sewers only and has no responsibility of any sort for the private sewers. The village also has no responsibility to clean the lateral sewers.
- (5) Any property owner who shall violate the provisions of this chapter shall be liable to the village for civil damage incurred in correcting the defect and, in addition, shall be guilty of a misdemeanor. If any property owner fails to maintain a private sewer as required by this chapter, in addition to the other penalties prescribed, the sewer may be declared a public nuisance by the county health officer and the defect may be corrected by the village. Any costs so incurred shall be assessed against the property and become a lien on the property if not timely paid.

(e) A separate and independent building sewer shall be provided for every building; except that where one building stands at the rear of another or an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, yard or driveway, the building sewer from the front building may be extended to the rear building.

(f) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the village, to meet all requirements of this chapter.

(g) The building sewer shall be constructed of vitrified clay sewer pipe, PVC-ASTM D3034-SDR 35, or cast-iron soil pipe, as approved by the village. The village reserves the right to specify and require the encasement of any sewer pipe with concrete, or the installation of the sewer pipe in concrete cradle if foundation and construction are such as to warrant such protection, in the opinion of the village.

(h) The size and slope of the building sewer shall be subject to approval by the village, but in no event shall the diameter be less than four inches. The slope of such four-inch pipe shall be not less than one-quarter inch per foot, unless otherwise permitted. The slope of pipe, the

diameter of which is six inches or more, shall be not less than one-eighth inch per foot unless otherwise permitted.

(i) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at uniform grade. The line shall be straight or laid with properly curved pipe and fittings. Changes in direction greater than 45 degrees shall be provided with cleanouts accessible for cleaning.

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

(k) All joints and connections shall be made gastight and watertight. All joints shall be approved by the village.

(l) No sewer connection will be permitted unless there is capacity available in the POTW.

(m) All newly constructed building sewers shall have a properly sized cleanout at the head of the sewer that is accessible at all times. This cleanout shall allow access of sewer cleaning equipment of a size equivalent to the size of the building sewer.

(n) All sewers shall be constructed in accordance with the latest edition of the "Ten States Standards."

(Ord. No. 92-02, § 14.6, 2-3-92)

Sec. 12-8. Protection from damage.

No unauthorized person shall enter or maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the POTW.

(Ord. No. 92-02, § 14.9, 2-3-92)

Sec. 12-9. Power and authority of inspectors.

The village and other duly authorized employees of the village acting as its duly authorized agent, bearing proper credentials and identifications, shall be permitted to enter upon such properties as may be necessary for the purpose of inspection, observation, measurement, sampling and testing in accordance with provisions of this chapter.

(Ord. No. 92-02, § 14.11, 2-3-92)

Sec. 12-10. Orders.

If the village determines that a user has violated any provisions of this chapter, the village may issue an order to take action deemed appropriate under the circumstances, including but not limited to the following:

- (1) *Immediate cease and desist order.* The village may issue an order to cease and desist from discharging any wastewater, incompatible pollutant or illegal discharge. Such

order shall have immediate effect where the actual or threatened discharge of pollutants to the system presents, or may present, imminent or substantial endangerment to the health or welfare of persons or to the environment, or causes interference with the operation of the public sewers or treatment plant. If action is not taken immediately to correct illegal discharge, the village will implement whatever action is necessary to halt such discharge. Any penalties, fines, expenses or losses incurred as applicable will be assessed through provisions of section 12-51 et seq.

- (2) *Order to cease discharge within a time certain.* In cases other than those defined above, the village may issue an order to show cause why an order to cease and desist by a certain time and date should not be issued. The proposed time for remedial action shall be specified in the order to show cause. Such order may also contain such conditions deemed appropriate by the village.

(Ord. No. 92-02, § 14.12, 2-3-92)

Sec. 12-11. Village responsibility for enforcement.

(a) The village is charged with the duty of investigating, preventing and abating violations and enforcing the provisions of this chapter.

(b) The village shall be responsible for the supervision and control of the maintenance of the existing sewers and all new connections. The village shall be responsible for the supervision and control of all other matters related to the operation, maintenance, alteration, repair and management of the POTW. The village may employ such person or persons in such capacity or capacities as advisable to carry out the efficient management and operations of the system and may make such necessary or recommended rules, orders and regulations to assure the efficient management and operation of the system, including the setting of rates, surcharges, fees, penalties or other charges, for the use of such system.

(Ord. No. 92-02, § 14.13, 2-3-92)

Sec. 12-12. Records required to be maintained.

(a) *By users.* All users subject to this chapter shall retain and preserve for no less than three years, any records, books, documents, memoranda, reports, correspondence and any and all summaries thereto, relating to monitoring, sampling and chemical analyses made by or on behalf of a user in connection with its discharge. All records which pertain to matters which are the subject of administrative adjustment or any other enforcement or litigation activities brought by the village pursuant hereto shall be retained and preserved by the user until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

(b) *By the village.*

- (1) The village will maintain and keep proper books of records and accounts, separate from all other records and accounts, in which shall be made full and correct entries of all transactions relating to the system. The village will cause an annual audit of such books of record and account for the preceding operating year to be made by a recog-

nized independent certified public accountant, and will supply such audit report to authorized public officials on request. In conjunction with the audit, there will be an annual review of the sewer charge system for adequacies meeting expected expenditures for the following year and to ensure proportionality among user classes as required by federal regulations.

- (2) Classification of old and new industrial users shall also be reviewed annually. The village will maintain and carry insurance on all physical properties of the system, of the kinds and in the amounts normally carried by public utility companies and municipalities engaged in the operation of sewage disposal systems. All monies received for losses under any such insurance policies shall be solely dedicated to the replacement and restoration of the property damaged or destroyed.

(Ord. No. 92-02, § 14.16, 2-3-92)

Sec. 12-13. Penalties.

(a) Any person found to be violating any provision of this chapter shall be served with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(b) Any person convicted of a violation of any provisions of this chapter shall be punished by a fine of not more than \$500.00, or by imprisonment of not more than 90 days, or both such fine and imprisonment, in the discretion of the court. Each day in which any such violation shall continue shall be deemed a separate offense.

(c) A violation of this chapter is also declared to be a public nuisance and the village may enforce by injunction or other remedy, including the right to correct the violation and bill the owner or person in charge of the premises therefor and, if not collected, the bill will become a lien upon the property.

(d) Charges for sewer furnished to any premises shall be a lien thereon and any such charges delinquent for six months or more shall be certified annually to the assessor, who shall enter the same on the next tax roll against the premises to which such services shall have been rendered. Such charges shall be collected and such lien shall be enforced in the same manner as provided for the collection of taxes assessed upon such roll and the enforcement and return thereof.

(e) Any business, industry or individual violating any of the provisions of this chapter which results in fines or penalties being levied against the village, shall become liable for such fine or penalty, plus any expenses, loss or damage occasioned by such violation. This cost would be levied in addition to the fine identified in section 12-51 et seq.

(Ord. No. 92-02, § 14.14, 2-3-92)

Secs. 12-14–12-20. Reserved.

ARTICLE II. USE OF PUBLIC SEWERS**Sec. 12-21. General discharge prohibitions.**

No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all users of a POTW whether or not the user is subject to the national categorical pretreatment standards or any other national, state or local pretreatment standards or requirements. The village may refuse to accept any wastes which will cause the POTW to violate its NPDES discharge limits. A user may not contribute the following substances to any POTW:

- (1) Any liquids, solids or gases which by reason of their nature and quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides.
- (2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment plant such as, but not limited to: grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes.
- (3) Any wastewater having a pH less than 6.5 or greater than 9.5, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the POTW.
- (4) Any noxious or malodorous liquids, gases or solids which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
- (5) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process.
- (6) Any substance which will cause the POTW to violate its NPDES permit or the receiving water quality standards.
- (7) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
- (8) Any wastewater having a temperature which will inhibit biological activity in the POTW resulting in interference, but in no case wastewater with a temperature at the

introduction into the POTW which exceeds 40 degrees centigrade (104 degrees Fahrenheit) unless the approval authority, upon request of POTW, approves alternate temperature limits.

- (9) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the POTW.
- (10) Any wastewater containing any radioactive wastes or isotopes of such halflife or concentration as may exceed limits established by the EPA in compliance with applicable state or federal regulations.
- (11) Any wastewater which causes a hazard to human life or creates a public nuisance.
- (12) Any unpolluted water including, but not limited to stormwater, groundwater, roof water, or noncontact cooling water.
- (13) Any waters or wastes containing suspended solids or any constituent of such character and quantity that unusual attention or expense is required to handle such materials at the POTW.
- (14) Any waste from individual sewage disposal systems except at the POTW as provided in section 12-30 except that waste from any individual sewage disposal system may be disposed of directly into a sanitary sewer upon entering into an agreement with the village, which agreement shall specify the site of disposal, sewage disposal charge and such other conditions as may be required to satisfy the sanitation and health requirements of the county. For the purpose of this subsection, "individual sewage disposal system" is defined to include every means of disposing of industrial, commercial, household, domestic or other water-carried sanitary waste or sewage other than a public sanitary sewer.
- (15) Any sludge, precipitate or congealed substances resulting from an industrial or commercial process, or resulting from the pretreatment of wastewater or air pollutants.
- (16) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

(Ord. No. 92-02, § 14.7.1, 2-3-92)

Sec. 12-22. Specific pollutant limitations.

(a) No person shall discharge wastewater containing in excess of the following or other pollutants regulated in the NPDES permit:

- (1) 100 mg/l total Kjeldahl nitrogen.
- (2) 100 mg/l by weight of fat, oil or grease.
- (3) 500 mg/l BOD.
- (4) 500 mg/l suspended solids.
- (5) 100 mg/l phosphorus.

(b) If any waters are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated above, and which in the judgment of the village may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the village may:

- (1) Reject the wastes.
- (2) Require control over the quantities and rates of discharge.
- (3) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges. If the village permits the pretreatment or equalization of waste flows, the design and installation of the plant and equipment shall be subject to the review and approval of the village and shall be subject to the requirements of all applicable codes, ordinances and laws.

(Ord. No. 92-02, § 14.7.2, 2-3-92)

Sec. 12-23. State requirements.

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this article.

(Ord. No. 92-02, § 14.7.3, 2-3-92)

Sec. 12-24. Village right of revision.

The village reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in section 12-1.

(Ord. No. 92-02, § 14.7.4, 2-3-92)

Sec. 12-25. Waters prohibited in sanitary sewers.

No user shall discharge or cause to be discharged any stormwater, surface water, any uncontaminated groundwater, water from footing drains, or roof water to any sanitary sewer or sewer connection. Any premises connected to a storm sewer shall comply with county, state and federal requirements as well as those of the village. Downspouts and roof leaders shall be disconnected from sanitary sewers. If this is not done, the village shall perform this work and bill the user. Stormwater, groundwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designed as combined sewers or storm sewers. Discharge of cooling water or unpolluted process water to a natural outlet will be approved only by the state water resource commission.

(Ord. No. 92-02, § 14.7.5, 2-3-92)

Sec. 12-26. Grease, oil and sand interceptors.

(a) Grease, oil and sand interceptors shall be provided when, in the opinion of the village, they are necessary for the proper handling of liquid wastes containing grease in excessive

amounts or any flammable wastes, sand and other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units.

(b) All interceptors shall be located as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.

(c) Where installed, all grease, oil and sand interceptors or flow equalizing facilities shall be maintained by the owner, at his expense, in continuously efficient operation at all times. (Ord. No. 92-02, §§ 14.7.6, 14.7.7, 2-3-92)

Sec. 12-27. Measurement, tests and sampling.

(a) Where the strength of sewage from an industrial, commercial or institutional establishment exceeds normal domestic strength sewage, an added charge, as noted below, will be made against such establishment according to the strength of such wastes. The strength of the waste shall be determined from a composite sample taken over a sufficient period of time to ensure a representative sample. The cost of taking and making the first of these samples shall be borne by the village. The cost of any subsequent sampling and testing shall be borne by the industry or establishment, whether owner or lessee. Tests shall be made by an independent laboratory. Added charges shall be determined by the village. These charges shall be based on the cost of operation, maintenance and equipment replacement for the wastewater treatment plant.

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

(c) All measurements, tests and analyses of the characteristics of water to which reference is made in sections 12-21 and 12-27(a) and (b) shall be determined in accordance with the latest edition at the time of "Standard Methods for Examination of Water and Wastewater," and shall be determined at the control manhole provided for in section 12-27(a) and (b) or upon suitable samples taken at the control manhole. If no special manhole has been required, the

control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

(d) Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether grab samples should be taken. The responsibilities of industry are further defined below.

- (1) One person from each industry shall be delegated the authority to be responsible for industrial wastes admitted to the municipal sewers. Such person would be involved with maintaining the pretreatment facility operations and assuring a continual high level of performance. In case no pretreatment is provided, such person would be involved with the prevention of accidental discharges of process wastes admitted to the sanitary sewer system. Such person must become aware of all potential and routine toxic wastes generated by their industry. Such person must also be informed of all process alterations which could, in any manner, increase or decrease normal daily flow or waste strength discharged to the sanitary sewers.
- (2) This industrial representative must catalog all chemicals stored, used or manufactured by their industry. Such a listing should include specific chemical names, not manufacturer's codes. Those wastes admitted to the sanitary sewer are a prima concern; however, all discharges should be cataloged. An estimate of daily average flows and strengths must be made including process, cooling, sanitary, etc. Such a determination should separate the flows according to appropriate categories. The aforementioned flow and chemical listing is to be sent to the village.
- (3) A sketch of the plant building must be made, including a diagram of process and chemical storage areas. Location of any pretreatment equipment should be indicated and floor drains located near process and storage areas should be noted.
- (4) There must be separation of spent concentrations from the sanitary sewer to prevent toxic wastes from upsetting the wastewater treatment plant. Supervision and operation of the pretreatment equipment for spent concentrations as well as all toxic wastes and high strength organic wastes to an acceptable level as detailed in this chapter is the responsibility of the industrial representative. All sludges generated by such treatment must be handled in an acceptable manner, such as designated areas of a sanitary landfill or by a licensed waste hauler. Adequate segregation of those waters and wastes to be pretreated to meet discharge limits is a vital portion of the industrial effort to prevent operational problems at the wastewater treatment plant.
- (5) Throughout the industry, adequate secondary containment or curbing must be provided to protect all floor drains from accidental spills and discharges to receiving sewers. Such curbing should be sufficient to hold 150 percent of the total process area tank volume. All floor drains found within the containment areas must be plugged and sealed. Spill trough and sumps within the containment area must be plugged and

sealed. Spill trough and sumps within process areas must discharge to appropriate pretreatment tanks. Secondary containment should be provided for storage tanks which may be serviced by commercial haulers and for chemical storage areas. When requested by the person furnishing the report, the portion of the report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this chapter. The national pollutant discharge elimination system (NPDES) permit, state disposal system permit, and/or the pretreatment programs; wastewater constituents and characteristics will not be recognized as confidential information. Information accepted by the village as confidential shall not be transmitted to any governmental agency or to the general public by the village until and unless a ten-day notification is given to the user.

- (6) Agents of the village, county health department, state department of natural resources or U.S. Environmental Protection Agency shall have the right to enter all properties for the purpose of inspecting, measuring, sampling and testing the wastewater discharge and copying applicable pretreatment records.
- (e) To determine the sewage flow from any establishment, the village may use one of the following methods:
 - (1) The amount of water supplied to the premises by the village or a private water company as shown upon the water meter if the premises are metered;
 - (2) If such premises are supplied with river water or water from a private well as shown upon the water meter if the premises are metered;
 - (3) If such premises are used for an industrial or commercial purpose of such a nature that the water supplied to the premises cannot be entirely discharged into the sewer system, the estimate of the amount of sewage discharged into the sewer system made by the village;
 - (4) The number of gallons of sewage discharged into the sewer system as determined by measurements and samples taken at a manhole installed by the owner of the property served by the sewer system at his own expense in accordance with the terms and conditions of the permit issued by the village pursuant to section 12-7; or
 - (5) A figure determined by the village by any combination of the foregoing or by any other equitable method.

(Ord. No. 92-02, §§ 14.7.8–14.7.10, 2-3-92)

Sec. 12-28. Accidental discharge.

(a) Where required, a user shall provide protection from the accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the village for review, and shall be approved by

the village before construction of the facility. All required users shall complete such a plan within 180 days after February 2, 1992.

(b) If required by the village, a user who commences contributions to the POTW shall not be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the village. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume and corrective actions.

- (1) *Written notice.* Within five days following an accidental discharge, the user shall submit to the village a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties or other liability which may be imposed by this chapter or other applicable law.
- (2) *Notice to employees.* A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees of whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

(Ord. No. 92-02, § 14.7.11, 2-3-92)

Sec. 12-29. Agreement for acceptance of exceptional waste.

No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the village and any person whereby waste of unusual strength or character may be accepted by the village, subject to payment by the person, provided such waste will not damage the sanitary sewer or storm sewer or wastewater treatment plant or the receiving waters.

(Ord. No. 92-02, § 14.7.12, 2-3-92)

Sec. 12-30. Acceptance of waste from individual sewage systems.

Waste from individual sewage systems may be accepted with permission of the village at the wastewater treatment plant. No waters or wastes described in section 12-21 shall be disposed of at the wastewater treatment plant.

(Ord. No. 92-02, § 14.8, 2-3-92)

Sec. 12-31. Municipal liability.

The village shall not be responsible for interruptions of services due to natural calamities, equipment failures or actions of the system users. It shall be the responsibility of the user that all connected equipment remain in good working order so as not to cause disruption of service of any sewer or treatment plant equipment.

(Ord. No. 92-02, § 14.10, 2-3-92)

Secs. 12-32—12-50. Reserved.**ARTICLE III. USER CHARGE SYSTEM****Sec. 12-51. Established; basis for computations.**

(a) Rates and charges for the use of the wastewater system of the village shall be based upon the methodology in the user charge system approved by the state department of natural resources. Revisions to the rates for total sewer service charges are to be established by resolution of the village council, which may be enacted apart from the published ordinances as necessary to ensure sufficiency of revenues in meeting operation, maintenance and replacement costs, as well as debt service.

(b) User charges for operation, maintenance and replacement shall be subject to the annual review of the user charge system. User charges shall be the same for all customers of the system regardless of geographical boundaries. Such charges and rates shall be made against each lot, parcel of land or premises which may have any sewer connections with the sewer system of the village, or which may otherwise discharge sewage or industrial waste, either directly or indirectly, into such system or any part thereof.

(Ord. No. 92-02, § 14.17.1, 2-3-92)

Sec. 12-52. Amounts; billings; sewer service charges.

The rates and charges for service furnished by such system shall be levied upon each lot or parcel of land, building or premises having any sewer connection with such system, on the basis of the quantity of water used thereon or therein as the same is measured, or in the absence thereof, by such equitable method as shall be determined by the village. Such rates and charges shall be collected quarterly, except in cases where the character of the sewage from a manufacturing or industrial plant, building or premises is such that unreasonable additional burden is placed upon the system, greater than that imposed by the normal domestic sewage delivered to the system plant, and the additional cost of treatment created thereby shall be an additional charge over the regular rates hereinafter set forth; or the village may, if it deems it advisable, compel such manufacturing or industrial plant, building or premises, to treat such sewage in such manner as shall be specified by the village before discharging such sewage into the sewage disposal system.

(Ord. No. 92-02, § 14.17.2, 2-3-92)

Sec. 12-53. Annual audit.

The rates hereby fixed are estimated to be sufficient to provide for the expenses of operation, maintenance and replacement of the system as are necessary to preserve the same in good repair and working order. Such rates shall be fixed and revised from time to time as may be necessary to produce these amounts. An annual audit shall be prepared. Based on such audit, rates for sewage services shall be reviewed annually and revised as necessary by the village council by resolution to meet system expenses and to ensure that all user classes pay their proportionate share of operation, maintenance and equipment replacement cost. (Ord. No. 92-02, § 14.17.3, 2-3-92)

Sec. 12-54. Free service.

No free service shall be allowed for any user of the POTW. (Ord. No. 92-02, § 14.17.4, 2-3-92)

Sec. 12-55. Billing.

Sewer service will be billed quarterly. Bills for sewage disposal service shall be due and payable 20 days after the date of the bill. There shall be added to all bills not paid when due a penalty of ten percent of the amount of the bill. The village shall keep a record of all meter readings and/or shall keep accounts of the charges for sewer service furnished to all premises and shall render bills for the same. Sewer service charges shall be collected by the village treasurer, who shall credit the same to the proper account. (Ord. No. 92-02, § 14.17.5, 2-3-92)

Sec. 12-56. Collection.

The village is hereby authorized to enforce the payment of charges for sewage disposal service to any premises by discontinuing the sewer service to such premises and an action of assumpsit may be instituted by the village against the customer. The charges for water service and sewage disposal service, which, under the provisions of Act No. 94 of the Public Acts of Michigan of 1933 (MCL 141.101 et seq., MSA 5.2731 et seq.), as amended, are made a lien on the premises to which furnished, are hereby recognized to constitute such lien; and the village shall, annually, on April 1, certify all unpaid charges for such services furnished to any premises, which, March 31 preceding, have remained unpaid for a period of six months, to the village assessor who shall place the same on the next tax roll of the village. Such charges so assessed shall be collected in the same manner as general village taxes. In cases where the village is properly notified in accordance with Act No. 94 of 1933, that a tenant is responsible for water or sewage disposal service charges, no such service shall be commenced or continued to such premises until there has been deposited with the village, a sum sufficient to cover two times the average quarterly bill for such premises as estimated by the village, such deposit to be in no case less than \$10.00. Where the water service to any premises is turned off to enforce the payment of water service charges of sewage disposal service charges, the water service shall not be recommenced until all delinquent charges have been paid and a deposit as in the case of tenants is made, and there shall be a water turnon charge of \$25.00. In any other case

where, in the discretion of the village, the collection of charges for water or sewage disposal service may be difficult or uncertain, the village may require a similar deposit. Such deposits may be applied against any delinquent water or sewage disposal service charges and the application thereof shall not affect the right of the village to turn off the water service and/or sewer service, to any premises for any delinquency thereby satisfied. No such deposit shall bear interest and such deposit, or any remaining balance thereof, shall be returned to the customer making the same when he shall discontinue receiving water and sewage disposal service or, except as to tenants as to whom notice of responsibility for such charges has been filed with the village, when any eight successive quarterly bills shall have been paid by such customer with no delinquency.

(Ord. No. 92-02, § 14.17.6, 2-3-92)

Sec. 12-57. Annual notification.

All customers of the village's POTW will receive an annual notification, either printed on the bill or enclosed in a separate letter, which will show the breakdown of the sewer into its components for operation, maintenance and replacement and for debt service.

(Ord. No. 92-02, § 14.17.7, 2-3-92)

Chapter 12.5

SPECIAL ASSESSMENTS*

- Sec. 12.5-1. Definitions.
- Sec. 12.5-2. Authority to assess special assessments.
- Sec. 12.5-3. Initiation of special assessment projects.
- Sec. 12.5-4. Initiation by petition.
- Sec. 12.5-5. Survey and report.
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- Sec. 12.5-7. Deviation from plans and specifications.
- Sec. 12.5-8. Limitation on preliminary expenses.
- Sec. 12.5-9. Special assessment roll.
- Sec. 12.5-10. Assessor to file assessment roll.
- Sec. 12.5-11. Hearing to determine necessity and review special assessment roll; objections in writing.
- Sec. 12.5-12. Changes and corrections in assessment roll.
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- Sec. 12.5-22. Contested assessments.
- Sec. 12.5-23. Reassessment for benefits.
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- Sec. 12.5-25. Division of parcels.
- Sec. 12.5-26. Deferred payments of special assessments.
- Sec. 12.5-27. Reconsideration of petitions.
- Sec. 12.5-28. Hazards and nuisances.

*State law references—Notices and hearings, MCL 211.741 et seq., MSA 5.3534(1) et seq.; deferment for older persons, MCL 211.761 et seq., MSA 5.3536(1) et seq.; special assessments for public improvements, MCL 68.31 et seq., MSA 51.1370(1) et seq.

Sec. 12.5-1. Definitions.

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

Cost, when referring to the cost of any local public improvement, shall include the cost of services, plans, condemnation, spreading of rolls, notices, advertising, financing, construction, legal fees, interest on special assessment bonds for not to exceed one year, and all other costs incident to the making of such improvement, the special assessments therefor and the financing thereof.

Local public improvement means any public improvement which is of such a nature as to benefit especially any real property or properties within a district in the vicinity of such improvement.

(Ord. No. 92-01, § 2.5-1, 1-6-92)

Sec. 12.5-2. Authority to assess special assessments.

The whole cost or any part thereof of any local public improvement may be defrayed by special assessment upon the lands specially benefited by the improvement in the manner hereinafter provided.

(Ord. No. 92-01, § 2.5-2, 1-6-92)

Sec. 12.5-3. Initiation of special assessment projects.

Proceedings for the making of local public improvements within the village, the tentative necessity thereof, and the determination that the whole or any part of the expense thereof shall be defrayed by special assessment upon the property especially benefited, provided that all special assessments levied shall be in proportion to the benefits derived from the improvements, may be commenced by resolution of the council, with or without petition.

(Ord. No. 92-01, § 2.5-3, 1-6-92)

Sec. 12.5-4. Initiation by petition.

Local public improvements may be initiated by petition signed by property owners whose aggregate property in the proposed district was assessed for not less than 51 percent of the total assessed value of the privately owned real property located therein, all shown by the last preceding general tax records of the village. Such petition shall contain a brief description of the property owned by the respective signatories thereof, and if it shall appear that the petition is signed by at least 51 percent as aforesaid, the clerk shall certify same to the council. The petition shall be addressed to the council and filed with the clerk and shall in no event be considered directory but is advisory only.

(Ord. No. 92-01, § 2.5-4, 1-6-92)

Sec. 12.5-5. Survey and report.

A report shall be prepared and put before the council which shall include necessary plans, profiles, specifications and detailed estimates of cost, an estimate of the life of the improvement, a description of the assessment district or districts, and such other pertinent information as will permit the council to decide the cost, extent and necessity of the improvement proposed and what part or proportion thereof should be paid by special assessments upon the property especially benefited, and what part, if any, should be paid by the village at-large. The council shall not finally determine to proceed with the making of any local public improvement until such report has been filed nor until after a public hearing has been held by the council for the purpose of hearing objections to the making of such improvement.

(Ord. No. 92-01, § 2.5-5, 1-6-92)

Sec. 12.5-6. Tentative determination; assessment roll.

Upon receipt of the report required in section 12.5-5, if the council shall decide to proceed with the improvement, it shall, by resolution, order the report filed with the clerk. In addition, by that resolution the council shall tentatively determine the necessity thereof, set forth the nature thereof, designate the limits of the special assessment district to be affected and describe the lands to be assessed, the part or portion of the cost of the public improvement to be paid by the lands specially benefited thereby and the part or portion, if any, to be paid by the village at-large for benefit to the village at-large, and shall direct the assessor to make a special assessment roll of the part or proportion of the cost to be borne by the lands specially benefited according to the benefits received and to report the same to the council.

(Ord. No. 92-01, § 2.5-6, 1-6-92)

Sec. 12.5-7. Deviation from plans and specifications.

No deviation from original plans or specifications as adopted shall be permitted by any officer or employee of the village without authority of the council by resolution. A copy of the resolution authorizing such changes or deviation shall be certified by the clerk and attached to the original plans and specifications on file in his office.

(Ord. No. 92-01, § 2.5-7, 1-6-92)

Sec. 12.5-8. Limitation on preliminary expenses.

The council shall specify the provisions and procedures for financing a local public improvement. No contract or expenditure, except for the cost of preparing necessary profiles, plans, specifications and estimates of cost, shall be made for the improvement, nor shall any improvement be commenced until the special assessment roll to defray the cost of the same shall have been made and confirmed.

(Ord. No. 92-01, § 2.5-8, 1-6-92)

Sec. 12.5-9. Special assessment roll.

The assessor shall make a special assessment roll of all lots and parcels of land within the designated district benefited by the proposed improvement and assess to each lot or parcel of land the proportionate amount benefited thereby. The amount spread in each case shall be based upon the detailed estimate of cost as approved by the council.

(Ord. No. 92-01, § 2.5-9, 1-6-92)

Sec. 12.5-10. Assessor to file assessment roll.

When the assessor shall have completed such assessment roll, he shall file the same with the clerk for presentation to the council for review and certification by it.

(Ord. No. 92-01, § 2.5-10, 1-6-92)

Sec. 12.5-11. Hearing to determine necessity and review special assessment roll; objections in writing.

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

(Ord. No. 92-01, § 2.5-11, 1-6-92)

Sec. 12.5-12. Changes and corrections in assessment roll.

The council shall meet at the time and place designated for the hearing on the improvements and review of such special assessment roll, and at such meeting, or a proper adjournment thereof, shall consider all objections thereto submitted in writing. The council may correct the roll as to any special assessment or description of any lot or parcel of land or other errors appearing therein; or it may, by resolution, annul the assessment roll and direct that new proceedings be instituted. The same proceedings shall be followed in making a new roll as in the making of the original roll. After hearing all objections and making a record of such changes as the council deems justified, the council may, by resolution, determine to proceed with the public improvement, determine the necessity thereof and set forth the nature thereof, designate the limits of the special assessment district to be affected and describe the lands to be assessed, finally determine the part or proportion of the cost of the public improvement to be paid by the lands specially benefited thereby and the part or portion, if any, to be paid by

the village at-large for benefit to the village at-large. If the council determines that it is satisfied with the special assessment roll and that assessments are in proportion to benefits received, it shall thereupon pass a resolution reciting such determinations, confirming such roll, placing it on file in the office of the clerk and directing the clerk to attach his warrant to a certified copy thereof within ten days, therein commanding the assessor to spread and the treasurer to collect the various sums and amounts appearing thereon as directed by the council. The roll shall have the date of confirmation endorsed thereon and shall, from that date, be final and conclusive for the purpose of the improvement to which it applies unless contested in the manner provided in chapter 24A, section 4 of Act No. 215 of the Public Acts of Michigan of 1895 (MCL 81.1 et seq., MSA 5.1591 et seq.), as amended, and subject to adjustment to conform to the actual cost of the improvement, as provided in section 12.5-18. (Ord. No. 92-01, § 2.5-12, 1-6-92)

Sec. 12.5-13. Objection to assessment.

If, at or prior to the final confirmation of any special assessments, the owners of privately owned real property to be assessed for more than 50 percent of the cost of an improvement or, in the case of paving or similar improvements, the owners of more than 50 percent of the frontage to be assessed for any such improvement shall object in writing to the proposed improvement, the improvement shall not be made by proceedings delineated by this chapter without a two-thirds vote of the members-elect of the council. This section shall not apply to sidewalk construction.

(Ord. No. 92-01, § 2.5-13, 1-6-92)

Sec. 12.5-14. When special assessment due.

All special assessments, except such installments thereof as the council shall make payable at a future time as provided in this chapter, shall be due and payable upon confirmation of the special assessment roll.

(Ord. No. 92-01, § 2.5-14, 1-6-92)

Sec. 12.5-15. When partial payments due.

The council may provide for the payment of special assessments in installments. Such installments shall not exceed 30 in number, the first installment being due upon confirmation of the roll or on such date as the council may determine and the deferred installments shall be due annually thereafter, or, in the discretion of the council, shall be due annually on such other date as the council may fix or may be spread upon and made a part of each annual village tax roll thereafter until all are paid. Interest shall be charged on all deferred installments until paid at a rate not to exceed nine percent per annum, commencing on such date on or after confirmation as may be fixed by the council and payable with each installment; provided, however, that when special assessments are levied for payment of obligations of the village, either directly or indirectly, then the rate of interest on deferred installments may be fixed at not to exceed one percent in excess of the interest rate on such obligations. The full amount of all or any deferred installments, with interest accrued thereon to the date of payment, may be

paid in advance of the due dates thereof. If the full assessment or the first installment thereof shall be due upon confirmation, each property owner shall have 30 days from the date of confirmation to pay the full amount of such assessment or the full amount of any installments thereof, without interest or penalty. Following such 30-day period, the assessment or first installment thereof shall, if unpaid, be considered as delinquent and the same penalties shall be collected on such unpaid assessments or first installments thereof as are provided by law to be collected on delinquent general village taxes. Deferred installments shall be collected without penalty until 30 days after the due date thereof, after which time such installments shall be considered as delinquent and such penalties on such installments shall be collected as are provided by law to be collected on delinquent general village taxes. After the council has confirmed the roll, the treasurer shall notify by mail each property owner on such roll that such roll has been filed, stating the amount assessed and the terms of payment. Failure on the part of the treasurer to give such notice or of such owner to receive such notice shall not invalidate any special assessment roll of the village or any assessment thereon, nor excuse the payment of interest penalties.

(Ord. No. 92-01, § 2.5-15, 1-6-92)

Sec. 12.5-16. Delinquent special assessments.

Any assessment, or part thereof, remaining unpaid on the first Monday of September following the date when the same became delinquent shall be reported as unpaid by the treasurer to the council. Any such delinquent assessment, together with all accrued interest and penalties, shall be transferred and reassessed on the next annual village tax roll in a column headed "special assessments," with a penalty of six percent upon such total amount added thereto, and when so transferred and reassessed upon such tax roll shall be collected in all respects as provided for the collection of village taxes.

(Ord. No. 92-01, § 2.5-16, 1-6-92)

Sec. 12.5-17. Creation of lien.

Special assessments and all interest, penalties and charges thereon from the date of confirmation of the roll shall become a debt to the village from the persons to whom they are assessed, and, until paid, shall be and remain a lien upon the property assessed, of the same character and effect as the lien created by general law for state, county and city taxes, and the lands upon which the same are a lien shall be subject to sale therefor the same as are lands upon which delinquent city taxes constitute a lien.

(Ord. No. 92-01, § 2.5-17, 1-6-92)

Sec. 12.5-18. Additional assessments; refunds.

The clerk shall, within 60 days after the completion of each local or special public improvement, compile the actual cost thereof and certify the same to the assessor, who shall adjust the special assessment roll to correspond therewith. Should the assessment prove larger than necessary by less than five percent, the same shall be reported to the council, which may place the excess in the village treasury or make a refund thereof pro rata according to the

assessment. If the assessment exceeds the amount necessary by five percent or more, the entire excess shall be credited to owners of property as shown by the village assessment roll upon which such assessment has been levied, pro rata according to the assessment. No refunds of special assessments may be made which impair or contravene the provision of any outstanding obligation or bond secured, in whole or in part, by such special assessments. In the case of assessments due in installments, the council may order the refund given by credit against the installments last coming due. When any special assessment roll shall prove insufficient to meet the cost of the improvement for which it was made, the council may make an additional pro rata assessment, but the total amount assessed against any one parcel of land shall not exceed the benefits received by such lot or parcel of land.

(Ord. No. 92-01, § 2.5-18, 1-6-92)

Sec. 12.5-19. Additional procedures.

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

(Ord. No. 92-01, § 2.5-19, 1-6-92)

Sec. 12.5-20. Collection of special assessments.

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

(Ord. No. 92-01, § 2.5-20, 1-6-92)

Sec. 12.5-21. Special assessment accounts.

Moneys raised by special assessments to pay the cost of any local improvements shall be held in a special fund to pay such cost or to repay any money borrowed therefor. Each special assessment account may be used only for the improvement project for which the assessment was levied, expenses incidental thereto, including the repayment of the principal and interest on money borrowed therefor, and to refund excessive assessments if refunds are authorized.

(Ord. No. 92-01, § 2.5-21, 1-6-92)

Sec. 12.5-22. Contested assessments.

An action may not be instituted for the purpose of contesting or enjoining the collection of a special assessment unless:

- (1) Within 45 days after the confirmation of the special assessment roll written notice is given to the council indicating an intention to file such an action and stating the grounds on which it is claimed that the assessment is illegal; and

(2) The action is commenced within 90 days after the confirmation of the roll.
(Ord. No. 92-01, § 2.5-22, 1-6-92)

Sec. 12.5-23. Reassessment for benefits.

(a) Whenever the council shall deem any special assessment invalid or defective for any reason whatever or if any court of competent jurisdiction shall have adjudged such assessment to be illegal for any reason whatever, in whole or in part, the council shall have power to cause a new assessment to be made for the same purpose for which the former assessment was made, whether the improvement or any part thereof has been completed and whether any part of the assessment has been collected or not. All proceedings on such reassessment and for the collection thereof shall be made in the manner as provided for the original assessment.

(b) If any portion of the original assessment shall have been collected and not refunded, it shall be applied upon the reassessment and the reassessment shall to that extent be deemed satisfied. If more than the amount reassessed shall have been collected, the balance shall be refunded to the person making such payment.
(Ord. No. 92-01, § 2.5-23, 1-6-92)

Sec. 12.5-24. Combination of projects.

The council may combine several districts into one project for the purpose of effecting a saving in the costs. There shall be established for each district separate funds and accounts to cover the cost of the same.
(Ord. No. 92-01, § 2.5-24, 1-6-92)

Sec. 12.5-25. Division of parcels.

Should any lots or lands be divided after a special assessment thereon has been confirmed and divided into installments, the assessor shall apportion the uncollected amounts upon the several lots and lands so divided, and shall enter the several amounts as amendments upon the special assessment roll. The treasurer shall, within ten days after such apportionment, send notice of such action to the persons concerned at their last known address by first class mail. Such apportionment shall be final and conclusive on all parties unless protest, in writing, is received by the treasurer within 20 days of the mailing of the aforesaid notice.
(Ord. No. 92-01, § 2.5-25, 1-6-92)

Sec. 12.5-26. Deferred payments of special assessments.

The council may provide for the deferred payment of special assessments from persons who, in the opinion of the council and assessor, by reason of poverty are unable to contribute toward the cost thereof. In all such cases, as a condition to the granting of such deferred payments, the village shall require mortgage security on the real property of the beneficiary payable on or before his death, or, in any event, on the sale or transfer of the property.
(Ord. No. 92-01, § 2.5-26, 1-6-92)

Sec. 12.5-27. Reconsideration of petitions.

In the event that the council shall fail to make any public improvement petitioned for under the provisions of section 12.5-4 hereof during the calendar year during which any petition is filed, such petition shall be reconsidered by the council prior to March 1 of the succeeding calendar year for the purpose of determining whether such improvement should be made during such calendar year.

(Ord. No. 92-01, § 2.5-27, 1-6-92)

Sec. 12.5-28. Hazards and nuisances.

When any lot, building or structure within the village, because of the 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 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 the owner of the building or structure itself, specifying the nature of the hazard or nuisance and requiring such owner to alter, repair, tear down or remove same promptly and within a time to be specified by the council, which shall be commensurate with the nature of the hazard or nuisance. If at the expiration of the time limit in such notice such 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 a hazard or nuisance abated by the proper department or agency of the village which is qualified to do the work required and the costs of such abatement assessed against the lot, premises or description of real property upon which such hazard or nuisance was located.

(Ord. No. 92-01, § 2.5-28, 1-6-92)

Chapter 13

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES*

Article I. In General

- Sec. 13-1. Definitions.
- Secs. 13-2–13-25. Reserved.

Article II. Streets

- Sec. 13-26. Damage and obstruction prohibited.
- Sec. 13-27. Permits and bonds.
- Sec. 13-28. Street openings.
- Sec. 13-29. Emergency openings.
- Sec. 13-30. Backfilling.
- Sec. 13-31. Utility poles.
- Sec. 13-32. Maintenance of installations in streets.
- Sec. 13-33. Curb cuts.
- Sec. 13-34. Sidewalk obstructions.
- Sec. 13-35. Pedestrian passage.
- Sec. 13-36. Safeguards.
- Sec. 13-37. Shoring excavations.
- Sec. 13-38. Housemoving.
- Sec. 13-39. Removal of encroachment.
- Sec. 13-40. Temporary street closings.
- Secs. 13-41–13-60. Reserved.

Article III. Sidewalks

- Sec. 13-61. Specifications and permits.
- Sec. 13-62. Line and grade stakes.
- Sec. 13-63. Sidewalk specifications.
- Sec. 13-64. Permit revocation.
- Sec. 13-65. Approval of specifications.
- Sec. 13-66. Ordering construction.
- Sec. 13-67. Construction by village.
- Sec. 13-68. Sidewalk maintenance.
- Sec. 13-69. Sidewalk repair.
- Sec. 13-70. Sidewalks to be cleared.
- Sec. 13-71. Failure to clear.

***Cross references**—Buildings and building regulations, ch. 4; zoning, ch. 15.

State law references—Streets and sidewalks, MCL 67.7 et seq., MSA 5.1291 et seq.; paving and improvements, MCL 67.17 et seq., MSA 5.1301 et seq.; street regulations, MCL 67.20 et seq., MSA 5.1304 et seq.

ARTICLE I. IN GENERAL**Sec. 13-1. 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:

Sidewalk means the portion of the street right-of-way designed for pedestrian travel.

Street means all of the land lying between property lines on either side of all streets, alleys and boulevards in the village, and includes lawn extensions and sidewalks and the area reserved therefor where the same are not yet constructed.

Superintendent means the superintendent of public works of the village.
(Code 1959, ch. 4001, § 1)

Cross reference—Definitions and rules of construction generally, § 1-2.

Secs. 13-2–13-25. Reserved.**ARTICLE II. STREETS****Sec. 13-26. Damage and obstruction prohibited.**

No person shall make any excavation in, or cause any damage to any street in the village, except under the conditions and in the manner permitted in this chapter. No person shall place any article, thing or obstruction in any street, except under the conditions and in the manner permitted in this chapter, but this provision shall not be deemed to prohibit such temporary obstructions as may be incidental to the expeditious movement of articles and things to and from abutting premises, nor to the lawful parking of vehicles within the part of the street reserved for vehicular traffic.

(Code 1959, ch. 4001, § 2)

Sec. 13-27. Permits and bonds.

(a) Where permits are authorized in this chapter, they shall be obtained upon application to the superintendent, upon such forms as he shall prescribe, and there shall be a charge of \$1.00 for each such permit. Such permit shall be revocable by the superintendent for failure to comply with this chapter, rules and regulations adopted pursuant hereto, and the lawful orders of the superintendent or his duly authorized representative, and shall be valid only for the period of time endorsed thereon. Application for a permit under the provisions of this chapter shall be deemed an agreement by the applicant to promptly complete the work permitted, observe all pertinent laws and regulations of the village in connection therewith, repair all damage done to the street surface and installations on, over or within such street, including trees, and protect and save harmless the village from all damages or actions at law that may arise or may be brought on account of injury to persons or property resulting from

the work done under the permit or in connection therewith. Where liability insurance policies are required to be filed in making application for a permit, they shall be in not less than the following amounts, except as otherwise specified in this chapter:

- (1) On account of injury to, or death of, any person in any one accident . . . \$ 10,000.00
- (2) On account of any one accident resulting in injury to, or death of, more than one person 20,000.00
- (3) On account of damage to property in any one accident 5,000.00

A duplicate executed copy or photostatic copy of the original of such insurance policy shall be filed with the village clerk.

(b) Where cash deposits are required with the application for any permit hereunder, such deposit shall be in the amount of \$25.00, except as otherwise specified in this chapter, and such deposit shall be used to defray all expenses to the village arising out of the granting of the permit and work done under the permit or in connection therewith. Three months after completion of the work done under the permit, any balance of such cash deposit unexpended, shall be refunded. In any case where the deposit does not cover all costs and expenses of the village, the deficit shall be paid by the applicant.

(Code 1959, ch. 4001, § 3)

Sec. 13-28. Street openings.

No person shall make any excavation or opening in or under any street without first obtaining a written permit from the superintendent. No permit shall be granted until the applicant shall post a cash deposit and file a liability insurance policy as required by section 13-27.

(Code 1959, ch. 4001, § 4)

Sec. 13-29. Emergency openings.

The superintendent may, if the public safety requires immediate action, grant permission to make a necessary street opening in an emergency, provided that a permit shall be obtained on the following business day and the provisions of this chapter shall be complied with.

(Code 1959, ch. 4001, § 5)

Sec. 13-30. Backfilling.

All trenches in a public street or other public place, except by special permission, shall be backfilled with approved granular material to within 12 inches of the surface. On main thoroughfares, this material shall contain one sack of cement per yard of fill. The remaining portion shall be filled with road gravel as specified by the superintendent.

(Code 1959, ch. 4001, § 6)

Sec. 13-31. Utility poles.

Utility poles may be placed in such streets as the superintendent shall prescribe and shall be located thereon in accordance with the directions of the superintendent. Such poles shall be removed or relocated as the superintendent shall from time to time direct.
(Code 1959, ch. 4001, § 7)

Sec. 13-32. Maintenance of installations in streets.

Every owner of, and every person in control of, any estate hereafter maintaining a sidewalk vault, coal hole, manhole, or any other excavation, or any post, pole, sign, awning, wire, pipe, conduit or other structure in, under, over or upon, any street which is adjacent to or a part of his estate, shall do so only on the condition that such maintenance shall be considered as an agreement on his part with the village to keep the same and the covers thereof, and any gas and electric boxes and tubes thereon, in good repair and condition at all times during his ownership or control thereof, and to indemnify and save harmless the village against all damages or actions at law that may arise or be brought by reason of such excavation or structure being under, over, in or upon the street, or being unfastened, out of repair or defective during such ownership or control.
(Code 1959, ch. 4001, § 8)

Sec. 13-33. Curb cuts.

No opening in or through any curb of any street shall be made without first obtaining a written permit from the superintendent. Curb cuts and sidewalk driveway crossings to provide access to private property shall comply with the following:

- (1) No single curb cut shall exceed 25 feet nor be less than ten feet.
- (2) The minimum distance between any curb cut and a public crosswalk shall be five feet.
- (3) The minimum distance between curb cuts, except those serving residential property, shall be 25 feet.
- (4) The maximum number of lineal feet of sidewalk driveway crossings permitted for any lot, parcel of land, business or enterprise, shall be 45 percent of the total abutting street frontage up to and including 200 lineal feet of street frontage plus 20 percent of the lineal feet of street frontage in excess of 200 feet.
- (5) The necessary adjustments to utility poles, light standards, fire hydrants, catchbasins, street or railway signs, signals, or other public improvements or installations shall be accomplished without cost to the village.
- (6) All construction shall be in accordance with plans and specifications approved by the superintendent.

(Code 1959, ch. 4001, § 9)

Sec. 13-34. Sidewalk obstructions.

No person shall occupy any street with any materials or machinery incidental to the construction, demolition or repair of any building adjacent to such street, or for any other purpose, without first obtaining a permit from the superintendent. No permit shall be granted until the applicant shall post a cash deposit and file a liability insurance policy as required by section 13-27.

(Code 1959, ch. 4001, § 10)

Sec. 13-35. Pedestrian passage.

At least six feet of sidewalk space shall be kept clean and clear for the free passage of pedestrians and if the building operations are such that such free passageway is impracticable, a temporary plank sidewalk with substantial railings or sidewalk shelter shall be provided around such obstruction.

(Code 1959, ch. 4001, § 11)

Sec. 13-36. Safeguards.

All openings, excavations and obstructions, shall be properly and substantially barricaded and railed off, and at night shall be provided with red warning lights. Warning lights perpendicular to the flow of traffic shall not be more than three feet apart, and parallel to the flow of traffic not over 15 feet apart.

(Code 1959, ch. 4001, § 12)

Sec. 13-37. Shoring excavations.

All openings and excavations shall be properly and substantially sheeted and braced as a safeguard to workmen and to prevent cave-ins or washouts which would tend to injure the thoroughfare or subsurface structure of the street.

(Code 1959, ch. 4001, § 13)

Sec. 13-38. Housemoving.

No person shall move, transport or convey any building or other similar bulky or heavy object, including machinery, trucks and trailers, larger in width than 14 feet, into, across or along any street, alley or other public place in the village without first obtaining a permit from the superintendent. Such permit shall specify the route to be used in such movement and no person shall engage in such movement along a route other than that specified in the permit. No housemoving permit shall be granted until the applicant shall post a cash deposit in the amount of \$50.00 and file a liability insurance policy as required by section 13-27.

(Code 1959, ch. 4001, § 14)

Sec. 13-39. Removal of encroachment.

Encroachments and obstructions in the street may be removed and excavations refilled and the expense of such removal or refilling charged to the abutting land owner when made

or permitted by him or suffered to remain by him, otherwise than in accordance with the terms and conditions of this chapter. The procedure for collection of such expenses shall be as prescribed in sections 19, 20 and 21 of chapter VIII of the Charter.
(Code 1959, ch. 4001, § 15)

Sec. 13-40. Temporary street closings.

The superintendent shall have authority to temporarily close any street, or portion thereof, when he shall deem such street to be unsafe or temporarily unsuitable for use for any reason. He shall cause suitable barriers and signs to be erected on such street, indicating that the same is closed to public travel. When any street or portion thereof shall have been closed to public travel, no person shall drive any vehicle upon or over such street except as the same may be necessary and incidental to any street repair or construction work being done in the area closed to public travel. No person shall move or interfere with any sign or barrier erected pursuant to this section without authority from the superintendent.
(Code 1959, ch. 4001, § 16)

Secs. 13-41–13-60. Reserved.

ARTICLE III. SIDEWALKS

Sec. 13-61. Specifications and permits.

No person shall construct, rebuild or repair any sidewalk except in accordance with the line, grade, slope and specifications established for such sidewalk, nor without first obtaining a written permit from the superintendent, except that sidewalk repairs of less than 50 square feet of sidewalk may be made without a permit. The fee for such permit shall be \$0.01 per square foot and a minimum of \$1.00.
(Code 1959, ch. 4024, § 2)

Sec. 13-62. Line and grade stakes.

The superintendent shall furnish line and grade stakes as may be necessary for proper control of the work, but this shall not relieve the owner of responsibility for making careful and accurate measurements in constructing the work to the lines furnished by the superintendent. Where it is necessary to replace engineer's stakes disturbed or destroyed without fault on the part of the village, or its employees, a charge of \$1.00 per stake shall be paid.
(Code 1959, ch. 4024, § 3)

Sec. 13-63. Sidewalk specifications.

Sidewalks shall not be less than four inches in thickness and expansion paper shall be placed in the joints. All concrete used in sidewalk construction shall, 28 days after placement, be capable of resisting a pressure of 2,500 pounds per square inch without failure.
(Code 1959, ch. 4024, § 4)

Sec. 13-64. Permit revocation.

The superintendent may issue a stop order to any permittee holding a permit issued under the terms of this chapter for failure to comply with this chapter, or the rules, regulations, plans and specifications established for the construction, rebuilding or repair of any sidewalk, and the issuance of such stop order shall be deemed a suspension of such permit. Such stop order shall be effective until the next regular meeting of the village council, and if confirmed by the council, at its next regular meeting, such stop order shall be permanent, and shall constitute a revocation of the permit.

(Code 1959, ch. 4024, § 5)

Sec. 13-65. Approval of specifications.

The line, grade, slope and width of sidewalks, and specifications as to materials and manner of construction not in conflict with this chapter, shall be established by the superintendent, and where, under the following sections of this chapter, the council orders the construction of any sidewalk, then the council shall also, by resolution, specify the line, grade, slope, width, materials and manner of construction for the sidewalk ordered built.

(Code 1959, ch. 4024, § 6)

Sec. 13-66. Ordering construction.

The village council may, by resolution, require the owners of lots and premises to build sidewalks in the public streets adjacent to and abutting upon such lots and premises. When such resolution shall be adopted, the superintendent shall give notice thereof, in accordance with section 1-14, to the owner of such lot or premises requiring him to construct or rebuild such sidewalk within 20 days from the date of such notice.

(Code 1959, ch. 4024, § 7)

Sec. 13-67. Construction by village.

If the owner of any lot or premises fails to build any particular sidewalk as described in such notice, and within the time and in the manner required thereby, the superintendent is hereby authorized and required, immediately after the expiration of the time limited for the construction or rebuilding by the owner, to cause such sidewalk to be constructed. The expense thereof shall be charged to such premises and the owner thereof, and collected as provided in section 10 of chapter VII of the Charter.

(Code 1959, ch. 4024, § 8)

Sec. 13-68. Sidewalk maintenance.

No person shall permit any sidewalk within the village which adjoins property owned by him, to fall into a state of disrepair or to be unsafe.

(Code 1959, ch. 4024, § 9)

Sec. 13-69. Sidewalk repair.

Whenever the superintendent determines that a sidewalk is unsafe for use, notice may be given to the owner of the lot or premises adjacent to and abutting upon such sidewalk of such determination. Such notice shall be given in accordance with section 1-14. Thereafter, it shall be the duty of the owner to place such sidewalk in a safe condition. Such notice shall specify a reasonable time, not less than seven days, within which such work shall be commenced, and shall further provide that the work shall be completed with due diligence. If the owner of such lot or premises shall refuse or neglect to repair such sidewalk within the time limited therefor, or in a manner otherwise than in accordance with this chapter, the superintendent shall have the sidewalk repaired. The cost of repairs hereunder shall be charged against the premises which such sidewalk adjoins and the owner of the premises, and shall be collected as provided in section 10 of chapter VII of the Charter.

(Code 1959, ch. 4024, § 10)

Sec. 13-70. Sidewalks to be cleared.

The occupant of every lot or premises adjoining any street, or the owner of such lot or premises, if the same are not occupied, shall clear all ice and snow from sidewalks adjoining such lot or premises within the time herein required. When any snow shall fall or drift upon any sidewalk during the nighttime, such snow shall be cleared from the sidewalks by 12:00 noon. Snow falling or accumulating during the day shall be cleared from the sidewalks by 12:00 noon of the day following.

(Code 1959, ch. 4024, § 11)

Sec. 13-71. Failure to clear.

If any occupant or owner shall neglect or fail to clear ice or snow from the sidewalk adjoining his premises within the time limited, or shall otherwise permit ice or snow to accumulate on such sidewalk, he shall be guilty of a violation of this chapter and in addition, the superintendent may cause the same to be cleared. The expense of removal shall be collectable as provided in section 10 of chapter VII of the Charter.

(Code 1959, ch. 4024, § 12)

Chapter 15

ZONING*

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***Cross references**—Administration, ch. 2; buildings and building regulations, ch. 4; sewers, ch. 12.

State law reference—Authority to regulate land use, MCL 125.581 et seq., MSA 5.2931 et seq.

ZONING

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ARTICLE I. IN GENERAL**Sec. 15-1. Short title.**

This chapter shall be known and may be cited as the zoning chapter of the village.
(Code 1959, ch. 5500, § 1.01)

Sec. 15-2. Construction of language.

The following rules of construction apply to the text of this chapter:

- (1) The particular shall control the general.
- (2) In the case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.
- (3) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (4) Words used in the present tense shall include the future; words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- (5) A building or structure includes any part thereof.
- (6) The phrase "used for" includes arranged for, designed for, intended for, maintained for or occupied for.
- (7) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
- (8) Unless the context clearly indicated the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction and, or, either . . . or, the conjunction shall be interpreted as follows:
 - a. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 - b. "Or" indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.
- (9) Terms not herein defined shall have the meaning customarily assigned to them.
(Code 1959, ch. 5500, § 2.01)

Sec. 15-3. Interpretation.

In the interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience or general welfare. It is not intended by this chapter to repeal, abrogate, annul, or in any way to impair or interfere with any existing provision of law or ordinance other than the above-described zoning chapter, or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating

to the use of buildings or premises; provided, however that where this chapter imposes a greater restriction than is required by existing ordinances or by rules, regulations or permits, the provisions of this chapter shall control. Nothing in this chapter should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety and welfare.
(Code 1959, ch. 5500, § 14.01)

Sec. 15-4. 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:

Accessory building means a supplementary building or a portion of a main building, the use of which is incidental to that of the main building.

Adult foster care facility means an establishment which provides supervision, assistance, protection or personal care, in addition to room and board to adults as defined in Act No. 218 of the Public Acts of Michigan of 1979 (MCL 400.701 et seq., MSA 16.610(51)), as amended.

Alley means a public way which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

Alterations means any change in the location or use of a building, or any change or modification in the supporting members of a building such as bearing walls, columns, beam hoists, girders and similar components, or any substantial changes in the roof or exterior walls, or any change in the type of occupancy, the consummated act of which may also be referred to herein as altered or reconstructed.

Automobile service station means a building or structure designed or used for the retail sale of fuel, lubricants, air, water and other operating commodities for motor vehicles, aircraft or boats.

Basement means that portion of a building wholly or partly below grade, but so constructed that the vertical distance from the average grade to the basement floor is greater than the vertical distance from the average grade to the basement ceiling. A basement shall not be included as a story for height measurement.

Bedroom means a room in a dwelling unit used for or intended to be used solely for sleeping purposes by human beings.

Block means the property abutting one side of a street and lying between the two nearest intersecting streets, crossing or terminating; or between the nearest such street and railroad right-of-way; unsubdivided acreage, lake, river or live stream; or between any other barrier to the continuity of development.

Building means an independent structure having a roof supported by columns or walls, intended and/or used for shelter or enclosure of persons or chattels.

Building setback line means the line which pertains to and defines the minimum (building) setback lines which are established parallel to the front street or right-of-way line and within which setback area no part of a building shall project or be located, except as otherwise provided for by this chapter.

Convalescent or nursing home means a home for the care of children or the aged or the infirm, or a place of rest for those suffering serious bodily disorders, wherein three or more persons are cared for. Such home shall also conform to and qualify for license under applicable state laws (even though state law may provide for different size regulations).

District means a portion of the incorporated area of the village within which certain uses of land and/or buildings are permitted and within which certain regulations and requirements apply under the provisions of this chapter.

Drive-in restaurant means any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state, and whose design, method of operation, or any portion of whose business includes one or both of the following characteristics:

- (1) Foods, frozen desserts, or beverages are served directly to the customer in a motor vehicle either by a car-hop or by other means which eliminates the need for the customer to exit the motor vehicle.
- (2) The consumption of foods, frozen desserts, or beverages within a motor vehicle parked upon the premises, or at other facilities on the premises outside the restaurant building, is allowed, encouraged or permitted.

Dwelling means a house or building, or portion thereof, which is occupied wholly as the home, residence or sleeping place by one or more human beings, either permanently or transiently, but in no case shall a trailer coach, mobile home, automobile chassis, tent or portable building be considered as a dwelling. In case of mixed occupancy where a building is occupied in part as a dwelling, the part so occupied shall be deemed a dwelling for the purpose of this chapter and shall comply with the provisions hereof relative to dwellings. Garage space, whether in an attached or detached garage, shall not be deemed a part of a dwelling for area requirements.

- (1) *Dwelling, multiple* means a building used for and as a residence for three or more families living independently of each other and each having their own cooking facilities therein, including apartment houses, townhouses, and apartment hotels, but not including mobile homes.
- (2) *Dwelling, one-family* means a detached building occupied by one family and so designed and arranged as to provide living, cooking and kitchen accommodations for one family only. Also known as a single-family dwelling.

- (3) *Dwelling, two-family detached* means a dwelling that is occupied by two families, each provided with separate facilities for each family for living accommodations. Also known as a duplex dwelling.
- (4) *Dwelling unit* means any building or portion thereof having cooking facilities, which is occupied wholly as the home, residence or sleeping place of one family, either permanently or transiently, but in no case shall a travel trailer, mobile home, motor home, automobile chassis, tent or other portable building be considered a dwelling in residential areas. In cases of mixed occupancy where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purpose of this chapter and shall comply with the provisions thereof relative to dwellings.
- (5) *Efficiency unit* means a dwelling unit consisting of one room, exclusive of bathroom, kitchen, hallway, closets, or dining alcove directly off the principal room providing not less than 350 square feet of floor area.

Essential services means the erection, construction, alteration or maintenance by public utilities or public authorities, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, towers, fire alarm boxes, police call boxes, traffic signals, hydrant or other similar equipment and accessories in connection therewith, not including buildings, as shall be reasonably necessary for the furnishing of adequate services by public utilities, or public authorities, or for the public health, safety or general welfare (not including buildings other than are primarily enclosures or shelters of the above essential service equipment). Same shall be permitted as authorized by law and other ordinances, the intent here being to exempt such erection from the application of this chapter.

Family means one or more persons living together in one dwelling unit and interrelated by bonds of marriage, blood, or legal adoption additionally may include up to a total of three persons not so related who are either domestic servants or gratuitous guests, comprising a single housekeeping unit.

Farm means the carrying on of any agricultural activity or the raising of livestock or small animals as a source of income.

Floor area:

- (1) *Floor area, gross:* The sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the centerlines of walls separating two buildings. The floor area of a building, which is what this normally is referred to as, shall include the basement floor area when more than one-half of the basement height is above the established curb level or finished lot grade, whichever is higher (see basement definition). Any space devoted to off-street parking or loading shall not be included in floor area. Areas of basements, utility rooms, breezeways, unfinished attics, porches (enclosed or unenclosed) or attached garages are not included.

- (2) *Floor area, useable* means that portion of the floor area, measured from the interior face of the exterior walls, used for or intended to be used for services to the public or customers, patrons, clients, or patients; including areas occupied by fixtures or equipment used for display or sale of goods or merchandise, but not including areas used or intended to be used for storage of merchandise, utility or mechanical equipment rooms, or sanitary facilities. In the case of a half story, the usable floor area shall be considered to be only that portion having a clear height above it of four feet or more.

Garage, private means a space or structure suitable for the storage of motor vehicles having no public shop or service in connection therewith, for the use solely of the owner or occupant of the principal building on a lot.

Grade and building grade shall, in the case of fairly level ground conditions, be the level of the ground adjacent to the walls. For substantially unlevel ground conditions, the grade shall be the average elevation of the ground adjacent to the walls.

Height, building means the vertical distance measured from the grade of the building to the highest point of the roof for flat roofs; to the deck line for mansard roofs; and to the mean height level (between eaves and ridges) for gable, hip and gambrel roofs. Where a building is located upon a terrace, the height may be measured from the average ground level of the terrace at the building wall.

Home occupation means a gainful occupation or profession customarily carried on by an occupant of a dwelling unit as a use which is clearly incidental to the use of the dwelling unit for residential purposes, and therefore not involving the conduct of a retail business, manufacturing business or a repair shop of any kind on the premises. Home occupations shall not include the employment of any additional persons in the performance of such services nor shall there be any mechanical or electrical equipment used, other than is usual for purely domestic or hobby purposes. Home occupations shall include: personal services such as or similar to those provided by the professions of a doctor, dentist, osteopath, chiropractor, chiropodist, optometrist, architect, artist, engineer, lawyer, accountant, music teacher, barbershop, beauty parlor and dressmaker. The conducting of a clinic, hospital, tea room, tourist home, animal hospital or any similar use on the premises shall not be deemed to be a home occupation.

Hotel means a building containing apartments, each composed of bedroom, bathroom and closet space but without cooking facilities. The apartment units, with the exception of the units occupied by the management staff, being used only for the accommodation of transients and no cooking being permitted therein.

Junk yard means an open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled including, but not limited to: scrap iron and other metals, paper, rags, rubber tires and bottles. A junk yard includes automobile wrecking yards and includes an open area of more than 200 square feet for the storage, keeping or abandonment of junk.

Loading space means an off-street space on the same lot with a building or group of buildings, for temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

Lot means a parcel of land occupied or intended to be occupied by a building and any accessory buildings or by any other use or activity permitted thereon and including the open spaces and yards required under this chapter, and having its frontage upon a public street or road either dedicated to the public or designated on a recorded subdivision.

- (1) *Lot, depth* means the mean horizontal distance from the center of the front street line to the center of the rear lot line.
- (2) *Lot, double frontage* means a lot other than a corner lot having frontage on two more or less parallel streets. In the case of a row of double frontage lots, one street will be designated as the front street for all lots in the plat and in the request for a zoning compliance 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.
- (3) *Lot interior* means a lot other than a corner lot with only one lot line fronting on a street.
- (4) *Lot, width* means the horizontal distance between the side lot lines, measured at the two points where the building line, or setback line, intersects the side lot lines.

Lot, corner means a lot where the interior angle of two adjacent sides at the intersection of two streets is less than 135 degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this chapter if the arc is of less radius than 150 feet and the tangents to the curve, at the two points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than 135 degrees.

Lot line means any line dividing one lot from another or from the right-of-way, and thus constitutes property lines bounding a lot.

- (1) *Lot line, front* means in the case of an interior lot abutting on one public or private street, the line separating the lot from such street right-of-way. In the case of a corner or double frontage lot, the front lot line shall be that line separating such lot from that street which is designated as the front street in the plat and/or in the request for a zoning compliance permit.
- (2) *Lot line, rear* means that boundary which is opposite and most distant from the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be that assumed line parallel to the front lot line not less than ten feet long lying farthest from the front lot line and wholly within the lot.
- (3) *Lot line, side* means any lot boundary line not a front lot line or a rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior lot line.

Lot of record means a lot the dimension and configuration of which are shown on a map recorded in the office of the register of deeds for the county, or a lot or parcel described by metes and bounds, the accuracy of which is attested to by a professional engineer or land surveyor (so registered and licensed in the state) and likewise so recorded on a file with the county.

Mobile home means a structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure.

Mobile home park means a parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual, nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.

Motel means a building or a group of buildings in which overnight lodging is provided and offered to the public for compensation and catering primarily to the public traveling by motor vehicles.

Nonconforming building means a building or portion thereof lawfully existing on February 11, 1977, and which does not conform to the provisions (e.g., setbacks, height, lot coverage, parking) of this chapter in the zoning district in which it is located.

Nonconforming use means a use which lawfully occupied a building or land on February 11, 1977, and does not conform to the use regulations of the zoning district in which it is located.

Off-street parking lot means a facility providing vehicular parking spaces along with adequate drives and aisles.

Parking space means an area for each automobile or motor vehicle, such space being exclusive of necessary drives, aisles, entrances, or exits, and being fully accessible for the storage or parking of self-propelled vehicles.

Principal use means the main use to which premises are devoted and the principal purpose for which premises exist.

Public utility means any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing under municipal or state regulation to the public; transportation, water, gas, electricity, telephone, steam, telegraph, or sewage disposal.

Setback means the distance required to obtain the minimum front, side or rear yard open space provisions of this chapter.

Sign means any device using words, numerals, figures, designs or trademarks designed to inform or attract the attention of persons not on the premises on which the sign is located.

Story means that portion of a building, other than a mezzanine, included between the surface of any floor and the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

- (1) *Mezzanine* means a floor that may be used in this definition of a full story when it covers more than 50 percent of the area of the story underneath the mezzanine, or, if the vertical distance from the floor next below it to the floor next above it is 24 feet or more.
- (2) *Half* means that part of a building between a pitched roof and the uppermost full story, such part having a floor area which does not exceed one-half the floor area of the full story, provided the area contains at least 200 square feet with a clear height of at least seven feet and six inches.

Street means the public thoroughfare which affords traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and other thoroughfare, except an alley.

Use means the purpose for which land or premises of a building thereon is designed, arranged, intended, or for which it is occupied, maintained, let, or leased.

Variance means a modification of the literal provisions of the zoning chapter which is granted when strict enforcement would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted. Hardships based solely on economic considerations are not grounds for a variance.

Yard, required side-rear-front means an open space of prescribed width or depth, adjacent to a lot or property line, on the same land with a building or group of buildings, which open space lies in the area between the building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

- (1) *Front* means an open space extending the full width of a lot and of a depth measured horizontally at right angles to the front property line, and the nearest point of the main building.
- (2) *Rear* means an open space extending the full width of a lot and of a depth measured horizontally at right angles to the rear property line.
- (3) *Side* means an open space extending on each side of the lot from the required front yard to the required rear yard, and of a width measured horizontally at right angles to the respective side property line.

(Code 1959, ch. 5500, § 3.01)

Sec. 15-5. General responsibility.

The village council or its duly authorized representative is hereby charged with the duty of enforcing this chapter and the council is hereby empowered, in the name of the village to commence and pursue any and all necessary and appropriate actions and/or proceedings in any court having jurisdiction, to restrain and/or prevent any noncompliance with or violation of

any of the provisions of this chapter, and to correct, remedy, and/or abate such noncompliance or violation. And it is further provided that any person aggrieved or adversely affected by such a noncompliance or violation may institute suit and/or join the village council in such a suit to abate the same.

(Code 1959, ch. 5500, § 14.05)

Sec. 15-6. Penalty.

Any person including but not by way of limitation, builders and contractors who shall violate, neglect, or refuse to comply with or who resists the enforcement of any of the provisions of this chapter or conditions of the board of appeals or village council adopted pursuant thereto, on conviction thereof, shall be punished by a fine not to exceed \$500.00 and costs of prosecution, or being imprisoned in the county jail for not more than 90 days, or both such fine and imprisonment at the discretion of the court. Each day that a violation is permitted to exist shall constitute a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this chapter. Uses of land, and dwellings, buildings, or structures, including tents, trailer coaches and mobile homes, used, erected, altered, razed, or converted in violation of any provision of this chapter, are hereby declared to be a nuisance per se. The court may order such nuisance abated and the owner and/or agent in charge of such dwelling, building, structure, tent, trailer coach, mobile home, or land may be adjudged guilty of maintaining a nuisance per se, and same may be abated by order of any court of competent jurisdiction.

(Code 1959, ch. 5500, § 14.03)

Secs. 15-7–15-30. Reserved.

ARTICLE II. DISTRICTS AND MAPPING INTERPRETATION

Sec. 15-31. Districts.

The village is hereby divided into zones or districts as shown on the official zoning map and shall include the following:

| | |
|-----|--------------------------|
| R-1 | Agricultural-Residential |
| C-1 | Commercial |
| M-1 | Industrial |

(Code 1959, ch. 5500, § 4.01)

Sec. 15-32. Map.

The boundaries of these districts are shown upon the official zoning map of the village and made a part of this chapter. The zoning map shall be maintained and kept on file with the village clerk, and all notations, references, and other information shown thereon are a part of

this chapter and have the same force and effect as if the zoning map and all such notations, references and other information shown thereon were fully set forth or described herein.
(Code 1959, ch. 5500, § 4.02)

Sec. 15-33. Interpretation of district boundaries.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the zoning map the following rules shall apply:

- (1) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines;
- (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- (3) Boundaries indicated as approximately following corporate limits shall be construed as following corporate limits;
- (4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- (5) Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines;
- (6) Boundaries indicated as parallel to or extensions of features indicated in subsections (1) through (5) above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map;
- (7) Where physical or cultural features existing on the ground are at variance with those shown on the official zoning plan or in other circumstances not covered by subsections (1) through (6) above, the board of appeals shall interpret the district boundaries.

(Code 1959, ch. 5500, § 4.03)

Sec. 15-34. Zoning of annexed areas.

Whenever any area is annexed to the village it shall immediately upon such annexation, be automatically classified as an R-1 District until a zoning district for such area has been adopted by the village council.

(Code 1959, ch. 5500, § 4.04)

Sec. 15-35. Zoning of vacated areas.

Whenever any street, alley or other public way within the village shall be vacated, such street, alley or other public way or portion thereof, shall automatically be classified in the same zoning district as the property to which it is attached.

(Code 1959, ch. 5500, § 4.05)

Secs. 15-36–15-55. Reserved.

ARTICLE III. R-1, AGRICULTURAL-RESIDENTIAL DISTRICT

Sec. 15-56. Statement of purpose.

The following reasons are given in evidence to support the purposes for which this zoning district is intended to accomplish:

- (1) To encourage the construction of, and the continued use of the land for single-family dwellings.
- (2) To prohibit business, commercial or industrial use of the land, and to prohibit any other use which would substantially interfere with development or continuation of single-family dwellings in the district.
- (3) Land with agricultural value can continue to be worked until its conversion to urban uses.

(Code 1959, ch. 5500, § 5.01)

Sec. 15-57. Permitted principal uses.

The following uses are permitted in an R-1, Agricultural-Residential District; any use not expressly permitted is prohibited:

- (1) Single-family detached buildings.
- (2) Farms as regulated by the village Code.
- (3) Publicly owned and operated museums, libraries, parks, playfields, playgrounds, recreational facilities and conservation.
- (4) State licensed residential facilities (see MCL 125.583b, MSA 5.2993(2)).
- (5) Public, parochial or other private elementary, intermediate schools and/or high schools offering courses in general education.
- (6) Accessory uses and buildings customarily incidental to the above-permitted principal uses.

(Code 1959, ch. 5500, § 5.02)

Sec. 15-58. Permitted uses after special approval.

The following uses shall be permitted subject to the conditions hereinafter imposed and subject further to the approval of the village council:

- (1) Nursery schools, day nurseries and child care centers (not including dormitories) providing that for each child so cared for, there shall be provided and maintained a minimum of 75 square feet of outdoor play area. Such play space shall have a total

minimum area of not less than 2,000 square feet and shall be screened from any adjoining lot in any residential district.

- (2) Cemeteries, provided that the minimum site size shall be five acres and the perimeter of the site shall be fenced as designated in section 15-221.
- (3) Churches, subject to the requirements set forth in section 15-226.
- (4) Public utility buildings and uses, but not including service and storage yards, when operating requirements necessitate locating within the district to serve the immediate vicinity.
- (5) Golf course, which may or may not be operated for profit, subject to the following conditions: Development features including the principal and accessory buildings and structure shall be so located and related as to minimize the possibilities of any adverse affects upon adjacent property. This shall mean that all principal or accessory buildings shall be not less than 200 feet from any property line of abutting residentially zoned lands.
- (6) Roadside stands, only for the marketing of agricultural products produced on the premises.
- (7) Home occupations as defined in this chapter.
- (8) Radio and television towers including all commercial radio, television, and other transmitting or relay antenna towers, subject to the following conditions:
 - a. The setbacks for all towers shall be a distance equal to the height of such tower.
 - b. The structural plans shall be approved by the building inspector.
 - c. The towers shall observe all state, county and local safety and health regulations including those established by the federal aeronautics administration.
- (9) Convalescent and/or nursing home, adult foster care home when the following conditions are met:
 - a. The site shall be so developed as to create a land to building ratio on the parcel whereby for each one bed in the home there shall be provided not less than 1,500 square feet of land area.
 - b. No building shall be closer than ten feet from any property line.
- (10) Mortuary establishments subject to the following:
 - a. Adequate assembly area shall be provided off-street for vehicles to be used in the funeral procession, provided further that such assembly area shall be provided in addition to any required off-street parking area.
 - b. A caretaker's residence may be provided within the main building of mortuary establishments.

(11) Mobile home parks subject to the requirements of section 15-229.
(Code 1959, ch. 5500, § 5.03)

Sec. 15-59. Area, height, and placement regulations.

Area, height and placement requirements, unless otherwise specified are provided in sections 15-131 and 15-132.
(Code 1959, ch. 5500, § 5.04)

Secs. 15-60--15-80. Reserved.

ARTICLE IV. C-1, LOCAL COMMERCIAL DISTRICT

Sec. 15-81. Statement of purpose.

The C-1, Commercial District, is intended to permit retail business and service uses. In order to promote such business developments so far as it is possible and appropriate in each area, uses are prohibited which would create hazards, offensive and loud noises, vibration, smoke, glare, or heavy truck traffic. The intent of this district is also to encourage the concentration of local business areas to the mutual advantage of both the consumers and merchants and thereby to promote the best use of land at certain strategic locations.
(Code 1959, ch. 5500, § 6.01)

Sec. 15-82. Permitted principal uses.

The following provisions apply in all C-1, Local Commercial Districts; any use not expressly permitted is prohibited:

- (1) Office buildings resulting from any of the following occupations: executive; administrative; professional; accounting; writing; clerical; stenographic; drafting; sales and governmental service.
- (2) Medical or dental office, including clinics and medical laboratories.
- (3) Banks, credit unions, savings and loan associations.
- (4) Business or private schools operated for a profit.
- (5) Photographic studios.
- (6) Mortuary establishments.
- (7) Retail establishments for the sale of alcoholic beverages, baked goods, bicycles, books, confections, drugs, flowers, groceries, hardware, hobby equipment, jewelry, music, notions, paints, periodicals, sundry small household articles, tobacco, and similar establishments.

- (8) Personal service establishments performing services on the premises, such as barber and beauty shops; watch, radio, television, clothing and shoe repair, tailor shops, locksmith and similar establishments.
 - (9) Laundry or dry cleaning customer outlets, coin-operated laundromats, self-serve dry cleaning centers and the like. Dry cleaning or laundry plants serving more than one customer service outlet are prohibited.
 - (10) Eating and drinking establishments when food or beverage is consumed within a completely enclosed building. Establishments with a character of a drive-in or open front store are prohibited.
 - (11) Public utility building and uses but not including storage yards, when operating requirements necessitate locating within the district to serve the immediate vicinity.
 - (12) Accessory buildings and uses customarily incidental to the above permitted principal uses.
- (Code 1959, ch. 5500, § 6.02)

Sec. 15-83. Permitted uses after special approval.

The following uses may be permitted subject to the conditions hereinafter imposed and subject further to the approval of the village council:

- (1) Automobile service stations subject to the requirements of section 15-224.
- (2) Private service clubs, fraternal organizations and lodge halls subject to the following: The minimum lot area shall be one acre.
- (3) Eating and drinking establishments of a drive-in or carry-out character as defined in this chapter.
- (4) Any retail business whose principal activity is the sale or rental of merchandise within a completely enclosed building.
- (5) Business service establishments performing services on the premises such as office machine and typewriter repair; printing.
- (6) Any service establishment of an office, showroom, or workshop nature within a completely enclosed building of a taxidermist, decorator, furniture sales, upholsterer, caterer, exterminator, building contractor, (including electrical, glazing, heating, painting, paper hanging, plumbing, roofing, ventilating and plastering), excluding outside storage yards and similar establishments that require a retail adjunct.
- (7) Indoor ice skating and roller skating rinks.
- (8) Establishments containing indoor tennis courts, handball courts, swimming pools, gymnasiums, health clubs, and similar uses.

- (9) Other uses similar to the above, subject to the following restrictions:
 - a. All goods produced on the premises shall be sold at retail on the premises where produced.
 - b. All business or servicing shall be conducted within a completely enclosed building.
- (10) Automobile car wash establishments when completely enclosed within a building, including steam-cleaning, but not rustproofing; provided further that off-street storage space for at least ten cars waiting to be washed per car wash lane is provided for manual or self-serve establishments and at least 25 storage spaces for automatic establishments.
- (11) Open air business uses as follows in conformance with section 15-227:
 - a. Retail sale of trees, shrubbery, plants, flowers, seed, topsoil, humus, fertilizer, trellisses, lawn furniture, playground equipment and other garden supplies and equipment.
 - b. Retail sale of fruits and vegetables.
 - c. Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving ranges, children's amusement park or similar recreation uses.
 - d. Bicycle, trailer, motor vehicle used car lots, mobile home, boat or farm equipment sale or rental services.
 - e. Outdoor display and sale of lumber, building materials, garages, swimming pools and similar uses.
- (12) Hotels and motels.
- (13) Theaters, dance halls, assembly halls or other similar places of assembly.
- (14) Passenger bus stations.
- (15) Drive-in theaters, provided that there shall be no vehicular access to any residential street, that suitable screening is provided to insure that there shall be no highlight or other illumination directed upon any residentially zoned or developed property; and so that the picture is not visible from a major thoroughfare; and that any such drive-in theaters shall be located no closer than 1,000 feet to any residentially zoned or developed property.
- (16) One-, two- and multiple-family units within an existing commercial building. Dwelling units shall not be located below the second floor, and each unit shall have a minimum floor area of 720 square feet.

(Code 1959, ch. 5500, § 6.03)

Sec. 15-84. Area, height and placement regulations.

Area, height and placement requirements, unless otherwise specified are provided in sections 15-131 and 15-132.

(Code 1959, ch. 5500, § 6.04)

Secs. 15-85–15-105. Reserved.

ARTICLE V. M-1, INDUSTRIAL DISTRICT

Sec. 15-106. Statement of purpose.

The intent of this article is to permit industrial uses to locate in desirable areas of the village, which uses are primarily of a manufacturing, assembling and fabricating character, including large scale or specialized industrial operations requiring good access by road, and needing special sites or public and utility services. Reasonable regulations apply to users in this district so as to permit the location of industries which will not cause adverse effects on residential and commercial areas in the village.

(Code 1959, ch. 5500, § 7.01)

Sec. 15-107. Permitted principal uses.

The following provisions apply in the M-1, Industrial District; any uses not expressly permitted are prohibited:

- (1) *Wholesale and warehousing.* The sale at wholesale or warehousing of automotive equipment; dry goods and apparel; groceries and related products; raw farm products except livestock; electrical goods; hardware, lumber, plumbing, heating equipment and supplies; machinery and equipment, petroleum bulk stations and terminals; tobacco and tobacco products; beer, wine and distilled alcoholic beverages; paper and paper products; furniture and home furnishings, and any commodity the manufacture of which is permitted in this district; truck terminals.
- (2) *Industrial establishments.*
 - a. The assembly, fabrication, manufacture, packaging or treatment of such products as food products (excluding butchering, animal slaughtering), candy, drugs, cosmetics and toiletries, musical instruments, optical goods, toys, novelties, electrical instruments and appliances; radio and phonographs; pottery and figurines or other ceramic products using only pulverized clay.
 - b. The assembly, fabrication, manufacture or treatment of such products from the following previously prepared materials: bone, canvas, cellophane, cloth, cork, felt, fibre, glass, horn, leather, paper, plastics, precious or semiprecious metals or stones, sheet metal (excluding large stampings such as automobile fenders or bodies), shell, textiles, wax, wire, wood (excluding saw and planing mills) and yarns.
 - c. Tool and die shops; metal working machine shops including the use of grinding or cutting tools; manufacturing of tools, dies, jigs, and fixtures; publishing, printing or forming of box, carton and cardboard products.
 - d. Laboratories, research or testing.
 - e. Central dry cleaning plants and laundries.

- (3) *Public utility uses.* Electric transformer station and substation electric transmission towers; municipal buildings and uses; gas regulator and municipal utility pumping stations.
- (4) *Retail and service establishments.*
 - a. Eating and drinking establishments when food or beverage is consumed within a completely enclosed building. Establishments with a character of a drive-in or open front store are prohibited.
 - b. Truck tractor and trailer sales, rental and repair.
 - c. Lumber yards.
 - d. Automobile service stations in accordance with section 15-224.
- (5) *Accessory uses and buildings.* Accessory uses and buildings customarily incidental to the above-permitted principal uses.
(Code 1959, ch. 5500, § 7.02)

Sec. 15-108. Permitted uses after special approval.

The following uses may be permitted subject to the conditions hereinafter imposed, a site plan review in accordance with section 15-225 and subject to approval of the village council:

- (1) Industrial establishments.
 - a. The assembly and/or manufacture of automobiles, automobile bodies, parts and accessories, cigar and cigarettes, electrical fixtures, batteries and other electrical apparatus and hardware, treatment and/or manufacture of chemicals.
 - b. Processing, refining, or storage of food and food stuffs.
 - c. Breweries, bump shops, distilleries, machine shops, metal buffing, plastering and polishing shops, millwork lumber and planing mills, painting and sheet metal shops, undercoating and rustproofing shops, and welding shops.
 - d. Automobile bump shops, tire vulcanizing and recapping shops.
 - e. Accessory buildings and uses customarily incidental to the above-permitted principal uses, including living quarters of a watchman or a caretaker.
- (2) Open storage yards of construction contractors' equipment and supplies, building materials, sand, gravel or lumber.
 - a. Such uses shall be located at least 200 feet from any residential district.
 - b. If it is deemed essential by the planning commission to prevent loose materials from blowing into adjacent properties a fence, tarpaulin or obscuring wall of no less than five feet shall be required around the stored material.
 - c. No required yard spaces shall be used for the storage of equipment or material.
- (3) Junk yards, subject to any federal, state, county, or village regulations.
- (4) Dog kennels.
(Code 1959, ch. 5500, § 7.03)

Sec. 15-109. Area, height, bulk and placement requirements.

Area, height, bulk and placement requirements unless otherwise specified in sections 15-131 and 15-132.
(Code 1959, ch. 5500, § 7.04)

Secs. 15-110–15-130. Reserved.

ARTICLE VI. SCHEDULE OF REGULATIONS

Sec. 15-131. Area, height, bulk and placement regulations.

| | Minimum Lot Size Per Dwelling Unit | | Maximum Building Height | | Maximum Coverage Of Lot by All Buildings in Percent of Lot Area | Minimum Yard Setback in Feet ^{(a), (b)} Side Yard | | | | Minimum Floor Area Per Dwelling Unit ^(c) |
|-------------------------------|------------------------------------|---------------|-------------------------|---------|-----------------------------------------------------------------|------------------------------------------------------------|-------------------|-------------------|-------------------|-----------------------------------------------------|
| | Area in Sq. Ft. | Width in Feet | In Stories | In Feet | | Front | Least One | Total Two | Rear | |
| | | | | | | | | | | |
| R-1, Agricultural-Residential | 12,000 | 80 | 2½ | 35 | 30 | 25 ^(d) | 10 ^(d) | 20 ^(d) | 25 ^(d) | 720 |
| C-1, Local Commercial | — | — | 2½ | 35 | — | 15 ^(f) | ^(e) | ^(e) | 15 | |
| M-L, Industrial | — | — | 2½ | 35 | — | 50 ^(f) | 20 | 40 | 50 | |

Sec. 15-132. Footnotes to schedule of regulations.

(a) In all residential and industrial districts, the required front yard setback shall not be used for off-street parking, loading, or unloading, and shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping plant materials or vehicle access drives. All yards abutting upon a public street shall be considered as front yards for setback purposes. In all commercial districts, the same requirements shall apply except that only the first 15 feet of required front/yard setback may not be utilized for parking and loading purposes.

(b) In determining required yard spaces for all land uses in zoning districts, the determination of such yard spaces shall be the distance from the building or structure on the lot and the nearest lot line.

(c) Required minimum floor area for each dwelling unit shall not include area of basements, utility rooms, breezeways, porches or attached garages.

(d) All accessory farm buildings for uses other than those usually incidental to the dwelling shall be located not less than 50 feet from any lot line or property boundary.

(e) In any commercial district, side yards are not required except where a commercial district borders on a side street and a residential district exists in the same block there shall be provided a setback of 20 feet for all buildings. Where a residential district exists adjacent

to a business district and on the same side of the street, there shall be provided setback of 20 feet for all buildings, parking, and loading areas.

(f) Loading space shall be provided in the side or rear yard, except that this regulation shall not be applicable to loading space provided totally within a building or structure which has three enclosures opening other than towards the front property line.

(Code 1959, ch. 5500, § 8.02)

Secs. 15-133–15-155. Reserved.

ARTICLE VII. NONCONFORMITIES

Sec. 15-156. Nonconforming lots, nonconforming uses of land, nonconforming structures and nonconforming uses of structures and premises.

Within the districts established by this chapter, should there exist lots, structures and uses of land and structures which were lawful prior to adoption of this chapter but were made unlawful by regulations imposed by this chapter, they shall be termed nonconforming. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this chapter to permit no enlargement or extension of nonconforming uses, including the addition of other structures or uses prohibited elsewhere in the same district.

(Code 1959, ch. 5500, § 9)

Sec. 15-157. Nonconforming lots of record (substandard lots).

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory building may be erected on any single lot of record at the effective date of adoption or amendment of this chapter. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Yard requirement variances may be obtained through approval of the board of appeals.

(Code 1959, ch. 5500, § 9.01)

Sec. 15-158. Nonconforming structures.

Where a lawful structure exists on February 11, 1977, that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such nonconforming structure may be enlarged, altered or rebuilt in a way which increases its nonconformity, unless otherwise specified by the board of appeals.

- (2) Should such structure be moved for any reason whatever, it shall hereafter conform to the regulations for the district in which it is located after it is moved.

(Code 1959, ch. 5500, § 9.02)

Sec. 15-159. Nonconforming uses of land.

Where on February 11, 1977, lawful use of land exists which would not be permitted by regulations imposed by this chapter, the use may be continued so long as it remains otherwise lawful, provided:

- (1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied on February 11, 1977;
- (2) No such nonconforming use shall be moved in a whole or in part to any portion of the lot or parcel other than that occupied by such use on February 11, 1977;
- (3) If any such nonconforming use of land ceases for any reason for a period of more than six consecutive months any subsequent use of land shall conform to the regulations specified by this chapter for the district in which such land is located;
- (4) Only those additional structures which are in conformance to the requirements of this chapter shall be erected in connection with such nonconforming use of land.

(Code 1959, ch. 5500, § 9.03)

Sec. 15-160. Nonconforming uses of structures.

If lawful use involving individual structures or of structure and premises in combination exists on February 11, 1977, that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;
- (2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building;
- (3) If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that approval is secured from the board of appeals and that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. Whenever a nonconforming use has been changed to a conforming use, or to a use permitted in a district of greater restriction, it shall not thereafter be changed to a nonconforming use;

- (4) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six consecutive months or for 18 months during any three-year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located. Structures occupied by seasonal uses shall be excepted from this provision.

(Code 1959, ch. 5500, § 9.04)

Sec. 15-161. Repairs and maintenance.

Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by the building inspector.

(Code 1959, ch. 5500, § 9.05)

Sec. 15-162. Change of tenancy or ownership.

There may be a change in tenancy, ownership or management of an existing nonconforming use, provided there is no change in the nature or character of such nonconforming use.

(Code 1959, ch. 5500, § 9.06)

Secs. 15-163–15-185. Reserved.

ARTICLE VIII. OFF-STREET PARKING AND LOADING REQUIREMENTS

Sec. 15-186. Parking requirements.

In all zoning districts, off-street parking facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees and patrons of the buildings hereafter erected, altered or extended after February 11, 1977, shall be provided as herein prescribed. Such space shall be maintained and shall not be encroached upon so long as the main building or structure remains, unless an equivalent number of such spaces are provided elsewhere in conformance with this chapter.

- (1) *Area for parking space.* For the purpose of this section, 300 square feet of lot area shall be deemed a parking space for one vehicle, including access aisles, except that 180 square feet of lot area which has a direct means of ingress and egress from an alley or street may also be deemed a parking space.
- (2) *Fractional requirements.* When units or measurements determining number of required parking spaces result in the requirement of a fractional space, any fraction up to, and including one-half shall be disregarded and fractions over one-half shall require one parking space.
- (3) *Location of parking space for one.* The off-street parking facilities required for one-family dwellings shall be located on the same lot or plot of ground as the building they

are intended to serve, and shall consist of a parking strip, parking apron, and/or garage.

- (4) *Location of parking space for other land uses.* The off-street parking facilities required for all other uses shall be located on the lot or within 500 feet of the permitted uses requiring such off-street parking, such distance to be measured along lines of public access to the property between the nearest point of the parking facility to the building to be served. In industrial districts the front setback area shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping, plant materials, or vehicle access drives.
- (5) *Seating capacity of seats.* Each 24 inches of seating facilities shall be counted as one seat, except that where specifications and plans filed with the building inspector specify a certain seating capacity for a particular building, such specified seating capacity shall be used as the basis for required parking space.
- (6) *Similar uses and requirements.* In the case of a use not specifically mentioned, the requirements of off-street parking facilities for a use which is so mentioned, and which use is similar, shall apply.
- (7) *Existing off-street parking at effective date of ordinance.* Off-street parking existing on February 11, 1977, which serves an existing building or use, shall not be reduced in size less than required under the terms of this chapter.
- (8) *Collective provisions.* Nothing in this section shall be construed to prevent collective provisions of off-street parking facilities for two or more buildings or uses, provided such facilities collectively shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the table under section 15-187.
- (9) *Joint use.* Parking spaces already provided to meet off-street parking requirements for places of public assembly, stores, office buildings and industrial establishments, lying within 500 feet of a church as measured along lines of public access, and that are not normally used between the hours of 6:00 a.m. and 6:00 p.m. on Sundays and that are made available for other parking, may be used to meet not more than 50 percent of the off-street parking requirements of a church.

(Code 1959, ch. 5500, § 10.01)

Sec. 15-187. Table of off-street parking requirements.

The amount of required off-street parking space for new uses or buildings, additions thereto, and additions to existing buildings as specified above shall be determined in accordance with the following table, and the space so required shall be stated in the application for

a building permit and shall be irrevocably reserved for such use and/or shall comply with the initial part of this section.

| <i>Use</i> | <i>Number of Minimum Parking Spaces Per Unit of Measure</i> |
|---------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>(1) Residential</i> | |
| a. One-family | Two for each dwelling unit. |
| b. Housing for the elderly | One for each two units, and one for each employee. Should units revert to general occupancy, then two spaces per unit shall be provided. |
| c. Mobile home park | Two for each trailer or mobile home site and one for each employee of the trailer or mobile court. Plus one for every four sites adjacent to a recreation area. |
| <i>(2) Institutional</i> | |
| a. Churches, temples or synagogues | One for each three seats in the main unit of worship. |
| b. Homes for the aged and convalescent homes | One per 600 square feet gross floor area. |
| c. Elementary and junior high schools | One for each one teacher and administrator, in addition to the requirements of the auditorium. |
| d. Senior high schools | One for each one teacher, administrator and one for each ten students, in addition to the requirements of the auditorium. |
| e. Private clubs and lodge halls | One for each three persons allowed within the maximum occupancy load as established by local, county, or state fire, building or health codes. |
| f. Golf courses open to the general public, except miniature or "par-3" courses | Six for each one golf hole and one for each one employee. |
| g. Theaters and auditoriums (indoor) | One for each four seats plus one for each two employees. |
| h. Theaters (drive-in) | One per each vehicle plus a ten percent reservoir of the total vehicle capacity. |
| <i>(3) Business and Commercial</i> | |
| a. Auto wash | One for each one employee. In addition, adequate waiting space for autos shall be provided on the premises to accommodate 25 percent of the hourly rate of capacity. |

| <i>Use</i> | <i>Number of Minimum Parking Spaces Per Unit of Measure</i> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| b. Beauty parlor or barbershop | Three for each of the first two beauty or barber chairs, and 1½ spaces for each additional chair. |
| c. Bowling alleys | Five for each one bowling lane. |
| d. Dance halls, pool or billiard parlors, roller or ice skating rinks, exhibition halls, and assembly halls without fixed seats | One for each three seats. |
| e. Drive-in establishments | One for each 40 feet of gross floor area, with a minimum of 25 parking spaces. |
| f. Establishments for sale and consumption on the premises of beverage, food or refreshments | One for each 75 square feet of gross floor area. |
| g. Carry-out restaurant | One for each 150 square feet of gross floor area. |
| h. Furniture and appliance, household equipment, repair shops, showroom of a plumber, decorator, electrician, or similar trade, shoe repair and other similar uses | One for each 1,000 square feet of gross floor area. (For that floor area used in processing, one additional space shall be provided for each two persons employed therein). |
| i. Automobile service stations | Two for each lubrication stall, rack, or pit; and one for each gasoline pump. |
| j. Laundromats and coin-operated dry cleaners | One for each two washing machines. |
| k. Miniature or "par-3" golf courses | Three for each one hole plus one for each one employee. |
| l. Mortuary establishments | One for each 100 square feet of gross floor area. |
| m. Motel, hotel, or other commercial lodging establishments | One for each one occupancy unit plus one employee, plus extra spaces for dining rooms, ball rooms, or meeting rooms. |
| n. Motor vehicle sales and service establishments, trailer sales and rental, boat showroom | One for each 400 square feet of gross floor area of sales room. |
| o. Open air business | One for each 700 square feet of lot area. |
| p. Retail stores except as otherwise specified herein | One for each 200 square feet of gross floor area. |
| (4) <i>Offices</i> | |
| a. Banks | One for each 200 square feet of gross floor area. |

| <i>Use</i> | <i>Number of Minimum Parking Spaces Per Unit of Measure</i> |
|------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| b. Drive-in banks | Waiting space equivalent to six spaces for each drive-in window. |
| c. Business offices or professional | One for each 400 square feet of gross area. |
| d. Medical or dental clinics, professional offices of doctors, dentists or similar professions | One for each 200 square feet of gross floor area. |
| (5) <i>Industrial</i> | |
| a. Industrial or research establishments | Five plus one for every 1½ employees in the largest working shift. Space on site shall also be provided for all construction workers during periods of plant construction. |
| b. Wholesale establishments | Five plus one for every one employee in the largest working shift, or one for every 2,000 square feet of gross floor area, whichever is greater. |

(Code 1959, ch. 5500, § 10.02)

Sec. 15-188. Off-street loading requirements.

On the same premises with every building, structure, or part thereof, erected and occupied for manufacturing, storage, warehouse, goods display, department store, wholesale, market, hotel, restaurant, hospital, convalescent home, mortuary, dry cleaning, or other uses similarly involving the receipt of distribution of vehicles, material or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services in order to avoid undue interference with public use of the streets, alleys, or any required access for off-street parking areas. Such loading and unloading space, unless adequately provided for within a building, shall be an area ten feet by 50, with 14-foot height clearance, and shall be provided according to the following schedule:

| <i>Gross Floor Area in Square Feet</i> | <i>Loading and Unloading Spaces Required In Terms of Square Feet of Gross Floor Area</i> |
|----------------------------------------|------------------------------------------------------------------------------------------|
| 0-2,000 | None |
| 2,000-20,000 | 1 space |
| 20,000-100,000 | 1 space plus 1 space for each 20,000 square feet in excess of 20,000 square feet |
| 100,000-500,000 | 5 spaces plus 1 space for each 40,000 square feet in excess of 100,000 square feet |
| Over 500,000 | 15 spaces plus 1 space for each 80,000 square feet in excess of 500,000 square feet |

(Code 1959, ch. 5500, § 10.03)

Sec. 15-189. Off-street parking construction and operation.

Wherever the off-street parking requirements above, require the building of an off-street parking lot, such off-street parking lot shall be laid out, constructed and maintained in accordance with the following standards and regulations:

- (1) No parking lot shall be constructed unless and until a permit therefor is issued by the building inspector. Applications for a permit shall be submitted to the building inspector and shall be accompanied with two sets of plans for the development and construction of the parking lot showing that the provisions of this section will be fully complied with.
- (2) Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements:

| <i>Parking Pattern</i> | <i>Maneuvering Lane Width</i> | <i>Parking Space Width</i> | <i>Parking Space Length</i> | <i>Total Width of One Tier of Spaces Plus Maneuvering Lane</i> | <i>Total Width of Two Tiers of Spaces Plus Maneuvering Lane</i> |
|------------------------|-------------------------------|----------------------------|-----------------------------|----------------------------------------------------------------|-----------------------------------------------------------------|
| 0° (parallel parking) | 12 ft. | 8 ft. | 23 ft. | 20 ft. | 28 ft. |
| 30° to 53° | 12 ft. | 9 ft. | 20 ft. | 32 ft. | 52 ft. |
| 54° to 74° | 18 ft. | 9 ft. | 21 ft. | 39 ft. | 60 ft. |
| 75° to 90° | 25 ft. | 9 ft. | 19 ft. | 44 ft. | 63 ft. |

- (3) All such parking lots shall be dust free and shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area. No surface water from such parking area shall be permitted to drain on adjoining private property.
- (4) All illumination for or on such parking lots shall be deflected away from adjacent residential areas and shall be installed in such a manner as to allow the reduction of the amount of light in other than normal parking hours each day. The source of illumination in all parking lots abutting a residential area shall not be more than 13 feet above the parking lot surface.
- (5) Side yards shall be maintained for a space of not less than six feet between the side lot lines of adjoining residential lots and the parking area.
- (6) Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for vehicles.
- (7) Wheel chocks shall be provided, so located as to prevent any vehicle from projecting over the lot line.

(Code 1959, ch. 5500, § 10.04)

Secs. 15-190--15-210. Reserved.

ARTICLE IX. GENERAL PROVISIONS**Sec. 15-211. Conflicting regulations.**

Wherever any provision of this chapter imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, the provisions of this chapter shall govern.

(Code 1959, ch. 5500, § 11.01)

Sec. 15-212. Scope.

No building or structure, or part thereof, shall hereinafter be erected, constructed, reconstructed or altered and maintained, and no new use or change shall be made or maintained of any building, structure or land, or part thereof, except in conformity with the provisions of this chapter.

- (1) *Permitted height.* No building shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit hereinafter established for the district in which the building is located, except that penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, towers, steeples, stage lofts, and screens, flagpoles, chimneys, smoke-stacks, water tanks, or similar structures may be erected above the height limits herein prescribed. Accessory buildings and structures related to agriculture as well as public utility structures shall be exempt from these regulations.
- (2) *Lot limitations.* In the R-1 zoning districts, only one principal building shall be placed on a lot of record.
- (3) *Lots, yards and open spaces.* No space which for the purpose of a building has been counted or calculated as part of a side yard, rear yard, front yard, or other open space, including required lot area per dwelling unit, required by this chapter, may, by reason of change in ownership or otherwise, be counted or calculated to satisfy or comply with a yard or other open space or lot area requirements for any other building.
- (4) *Porches, patios and terraces.* An open, unenclosed porch, paved patio, or terrace may project into a required front or rear yard for a distance not to exceed ten feet.
- (5) *Projections into yards.* Architectural features, as defined, not including vertical projections, may extend or project into a required side yard not more than two inches for one foot of width of such side yard and may extend or project into a required front yard or rear yard not more than three feet.
- (6) *Required street frontage.* Any parcel of land which is to be occupied by a use or building, other than an accessory use of building, shall have frontage on and direct

access to a public street or private easement which meets one of the following conditions:

- a. A public street.
- b. A permanent and unobstructed private easement of record having a width of at least 30 feet, except where an access easement of record of less width existed prior to February 11, 1977.

(Code 1959, ch. 5500, § 11.02)

Sec. 15-213. Zoning of street, alley, and railroad rights-of-way.

All streets, alleys, and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such streets, alleys, or railroad rights-of-way. Where the centerline of a street or alley serves as a district boundary, the zoning of such street or alley, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline.

(Code 1959, ch. 5500, § 11.03)

Sec. 15-214. Accessory buildings in residential districts.

In residentially zoned districts accessory buildings, except as otherwise permitted in this chapter, shall be subject to the following regulations:

- (1) Where the accessory building is structurally attached to a main building, it shall be subject to and must conform to all regulations of this chapter applicable to main buildings. Detached accessory buildings shall not be erected in any required front yard.
- (2) No detached accessory building shall be located closer than ten feet to any principal building nor shall it be located closer than three feet to any side or rear lot line.

(Code 1959, ch. 5500, § 11.04)

Sec. 15-215. Occupancy of: garages, accessory buildings, basement apartments prohibited.

Buildings erected after February 11, 1977, as garages or accessory buildings shall not be occupied for dwelling purposes. No basement or cellar apartment shall be used or occupied for dwelling purposes at any time.

(Code 1959, ch. 5500, § 11.05)

Sec. 15-216. Construction begun prior to adoption of chapter.

Nothing in this chapter shall be deemed to require any change in the plans, construction or design use of any building upon which actual construction was lawfully begun prior to February 11, 1977, and upon which building actual construction has been diligently carried

on, and provided further, that such building shall be completed within two years from February 11, 1977.

(Code 1959, ch. 5500, § 11.06)

Sec. 15-217. Voting place.

The provisions of the chapter shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a village or other public election.

(Code 1959, ch. 5500, § 11.07)

Sec. 15-218. Approval of plats.

No proposed plat of a new or redesigned subdivision shall hereafter be approved by the village unless the lots within such plat equal or exceed the minimum size and width requirements set forth in the various districts of this chapter, and unless such a plat fully conforms with the statutes of the state and any related ordinance of the village as may be adopted.

(Code 1959, ch. 5500, § 11.08)

Sec. 15-219. Essential services.

Essential services shall be permitted as authorized under any franchise or that which may be regulated by any law of the state or any ordinance of the village, it being the intention hereof to exempt such essential services from the application of this chapter.

(Code 1959, ch. 5500, § 11.09)

Sec. 15-220. Signs.

All signs erected or located in any zoning district shall comply with the following regulations:

(1) *Signs, generally.*

- a. A building permit shall be required for the erection, construction or alteration of any sign, except as hereinafter provided, and all such signs shall be approved by the zoning administrator as to their conforming to the requirements of the zoning district wherein such sign or signs are to be located and the requirements of this section.
- b. There shall be no flashing, oscillating or intermittent, red, blue or green illumination on any sign located in the same line of vision as a traffic control system, nor interference with vision clearance along any highway, street, or road or at any intersection of two or more streets. All illuminated signs shall be so placed as to prevent the rays and illumination therefrom from being cast upon neighboring residences within a residential district and shall be located not less than 100 feet from such residential district.
- c. No sign, except those placed and maintained by the village, county or state shall be located in, overhang or encroach upon any public right-of-way.

- d. Signs advertising real estate for sale, rent or lease are permitted in all districts when located on the building or land intended to be sold, rented or leased, provided they are used only during the construction of a building or buildings or the offering for sale, rent or lease of real estate. Temporary subdivision signs not exceeding 100 square feet in area may be permitted subject to their approval by the board of appeals for a 12-month period, subject to renewal, providing such signs conform to the conditions established by the board of appeals to secure harmony with this chapter and there are buildings or home sales continuing in the subdivision being advertised.
- e. No building permit shall be required for a sign described above provided such sign is not larger than 16 square feet in area.
- f. No sign otherwise permitted shall exceed the maximum height limitation of the zoning district in which located.

(2) *Signs in residential districts.* Signs in residential districts are permitted as follows:

- a. For each dwelling unit, one nameplate sign displaying the street name and number and name of occupant, not exceeding one square foot in area.
- b. For permitted principal uses other than dwellings and for uses permitted after special approval, one bulletin or announcement board not exceeding 32 square feet in area. No sign so permitted shall be located nearer to the front lot line than one-half the required front yard setback nor nearer the side lot line than the required side yard setback.
- c. No sign shall be illuminated by other than continuous indirect white light, nor shall such sign contain any visible moving parts.

(Code 1959, ch. 5500, § 11.10)

Sec. 15-221. Fences, walls, and other protective barriers.

All fences of any type or description shall conform to the following regulations:

- (1) The erection, construction or alteration of any fence, wall or other type of protective barrier shall be approved by the zoning administrator as to their conforming to the requirements of the zoning districts wherein they are required because of land use development, and to the requirements of this section.
- (2) No fence shall hereafter be erected, along the line dividing lots or parcels of land or located within any required side or rear yard in excess of six feet, or less than three feet in height above the grade of the surrounding land.
- (3) No fence, wall, structure or planting shall be erected, established or maintained on any corner lot which will obstruct the view of a driver of a vehicle approaching the intersection, excepting that shade trees would be permitted where all branches are not less than eight feet above the road level. Such unobstructed corner shall mean a triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines or in the case of a rounded

property corner from the intersection of the street property lines extended. This shall not prohibit the establishment of shrubbery 30 inches or less in height.

(Code 1959, ch. 5500, § 11.11)

Sec. 15-222. Animals.

No livestock shall be kept or maintained in any zoning district or parcels of land located within a proprietary or assessor's plat or on parcels of less than two acres in area, except that for each dwelling unit the occupant may keep for his personal use domestic pets provided they are not kept or used for commercial or breeding purposes and do not constitute a kennel.

(Code 1959, ch. 5500, § 11.12)

Sec. 15-223. Outdoor storage in residential districts.

Storage or parking shall be limited to a lot or parcel of land upon which is located an inhabited dwelling unit and the vehicle or equipment is owned by the occupant.

(Code 1959, ch. 5500, § 11.13)

Sec. 15-224. Automobile service stations and public garages.

No automobile service station existing on February 11, 1977, shall be structurally altered so as to provide a lesser degree of conformity with the provisions of this section than existed on February 11, 1977.

- (1) An automobile service station shall be located on a lot having a frontage along the principal street of not less than 100 feet, and having a minimum area of not less than 15,000 square feet.
- (2) An automobile service station building housing an office and/or facilities for servicing, greasing and/or washing motor vehicles shall be located not less than 40 feet from any street lot line, and not less than 25 feet from any side or rear lot line adjoining a residentially zoned district.
- (3) All driveways providing ingress to or egress from an automobile service station shall be not more than 30 feet wide at the property line. No driveway or curb opening shall be located nearer than 20 feet to any intersecting street right-of-way, or adjacent to residential property. No driveway shall be located nearer than 30 feet, as measured along the property line, to any other driveway giving access to or from the same automobile service stations.
- (4) All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building. All gasoline pumps shall be located not less than 15 feet from any lot line, and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or overhanging any public sidewalk, street or right-of-way.
- (5) Where an automobile service station adjoins property located in any residential district, buffer wall of suitable material or planting strip shall be erected and main-

tained along the interior line. This wall or planting strip shall be at least four feet but not greater than six feet in height.

- (6) All exterior lighting, including illuminated signs, shall be erected and hooded or shielded so as to be deflected away from adjacent property.
- (7) Outdoor storage or parking of wrecked or partially dismantled vehicles shall be prohibited for a period greater than ten days.
- (8) There shall be no more than one freestanding sign per street frontage, each face not exceeding 150 square feet in area, which shall display only the name of the user or occupant of the premises.

(Code 1959, ch. 5500, § 11.14)

Sec. 15-225. Site plan review.

(a) Whenever required in a zoning district of this chapter, a site plan must be submitted to the village council showing all buildings, parking areas, and landscaping at a scale sufficient to permit study of all elements of the plan. Typical elevations and floor plans of the building must also be provided. In addition, the proposed site plan of the development shall show all adjacent properties, including existing buildings, located within 200 feet of the proposed site in the same block. The plans shall meet the required standards and design and indicate no adverse effects which cause injury to adjoining property or the village as a whole. Plans so approved shall regulate the development on such premises, unless modified in the same manner as the plans were originally approved. Such review is necessary to secure proper relationships between parking areas, access drives, abutting public thoroughfares, landscaping, building, siting, and open space.

(b) For single-family residential subdivisions 25 acres or larger in total area, and for mobile home parks, commercial, or industrial developments or any combination thereof, 15 acres or larger in total area, the developer shall provide an environmental impact statement. This statement shall address itself to the probable impact the proposed development would have on the immediate environment and the community. It shall include data relating to any of the following points as considered appropriate by the village council.

- (1) Attendance at public schools;
- (2) Increases in vehicular traffic;
- (3) Changes in the number of legal residents;
- (4) Increases in municipal service costs;
- (5) Load on public utilities or future demands for them;
- (6) Public safety;
- (7) Changes in tax revenues;
- (8) Changes in surface drainage;

- (9) Increased consumption of groundwater;
 - (10) Increased refuse disposal;
 - (11) Pollution of water or air;
 - (12) Land erosion or loss of tree cover;
 - (13) Disturbance to other aspects of the natural ecology;
 - (14) Blocking of views;
 - (15) Harmony with the character of surrounding development.
- (Code 1959, ch. 5500, § 11.15)

Sec. 15-226. Churches, synagogues, and halls of worship.

Where churches are allowed, they shall meet the following requirements:

- (1) Minimum lot width of 150 feet.
 - (2) Minimum site size of one acre.
- (Code 1959, ch. 5500, § 11.16)

Sec. 15-227. Open air businesses.

Open air businesses shall be subject to the following regulations:

- (1) The minimum area of the site shall be 10,000 square feet.
 - (2) The minimum street frontage shall be 100 feet.
 - (3) Where the site abuts property in any residentially zoned district, a buffer wall or planting strip shall be provided along the interior line.
 - (4) Exterior lighting shall be installed in a manner which will not create a driving hazard and shall be hooded or shielded so as to be deflected away from adjacent property.
 - (5) All open air business shall comply with all applicable village and county health regulations.
- (Code 1959, ch. 5500, § 11.17)

Sec. 15-228. Swimming pools.

All inground swimming pools erected in the village shall comply with the following requirements:

- (1) *Application.* The application for a building permit to erect a swimming pool shall include the name of the owner, a plot plan and location of adjacent buildings, fencing, gates, and other detailed information affecting construction and safety measures deemed necessary by the zoning administrator.
- (2) *Pool location.* Minimum side yard setback shall comply with the schedule of regulations of this chapter. Furthermore, the pool fence must not be built within the re-

quired front yard or required corner lot side yard. Rear yard setback shall not be less than four feet between the outside wall of the pool and the rear property line or less than the established easement width at the rear property line or less than four feet between the pool wall and any building on the lot.

- (3) *Fence.* For the protection of the general public, all swimming pools shall be completely enclosed by a fence not less than four feet high and not more than 15 feet from the outside perimeter of the pool wall. All openings in any such fence shall be equipped with a self-latching gate.

(Code 1959, ch. 5500, § 11.18)

Sec. 15-229. Mobile home parks.

Mobile home parks shall be subject to the following regulations:

(1) *Park standards.*

- a. All mobile home park developments shall comply with Act No. 96 of the Public Acts of Michigan of 1987 (MCL 125.2301 et seq., MSA 19.855(1) et seq.), as amended, and all other applicable state laws.
- b. All mobile home parks shall comply with the Federal Housing Administration No. 2424, Minimum Property Standards for Mobile Home Courts, as amended.
- c. An open area shall be provided on each mobile home lot, to ensure privacy, adequate natural light and ventilation to each home and to provide sufficient area for outdoor uses essential to the mobile home. All lots shall contain a minimum area of at least 4,000 square feet. All such trailer site areas shall be computed exclusive of service drives, facilities, and recreation space and greenbelts.

- (2) *Determination of yards.* Yard width shall be measured from the required mobile home stand to the individual mobile home lot line. At every point, it shall be at least equal to the required minimum. Expandable rooms, enclosed patios, carports, garages or structural additions shall be respected in the yard requirements. Individual storage buildings shall be permitted only within the rear yard and shall not be located closer than three feet to the side and rear lot line.

- a. The sum of the side yards at the entry side and nonentry side of a mobile home stand shall be not less than 20 feet; provided, however, there shall be a side yard of not less than 15 feet at the entry side of the mobile home stand and a side yard of not less than five feet at the nonentry side of the mobile home stand. There shall be a rear yard of not less than five feet at the rear end of the stand and a front yard of not less than ten feet at the front end of the mobile home stand. For irregularly shaped side yards, the sum is determined as the sum of the average width of each side yard, provided that the required minimums above are maintained at all points in the side yard.

- b. No mobile home shall be located closer than 50 feet to the right-of-way line of a major thoroughfare, or 20 feet to any mobile home park property line.
 - c. The minimum separation between mobile homes shall be ten feet in any direction.
 - d. From all stands, the following minimum distances must be maintained:
 - 1. Ten feet to the buffer strip.
 - 2. Twenty feet to the park boundary.
 - 3. Twenty-five feet to a public right-of-way.
 - 4. Fifty feet to any mobile home park structure.
 - 5. Eight feet to any mobile home park walkway.
 - 6. Fifteen feet to any public parking lot located within the mobile home park.
- (3) *Other site considerations.*
- a. Each mobile home site shall be provided with a stand consisting of a solid concrete pad or concrete ribbons with visquine and crushed stone between ribbons or asphalt between ribbons not less than four inches thick, 60 feet in length and 12 feet in width. The pad shall be so constructed, graded and placed as to be durable and adequate for the support of the maximum anticipated load during all seasons.
 - b. Each mobile home shall be supported on uniform jacks or blocks supplied by the mobile home park management.
 - c. An all-weather hard surfaced outdoor patio area of not less than 180 square feet shall be provided at each mobile home site, conveniently located to the entrances of the mobile home and appropriately related to open areas of the lot and other facilities, for the purpose of providing suitable outdoor living space to supplement the limited interior spaces of a mobile home.
 - d. Uniform skirting of each mobile home base shall be required within 30 days after the initial placement.
 - e. Canopies and awnings may be attached to any mobile home and may be enclosed and used for recreation or sun room purposes. Such additions shall meet all yard requirements as established herein.
 - f. Steps shall be constructed of materials approved by the building inspector to be durable, weather resistant, rust proof and easily maintained; and wood or wood products shall be specifically excluded.
 - g. The holder of the permit for the park shall maintain the physical and natural facilities and features of the park in a neat, orderly and safe manner at all times.
- (4) *Utilities.* All utilities in the park shall conform in all respects with all codes of the village and the state.
- a. All mobile homes within such parks shall be suitably connected to sewer and water services provided at each mobile home site.
 - 1. All sanitary sewage facilities, including plumbing connections to each mobile home site, shall be constructed so that all facilities and lines are pro-

tected from freezing, from bumping or from creating any type of nuisance or health hazard. Sewage facilities shall be of such capacity as to serve adequately all users of the park at peak periods. Running water shall come from a state tested and approved supply, designed to adequately serve all users at peak periods.

2. Storm drainage facilities shall be so constructed as to protect those that will reside in the mobile home park as well as the property owners adjacent to the park. Such park facilities shall be of such capacity as to ensure rapid drainage and prevent the accumulation of stagnant pools of water in or adjacent to the park.
 - b. All garbage and trash containers shall be placed in conveniently located structures of uniform design. The collection of garbage and trash shall be the responsibility of the proprietor.
 - c. All electric, telephone and other lines from supply poles outside the park or other sources to each mobile home site shall be underground.
 - d. Any fuel oil and or gas storage shall be centrally located in underground tanks at a distance away from any mobile home site as approved by the fire chief. All fuel lines leading to the park and to mobile home sites shall be underground and so designed as to conform with the village building code and any state code that may be applicable. When separate meters are installed, each meter shall be located in a uniform manner. The use of individual fuel oils or propane gas storage tanks to supply each mobile home separately is prohibited.
 - e. All televisions shall be hooked to underground cable T.V. or to a master antenna system. No individual antennas will be allowed.
 - f. Street lights shall be placed at all corners and at regular intervals of not less than 100 feet.
- (5) *Buffers, landscaping and recreation.*
- a. A ten-foot greenbelt shall be located and continually maintained along all park borders. This greenbelt shall consist of trees and shrubs, to provide privacy for the mobile home residents and to visually screen the mobile homes from surrounding property. A four-foot-six-inch fence shall be required to separate the park from adjacent property.
 - b. Where a mobile home park abuts a single-family residential district, a four-foot-six-inch obscuring wall shall be provided in addition to the ten-foot greenbelt.
 - c. Any and all plantings in the park shall be hardy plant materials and maintained thereafter in a neat and orderly manner. Withered and/or dead plant material shall be replaced within a reasonable period of time but no longer than one growing season.
 - d. A recreation space of at least 150 square feet per mobile home site in the park shall be developed and maintained by the management. This area shall not be less than 100 feet in its smallest dimension and its boundary no further than 500 feet over public walkways from any mobile home site served. Streets, sidewalks,

parking areas and accessory buildings are not to be included as recreation space in computing the necessary areas.

- e. Each lot is to be seeded with grass by the park operator and it will be his responsibility to see that all lawns are maintained.

(6) *Parking, streets and walks.* All roads, driveways and motor vehicle parking spaces shall be paved and constructed so as to handle all anticipated peak loads and shall be adequately drained and lighted for safety and ease of movement of pedestrians and vehicles. All roads and driveways shall have curbing and gutters. All road maintenance in the mobile home park and snow removal shall be the responsibility of the park operator.

- a. There shall be provided at least two automobile parking spaces for each mobile home site, these spaces shall have a minimum dimension of ten by 20 feet.
- b. Minimum widths of roadways (curb face to curb face) shall be as follows:

| <i>Motor Vehicle Parking</i> | <i>Traffic Use</i> | <i>Minimum Pavement Width (curb face to curb face)</i> |
|---------------------------------|--------------------|--------------------------------------------------------|
| Parking Prohibited | 2-way road | 24 feet |
| Parallel Parking 1 side only | 1-way road | 22 feet |
| Parallel Parking 2 sides | 1-way road | 28 feet |
| Parallel Parking 2 sides | 2-way road | 40 feet |

- c. When a cul-de-sac drive is provided, the radius of such roadway loop shall be a minimum of 50 feet, curb face to curb face, with the drive length a maximum of 300 feet.
- d. All lots shall have sidewalks along the front of each lot and from patio to the front sidewalk. Walkways shall not be less than three feet in width and on both sides of any street. Common walkways shall be provided between all mobile home stands and the recreation area.

(7) *Procedures and permits.*

- a. To construct any mobile home park or facilities therein, a person shall:
 1. Obtain a health permit from the state health department.
 2. Present a plot plan to be approved by the village council. No variance from this plan may be made without approval of the village council.
 3. Obtain a construction permit from the state health commissioner in the manner prescribed by Act No. 96 of the Public Acts of Michigan of 1987 (MCL 125.2301 et seq., MSA 19.855(1) et seq.), as amended from time to time.
 4. Obtain the necessary building permit from the building inspector.

b. To inhabit, conduct or operate a mobile home park, a person shall:

1. Obtain an annual license from the state health commissioner in the manner prescribed by Act No. 96 of the Public Acts of Michigan of 1987 (MCL 125.2301 et seq., MSA 19.855(1) et seq.), as amended from time to time.
2. Obtain from the building inspector a certificate of occupancy and compliance.

(Code 1959, ch. 5500, § 11.19)

Secs. 15-230–15-250. Reserved.

ARTICLE X. ADMINISTRATION

Sec. 15-251. Enforcement.

The provisions of this chapter shall be administered and enforced by the zoning administrator or by such deputies of his department as the zoning administrator may delegate to enforce the provisions of this chapter.

(Code 1959, ch. 5500, § 12.01)

Sec. 15-252. Duties of zoning administrator.

(a) The zoning administrator shall have the power to grant zoning compliance permits, to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this chapter. It shall be unlawful for the zoning administrator to approve any plans or issue any permits for any excavation or construction until he has inspected such plans in detail and found them to conform with this chapter.

(b) The zoning administrator shall record all nonconforming uses existing on February 11, 1977.

(c) Under no circumstances is the zoning administrator permitted to make changes to this chapter nor to vary the terms of this chapter in carrying out his duties as zoning administrator.

(d) The zoning administrator shall not refuse to issue a permit when conditions imposed by this chapter are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may occur upon the granting of the permit.

(Code 1959, ch. 5500, § 12.02)

Sec. 15-253. Plot plan.

The zoning administrator shall require that all applications for zoning compliance permits shall be accompanied by plans and specifications including a plot plan (a plot plan shall not be required where existing setbacks are not altered or the work is of an internal nature) in duplicate, drawn to scale, showing the following:

- (1) The actual shape, location and dimensions of the lot.

- (2) The shape, size and location of all buildings or other structures to be erected, altered or moved and of any building or other structures already on the lot.
- (3) The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
- (4) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this chapter are being observed.

Plot plans shall be kept on file until the project is completed and a certificate of occupancy is granted.

(Code 1959, ch. 5500, § 12.03)

Sec. 15-254. Permits.

The following shall apply in the issuance of any permit:

- (1) *Permits not to be issued.* No zoning compliance permit shall be issued for the erection, alteration of use of any building or structure or part thereof, or for the use of any land, which is not in accordance with all provisions of this chapter.
- (2) *Permits for new use of land.* No land heretofore vacant shall hereafter be used or an existing use of land be hereafter changed to a use of a different class or type unless a certificate of occupancy is first obtained for the new or different one.
- (3) *Permits for new use of buildings.* No building or structure, or part thereof, shall be changed to or occupied by a use of a different class or type unless a certificate of occupancy is first obtained for the new or different use.
- (4) *Permits required.* No building or structure, or part thereof, shall be hereafter erected, altered, moved or repaired unless a zoning compliance permit shall have been first issued for such work. The terms altered and repaired shall include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of egress and ingress, or other changes affecting or regulated by the village building code, housing law, or this chapter, except for minor repairs or changes not involving any of the aforesaid features.

(Code 1959, ch. 5500, § 12.04)

Sec. 15-255. Fees.

The village council may from time to time establish, by resolution, fees that shall cover the cost of review, recommendation, inspection and supervision resulting from the enforcement of this chapter. Such fee shall be collected for the following:

- (1) Rezoning requests.
- (2) Site plan review requests.
- (3) Board of appeals.

(4) Issuance of zoning compliance permits.
(Code 1959, ch. 5500, § 12.05)

Sec. 15-256. Amendments.

The village council may from time to time on its own motion, on recommendation for the planning commission or on petition, amend, supplement or change the district boundaries or the regulations herein, or subsequently established herein pursuant to the authority and procedure established in Act No. 207 of the Public Acts of Michigan of 1921 (MCL 125.581 et seq., MSA 5.2931 et seq.), as amended.
(Code 1959, ch. 5500, § 14)

Secs. 15-257–15-275. Reserved.

ARTICLE XI. BOARD OF APPEALS

Sec. 15-276. Creation and membership.

(a) The village council is hereby designated as the zoning board of appeals which shall perform its duties and exercise its powers as provided in section 5 of Act No. 207 of the Public Acts of Michigan of 1921 (MCL 125.581 et seq., MSA 5.2931 et seq.), as amended, and in such a way that the objectives of this chapter shall be observed, public safety secured and substantial justice done.

(b) The village president shall serve as chairman of the zoning board of appeals and the village clerk shall serve as secretary.
(Code 1959, ch. 5500, § 13.01)

Sec. 15-277. Meetings.

All meetings of the board of appeals shall be held at the call of the chairman and at such times as such board may determine. All hearings conducted by the board shall be open to the public. The village clerk, or representative, shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact; and shall also keep records of its hearings and other official action. A majority of the board shall constitute a quorum for the conduct of its business. The board shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.
(Code 1959, ch. 5500, § 13.02)

Sec. 15-278. Appeal.

(a) An appeal may be taken to the board of appeals by any person, firm or corporation, or by any officer, department, board or bureau affected by a decision of the zoning administrator. Such appeal shall be taken within such time as shall be prescribed by the board of appeals by general rule, by filing with the zoning administrator and with the board of appeals a notice of

appeal, specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board all of the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board of appeals after notice of appeal has been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, which case the proceedings shall not be stayed, otherwise than by a restraining order, which may be granted by a court of record.

(b) The board shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the parties and shall render a decision of the appeal without unreasonable delay. Any person may appear and testify at the hearing either in person or by duly authorized agent or attorney.

(Code 1959, ch. 5500, § 13.03)

Sec. 15-279. Jurisdiction.

The zoning board of appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms of this chapter, but does have the power to act on those matters where this chapter provides for an administrative review, interpretation, special approval permit and to authorize a variance as defined in this section and laws of the state. Such powers include:

- (1) *Administrative review.* To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the zoning administrator or any other administrative official in carrying out or enforcing any provisions of this chapter.
- (2) *Dimensional variance; conditions governing application procedures.* To authorize a dimensional variance from the terms of this chapter upon appeal in specific cases as will not be contrary to the public interest where, due to special conditions, a literal enforcement of the provisions of this chapter would result in practical difficulties. A variance from the terms of this chapter shall not be granted by the board of appeals unless and until:
 - a. A public hearing shall be held with notice as hereinafter provided in section 15-281.
 - b. The board of appeals shall require evidence on each of the following and after hearing the evidence presented by all interested parties, shall make written findings as follows:
 1. That special conditions or circumstances exist which are peculiar to the land, structure or building involved and which do not apply to or affect other lands, structures or buildings in the zoning district.
 2. That the literal interpretation of the provisions of this chapter applied under these special circumstances have created or will create practical difficulties in the applicant's use of the land, building or structure.

3. That the special conditions and circumstances did not result from the actions of the applicant.
 4. That the variance is the minimum variance necessary to alleviate the practical difficulties in the applicant's use of the land, building or structure.
 5. That the granting of the variance will be in harmony with the general purposes and intent of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare. This finding shall include, but not be limited to, findings that the proposed variance will not:
 - i. Impair an adequate supply of light and air to adjacent properties.
 - ii. Unreasonably increase the congestion of traffic in the public streets.
 - iii. Increase the danger of fire or endanger the public safety.
 - iv. Unreasonably diminish or impair established property values within the surrounding area.
- (3) *Variances, limitations of rights and powers.* Nothing herein provided to the contrary:
- a. No nonconforming use of neighboring land, structures or buildings in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.
 - b. Under no circumstances shall the board of appeals grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in the district.
 - c. Hardships based solely on economic considerations are not grounds for a variance.
- (4) *Special approvals.* To hear and decide in accordance with the provisions of this chapter, requests for exceptions, for interpretations of the zoning map, and for decisions on special approval situations on which this chapter specifically authorizes the board to pass. Any special approval shall be subject to such conditions as the board may require to preserve and promote the character of the zone district in question and otherwise promote the purpose of this chapter, including the following:
- a. Interpret the provisions of this chapter in such a way as to carry out the intent and purpose of the plan, as shown upon the zoning map fixing the use districts, accompanying and made part of this chapter, where street layout actually on the ground varies from the street layout as shown on the map aforesaid.
 - b. Permit the erection and use of a building or use of premises for public utility purposes, upon recommendation of the planning commission.
 - c. Permit the modification of the automobile parking space or loading space requirements where, in the particular instance, such modification will not be inconsistent with the purpose and intent of such requirements.
 - d. Permit such modification of the height and area regulations as may be necessary to secure an appropriate improvement of a lot which is of such shape, or so located with relation to surrounding development or physical characteristics, that it cannot otherwise be appropriately improved without such modification.

- e. Permit temporary buildings and uses for periods not to exceed two years in undeveloped sections of the village and for periods not to exceed six months in developed sections.
- f. Permit upon proper application, the following character of temporary use, not otherwise permitted in any district, not to exceed 12 months with the granting of 12-month extensions being permissible; uses which do not require the erection of any capital improvement of a structural nature. The board of appeals, in granting permits for the above temporary uses, shall do so under the following conditions:
 - 1. The granting of a temporary use shall in no way constitute a change in the basic uses permitted in the district nor on the property wherein the temporary use is permitted.
 - 2. The granting of the temporary use shall be granted in writing, stipulating all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of the temporary permit.
 - 3. All setbacks, land coverage, off-street parking, lighting and other requirements to be considered in protecting the public health, safety, peace, morals, comfort, convenience and general welfare of the inhabitants of the village shall be made at the discretion of the board of appeals.
 - 4. In classifying uses as not requiring capital improvement, the board of appeals shall determine that they are either demountable structures related to the permitted use of the land; recreation developments, such as, but not limited to: golf driving ranges and outdoor archery courts; or structures which do not require foundations, heating systems or sanitary connections.
 - 5. The use shall be in harmony with the general character of the district.
 - 6. No temporary use permit shall be granted without first giving notice to owners of adjacent property of the time and place of a public hearing to be held as further provided for in this chapter. Further, the board of appeals shall seek the review and recommendation of the village council, prior to the taking of any action.

(Code 1959, ch. 5500, § 13.04)

Sec. 15-280. Orders.

In exercising the above powers, the board may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the zoning administrator from whom the appeal is taken.

(Code 1959, ch. 5500, § 13.04)

Sec. 15-281. Notice.

The board shall make no recommendation except in a specific case and after a public hearing conducted by the board. It shall be general rule or in specific cases, determine the interested parties who, in the opinion of the board, may be affected by any matter brought

before it, which shall in all cases include all persons to whom any real property within 300 feet of the premises in question shall be assessed, and to the occupants of all single- and two-family dwellings within 300 feet, such notice to be delivered personally or by mail addressed to the respective owners and tenants at the address given in the last assessment roll, and shall decide the same within a reasonable time. If the tenant's name is not known, the term occupant may be used. The board may require any party applying to the board for relief to give such notice to other interested parties as it shall prescribe.

(Code 1959, ch. 5500, § 13.05)

Sec. 15-282. Approval periods.

(a) No order of the board of appeals permitting the erection or alteration of a building shall be valid for a period longer than six months, unless a zoning compliance permit for such erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

(b) No order of the board of appeals, permitting a use of a building or premise shall be valid for a period longer than six months unless such use is established within such period; provided, however, that such order shall continue in force and effect if a zoning compliance permit for the erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with such permit.

(Code 1959, ch. 5500, § 13.06)

CODE COMPARATIVE TABLE

1959 CODE

This table gives the location within this Code of those sections of the 1959 Code, as updated through February 11, 1977, which are included herein. Sections of the 1959 Code, as supplemented, not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of ordinances adopted subsequent thereto, see the table immediately following this table.

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ORDINANCES

This table gives the location within this Code of those ordinances adopted since the 1959 Code, as updated through February 11, 1977, which are included herein. Ordinances adopted prior to such date were incorporated into the 1959 Code, as supplemented. This table contains some ordinances which precede February 11, 1977, but which were never included in the 1959 Code, as supplemented, for various reasons. Ordinances adopted since February 11, 1977, and not listed herein, have been omitted as repealed, superseded or not of a general and permanent nature.

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***Note**—The adoption, amendment, repeal, omissions, effective date, explanation of numbering system and other matters pertaining to the use, construction and interpretation of this Code are contained in the adopting ordinance and preface which are to be found in the preliminary pages of this volume.

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